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STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
AND  
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY  
LAND USE PLANNING COMMISSION

IN THE MATTER OF

CENTRAL MAINE POWER COMPANY )  
NEW ENGLAND CLEAN ENERGY )  
CONNECT ) APPLICATION FOR NATURAL  
25 Municipalities, 13 Townships/Plantations, ) RESOURCES PROTECTION ACT  
7 Counties ) AND SITE LOCATION OF DEVELOPMENT  
L-27625-26- A-N ) ACT PERMITS  
L-27625-TB-B-N ) AND SITE LAW CERTIFICATION SLC-9  
L-27625-2C-C-N ) PUBLIC HEARING  
L-27625-VP-D-N ) JOINT THIRTEENTH PROCEDURAL ORDER  
L-27625-IW-E-N )

This Thirteenth Procedural Order (Order) sets forth rulings of the Department of Environmental Protection’s (the Department) Presiding Officer on Intervenor Group 4’s Motion to Strike, dated May 31, 2019, and reiterates rulings made by the Department’s Presiding Officer in e-mails to the Parties, dated May 23, 2019, and May 29, 2019. Intervenor Group 4’s Motion to Strike pertains only to the Department’s request for additional information; it does not pertain to the Land Use Planning Commission’s (the Commission) review of the Applicant’s proposed project. This Order also reiterates submission deadlines for post-hearing briefs and proposed findings of fact established by the Department’s and the Commission’s Presiding Officers.

**PREVIOUS DEPARTMENT PRESIDING OFFICER RULINGS**

1. At the hearing on May 9, 2019, the Department’s Presiding Officer requested that Intervenor Group 6 witness Dr. Erin Simons-Legaard submit to the Department certain maps pertaining to pine marten habitat to which Dr. Simons-Legaard referred during her testimony. Intervenor Group 6 timely submitted maps on May 17, 2019. On May 22, 2019, the Applicant moved to strike the submitted maps because Dr. Simons-Legaard had modified those maps after the hearing to incorporate new information that was not already in the hearing record. In response, Intervenor Group 6 argued that it understood the Presiding Officer’s request as allowing Dr. Simons-Legaard to modify those maps to provide the Department with more up-to-date information regarding pine marten habitat.

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2. In an e-mail dated May 23, 2019, the Department's Presiding Officer denied the Applicant's Motion to Strike and allowed the maps to remain in the record. The Presiding Officer also extended to May 31, 2019, the deadline for all parties to provide responsive evidence and comment on the maps.
3. On May 24, 2019, Intervenor Group 1 emailed to the Department comments "regarding the proceeding of the May 9 hearing." On May 28, 2019, the Applicant moved to strike Group 1's submittal as non-responsive to Intervenor Group 6's pine marten maps and as otherwise untimely.
4. In an e-mail dated May 29, 2019, the Department's Presiding Officer granted the Applicant's motion to strike Intervenor Group 1's May 24<sup>th</sup> submission because is not responsive to the pine marten maps submitted on May 17, 2019, and is otherwise untimely because it was sent after the general close of the hearing record on May 9<sup>th</sup>.

#### **INTERVENOR GROUP 4's MOTION TO STRIKE**

5. The deadline for Parties (Intervenors and the Applicant) to submit comments on non-hearing topics was May 9, 2019. Well in advance of the May 9<sup>th</sup> deadline for Parties to submit comments, counsel for the Department repeatedly requested of the Parties that they not wait until the last minute or the deadline to submit their comments to ensure there was a fair opportunity for other Parties to respond.
6. Intervenor Group 4 submitted 491 pages of comments on the morning of May 9<sup>th</sup>.
7. Prior to the close of the hearing on May 9<sup>th</sup>, the Applicant requested that the Presiding Officer extend the deadline for Parties to comment on non-hearing topics so the Parties could respond to Intervenor Group 4's May 9<sup>th</sup> submittal. As reiterated in an email to the service list dated May 10, 2019, the Department's Presiding Officer stated at the hearing that she would take the request under advisement. On May 13, 2019, the Department's Presiding Officer sent an e-mail to the service list stating that "Parties (the Applicant and other Intervenor Groups) will be allowed to file a response to the Group 4 submittals pertaining to Greenhouse Gas Emissions. This will be due 5:00 pm May 24, 2019."
8. On May 24, 2019, the Applicant timely submitted responses to Intervenor Group 4's submittals pertaining to Greenhouse Gas Emissions.
9. On May 31, 2019, Intervenor Group 4 moved to strike portions of the Applicant's May 24<sup>th</sup> response, including Attachment I, which is a May 20, 2019, letter to Governor Mills and the leadership of the Maine Legislature, and any reference to or discussion of that letter, including text on pages 12-14. Group 4 argues that these materials should be stricken because they were created after the close of the hearing record on May 9, 2019.

10. The Department's Presiding Officer denies Intervenor Group 4's Motion to Strike and the entirety of the Applicant's May 24<sup>th</sup> response will remain in the record. The Presiding Officer's May 13, 2019, email states that the record would remain open until 5:00 p.m. on May 24, 2019, for the Parties to submit information and comments pertaining to greenhouse gas emissions. The Presiding Officer's decision, as set forth in her May 13<sup>th</sup> email, did not limit additional evidence to only that in existence as of May 13, 2019.

**DEADLINES FOR POST-HEARING BRIEFS AND PROPOSED FINDINGS OF FACT**

11. The Presiding Officers for the Department and the Commission reiterate to the Parties the following deadlines for post-hearing briefs and proposed findings of fact, which were communicated to the Parties by e-mail dated May 10, 2019. Parties that intervened in both the Department's and Commission's proceedings may submit one of each post-hearing filings in a single document addressed to both the Department and the Commission, however the filing should separately address the Department's hearing topics and related legal criteria and the Commission's hearing topics and related legal criteria and should be labeled accordingly.

12. Closing briefs and proposed findings of fact are due June 14, 2019 at 5:00 p.m.

13. Reply briefs are due June 28, 2019 at 5:00 p.m.

Dated: June 6, 2019



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Susanne Miller, Presiding Officer  
Department of Environmental Protection



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Everett Worcester, Chair and Presiding Officer  
Land Use Planning Commission