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GOVERNOR

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
22 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0022

WALTER E. WHITCOMB
COMMISSIONER

NICHOLAS D. LIVESAY
EXECUTIVE DIRECTOR

**First Procedural Order
In the Matter of
Site Law Certification SLC 9**

**Central Maine Power Company's
New England Clean Energy Connect Project**

August 17, 2018

Commissioner Everett Worcester, Chair and Presiding Officer

A. Purpose

This First Procedural Order (Order) provides a project description and administrative background, sets forth the Presiding Officer's decisions with respect to Petitions for Leave to Intervene, and sets a date for the first pre-hearing conference in this matter.

B. Project Description and Administrative Background

1. Central Maine Power Company (CMP) proposes to construct the New England Clean Energy Connect (NECEC or Project), an electric transmission line from the Maine border with Quebec in Beattie Township to a new converter station in Lewiston. The NECEC will be capable of delivering up to 1,200 megawatts of electricity from hydropower generating facilities in Quebec, Canada to the New England power grid. The proposed Project traverses organized towns, as well as several townships and plantations within the Commission's service area.
2. On September 27, 2017, CMP submitted to the Department an application for a *Natural Resources Protection Act* (NRPA) permit pursuant to 38 M.R.S. §§ 480-A – 480-JJ and a *Site Location of Development Law* (Site Law) permit pursuant to 38 M.R.S. §§ 481 – 490 for its proposed NECEC Project. The Department accepted the application as complete for processing on October 13, 2017. The Department decided to hold a public hearing on the NRPA and Site Law applications and, on June 27, 2018, provided notice of opportunity to intervene in that hearing.
3. Within the area served by the Land Use Planning Commission (Commission), the proposed Project crosses or traverses three separate Recreation Protection (P-RR) subdistricts: West Forks Plantation and Moxie Gore (site of the proposed Kennebec River crossing); Beattie Twp., Lowelltown Twp., Skinner Twp., and Merrill Strip Twp. (near

Beattie Pond); and Bald Mountain Twp. (near the Appalachian Trail). Other segments of the proposed Project are located in Appleton Twp., Bradstreet Twp., Concord Twp., Hobbstown Twp., Johnson Mountain Twp., Parlin Pond Twp., and T5 R7 BKP WKR. The proposed Project also abuts the boundaries of T5 R6 BKP WKR (Haynestown), The Forks Plantation, and Pleasant Ridge Plantation.

4. Within a P-RR subdistrict, a utility facility is allowed by special exception. For the Commission to find a use is allowed by special exception, the Commission must find that an applicant has shown by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant; (b) the use can be buffered from those other uses and resources within the subdistrict with which it is incompatible; and (c) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan. *Land Use Districts and Standards*, 01-672 C.M.R. 10 (Chapter 10), section 10.23,I,3.d.
5. The Commission must certify to the Department (a) whether the Project is an allowed use within the subdistricts in which it is proposed and (b) whether the proposed Project meets any land use standards established by the Commission that are not duplicative of those considered by the Department in its review of the Project under the Site Law. 12 M.R.S.A. § 685-B(1-A)(B-1). On October 12, 2017, the Department submitted to the Commission a Request for Certification for the proposed Project. The Commission provided the Department with a Completeness Determination on October 13, 2017, determining that there was sufficient information to begin the review of the certification request.
6. At its meeting on December 7, 2017, the Commission considered whether to hold a public hearing as part of its certification review of the Project. The Appalachian Mountain Club, Maine Audubon, and the Natural Resources Council of Maine had jointly submitted a request for a public hearing on the allowed use determination portion of the Commission's certification of the Project. The Commission voted to hold a public hearing, focused on its allowed use determination and specifically on the topic of whether the proposed Project is an allowed use within the P-RR subdistrict. As part of its review of the pending request for certification of the Project the Commission also will consider whether the Project is an allowed use within other subdistricts it crosses and whether the Project meets any land use standards established by the Commission that are not duplicative of those considered by the Department in its review. These other portions of the Commission's review will not be topics addressed at the public hearing. The Commission designated the Commission Chair, Everett Worcester, as the Presiding Officer.
7. The Commission provided notice of the public hearing and opportunity to intervene in this matter on July 12, 2018, in accordance with *Rules for the Conduct of Public Hearings*, 01-672 C.M.R. 5 (Chapter 5), section 5.13. The notice established a deadline of August 2, 2018 at 5:00 PM to file a petition for leave to intervene.

C. Petitions for Leave to Intervene

1. The Commission may require or allow any person who desires to participate as a party, offer testimony and evidence, and participate in oral cross-examination to file a petition under oath or affirmation for leave to intervene. 5 M.R.S. § 9054(1) and Chapter 5, section 5.13(1). The Commission may further allow any other interested person to intervene as a party or to participate in more limited manner as the Commission or its Presiding Officer may designate.
2. The Commission received a total of 31 petitions for leave to intervene in this matter. All of these petitions were filed by the August 2, 5:00 PM deadline. A number of petitions were not filed under oath or affirmation. The 31 petitioners are identified in Table C-2.

Table C-2.

Hawk's Nest Lodge	Taylor Walker
Kennebec River Angler	Tony DiBlasi
Kingfisher River Guides	Edwin Buzzell
Maine Guide Service, LLC	Appalachian Mountain Club
Mike Pilsbury	Natural Resources Council of Maine
Alison Quick	Trout Unlimited
Carrie Carpenter	City of Lewiston
Courtney Fraley	Town of Caratunk
Eric Sherman	Wagner Forest Management
Kathy Barkley	NextEra Energy Resources, LLC
Kim Lyman	Western Mountains & Rivers Corp.
Linda Lee	International Brotherhood of Electrical Workers
Mandy Farrar	Industrial Energy Consumer Group
Matt Wagner	Lewiston Auburn Metropolitan Chamber of Commerce
Noah Hale	Maine State Chamber of Commerce
Rosa Cuenta	

3. In addition to the 31 petitions to intervene, the Commission received 15 submissions with comments regarding the project. None of the individuals submitting these comments requested intervenor status. Accordingly, the Commission does not consider them petitions to intervene in the hearing. Thirteen of these submissions were provided to the Commission prior to the August 2, 5:00 PM deadline. Three submissions were filed after this deadline (Kreider, Aug. 2, 5:01 PM; Evans, Aug. 2, 5:53 PM, and Nicholas, Aug. 13). The Commission has entered all 15 submissions into the record as comments. The 15 individuals who provided comments on the Project are identified in Table C-3. These individuals, along with other interested members of the public, may submit written comments on the Project until the record closes, and may address the Commission orally at the hearing during the public comment session.

Table C-3.

Sheri Kreider	Audrey Parks	John Willard
Maria-Ausilia Evans	Kenneth Boyington	Edward Muzeroll
John and Nancy Nicholas	Stephanie Lanman	Scott MacKenney
Libby Lauze	Vincent Mecca	Dennis Crosen
Kaleb Jacob	Melissa Keister	Andrea Goodenow

D. Decision on Petitions to Intervene and Preliminary Consolidation

1. A petition to intervene shall be granted if it demonstrates that the petitioner is or may be substantially and directly affected by the proceeding. A petition for leave to intervene must be filed by the date specified by the Commission or the Presiding Officer or, if an earlier date is not specified, by the date of the public hearing. A petition to intervene which is not timely filed will be denied unless the petitioner shows good cause for failure to file on time. A person permitted to intervene shall become a party to the proceeding and shall be permitted to participate in all phases of the hearing, subject, however, to such limitations as the Commission or Presiding Officer may direct. Petitioners may be required to consolidate or join their appearances in part or in whole if their interests or contentions are found to be substantially similar and such consolidation would expedite or simplify the hearing without prejudice to the rights of any party or petitioner. 5 M.R.S. § 9054(4) and Chapter 5, section 5.13(1).
2. The Presiding Officer finds that the petition of Rosa Cuenta fails to state how Dr. Cuenta is substantially and directly affected by the proceeding. The petition does not establish any relationship between Dr. Cuenta and the Project. The petition appears to be a form letter with sections left for individual petitioners to fill in; however, none of this information was completed in Dr. Cuenta's petition. Dr. Cuenta's petition to intervene is denied.
3. The Presiding Officer finds that the 30 remaining petitioners listed in Table C-2 of this Order filed timely petitions and have identified that they may be substantially and directly affected by the proceeding. While some of these petitions were not filed under oath or affirmation (e.g., notarized) as generally required under Chapter 5, section 5.13(1), this same section provides that the Commission, acting through the Presiding Officer, has discretion to further allow any other interested person to intervene as a party even if the general requirements for intervention have not been satisfied. Accordingly, the Presiding Officer grants Intervenor status to these 30 petitioners.
4. The Presiding Officer finds that 12 of the Intervenors share a substantially similar interest in the Project by virtue of being residents or frequent recreational users of the areas in which the Project is proposed within the Commission's service area. Given the similarity of interests and to promote a fair and efficient hearing, the Presiding Officer consolidates the following 12 Intervenors: 1) Alison Quick, 2) Carrie Carpenter, 3) Courtney Fraley, 4) Eric Sherman, 5) Kathy Barkley, 6) Kim Lyman, 7) Linda Lee, 8)

Mandy Farrar, 9) Matt Wagner, 10) Noah Hale, 11) Taylor Walker, and 12) Tony DiBlasi.

The Presiding Officer may make adjustments to this preliminary consolidation of 12 Intervenors and will make decisions, by procedural order, regarding consolidation of the other 18 Intervenors following the initial pre-hearing conference, at which the matter of consolidation will be discussed.

E. Service List

Each Intervenor, including each Intervenor that is part of a consolidated group, must designate one person as the contact person for the purpose of this proceeding. All filings related to this matter must be sent to Bill Hinkel (contact information below) and the service list must be copied. The service list along with contact information can be found in Appendix A of this Order.

F. Ex parte Communication

No Commission member shall engage in any ex parte communication in connection with any issue of fact, law or procedure which is the subject of the hearing. The Intervenors permitted by this Order are directed to 5 M.R.S. § 9055 and Chapter 5, Section 5.25 for a statement of legal restrictions on contact with Commission members during pending proceedings. The parties are cautioned to avoid any conduct that could give rise even to the appearance of improper contact with Commission members.

G. Hearing Coordination with the Department

The Commission and the Department have separate roles, set out in statute, with regard to review of the Project. However, due to anticipated overlap in factual testimony relevant to the review of both the Commission and the Department, and for the convenience of the applicant, Intervenors, and the public, the Commission's public hearing – focusing on the Commission's allowed use determination – will be held jointly with the Department.

H. Pre-hearing Conference

1. A pre-hearing conference will be held jointly with the Department on **Friday, September 7, 2018 at 10:00 a.m.** in Room 118 (Door D7 entrance) of the Marquardt Building, 32 Blossom Lane, Augusta, Maine. All Intervenors must have a representative in attendance at the conference. Any Intervenor not present waives its right to object to matters discussed and resolved by way of a procedural order following the conference. Members of the public may attend the conference, but may not otherwise participate.
2. The purpose of this pre-hearing conference is to discuss organization of the hearing, including coordination with the Department, topics to be addressed, and the further consolidation of Intervenors. Intervenors also will have an opportunity as ask questions about the hearing process. In addition to discussing the joint portion of the hearing, the joint pre-hearing conference also will address matters specific to the Department's

review. (See paragraphs 18-20 of the Department's First Procedural Order, dated August 13, 2018; link to website below.)

I. Project Website and Additional Information

The Commission has established a website for this project at https://www.maine.gov/dacf/lupc/projects/site_law_certification/slc9.html. The application and supporting materials, as well as significant filings by other persons, including the Intervenor will be posted on this site. Additional information related to the Department's review of the applications is available on their website at <https://www.maine.gov/dep/land/projects/necec/index.html>.

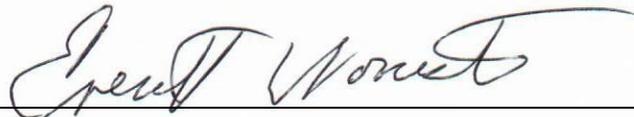
A copy of CMP's applications for the NECEC Project, including Section 25 of the application regarding the Commission's certification, may be viewed at the Commission's website https://www.maine.gov/dacf/lupc/projects/site_law_certification/slc9.html and the Commission's Augusta office at 18 Elkins Lane, Augusta, Maine.

Questions regarding this Order of the Presiding Officer should be directed to Bill Hinkel at bill.hinkel@maine.gov or 207-446-8823.

J. Authority and Reservations

This Procedural Order is issued by the Presiding Officer pursuant to Chapter 5. All objections to matters contained herein should be timely filed in writing with the Commission staff but are not to be further argued except by leave of the Presiding Officer. All rulings and objections will be noted in the record. The Presiding Officer may amend this Order at any time.

DONE AND DATED AT AUGUSTA, MAINE THIS 17th DAY OF AUGUST 2018



Everett Worcester, Chair and Presiding Officer

APPENDIX A



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**Service List
In the Matter of
Site Law Certification SLC 9**

**Central Maine Power Company's
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Commissioner Everett Worcester, Chair and Presiding Officer

I. AGENCY

1. Land Use Planning Commission
Attention: Bill Hinkel
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bill.hinkel@maine.gov
2. Maine Department of Environmental Protection
Attention: James Beyer
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NECEC.DEP@maine.gov
3. Office of the Maine Attorney General
Attention: Lauren Parker
6 State House Station
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Lauren.Parker@maine.gov
4. Office of the Maine Attorney General
Attention: Peggy Bensinger
6 State House Station
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Peggy.Bensinger@maine.gov

II. APPLICANT

1. Central Maine Power Company
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3. Mark Goodwin
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III. INTERVENORS

1.	Hawk's Nest Lodge hawksnestlodge@gmail.com	16.	Taylor Walker twalkerfilm@gmail.com
2.	Kennebec River Angler info@kennebecriverangler.com	17.	Tony DiBlasi diblasi.tony@gmail.com
3.	Kingfisher River Guides kingfisherriverguides@tds.net	18.	Edwin Buzzell ebuzzel@hotmail.com
4.	Maine Guide Service, LLC gcaruso@myfairpoint.net	19.	Appalachian Mountain Club dpublicover@outdoors.org
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15.	Noah Hale Iwithwhitewaters@gmail.com	30.	Maine State Chamber of Commerce Amorin@mainechamber.org