



Minutes of the October 15, 2021 Special Meeting of the
Commission on Governmental Ethics and Election Practices
45 Memorial Circle, Augusta, Maine

Present: William A. Lee III, Esq., Chair; David R. Hastings, Esq.; Dennis R. Marble; and William J. Schneider, Esq. participated via Zoom. Sarah LeClaire, Esq. participated via telephone.

Staff: Jonathan Wayne, Executive Director; and Jonathan R. Bolton, Assistant Attorney General.

Commissioner Lee convened the meeting at 2:00 p.m., which was livestreamed via YouTube.

The Commission considered the following item:

1. Request by Clean Energy Matters to Investigate Say No to NECEC

Mr. Wayne presented a request for investigation by Clean Energy Matters requesting the Commission investigate whether Say No to NECEC should have registered with the Commission as a political action committee (PAC) or ballot question committee (BQC). Say No to NECEC describes itself as a volunteer non-profit association of people who are opposed to the corridor project. Sandra Howard is the director and is not compensated for this position. Say No to NECEC's mission is to educate the public about the corridor project and activating volunteers to take part in various permitting proceedings in state and federal agencies. In 2019, Ms. Howard and Darryl Wood registered No CMP Corridor as a PAC with the Commission and have filed regular campaign finance reports. In its complaint, Clean Energy Matters noted that No CMP Corridor made a payment of \$140,000 to Say No to NECEC, and the organization's Facebook page contain many posts by Ms. Howard and volunteers urging a vote in favor of Question 1.

Newell A. Augur, Esq., appeared before the Commission on behalf of Clean Energy Matters. He stated the Clean Energy Matters was withdrawing part of the complaint concerning the \$140,000 payment from No CMP Corridor to Say No to NECEC. He urged an investigation into whether the paid activity of No CMP Corridor for signs and other activities to support Question 1 should be viewed as an in-kind contribution to Say No to NECEC in excess of \$5,000 that would trigger them to register as a PAC or BQC. Mr. Augur said Say No to NECEC has been engaged in electioneering activities from the beginning and is a well-known organization. He said it had received a contribution of value (signs) from the PAC, which they are giving to their members who are distributing them across the state. He also asked the Commission to consider whether Say No to NECEC's communications and activities after Labor Day constituted express advocacy.

James T. Kilbreth, Esq., appeared before the Commission on behalf of Say No to NECEC. Mr. Kilbreth said Say No to NECEC has been involved for years in the permitting process and there are ongoing legal expenses related to those processes, including an appeal of the DEP permit and a DEP suspension hearing next week. He said it was absurd to think that volunteers who receive signs from a committee that has reported the purchase of signs, should have to file as a BQC and he believed it could have a chilling effect on volunteers.

Sandra Howard, Director of Say No to NECEC and Principal Officer of No CMP Corridor, appeared before the Commission. She said Say No to NECEC has not spent any money on the referendum. She said people can pick up signs from No CMP Corridor booths at county fairs, by submitting a formal request through their website, or sending an email to them. She said No CMP Corridor has not given signs to any entity or organization. They have not tracked requests from other environmental groups.

The Commissioners discussed whether a Say No to NECEC volunteer putting up signs obtained from the PAC constituted as a contribution to Say No to NECEC and would trigger registration as a PAC or BQC, including the concern of redundant financial reporting and the risk of circumvention of disclosure requirements.

Mr. Lee moved that there were insufficient grounds to request the Commission staff to conduct an investigation of Say No to NECEC. Mr. Schneider seconded the motion. Motion passed 4-1; Mr. Marble opposed the motion.

Adjournment

Mr. Lee made a motion, seconded by Mr. Hastings, to adjourn. The motion passed. The meeting adjourned at 3:00.

Respectfully submitted,
/s/ Jonathan Wayne
Jonathan Wayne, Executive Director