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Land Use Planning Commission  
22 State House Station  
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Mar. 7, 2019

RE: Group 4 Objections to Pre-filed testimony and Motion to Strike.

Jim and Bill,

Attached please find Group 4's Objections to Pre-filed Testimony and Motion to Strike.

Please let me know if you have any questions.

Respectfully submitted,



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STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

and

STATE OF MAINE  
LAND USE PLANNING COMMISSION

IN THE MATTER OF

CENTRAL MAINE POWER COMPANY  
Application for Site Location of Development  
Act permit and Natural Resources Protection  
Act permit for the New England Clean Energy  
Connect (“NECEC”)

L-27625-26- A-N  
L-27625-TB-B-N  
L-27625-2C-C-N  
L-27625-VP-D-N  
L-27625-IW-E-N

SITE LAW CERTIFICATION SLC-9

GROUP 4 (AMC, NRCM and TU)  
OBJECTIONS TO PRE-FILED TESTIMONY  
AND  
MOTIONS TO STRIKE

March 7, 2019

Group 4, consisting of Appalachian Mountain Club (AMC), Natural Resources Council of Maine (NRCM), Maine Council of Trout Unlimited (TU), and collectively referred to as Group 4 objects to all or a portion of the testimony of the following witnesses:

- CMP: Thorn Dickinson, Gerry Mirabile, and Brian Berube
- Group 3: Glenn S. Poole, Edward A. Barrett, and Dana Connors
- Group 7: Larry Warren; Joe Christopher

**Thorn Dickinson - Objection to Pre-filed Testimony and Motion to Strike portions of his testimony**

Group 4 objects to the testimony of Thorn Dickinson’s testimony on p. 8 of CMP’s submission where he states: “The purpose of the NECEC Project is to deliver up to 1,200 MW of renewably-generated electricity from Quebec, Canada to the ISO-NE electric grid, also known as

the New England Control Area...This route is shorter than other routes for deliveries from Quebec to New England and represents the lowest-cost path for the delivery of Clean Energy Generation from Quebec.”

Mr. Dickinson further testifies on p. 8 – 9 of CMP’s submission: “Furthermore, the clean energy delivered by the Project will provide firm, guaranteed, and tracked year-round energy deliveries that will reduce winter electricity price spikes, improve system reliability and resiliency, and provide renewable energy certificates and other environmental attributes to help Massachusetts meet its GHG emissions reduction goals.” This language also appears in bullet 4 of a slide presentation on p. 16 of CMP’s submission.

This evidence is not relevant to the hearing topics set forth in the Second Procedural Orders. In addition, Group 4 requested, and was denied, the opportunity to present witnesses and testimony on the issue of whether the energy to be provided would be renewably generated or not and whether or not it would provide greenhouse gas benefits. Our request was denied. It would be unfair and inappropriate to allow CMP to submit evidence on those topics when other parties were denied the opportunity to do so.

Because the cited testimony is irrelevant to the hearing topics, and because other parties were denied the opportunity to present testimony on the identical issues, those portions of Mr. Dickinson’s testimony cited above should be stricken from his pre-filed testimony and should not be permitted during the hearing.

**Gerry Mirabile - Objection to Pre-filed Testimony and Motion to Strike portions of his testimony**

On p. 35 of CMP's submission, Gerry Mirabile testifies: "The purpose of the NECEC Project is to deliver renewable energy from Canada to New England, which has a continuing need for such power. The Project will deliver up to 1,200 MW of renewably-generated electricity from Quebec, Canada to the ISO-NE electric grid, also known as the New England Control Area. This clean energy will provide firm, guaranteed, and tracked year-round energy deliveries that will reduce winter electricity price spikes, reduce the wholesale cost of electricity for the benefit of retail customers across the region, improve system reliability and resiliency, and provide renewable energy certificates and other environmental attributes to help Massachusetts meet its renewable energy goals."

Mr. Mirabile also testified on p. 47 of CMP's submission: "CMP began its alternatives analysis by considering the purpose of the NECEC Project, namely, to transmit 1,200 MW of renewably generated electricity from Canada to New England."

These portions of Mr. Mirabile's testimony asserting that the project would transmit "renewable energy" or "renewably generated electricity", and the purported energy benefits, are not relevant to the hearing topics set forth in the Second Procedural Orders. In addition, Group 4 requested, and was denied, the opportunity to present witnesses and testimony on the issue of whether the energy to be provided would be renewably generated or not. Our request was denied. It would be unfair and inappropriate to allow CMP to submit evidence on those topics when other parties were denied the opportunity to do so.

Because the cited testimony is irrelevant to the hearing topics, and because other parties were denied the opportunity to present testimony on the identical issues, those portions of Mr.

Mirabile's testimony cited above should be stricken from his pre-filed testimony and should not be permitted during the hearing.

**Brian Berube – Objections to Pre-filed Testimony and Motion to Strike portions of his testimony**

On p. 484 of CMP's submission, Brian Berube testifies: "CMP also considered the no-action alternative, which is not constructing the NECEC Project. However, that alternative would not meet the Project's purpose and need of allowing CMP to deliver 1,200 MW of the clean energy generation from Quebec to New England at the lowest cost to ratepayers. Nor is there any evidence that another project could be built to satisfy the Project's purpose and need, or that another project would be less environmentally damaging. Indeed, a non-CMP project would have unknown environmental impacts."

Once again, the assertion that the proposed energy generation is "clean" is not relevant to the hearing topics laid out in the Second Procedural Orders. In addition, Group 4 requested, and was denied, the opportunity to present witnesses and testimony on the issue of whether the energy to be provided would be renewably generated or not. Our request was denied. It would be unfair and inappropriate to allow CMP to submit evidence on those topics when other parties were denied the opportunity to do so.

Mr. Berube's testimony also inappropriately discusses the purported environmental effects of other projects not a part of this proceeding that are clearly irrelevant to the hearing topics. Group 4 was denied the opportunity to present a witness and testimony on the environmental benefits of other projects proposed to Massachusetts. To allow CMP to submit this testimony would be unfair and inappropriate when other parties were denied the opportunity

to do so. Group 4 objects to and moves to strike this and any other reference to other projects from Mr. Berube's pre-filed testimony.

**Glenn S. Poole – Objections to Pre-filed Testimony and Motion to Strike his testimony**

Group 4 objects to the entirety of Mr. Poole's testimony. By his own admission, Mr. Poole's testimony is irrelevant to the hearing topics set forth in the second Procedural Order. Mr. Poole states: "The purpose of my testimony is to provide expert testimony addressing the energy-related benefits of the New England Clean Energy Connect project ("NECEC") from the perspective of an energy-intensive Maine manufacturer." Poole testimony, p. 9. DEP has clearly stated that the energy-related benefits are not a topic for this hearing. Group 4 requested the opportunity to present witnesses and evidence on the question of energy related benefits and was denied.

To allow Mr. Poole to shoehorn in purported energy-related benefits under the guise of being relevant to the issues of scenic and existing uses or fisheries and wildlife would be to make a mockery of this hearing process. The purpose of this hearing process is to examine the environmental impacts of this project not to discuss purported energy benefits. IECG and Mr. Poole could have testified about the purported energy benefits of this project during the PUC proceeding where there were other expert witnesses who could have responded to his testimony. But they chose not to. To permit this testimony in this proceeding where other parties were denied the opportunity to present witnesses and testimony regarding energy benefits would be grossly unfair.

Group 4 objects to the entirety of Mr. Poole's testimony and moves to strike his entire pre-filed testimony.

**Edward A. Barrett – Objections to Pre-filed Testimony and Motion to Strike his testimony**

Group 4 objects to the entirety of Edward A. Barrett’s testimony. His entire testimony relates to the purported benefit that the City of Lewiston may receive if this project goes forward. This is clearly not relevant to any of the four hearing topics.

In addition, Mr. Barrett has not established any credentials that would qualify him to render an opinion about the reasonableness or lack thereof of the many impacts of this project on “scenic, aesthetic, or recreational uses” as asserted in paragraph 9 of his testimony.

Because the entirety of his testimony is irrelevant to the hearing topics and because he has failed to show that he has any qualifications that render him qualified to opine on the scenic, aesthetic, or recreation impacts of this project, Group 4 objects to Mr. Barrett’s entire pre-filed testimony and moves to strike it.

**Dana F. Connors – Objections to Pre-filed Testimony and Motion to Strike his testimony**

Group 4 objects to the entirety of Dana Connors’s testimony. His entire testimony relates the purported jobs, financial benefits, and broadband service that he asserts would result if this project goes forward. This testimony is clearly not relevant to any of the four hearing topics.

In addition, Mr. Connors has not established any credentials that would qualify him to render an opinion about the reasonableness or lack thereof of the many impacts of this project on “scenic, aesthetic, or recreational uses” as asserted in paragraph 8 of his testimony.

Because the entirety of his testimony is irrelevant to the hearing topics and because he has failed to show that he has any qualifications that render him qualified to opine on the scenic,

aesthetic, or recreation impacts of this project, Group 4 objects to Mr. Connors's entire pre-filed testimony and moves to strike it.

**Joseph Christopher - Objections to Pre-filed Testimony and Motion to Strike portions of his testimony**

Group 4 objects to two sections of the testimony of Joseph Christopher. Mr. Christopher states: "It is also worth mentioning that for many nature-based tourism businesses and outfitters, including WM&RC, 60% of these tourists are from Massachusetts. The NECEC will likely be much less controversial to these persons, especially where the energy supply benefits of the Project will directly reduce their electricity supply costs under the terms of the Section 83D RFP." P. 4.

The asserted impact of this project on the electricity costs of Massachusetts residents is clearly far outside the hearing topics and irrelevant to this hearing. This testimony should be stricken.

On page 2 and in section III of his testimony, Mr. Christopher discusses a private MOU that his organization has entered into with CMP.

- At Page 2: "As a related matter, as the DEP and LUPC are aware, CMP and WM&RC have entered into a Memorandum of Understanding ("MOU") that would require CMP to make various monetary donations and non-monetary concessions in the event that the Project receives regulatory approval and enters commercial operation. Because the terms of the MOU are directly intertwined with the use of natural resources directly and indirectly affected by the Project, this testimony also will address how the Project will impact the scenic, aesthetic, recreational and other values of these areas."

- All of Section III on pages 5-6.

This MOU is irrelevant to this proceeding. It is not part of the compensation and mitigation package that CMP has offered. None of the alleged benefits of this MOU are included in any part of the compensation and mitigation package. Testimony about a private side agreement between two parties that is not part of the DEP or LUPC record and is not enforceable by DEP or LUPC is irrelevant.

For the above reasons, Group 4 objects to those portions of Mr. Christopher's testimony that relate to Massachusetts energy prices or the private MOU between Mr. Christopher/WM&RC and CMP and moves to strike them from the pre-filed testimony.

**Larry Warren - Objections to Pre-filed Testimony and Motion to Strike portions of his testimony**

On page 3 and in section III of his testimony, Larry Warren discusses a private MOU that his organization has entered into with CMP.

- Page 3: As a related matter, as the DEP and LUPC are aware, CMP and WM&RC have entered into a Memorandum of Understanding ("MOU") that would require CMP to make various monetary donations and non-monetary concessions in the event that the Project receives regulatory approval and enters commercial operation. Because the terms of the MOU are directly intertwined with the use of natural resources directly and indirectly affected by the Project, this testimony also will address how the Project will impact the scenic, aesthetic, recreational and other values of these areas.
- All of Section III, pages 5-8.

This MOU is irrelevant to this proceeding. It is not part of the compensation and mitigation package that CMP has offered. None of the alleged benefits of this MOU are included in any part of the compensation and mitigation package. Testimony about a private side agreement between two parties that is not part of the DEP or LUPC record and not enforceable by DEP or LUPC is irrelevant.

For the above reasons, Group 4 objects to those portions of Mr. Warren's testimony that relate to the private MOU between Mr. Christopher/WM&RC and CMP and moves to strike them from the pre-filed testimony.

### **Summary**

Group 4 objects to portions of the testimony of Thorn Dickinson, Gerry Mirabile, Brian Berube, Larry Warren and Joe Christopher, and the entirety of the testimony of Glenn S. Poole, Edward A. Barrett, and Dana Connors because it is not relevant to the hearing topics and for other reasons stated above. Group 4 requests that the testimony outlined above be stricken from the record and that Mr. Poole, Barrett, and Connors be disqualified as witnesses.

Respectfully submitted,



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On behalf of Group 4 – Appalachian Mountain Club, Natural Resources Council of Maine, and  
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