

March 8, 2024

Chairman William J. Schneider
Maine Commission on Governmental Ethics and Election Practices
45 Memorial Circle
Augusta, ME 04330

**Re: Written comments on proposed rulemaking to amend and implement 21-A
M.R.S. § 1064**

Dear Mr. Chairman and Members of the Commission,

We are Jane Pringle, Kenneth Fletcher, Bonnie Gould, Brenda Garrand, and Lawrence Wold. We are all registered Maine voters and Electors under Article II and Article IV, Part Third of the Maine Constitution. We are also plaintiffs in *Central Maine Power, et al. v. Commission on Governmental Ethics and Election Practices*, Docket No. 1:23-cv-00450-NT, now pending in the federal district court in Maine. In our complaint we challenge the Foreign Government-Influenced Entity Act, 21-A M.R.S. § 1064, as it applies to Ballot Measures on the grounds that it violates our First Amendment rights as citizens and as Maine voters. We must emphasize that our challenge to the FGIE Act is not based solely on its violation of our Freedom of Speech but also because it violates the Right to Petition the Government, the Right to Freedom of Assembly, and Freedom of the Press. We respectfully submit the following comments regarding the Commission's proposed rules in the FGIE Act.

As you know, on February 29, the federal district court issued an order in which it granted our motion for a preliminary injunction barring the Commission from enforcing the FGIE Act. The Court also granted the preliminary injunction motions of all other plaintiffs in this litigation, including Central Maine Power, Versant, and the Maine Press Association and Maine Broadcasters. In granting all these motions, the federal court concluded that we are likely to succeed in our First Amendment challenge to the FGIE Act, meaning that the Act is likely unconstitutional.

The FGIE Act is intended to silence certain voices regarding the initiation and approval of constitutional amendments, direct initiatives, people's vetoes, conditionally-enacted legislation, and, bond issues. For each of these Ballot Measures, we, the voters of Maine, exercise the sovereign lawmaking power. We reject the FGIE Act's attempt to prevent us from hearing from all sides on these public policy issues and from deciding for ourselves what we will rely on and what we will not. We also reject the FGIE Act's attempt to subject us to civil sanction and criminal prosecution for seeking to fulfill our duties as citizens and as Electors.

The constitutionality of the FGIE is the subject of ongoing litigation. A federal court has already made the preliminary determination that the FGIE Act is likely unconstitutional and, indeed, that it likely violates the most fundamental of constitutional rights—those First Amendment rights that are foundational to our rights as voters and, where Ballot Measures are concerned, lawmakers.

Under these circumstances, the Commission should not proceed with rulemaking. We ask that the Commission suspend rulemaking and await a final determination from the Court on the FGIE's Act's constitutionality. Following this course would respect the litigation process itself, and allow the Commission to wait until it has a final court decision which can inform and guide its rulemaking in this most sensitive area of citizens' rights.

Sincerely,

Jane Pringle
Kenneth Fletcher
Bonnie Gould
Brenda Garrand
Lawrence Wold

cc: Jonathan Wayne, Executive Director