



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

To: Commissioners
From: Emma Burke, Political Committee & Lobbyist Registrar
Date: November 15, 2023
Re: Waiver Request by Maine Energy Progress for Penalty Due to Late Submitted Notice to Major Contributor

Maine Energy Progress (MEP) was required to submit a Notice to Major Contributor to a Major Contributor (Versant Power) and the Commission in October 2023 within five days of the contributor exceeding \$100,000 in total contributions. Instead, MEP exceeded the five day notification window for its Major Contributor and the Commission's copy of the Notice. The preliminary penalty for this late Notice is \$25,768.87. MEP requests a waiver of the penalty.

LEGAL REQUIREMENTS

When a person, other than an individual, makes contributions aggregating in excess of \$100,000 to a ballot question committee (BQC) for the purpose of initiating or influencing a people's veto referendum campaign or a direct initiative campaign, they are considered a Major Contributor. 21-A M.R.S. § 1060-A(1)(B). The recipient BQC shall provide written notice to the Major Contributor and the Commission within five days of receiving more than \$100,000 on a form prescribed by the Commission. 21-A M.R.S. § 1060-A(2). After the Major Contributor receives the written notice from the recipient BQC, it shall file a report (21-A M.R.S. § 1060-A(2)) on or before the next regularly scheduled BQC filing deadline under 21-A M.R.S. § 1059(2).

If a recipient BQC fails to provide timely notice, the Commission may assess a penalty against it. The preliminary penalty is 10% of the total contributions required to be reported, up to a maximum of \$50,000. 21-A M.R.S. § 1060-A(5).

DISCUSSION

MEP registered as a BQC on September 29, 2021 to support Question 3 on the November 2023 ballot. As of the writing of this memo, it has raised \$15,200,000 and spent \$13,528,748.49.

During its campaign, MEP received contributions in excess of \$100,000 from two sources, making the sources Major Contributors - ENMAX and Versant Power. As part of Major Contributor reporting, the recipient BQC is required to send a Notice to Major Contributor within five days of the \$100,000 being exceeded and submit a copy to the Commission. For ENMAX, MEP followed the proper procedures in November 2021, and a Notice and Major Contributor Report were filed on time. For Versant Power, however, the \$100,000 threshold was crossed on October 19, 2023, and a Notice was not sent to Versant or the Commission until October 27, 2023, making the Notice three days late.

The chart below displays all the information related to Versant and the resulting 10% preliminary penalty assigned to MEP due to the late submission of the copy of the Notice.

Major Contributor	Triggering Contribution	Exceeded \$100K	Notice Due	Contributor Notice Sent	Commission Notice Sent	Preliminary Penalty
Versant	\$257,688.68	10/19/23	10/24/23	10/27/23	10/27/23	\$25,768.87

In its waiver request, MEP explains the late Notice was a simple oversight that was quickly corrected when it was reviewing its activity ahead of filing its 11-Day Pre-Election Report due October 27, 2023. The Notice was sent the same day, with the Major Contributor Report from Versant being filed the next day on October 28th. MEP submits there was limited to no public harm from the Notice and corresponding Report being minimally late, and the amount Versant donated to the BQC was reported across multiple campaign finance reports that were timely filed. MEP also notes the BQC found the error, and immediately contacted Political Committee & Lobbyist Registrar Emma Burke.

MEP requests a substantial reduction of the penalty of \$25,768.87 because the late Notice and Major Contributor Report did not include new information interested members of the public could not find elsewhere, and the Notice was overdue by only three days.

STAFF RECOMMENDATION

Major Contributor Reports are not commonly filed with the Commission, as high-fundraising BQCs are not a yearly occurrence. However, any BQC and its principal officer, treasurer, and any other involved individuals are expected to take the time to educate themselves on all aspects of campaign finance reporting, including Major Contributor reporting. MEP hired a professional

compliance firm and experienced team of individuals dedicated to its campaign finance reporting, and had previously and timely filed a Major Contributor Report and Notice.

The Commission staff appreciate MEP discovered their error and took immediate steps to correct it, resulting in the Notice to a Major Contributor being submitted three days late. While MEP reported all its Major Contributor's donations in regular campaign finance reports, those are not the requirements it is being penalized for missing, and interested members of the press and the public know to look for Major Contributor Reports as a simple way of determining who is funding ballot initiatives in Maine, rather than wading through thousands of transactions on the Commission's eFiling site. Late Notices lead to late Major Contributor Reports, as is what happened with Versant, and are an integral part of Major Contributor reporting. Considering the relevant factors, the Commission staff recommend a penalty reduction.

For Major Contributor penalties for late submitted Notices, the Commission shall consider:

- (1) Whether, as a result of the late notice, the due date for a report required by this subchapter is later than if a timely notice had been received;
- (2) Whether the recipient committee made a bona fide effort to provide notice to the major contributors;
- (3) The amount of the contributions required to be reported; and
- (4) Other relevant factors (21-A M.R.S. § 1060-A(6))

The Commission receives relatively few penalty waiver requests for late Major Contributor Reports or Notices, with the most recent being in 2021. For those penalties, which ranged from \$10,000 - \$50,000, all were reduced to \$2,000 - \$2,500. At that time, Major Contributor reporting had only been in effect for two years, and suggesting penalties reflective of the recent, significant addition in filing responsibilities was fair. However, Major Contributor reporting has now been required for five years and should be standard practice for BQCs. Therefore, the Commission staff recommend increasing the baseline penalty to \$5,000 for late Major Contributor Notices and Reports with some adjustments upward or downward to reflect the amount of financial activity at stake, the degree of diligence of the late filer, and other factors. Penalties are also intended to serve as deterrent for future violations, and when previous penalties have not had that effect, it signifies a penalty increase may be due.

For MEP, the Commission staff suggest a penalty of \$3,000, reduced from the base penalty of \$5,000, to account for MEP's finding and self-reporting of the error, the quick correction of the missed Notice and recognizing this is a small percentage of its funds the contributions from Versant represented.



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November 13, 2023

Emma J. Burke
Political Committee & Lobbyist Registrar
Maine Commission on Governmental Ethics and Election Practices
45 Memorial Circle
Augusta, ME 04333

RE: Maine Energy Progress – Request for Waiver of Preliminary Penalty for Late Submission of Major Contributors Notice.

Dear Ms. Burke:

On behalf of my client, Maine Energy Progress, I hereby request a waiver and reduced penalty for the late submission of a Major Contributors Notice (the "Notice") to Versant Power. Maine Energy Progress acknowledges that the required Notice was filed three days late but believes its self-reporting, quick remediation of the mistake and minimal harm to the public should result in a substantial reduction in the preliminary fine.

FACTS

Maine Energy Progress is a ballot question committee (the "BQC") formed to oppose referendum questions relating to government-forced divestiture of privately owned utilities. On 9/21/2021, the BQC registered with the Commission on Governmental Ethics and Elections Practices (the "Commission") and listed its founding organizations as Enmax and Versant Power, additionally listing John Flynn, President of Versant Power as its principal officer.

On 11/23/2021, Enmax made a cash contribution of \$200,000 to the BQC. That contribution triggered a Notice from the BQC (which was properly filed) and a subsequent Major Contributor Report from Enmax (also properly filed with the Commission). As the campaign continued for the next two years, the BQC properly filed all required reports which included 17 various submissions from regular reports to 24-hour reports and major contributor notices.

On 10/27/2023, while preparing and filing the required 11-Day Pre General campaign finance report, the BQC noticed it had inadvertently missed a Notice to Versant Power, triggered by a \$100,000 contribution on 10/19/2023. Within 5 hours of identifying the oversight, the BQC had both notified

Commission staff of the oversight and filed the required notice with both Versant Power and the Commission. The BQC acknowledges that the Notice requirement applied to Versant's \$100,000 contribution on 10/19/2023 and that it was 3 days late in sending that required Notice.

LEGAL REQUIREMENTS

Persons, other than individuals, whose aggregate contributions exceed \$100,000 for the purpose of influencing a ballot question are considered "major contributors" subject to reporting to the Commission. 21-A M.R.S. § 1060-A. Recipient committees are responsible for providing written notice to the major contributor within five (5) days of receiving the contribution. *Id. at (2)*. After receipt of that notice, the major contributor shall file a report with the Commission disclosing additional information outlined in the statute. *Id. at (3) and (4)*. Recipient committees who are late providing notice may be subject to preliminary penalties of 10% of the total contributions required to be reported. *Id. at (5)*.

WAIVER REQUEST CONSIDERATION

When considering the waiver request, the Commission shall consider whether the late notice caused the major contributor report to also be late, whether a bona fide effort to provide the notice was made, the amount of contributions required to be reported and other relevant factors. *Id at (6)*.

1. The Required Major Contributor Report was Only Delayed by 24 Hours.

As stated above, the BQC discovered on 10/27/2023 that the Notice should have been sent to Versant Power and the Commission on 10/24/2023 – and as such, was three (3) days overdue. Upon discovery, the BQC immediately filed the required notices to both parties. Versant then filed its Major Contributor Report the next day, on 10/28/2023.

According to the statutory filing schedule, the contribution on 10/19/2023 triggered a Notice delivery no later than 10/24/2023. That filing deadline would trigger a report from Versant on October 27, 2023, meaning the actual report was filed 24 hours after it would have been had the BQC filed its notice on time.¹

The BQC acknowledges the importance of the public having timely information about contributors and that long stretches of delay in that process deprives the public of potentially critical information shortly before an election. The delay here, however, while technically violative of the statute, was diminimus and should not result in the imposition of a significant penalty to the BQC.

2. The Amount of Contributions Subject to the Report are Less Than 2% of the Overall Contributions to the BQC.

When considering a waiver request, the Commission should also consider the overall amount of the contributions which were subject to the report. In this case, the overall contributions to date for the BQC are \$16,110,00. The contributions listed on the Major Contributor Report account for 1.6% of the overall total contributions. While all contributions are important and should be disclosed, it is also critical to put those contributions at issue into context. This was an enormously public, hard fought and

¹ Versant Powers report was filed well within the statutory deadline of "within 2 business days of receiving the notice" and as such, is not subject to any filing penalties.

expensive campaign – and the contributions at issue are a tiny part of the overall contributions received by the BQC over the course of two (2) years. The Commission should consider that context when determining the waiver penalty. The BQC again argues that these facts point to minimal harm to the public and do not support the imposition of a preliminary penalty of the size set forth in the violation notice.

3. Several “Other Relevant Factors” Support a Substantial Decrease in the Preliminary Penalty Calculation.

In 2021, there were at least five (5) other occurrences of entities who were late in filing the Major Contributor Notices. In the course of those deliberations, Commissioners discussed the meaning of “other relevant factors.” In similar proceedings before the Commission on March 31, 2020, Assistant Attorney General Jonathan Bolton was asked to define “other relevant factors” and stated that the phrase gives the Commission broad authorization to consider other factors germane to the matter under consideration.² Germane factors identified by prior Commissions include the level of harm to the public, recipients prior track record of filing reports and whether a contributor was already heavily involved in reporting campaign finance activity.

(A) The delay in filing the required notice resulted in minimal harm to the public.

The 3-Day delay in the Notice filing did not substantially hinder the public’s ability to understand who was involved in opposing the ballot questions and as a result, resulted in de minimus harm to the public. Versant Power was publicly involved in the BQC’s efforts from the beginning and is listed as a “founding organization” under the BQC’s registration in 2021. In every campaign finance report filed by the BQC, Versant Power was listed as an in-kind contributor providing “strategic planning, media monitoring” and other tasks. Any member of the public interested in understanding who was participating in the BQC would easily and consistently see Versant Power’s involvement.

The Major Contributor Report itself provides no information not previously available in the BQC’s public filings. All the contributions (cash and in-kind) had already appeared in the BQC’s filed reports, some of which were publicly available for over 18 months). Versant had no “largest sources of funds” and received no contributions for the purpose of influencing the ballot question. The Major Contributor Report had no new information relevant to the public and simply summarized all information previously reported by the BQC.

Throughout the two (2) year campaign, Versant Power was a very public target for supporters of the referendum campaign. It is difficult to imagine a voter who didn’t understand that this campaign was expressly targeted at Versant Power and its assets. Any voter interested in understanding more about the BQC and who was making decisions and running the PAC would have easily understood Versant Power’s long-time role in the campaign.

In considering the waiver request, the BQC urges the Commission to take into account the lack of harm to the public in the three (3) day delay in filing the Notice. The facts in this case support there was virtually no harm to the public, who already had substantial access to information about Versant Power’s foundational and ongoing role in the campaign.

² Meeting minutes on Commission meeting on March 31, 2020.

(B) The BQC has a strong record of compliance and self-reported its error to the Commission staff.

As mentioned above, the BQC successfully (and timely) filed more than seventeen (17) campaign finance reports with the Commission. Many of those reports include detailed breakdowns of expenditures made by consultants on behalf of the BQC – providing very granular details about the campaign’s activities to the public. At its formation, the BQC hired a compliance firm to manage its accounting and developed systems to ensure all activity was properly tracked and reported.

That commitment to transparency and compliance is supported by the fact that the BQC immediately alerted Commission staff to its mistake upon discovery. As mentioned above, the BQC discovered the error, alerted Commission staff and filed the required notice all within five (5) hours.

The BQC urges the Commission to strongly consider its strong record of filing campaign finance reports and the forthright manner in which it handled its mistake upon discovery. It is our contention that this Commission wants to support and encourage filers to be transparent, honest and proactive with staff when they make mistakes – and that the imposition of a large penalty would run contrary to this message.

Conclusion

Despite its best efforts at compliance, the BQC inadvertently missed the filing deadline for the Notice. This three (3) day delay, while technically violative of the statute, resulted in de minimis harm to the public. The major contributor report disclosed no new information to the public as Versant Power’s role in the BQC was well understood in the public campaign and clearly disclosed in the BQC’s regular campaign finance reports. Finally, the amount in the filed major contributor notice comprised less than 2% of the overall contribution total for the BQC.

For those reasons, we respectfully request that the Commission substantially reduce the issued preliminary penalty and grant the requested waiver.

Sincerely,

A handwritten signature in black ink, appearing to read "Kate Knox", written in a cursive style.

Kate Knox
Counsel, Maine Energy Progress



STATE OF MAINE
 COMMISSION ON GOVERNMENTAL ETHICS
 AND ELECTION PRACTICES
 135 STATE HOUSE STATION
 AUGUSTA, MAINE 04333-0135

October 30, 2023

Maine Energy Progress
 Attn: Steven Mele
 PO Box 510
 Bangor, Maine 04402

Re: Late Submission of Major Contributors Notice

Dear Mr. Mele:

The Commission staff has made a preliminary finding Maine Energy Progress (“the BQC”) was late in submitting a Notice to a Major Contributor as required by 21-A M.R.S. § 1060-A(2). Once a committee receives more than \$100,000 from a contributor for the purpose of initiating or influencing a ballot question, the committee must provide written Notice to the “major contributor” it is required to file a Major Contributor Report with the Commission and submit a copy of that Notice to the Commission. It appears the BQC was late in sending a Notice to its major contributor Versant Power, and was late in submitting a copy of the Notice to the Commission:

Major Contributor	Exceeded \$100K	Notice Due	Notice to Contributor	Notice to Commission
Versant Power	10/19/2023	10/24/2023	10/27/2023	10/27/2023

Under Maine law, a late Notice triggers an enforcement process, 21-A M.R.S. §§ 1060-A & 1062. Based on the amount of reported financial activity and a 10% penalty, the Commission staff has calculated a preliminary penalty of \$25,768.87 is owed. The law does not allow for two penalties if the same Notice was submitted late to both the Major Contributor and the Commission.

Major Contributor	Amount Contributed	Contributor Notice Late?	Commission Notice Late?	Penalty (10%) Amount
Versant Power	\$257,688.68	Yes	Yes	\$25,768.87

The BQC may request the Commission consider a waiver of the penalty. The request must be made within 14 calendar days of your receipt of this notice, be in writing and contain a full explanation of the reasons the BQC submitted the Notice late in order to be scheduled for consideration at an upcoming Commission meeting.

The Commission shall consider the following factors in regards the BQC’s waiver request: the due date for a report, whether the recipient BQC made a bona fide effort to provide notice to the major contributors, the amount of the contributions required to be reported, and any other relevant factors (21-A M.R.S. § 1060-A(6)(A)).

Please contact me at (207) 287-4709 or emma.burke@maine.gov if you have questions.

Sincerely,

Emma Burke

Emma Burke
Political Committee & Lobbyist Registrar

Maximum Penalties Notification

21-A M.R.S.A. § 1060-A - \$50,000 for late Notices to Major Contributors and Major Contributor Reports



Notice to a Major Contributor

Please refer to the last page for instructions and filing schedule.

Your organization is receiving this notice because it has contributed to this committee more than \$100,000 in the aggregate for the purpose of initiating or influencing a direct initiative or people's veto referendum campaign. 21-A M.R.S. § 1060-A. Your organization must complete and file a Major Contributor Report with the Maine Ethics Commission by the applicable date, which is based on the date your organization receives this notice (please see the filing chart below). Your organization may obtain the report at the following website (www.maine.gov/ethics), or by contacting the Maine Ethics Commission directly at (207) 287-4179. Maine election law provides for civil penalties for failing to comply with the major contributor reporting law. Please contact the Maine Ethics Commission directly if you have questions regarding your reporting obligations.

MAJOR CONTRIBUTOR ORGANIZATION INFORMATION (Completed by Recipient PAC/BQC)

MAJOR CONTRIBUTOR ORGANIZATION NAME

Versant Power

RECIPIENT COMMITTEE NAME

Maine Energy Progress PAC

BALLOT QUESTION SUPPORTED/OPOSED

Question 3: Do you want to create a new power company governed by an elected board to acquire and operate existing for-profit electricity transmission and distribution facilities in Maine? - Opposed

DATE OF FIRST CONTRIBUTION TO RECIPIENT COMMITTEE

10/01/2021

DATE CONTRIBUTION(S) RECEIVED EXCEEDED \$100,000

10/19/2023

DATE NOTICE MAILED

10/27/2023

Regular Reporting Deadlines

Name of Report	Filing Deadline	If the Notice is received between:
April Quarterly Report	April 10, 2023	January 1 – March 31, 2023
July Quarterly Report	July 17, 2023	April 1 – June 30, 2023
October Quarterly Report	October 5, 2023	July 1 – September 30
11-Day Pre-Election Report	October 27, 2023	October 1 – October 24, 2023
42-Day Post-Election Report	December 19, 2023	October 25 – December 12, 2023
January Quarterly Report	January 16, 2024	December 13 – December 31, 2023

Deadline - Last 13 Days before an Election

Name of Report:	If the Notice is received between:	The Report is due on or before:
2-Day Election Report	During the last 13 days before an election	Within 2 business days of receiving notice.

NOTE: if the Notice is receiving during the last 13 days before a primary, general, or special election then the Report is due within 2 business days and **not** by the due date of a Regular Finance Report.

Major Contributor, defined. A Major Contributor is a person (a business, organization, association, etc., but not an individual) that gives more than \$100,000 in the aggregate to a political action committee or ballot question committee for the purpose of initiating or influencing a people's veto or citizen initiative.

Contribution, defined. Funds or anything of value that is given to a committee to initiate or influence a people's veto or citizen initiative.

Single Filing. The obligation to provide Notice to a Major Contributor and their obligation to file a Major Contributor Report occurs only once per ballot question. For example, if the Major Contributor had previously filed a report because it exceeded the \$100,000 threshold and then subsequently provided an additional \$100,001 to the recipient committee for the same initiative, a second notice/report is not required.

Ballot Questions. The \$100,000 threshold applies per ballot question. A Major Contributor could give the same recipient committee \$75,000 for one ballot question and an additional \$75,000 for a different ballot question without being required to file a Major Contributor Report. If, however, the Major Contributor was required to file a report for one ballot question and then contributes over \$100,000 for another ballot question, then the recipient committee must provide notice to the Major Contributor a second time.

Timing of Notice. The recipient committee must notify the Major Contributor within 5 days of having received contributions from the Major Contributor exceeding the \$100,000 threshold. If the threshold is exceeded within 13 days before an election, then the committee must notify the Major Contributor in writing within 24 hours.

Service. The recipient committee may send the Notice by mail, email, or fax to the Major Contributor. A copy of the Notice and proof of service should be retained by the Recipient Committee. The Commission staff recommends that if the Notice is mailed, the committee use certified rather than regular mail.

Providing a Copy to the Commission. The recipient committee is also required to deliver a copy of the notice to the Commission.

Penalties. If the recipient committee fails to provide timely notice to the Major Contributor, then the recipient committee may be liable for a penalty of 10% of the total contributions from the Contributor up to a maximum of \$50,000.

§1060-A. Campaign for direct initiative or people's veto; reporting by major contributors

This section governs the reporting of contributions aggregating in excess of \$100,000 for the purpose of initiating or influencing a campaign for a people's veto referendum under the Constitution of Maine, Article IV, Part Third, Section 17 or a direct initiative of legislation under the Constitution of Maine, Article IV, Part Third, Section 18. [PL 2017, c. 418, §4 (NEW).]

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Contribution" has the same meaning as set out in section 1052, subsection 3 and also includes but is not limited to:

- (1) Funds or anything of value that the contributor specified were given in connection with a campaign for a people's veto referendum or direct initiative campaign;
- (2) Funds or anything of value provided in response to a solicitation that would lead the contributor to believe that the contribution would be used specifically for the purpose of initiating or influencing a people's veto referendum or direct initiative campaign; and
- (3) Funds or anything of value that can be reasonably determined to have been provided by the contributor for the purpose of initiating or influencing a people's veto referendum or direct initiative campaign when viewed in the context of the contribution and the recipient committee's activities during the campaign. [PL 2017, c. 418, §4 (NEW).]

B. "Major contributor" means a person, other than an individual or a committee, that makes one or more contributions aggregating in excess of \$100,000 to a ballot question committee or political action committee for the purpose of initiating or influencing any one people's veto referendum campaign or any one direct initiative campaign. [PL 2021, c. 530, §2 (AMD).]
[PL 2021, c. 530, §2 (AMD).]

2. Notice to major contributor. Within 5 days of receiving more than \$100,000 in the aggregate from a major contributor, the recipient committee shall provide written notice to the major contributor of the reporting requirement under this section and shall submit a copy of the notice to the commission. If the \$100,000 aggregate amount is exceeded as a result of a contribution received during the last 13 days before an election, the recipient committee shall, within 24 hours of receiving the contribution, provide written notice of the reporting requirement to the major contributor and submit a copy of the notice to the commission. The commission shall prepare a sample written notice for this purpose. [PL 2017, c. 418, §4 (NEW).]

3. Required reports. A major contributor shall file a report containing the information required in subsection 4 on or before the next regularly scheduled filing deadline under section 1059, subsection 2 occurring after the major contributor receives notice of the reporting requirement. If a major contributor has received a notice from a recipient committee or the commission during the last 13 days before an election as required under subsection 2, the major contributor shall file a report within 2 business days of receiving notice from the recipient committee or commission. The commission shall prescribe and prepare forms for these reports and may require major contributors to file reports electronically. [PL 2017, c. 418, §4 (NEW).]

4. Content. In the reports required under subsection 3, a major contributor shall provide:

- A. The name of and relevant contact information for the major contributor and the name of a responsible officer of the major contributor; [PL 2017, c. 418, §4 (NEW).]
- B. The form of organization and purpose of the major contributor; [PL 2017, c. 418, §4 (NEW).]

C. The amount and date of each contribution from the major contributor to the recipient committee; [PL 2017, c. 418, §4 (NEW).]

D. A certification that the major contributor has not received contributions, in whole or in part, for the purpose of initiating or influencing a people's veto referendum or direct initiative campaign in this State or, if the major contributor has received such contributions, the dates, sources and amounts of any such contributions; [PL 2017, c. 418, §4 (NEW).]

E. The names of the 5 largest sources of funds received by the major contributor during the period beginning 6 months prior to the first contribution made to the recipient committee and ending on the date of the filing of the report. This paragraph does not apply to funds received by the major contributor:

(1) That are restricted to purposes that are unrelated to a people's veto referendum or direct initiative campaign in the State;

(2) In the ordinary course of the major contributor's regular trade or business or as investment income; or

(3) If the source of the funds provided no more than \$5,000 to the major contributor during the relevant period of time; and [PL 2021, c. 530, §3 (RPR).]

F. A statement indicating whether the major contributor is exempt from taxation under the United States Internal Revenue Code of 1986 and a list of any governmental jurisdictions within the United States in which the major contributor has filed campaign finance reports during the previous 12 months. [PL 2017, c. 418, §4 (NEW).]

The commission may require by rule additional information to be reported consistent with this subsection to facilitate disclosure to citizens of this State of financial activity conducted for the purpose of influencing elections in this State.

[PL 2021, c. 530, §3 (AMD).]

5. Noncompliance. The commission may assess a civil penalty against a person that does not comply with the requirements of this section. The preliminary penalty is 10% of the total contributions required to be reported or \$50,000, whichever is less, for:

A. A recipient committee that fails to provide timely notice to a major contributor under subsection 2; [PL 2021, c. 530, §4 (NEW).]

B. A recipient committee that fails to provide a copy of the notice to the commission under subsection 2. If the commission assesses a penalty under paragraph A, the commission may not also assess a penalty under this paragraph; and [PL 2021, c. 530, §4 (NEW).]

C. A major contributor that fails to file a timely report required under this section or that files a report that does not substantially conform to the disclosure requirements of this section or rules adopted under this section. [PL 2021, c. 530, §4 (NEW).]

[PL 2021, c. 530, §4 (RPR).]

6. Waiver request; final penalty. Not later than the 14th calendar day after the date the person receives notice of the preliminary penalty from the commission under subsection 5, the person may request a waiver of the penalty in full or in part. In considering a request for a waiver under this subsection, the commission shall consider:

A. For violations under subsection 5, paragraphs A and B:

(1) Whether, as a result of the late notice, the due date for a report required by this subchapter is later than if a timely notice had been received;

(2) Whether the recipient committee made a bona fide effort to provide notice to the major contributors;

- (3) The amount of the contributions required to be reported; and
 - (4) Other relevant factors; and [PL 2021, c. 530, §5 (NEW).]
- B. For violations under subsection 5, paragraph C:
- (1) The failure of the recipient committee to provide notice of the reporting requirement to the major contributor;
 - (2) The number of days the report is late;
 - (3) The amount of the contributions required to be reported; and
 - (4) Other relevant factors. [PL 2021, c. 530, §5 (NEW).]

A person requesting a determination on a waiver may either appear in person or designate a representative to appear on the person's behalf or may submit a sworn statement explaining the mitigating circumstances for consideration by the commission. After a commission meeting, the commission shall mail notice of the final determination of the commission and the penalty, if any, imposed pursuant to this subsection to the person against whom the commission is assessing the penalty. If the person against whom the commission is assessing the penalty does not request a waiver, the preliminary penalty calculated by the commission is final. The commission shall mail final notice of the penalty to the person against whom the commission is assessing the penalty. A final determination by the commission on a waiver may be appealed to the Superior Court in accordance with Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil Procedure, Rule 80C. [PL 2021, c. 530, §5 (NEW).]

SECTION HISTORY

PL 2017, c. 418, §4 (NEW). PL 2021, c. 530, §§2-5 (AMD).

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