



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: January 23, 2024
Re: Waiver Request by Our Power for Penalties Due to Late Notices to Major Contributors

In August and October 2023, the Our Power ballot question committee (“BQC”) was required to send written notices to two of its contributors, 128 Collective Initiatives and the Institute for Local Self-Reliance, advising them they were required to file Major Contributor Reports with the Commission. The notices were required because the organizations had made contributions of more than \$100,000 to Our Power to support Question 3 on the November 7, 2023 ballot, which proposed a new power company to transmit electricity in Maine. Our Power was late in sending the notices to the two contributors and copies to the Commission. The preliminary penalties against Our Power for the late notices total \$28,155.08. Our Power requests a waiver.

LEGAL REQUIREMENTS

When a person, other than an individual, makes contributions aggregating in excess of \$100,000 to a 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

Our Power registered as a BQC on December 17, 2020. It reported spending roughly \$663,000 to support Question 3 during 2023. According to totals on the Commission’s website, its total reported spending during 2020-2023 was roughly \$1.2 million.

During the 2023 campaign, Our Power received contributions in excess of \$100,000 from three sources, with two qualifying as Major Contributors - 128 Collective Initiatives (referenced below as “128”) and the Institute for Local Self-Reliance (“ILSR”). The other major donor was an individual and was exempt from Major Contributor reporting.

As of August 8th of last year, 128 made cash contributions totaling \$150,000 to Our Power. By late October 2023, ILSR had made three in-kind contributions to Our Power with a total value of \$131,550.75, which consisted of mailings to support Our Power’s campaign.

As part of Major Contributor reporting, the recipient BQC is required to send a Notice to Major Contributor within five days of exceeding \$100,000, or two business days if the threshold-exceeding donation is received within the two weeks before the election, and submit a copy of the Notice to the Commission. For both Major Contributors, Our Power did not send the Notice to the contributors within the required timeframes in August 2023 (128) and October 2023 (ILSR).

Consequently, 128 and ILSR filed their Major Contributor Reports with the Commission *after* the November 7, 2023 election. 128 filed its Major Contributor Report with the Commission on November 15, 2023, and ILSR filed its report on December 12, 2023.

Under the statute, the preliminary penalties against Our Power for sending late notices is 10% of the total contributions received from each source, as illustrated in this chart:

Major Contributor	Triggering Contribution	Total Contributions	Exceeded \$100K	Notice Due	Notices Sent	Preliminary Penalty
128	\$50,000	\$150,000	08/08/23	08/15/23	11/08/23	\$15,000
ILSR	\$50,950	\$131,550.75	10/27/23	10/31/23	08/17/23	\$13,155.08
Totals		\$281,550.75			2 late	\$28,155.08

In its waiver request (attached), Our Power provides multiple reasons for its late submissions of Notices to Major Contributors and its misunderstandings surrounding the process. Our Power states it was aware of the Major Contributor reporting requirements but focused its internal discussions on the threshold in terms of singular contributions of greater than \$100,000, of which it received none, and not multiple contributions aggregating to more than \$100,000.

This led to it failing to notice 128 and ILSR required Major Contributor Notices and Reports. ILSR's contributions were in-kind contributions, which the BQC argues are "more difficult to track than cash contributions" and added "complexity" to staying in compliance. Our Power notes it received 1,894 unique contributions and did not have an individual who reviewed them to aggregate "separate, smaller contributions."

Our Power notes that in comparison to recent BQCs penalized for late Major Contributor Notices it had far more contributions, did not have paid legal or compliance consultants, and had a small team that experienced a lot of turnover. Over its three-year history, the BQC had three campaign managers and at times had only one full-time person on staff.

Our Power requests a total penalty of no more than \$1,000, stating recent penalty decisions by the Commission were reductions of 12-15% of the preliminary penalties, which would be roughly a penalty of \$3,500-\$4,500 in this case. The BQC argues it is a citizen-based volunteer group which has demonstrated "several compelling mitigating factors" and also it does not have funds on hand to pay a higher penalty, which could result in the penalty being paid by personal funds of the individuals associated with it.

STAFF RECOMMENDATION

Summary. The Commission staff recognizes that that Our Power received many small contributions and may have relied more on volunteer staff than other political committees that supported or opposed recent ballot questions. Nevertheless, it should have had procedures in place to add up contributions from larger contributors giving \$40,000-\$60,000, because it was easily foreseeable that their aggregate contributions could exceed \$100,000. Commission staff does not understand why the BQC did not establish these procedures. Our Power was informed by ILSP of the monetary value of the three mailings ILSR sent to support Our Power's campaign, so valuating ILSP's in-kind contributions should not have been a stumbling block. Our Power's lateness in sending notices to 128 and ILSR caused their Major Contributor Reports to be filed *after the election*. 128 and ILSR are policy advocacy organizations that spent \$150,000 and \$131,550.75, respectively, to promote a new utility in Maine. Information about these contributors should have been disclosed to the public prior to the election. For these reasons, the Commission staff recommends reducing the preliminary penalties to \$7,500 per report, for a total of \$15,000.

Experience of BQC officers. The treasurer, principal officer, and other leaders of a BQC should be expected to effectively educate paid or volunteer staff on all bookkeeping procedures necessary for the BQC to make required campaign finance reports, including Major Contributor reporting. Our Power's principal officer is former state legislator and attorney, John Brautigam, who has more than 25 years of experience in campaign finance law, public policy, advocacy, and legal representation. He has served on multiple PAC, BQC, and candidate campaigns. Two years ago (January 2020), Mr. Brautigam provided detailed written testimony regarding the major contributor reporting requirement on behalf of the Maine Citizens for Clean Elections. The BQC's treasurer, Gary Friedmann, is an experienced Maine consultant who advises nonprofits on fundraising, development, and other issues. These BQC officers were well positioned to give guidance to the relevant staff/volunteers on what information needed to be collected for successful campaign finance reporting.

Commission guidance and law are clear: \$100,000 threshold applies in the aggregate. The applicable statute and written guidance from the Commission are clear that the \$100,000 threshold for major contributor reporting is based upon aggregate contributions from a single source. The first sentence and subsections (1)(B) and (2) of 21-A M.R.S. § 1060-A are explicit. The Commission's guidance on page 16 of the 2023 Ballot Question Committee Guidebook is also clear ("A major contributor is a person, other than an individual, that makes contributions in excess of \$100,000 in aggregate...") (attached). This is also clear in the Commission's instructions in the Major Contributor Notice that BQCs are required to send to their major contributors ("Your organization is receiving this notice because it has contributed to this committee more than \$100,000 in the aggregate...").

Our Power should have tracked and aggregated large contributions. The Commission staff recognize that Our Power needed to keep records of many smaller-dollar contributions and may have relied on volunteer staff. Nevertheless, the first two contributions that 128 and ILSR gave Our Power were in the range of \$40,000 - \$60,000. At that point, those two contributors should have been on Our Power's radar screen as donors that might give more than \$100,000 in total. As context, Our Power had only 11 contributions of \$25,000 or more, and 30 contributions of \$10,000 or more. The Commission's eFiling website allows for easy sorting of all entered contributions by amount. Using this sorting feature, the contributors exceeding an aggregate of \$100,000 could have been easily identified. Our Power's reliance on volunteers and the number

of its small-dollar contributors does not make the committee any less responsible for submitting Major Contributor Notices in a timely manner.

The Commission staff are unclear why Our Power did not understand the aggregation rule, or why it would have been difficult to aggregate its large contributions. ILSR provided the value of its mailings to the BQC. Our Power disclosed these amounts as in-kind contributions in 24-Hour Reports and regular campaign finance reports. Therefore, establishing a value for these in-kind contributions was not an impediment for Our Power to recognize it needed to send a Major Contributor Notice to ILSR. The BQC had access to clear guidance from the Commission's publications and instructions, and its officers had both the professional experience and expertise to establish the necessary bookkeeping and tracking procedures, even when relying on volunteer staff.

Harm to the public from the late notices. It is not uncommon for campaign finance reports to include large contributions from organizations whose names provide very little information about the sources of the money contributed. In 2018, to supplement current campaign finance disclosure requirements for PACs and BQCs, the Legislature decided that organizational contributors giving more than \$100,000 to influence a ballot question should file their own Major Contributor Reports. P.L. 2017, ch. 418. As designed by the Legislature, a Major Contributor would need to identify the purpose and form of the organization, its five largest sources of revenue during the previous six months, and other relevant information.

Both 128 and ILSR are out-of-state policy advocacy organizations that are funded by gifts from other sources. Their Major Contributor reports contain information that is valuable in understanding the nature of their support, including the “donors behind the donor.” Had 128 and ILSR received notices from Our Power on time, they presumably would have filed Major Contributor reports prior to the election. Instead, 128 and ILSR filed their Major Contributor reports on November 15 and December 12, 2023 – too late to provide any informational benefit to Maine voters.

Our Power argues in its waiver request it “promptly addressed the error” after the Commission staff notified Our Power that our office had not received Major Contributor notices for 128 and ILSR. It is worth noting that Our Power did not identify the error on its own. The Commission staff identified the issue shortly after the election when it had available staff time to

review financial activity. Had Commission staff not noticed the error, it is quite possible that 128 and ILSR would never have filed Major Contributor reports.

Recent precedent. In 2020-2021, the Commission mostly assessed a \$2,500 penalty for the late transmission of a Major Contributor notice or the late filing of a Major Contributor report. At the Commission's November 29, 2023 meeting, the Commission staff recommended that the informal baseline penalty for these violations should be increased to \$5,000 with adjustments upward or downward to reflect the amount of financial activity at stake, the degree of diligence of the late filer, and other factors. The Commission appeared comfortable with staff's recommendation, because it assessed a \$5,000 penalty for most of the late reports and notices considered at the November 29, 2023 meeting.¹

Staff recommendation. When assessing penalties for late notices and reports, the Commission is directed in statute to 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 staff recommend assessing two penalties of \$7,500 against Our Power for sending late Major Contributor notices, resulting in a total penalty of \$15,000. We recommend an increase above \$5,000 per report because no sufficient reason has been given explaining Our Power's lack of understanding of the aggregate requirement, and the late Major Contributor Notices by Our Power impacted when 128 and ILSR filed their Major Contributor Reports. Their reports were not only late, but filed after the election, for a ballot question that was highly contested, discussed, and reported on.

¹ The Commission assessed a smaller penalty of \$3,000 against Maine Energy Progress for sending a late notice to one major contributor, Versant Power. The staff recommended a lower penalty in this case because Maine Energy Progress caught its own error, was only three days late in sending the notice, and Versant Power filed its Major Contributor report before the election.



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

December 13, 2023

Our Power
 Attn: John Brautigam & Gary Friedmann
 PO Box 4775
 Portland, Maine 04112

Re: Late Submission of Two Major Contributors Notices

Dear Mr. Brautigam and Mr. Friedmann:

The Commission staff have made a preliminary finding Our Power Committee (“the BQC”) was late in submitting two Notices to a Major Contributor as required by 21-A M.R.S. § 1060-A(2). Once a BQC receives more than \$100,000 from a contributor for the purpose of initiating or influencing a ballot question it 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 Our Power was late in sending two of these notices to its major contributors, and was late in submitting the copies to the Commission as well:

Major Contributor	Exceeded \$100K	Notice Due	Notice sent to Contributor	Notice sent to Commission
128 Collective Initiatives	08/08/2023	08/13/2023	11/09/2023	11/09/2023
Institute for Local Self Reliance	10/27/2023	10/28/2023	11/09/2023	11/09/2023

Under Maine law, late Notices trigger 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 preliminary penalties totaling \$23,155.08 are 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
128 Collective Initiatives	\$150,000	Yes	Yes	\$15,000
Institute for Local Self Reliance	\$131,550.75	Yes	Yes	\$13,155.08

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 Notices late and it will then 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 with questions.

Sincerely,

Emma Burke
Political Committee & Lobbyist Registrar

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



January 5, 2024

Jonathan Wayne
Executive Director
Maine Commission on Governmental Ethics and Election Practices
45 Memorial Circle
Augusta, ME 04333

RE: Our Power BQC – Late Submission of Major Contributors Notice

Dear Jonathan:

The Our Power ballot question committee hereby requests a reduction in the penalty for the late submission of a Major Contributors Notice. Our Power does not dispute the two violations of the major contributor notice requirement, but we suggest that significant mitigating factors merit a reduction in the penalty from the preliminary amount as determined by statute.

Background

The first violation relates to three contributions received from The 128 Collective between January 2023 and August 2023. These contributions were as follows:

January 24, 2023	\$60,000
January 24, 2023	\$40,000
<u>August 8, 2023</u>	<u>\$50,000</u>
Total	\$150,000

The second violation relates to three contributions received from the Institute for Local Self Reliance between October 19, 2023 and October 30, 2023. These contributions were as follows:

October 19, 2023	\$50,950.00 (in-kind)
October 27, 2023	\$50,950.00 (in-kind)
<u>October 30, 2023</u>	<u>\$29,650.75 (in-kind)</u>
Total	\$131,550.75

No one of these contributions exceeded the \$100,000 threshold for major contributor reporting. But in each case, the third contribution caused each of these contributors to exceed the \$100,000 threshold.

On November 8, 2023 Commission staff alerted the campaign that these contributions triggered the major contributor reporting requirement and that Our Power was not in compliance. Within a



day Our Power notified the major contributors and provided the notification to the Commission. The 128 Collective provided its major contributor report within a few days. The Institute for Local Self Reliance took a little longer, providing its major contributor report at the time of the 42-day post-election reporting deadline on or about December 19, 2023. Commission staff advised Our Power that this would be the applicable deadline under the circumstances.

Our Power accepts responsibility and acknowledges that a nominal penalty would be appropriate. For the reasons set forth below Our Power respectfully requests a partial waiver of the statutory preliminary penalty amount.

A. Our Power strongly supports all reporting requirements and did have a system for reporting major contributor information, but unfortunately that system had a flaw.

Our Power staff handling finances were made aware on several occasions of the major contributor reporting requirement. Staff responsible for reporting were new to Maine ballot question campaigns but understood that contributions of more than \$100,000 required special treatment. To illustrate, Our Power had an internal discussion about a different contributor who donated exactly \$100,000. The staff discussed whether a major contributor report would be required for this contribution, and determined that no report was required since the contribution did not exceed \$100,000. We mention this to emphasize that the BQC was aware of the major contributor requirement and attempted to apply it, while failing to catch two contributors who each gave a third contribution that caused their aggregate total to surpass \$100,000.

B. Our Power never received a single contribution in excess of \$100,000; the error resulted from the failure to aggregate smaller contributions.

Had Our Power received a single contribution exceeding \$100,000 there is no doubt that Our Power would have followed the major contributor rules correctly. In both the case of The 128 Collective and the Institute for Local Self Reliance, it was the aggregation of multiple separate contributions that triggered the threshold. Contributions from The 128 Collective were spread out over more than six months and were reported on multiple different campaign finance reports. Regrettably, no one within the campaign put the pieces together and reviewed the committee's 1,894 separate contributions to understand that the major contributor aggregate contribution limit had been reached in two instances. To our knowledge this is an unusual occurrence, and we are not aware of other enforcement actions resulting exclusively from a failure to aggregate separate, smaller contributions.

C. Our Power's violations-per-contribution rate is much lower than some other recent committees which have been subject to enforcement.

As the Commission determined last month, two other committees also violated the major contributor rules in 2023 despite having very few contributions to manage, record, and report. One of those committees reported receiving just 79 contributions over the course of the entire campaign, while another reported only 36. These committees spent tens of thousands of dollars



on compliance and attorney fees, yet still encountered violations in their reporting which only required them to handle a very small number of transactions over just a few months. In contrast, Our Power received and reported 1,894 contributions over a period spanning 36 months. The Our Power violation rate was just 2 out of 1,894 contributions, or 0.1%. The other committees' violation rates worked out to 1.2% and 19.4% respectively.

D. Our Power was volunteer-led and had only a small staff with significant turnover.

Our Power arose from a grassroots effort that was not tied to any commercial entity and never benefited from a large source of administrative funding. At times during the final year of the campaign the staff was as small as one full-time person. The campaign had three separate campaign managers over 36 months, and at various times several different people handled campaign finance reporting. Of course, this does not excuse compliance mistakes. We recognize that a violation is a violation, whether committed by a BQC with an army of attorneys and compliance professionals, or by a grassroots organization primarily run by volunteers assisted by a small temporary staff. But we ask that you consider this factor when determining any penalty.

E. The BQC Promptly Addressed the Error

The Our Power campaign received the notice from Commission staff on the afternoon of November 8 referencing the missing reports. Immediately, campaign staff reviewed the contributions and realized the error. Staff reached out to 128 Collective and the Institute for Local Self Reliance to notify them and to complete the major contributor reports. Within a day after learning about the error, Our Power had filed the two Notice to a Major Contributor forms to the Commission. Our Power made every attempt to rectify the mistake immediately.

F. One of the two Our Power violations resulted from in-kind contributions which are somewhat more difficult to track than cash contributions.

The violation relating to contributions from the Institute for Local Self Reliance (ILSR) arose from in-kind contributions. Since in-kind contributions are not cash, they do not flow through the regular accounting system of a typical campaign. This adds another wrinkle to compliance. The standard compliance system focuses on cash contributions coming in to the campaign account and cash expenditures leaving the account. In-kind contributions require separate, additional tracking efforts. This is not to say that the major contributor requirement does not apply to in-kind contributions or that this excuses the mistake regarding ILSR. We agree that it does apply. We only suggest that in this case an added complexity in compliance existed for the Our Power campaign and that this may be relevant in assessing any penalty.

G. Our Power does not have ready access to additional funds to pay a substantial penalty.

The Our Power campaign has concluded and has spent substantially all of the funds available to the ballot question committee. The campaign no longer has staff or any administrative



operation. Raising additional funds to pay a penalty would be nearly impossible. A large fine on the campaign could cause the unpaid treasurer and decision maker to be personally liable for a campaign. Under the circumstances this may result in a harsh outcome for what we believe was an inadvertent failure of compliance by a small, citizen-based issue campaign.

Conclusion

Our Power admits making the mistake of failing to recognize that two contributors were subject to the major contribution rule and that this mistake caused a delay in the production of the required information. Our Power regrets the mistake. Our Power moved immediately to remedy the problem.

Our Power suggests that several mitigating factors merit consideration before imposing a penalty. The most important of these factors is that the mistake resulted not from a failure of attention to the requirement, but from the lack of a system to aggregate a large number of smaller contributions for purposes of checking compliance with the major contributor rules. The campaign received 1,894 contributions all of which would have to be reviewed and possibly aggregated in order to ensure compliance.

Other contributing factors include (1) the much larger volume of information the BQC had to track and report than some of the other entities with major contributor violations; (2) the relative lack of administrative resources of this low-budget campaign; and (3) the challenges of tracking in-kind contributions which are commonly not recorded in the campaign's regular financial system. Taken together, these factors were a perfect storm that caused this low-budget campaign to stumble over this compliance issue.

We accept that Our Power may face a penalty. The preliminary penalty is \$28,728. In the most recent proceedings regarding ballot question committees failing to comply with the major contributor requirement, the Commission imposed penalties equal to 12% and 15% of the preliminary penalty. Using the same percentages, a comparable penalty would be between 12% (\$3447) and 15% (\$4309). Since we believe our citizen-based volunteer led group has presented several compelling mitigating factors justifying a lower penalty, we ask the Commission to reduce the penalty to no more than \$1000.

Sincerely,

A handwritten signature in blue ink that reads 'Gary Friedmann'.

Gary Friedmann
Our Power Campaign Treasurer



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

128 Collective

RECIPIENT COMMITTEE NAME

Our Power

BALLOT QUESTION SUPPORTED/OPOSED

2023 An Act To Create the Pine Tree Power Company,
 a Nonprofit, Consumer-Owned Utility

DATE OF FIRST CONTRIBUTION TO RECIPIENT COMMITTEE

1/24/2023

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

8/8/2023

DATE NOTICE MAILED

11/9/2023

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.

Instructions and Definitions for providing Notice to a Major Contributor

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.



Major Contributor Report 2023 Election

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
42-Day Pre-Election Report	September 26, 2023	July 1 – September 19, 2023
11-Day Pre-Election Report	October 27, 2023	September 20 – October 24, 2023
January Quarterly Report	January 16, 2024	October 25 – 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.		
Organization Information		
Organization Name 128 Collective Initiatives, Inc		
Mailing Address 950 Mason Street #1107		Phone 650-804-7166 (Bryan at
City, State Zip San Francisco		Email kate@128collective.org
Responsible Officer Name and Position Kate Goss, Executive Director		
Form of Organization and Purpose 501 c4,		
Tax Status		
Does this Organization currently have a tax-exempt status with the Internal Revenue Service?		
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
If Yes, under what section of the tax code does it claim an exemption? 501 c4		
Please list all jurisdictions with which this Organization files campaign finance reports		
1. N/A		
2.		
3.		
4.		

Recipient Information

Name of Recipient

Our Power

Mailing Address of Recipient

P.O. Box 4775 Portland, ME 04112

Date of First Contribution to Recipient

January 24, 2023

Total Amount Given to Recipient to Date

\$150,000

Itemized Contributions Given to Recipient Committee to Date (If additional space is needed, continue on the "Schedule B-MC-1" Worksheet)

Date	Type of Contribution (e.g. cash or in-kind. If in-kind, describe goods or services given.)	Amount
1/24/23	cash	\$60,000
1/26/23	cash	\$40,000
8/8/23	cash	\$50,000

Organization Source of Funds

Please provide the names of the five largest sources of funds received by this organization during the period beginning six months prior to the first contribution this organization made to the recipient ballot question committee or political action committee. Do not include the names of sources of funds that are restricted to purposes unrelated to a direct initiative or people's veto referendum campaign.

1. Tom and Theresa Preston-Werner

2.

3.

4.

5.

Certification of receipt of contributions to influence a Maine ballot question

Has this organization received contributions, in whole or in part, for the purpose of initiating or influencing a direct initiative or people's veto referendum campaign in Maine?

Yes (If so, complete and attach the "Contributions Received to Influence Maine Ballot Question" Worksheet)

No

I Certify that the information in this report is true, correct, and complete.

Kate M. Ross

Signature of Responsible Officer of Organization

11 / 13 / 2023

Date

Organization Name: 128 Collective Initiatives, Inc



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

Institute for Local Self Reliance

RECIPIENT COMMITTEE NAME

Our Power

BALLOT QUESTION SUPPORTED/OPOSED

2023 An Act To Create the Pine Tree Power Company,
 a Nonprofit, Consumer-Owned Utility

DATE OF FIRST CONTRIBUTION TO RECIPIENT COMMITTEE

10/19/2023

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

10/27/2023

DATE NOTICE MAILED

11/9/2023

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.

Instructions and Definitions for providing Notice to a Major Contributor

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.



Major Contributor Report 2023 Election

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
42-Day Pre-Election Report	September 26, 2023	July 1 – September 19, 2023
11-Day Pre-Election Report	October 27, 2023	September 20 – October 24, 2023
January Quarterly Report	January 16, 2024	October 25 – 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.		
Organization Information		
Organization Name		
Mailing Address		Phone:
City, State Zip		Email
Responsible Officer Name and Position		
Form of Organization and Purpose		
Tax Status		
Does this Organization currently have a tax-exempt status with the Internal Revenue Service?		
Yes _____ No _____		
If Yes, under what section of the tax code does it claim an exemption?		
Please list all jurisdictions with which this Organization files campaign finance reports		
1.		
2.		
3.		
4.		

Recipient Information

Name of Recipient

Mailing Address of Recipient

Date of First Contribution to Recipient

Total Amount Given to Recipient to Date

Itemized Contributions Given to Recipient Committee to Date
(If additional space is needed, continue on the "Schedule B-MC-1" Worksheet)

Date	Type of Contribution (e.g. cash or in-kind. If in-kind, describe goods or services given.)	Amount

Organization Source of Funds

Please provide the names of the five largest sources of funds received by this organization during the period beginning six months prior to the first contribution this organization made to the recipient ballot question committee or political action committee. Do not include the names of sources of funds that are restricted to purposes unrelated to a direct initiative or people's veto referendum campaign.

1.

2.

3.

4.

5.

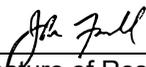
Certification of receipt of contributions to influence a Maine ballot question

Has this organization received contributions, in whole or in part, for the purpose of initiating or influencing a direct initiative or people's veto referendum campaign in Maine?

Yes (If so, complete and attach the "Contributions Received to Influence Maine Ballot Question" Worksheet)

No

I Certify that the information in this report is true, correct, and complete.



Signature of Responsible Officer of Organization

Date

SCHEDULE B-MC-1

Contributions Received to Influence Maine Ballot Question Worksheet

- Please list all contributions, as defined in 21-A M.R.S.A. §§ 1052(3) & 1060-A(1)(A), received, in whole or in part, for the purpose of initiating or influencing a people's veto referendum or direct initiative campaign in Maine in the spaces provided.
- Duplicate as needed.

Date Received	Contributor's Name, Address, Zip	Description (cash or goods, services, or discounts received)	Value
Total contributions (this page only)			

Ballot Question Committee Campaign Finance Guidebook



For 2023 Referenda Elections



CHAPTER 5

Candidates, Major Contributors & Disclaimers

Supporting Candidates

A BQC can spend up to \$10,000 to support candidate elections. If it exceeds that threshold it must also register a PAC and file candidate related disclosures through that account. BQCs intending on influencing candidate elections are encouraged to review the PAC Guidebook Chapters 5 & 6.

Major Contributors

A major contributor is a person, other than an individual, that makes contributions in excess of \$100,000 in aggregate to a BQC for the purpose of initiating or influencing any single people's veto referendum or direct initiative campaign.

Once a person becomes a major contributor the BQC must provide written notice to the them within five (5) calendar days of their obligation to file a Major Contributor Report. If the \$100,000 threshold is exceeded during the last two (2) weeks before an election (regardless whether the referenda will appear on the ballot in that election), the BQC must provide a written notice within 24 hours of receiving the contribution. When a major contributor notice is sent, a copy must also be provided to the Commission.

The Major Contributor Report must be filed by the next regular report due date (See Chapter 4). If the notice is received during the last two (2) weeks before an election, the Major Contributor Report must be filed within two (2) business days of receiving the notice.

Major contributors are not required to file subsequent reports for the same committee and campaign. For example, if ABC Corp. gives \$150,000 to 123 BQC to influence a referenda and files a Major Contributor Report, they are not required to file a second Major Contributor Report if they make another contribution of \$200,000 to 123 BQC to support the same referendum.

Failure to provide a timely notice to the major contributor will result in a financial penalty against the recipient BQC equal to 10% of the amount of the contribution in the Major Contributor Report. Similarly, if the donors fails to file a timely report there will be a financial penalty against them equal to 10% of the amount of the contribution in the Major Contributor Report.

Disclaimers on Political Communications

Expenditures exceeding \$500 for the purpose of expressly advocating for or against a referendum



require the clear and conspicuous disclosure of the name and address of the person who financed the communication. The disclaimer should read “Paid for by [Name of BQC], [Address of BQC].” Telephone calls (scripted or robocall) only require the name of the person who financed the communication be stated.

If a disclaimer would be so small as to be illegible or infeasible then it is not required. This includes small promotional items such as: pens, balloons, campaign buttons, coasters, thumb drives, key rings, *etc.* BQCs are encouraged to contact Commission staff about what would be considered a small enough item for a disclosure statement to be infeasible.

A violation of this section may result in a penalty of no more than \$5,000. In assessing the penalty the Commission shall consider, among other things, how widely the communication was disseminated, whether the violation was intentional, whether it occurred as the result of an error by a printer or other paid vendor, and if it conceals or misrepresents the identity of the person who financed it.

LEGAL REFERENCES

Supporting Candidates	21-A M.R.S. §§ 1052-A(1-A)
Major Contributors	21-A M.R.S. § 1060-A
Disclaimers on Political Communications	21-A M.R.S. § 1055-A

**Late Major Contributor Decisions
(2020 - present)**

Committee Name	Violation	Preliminary Penalty	Final Penalty	Commission Meeting Date
Waiver requests				
Mainers for Local Power PAC	Late Major Contributor (2)	\$53,431.15	\$2,500.00	03/10/20
Maine Street Solutions - Protect Schools BQC	Late Major Contributor	\$25,000.00	\$2,000.00	05/27/20
Clean Energy Matters PAC	Late Major Contributor Notice	\$50,000.00	\$2,500.00	03/31/21
We the People PAC	Late Major Contributor Notice	\$11,500.00	\$2,500.00	05/26/21
Mainers for Local Power PAC	Late Major Contributor Notice	\$13,786.32	\$2,500.00	08/23/21
Maine Energy Progress	Late Major Contributor Notice	\$25,768.87	\$3,000.00	11/29/23
Dorman Products	Late Major Contributor Report	\$15,000.00	\$5,000.00	11/29/23
Maine Automotive Right to Repair	Late Major Contributor Notices (6)	\$240,000.00	\$35,000.00	11/29/23

21-A M.R.S. § 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.

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.

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.

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.

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.

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;
- B.** The form of organization and purpose of the major contributor;
- C.** The amount and date of each contribution from the major contributor to the recipient committee;
- 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;
- 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
- 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.

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.

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;
- 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
- 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.

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

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.

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.