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COMMISSIONER

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



AMANDA E. BEAL
COMMISSIONER
NICHOLAS D. LIVESAY
EXECUTIVE DIRECTOR

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 TWELFTH PROCEDURAL ORDER
L-27625-IW-E-N)

This Twelfth Procedural Order (Order) sets forth rulings of the Department of Environmental Protection (Department) and the Land Use Planning Commission (Commission) on the Applicant’s Motion to Strike and other matters concerning certain submissions filed with the Department and/or Commission after the close of the hearing on May 9, 2019.

A. Additional information deadlines

1. The Department and the Commission concluded the hearing in this matter on May 9, 2019. In the closing statement for the joint hearing, Presiding Officer Miller notified the Parties that additional time was being provided for the following submissions and responses.
 - a. The submission of pine marten maps from Dr. Simons-Legaard, a witness for Intervenor Group 6. Deadline: May 17, 2019 at 5:00 p.m.
 - b. Party responses to Dr. Simons-Legaard’s pine marten maps. Deadline: May 24, 2019 at 5:00 p.m.
 - c. Applicant’s response to the Department’s request for additional numerical cost analysis information pertaining to Applicant Exhibits CMP 11-B, CMP 11-C, CMP

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- 11-D, CMP 11-E, CMP 11-F and CMP 11-G of Mr. Bardwell's pre-filed rebuttal, dated March 25, 2019. Deadline: May 17, 2019 at 5:00 p.m.
- d. Party responses to the Applicant's additional cost analysis information. Deadline: May 24, 2019 at 5:00 p.m.
 - e. Applicant's response to the Department's and Intervenor Group 4's request for responsive information pertaining to pole heights and tree heights at specific locations depicted on the maps utilized by the Department during its questioning of the Applicant's Engineering Witness Panel. Deadline: May 17, 2019 at 5:00 p.m.
 - f. Party responses to the Applicant's submittals pertaining to the questions posed by the Department at the hearing utilizing the Department-created maps. Deadline: May 24, 2019 at 5:00 p.m.

B. Summary of Submissions and Filings

1. On May 16, 2019, Intervenor Groups 2 and 10 submitted to the Department and the Commission, with a copy to the service list, comments suggesting specific site visit locations.
2. On May 16, 2019, Peter Dostie, on behalf of West Forks Plantation, submitted to the Commission, with a copy to the service list, public comments from the West Forks Plantation.
3. On May 16, 2019, Matthew Wagner, Carrie Carpenter, Eric Sherman, Kathy Barkley, Kimberly Lyman, Mandy Farrar, Noah Hale, and Tony DiBlasi submitted to the Department, with a copy to the service list, public comments on the proposed Project.
4. On May 17, 2019, Carrie Carpenter, Mandy Farrar, and Tony DiBlasi submitted to the Commission, with a copy to the service list, public comments on the proposed Project.
5. On May 17, 2019, Roger Merchant submitted to the Commission, with a copy to the service list, public comments on the proposed Project.
6. On May 17, 2019, CMP submitted to the Department and the Commission a Motion to Strike (1) the May 16, 2019 Public Comments of Group 2 intervenor West Forks Plantation and of Group 10 intervenors Matthew Wagner, Carrie Carpenter, Eric Sherman, Kathy Barkley, Kimberly Lyman, Mandy Farrar, Noah Hale, and Tony DiBlasi; (2) the May 17, 2019 Public Comments of Group 10 intervenors Carrie Carpenter, Mandy Farrar, and Tony DiBlasi; and (3) the May 16, 2019 Groups 2 and 10 comments on the agency site visit. Later the same day, CMP filed a motion additionally seeking to strike the May 17, 2019 filing by Mr. Merchant.

7. On May 17, 2019, CMP submitted its response to the Department's request for additional cost analysis information and evidence in response to the questions posed by the Department at the hearing utilizing the Department-created maps.
8. On May 17, 2019, Intervenor Group 6 submitted pine marten maps from witness Dr. Simons-Legaard.
9. On May 18, 2019, Roger Merchant submitted to the Commission, without copy to the service list, public comments on the proposed Project.
10. On May 20, 2019, Roger Merchant submitted to the Commission, without copy to the service list, additional public comments on the proposed Project.
11. On May 20, 2019, Peter Dostie, on behalf of West Forks Plantation, submitted to the Commission, with copy to the service list, additional public comments on the proposed Project.
12. On May 20, 2019, CMP renewed its motion to strike the comments submitted by Mr. Dostie on May 20, 2019.
13. On May 21, 2019, counsel for Intervenor Groups 2 and 10 filed a response to CMP's Motion, requesting that the Department and Commission deny the motion in its entirety.

C. Presiding Officers' rulings on Motion to Strike

1. With regard to comments following the conclusion of the hearing, in its joint Fourth Procedural Order, the Presiding Officers for the Department and the Commission "decided that after the conclusion of the hearing, the record will remain open for a period of ten (10) days for members of the public to file written statements to the Department and Commission, then for a period of seven (7) additional days allowing the public to file statements in rebuttal of those written statements. During this time period, while the record remains open for public comment, parties to the proceeding may not submit additional evidence or comments."
2. With regard to testimony stricken from the record, the Presiding Officers for the Department and the Commission informed the Parties¹ that relevant testimony that was stricken from the hearing record could be submitted separately as written comments but only until the close of the hearing on May 9, 2019.
3. With respect to CMP's motion to strike the May 16, 2019 Intervenor Groups 2 and 10 comments on the agency site visit, the Presiding Officers recognize Intervenor Groups 2

¹ Sixth Procedural Order at ¶ I.8; Seventh Procedural Order at ¶ II.8; Eighth Procedural Order, last paragraph.

and 10's response that the comments were intended to be helpful; however, the site visit points of interest for the Department and the Commission will be developed independently of suggestions by the Parties, particularly any arriving after the close of the hearing. The Presiding Officers do not consider the May 16, 2019 suggestions to be public comments and they are not entered into the record. The Department and the Commission grant CMP's motion to strike Group 2's and 10's submittal regarding the site visit.

4. West Forks Plantation is an intervenor in only the Department's portion of the hearing. West Forks Plantation's comments to the Commission of May 16 are admitted to the Commission's record as public comments. The comments are not, however, entered to the Department's record since West Forks Plantation may not act as both a party to the Department's proceeding and as a member of the public in that proceeding.
5. Consistent with paragraph four, the public comments submitted by Matthew Wagner, Carrie Carpenter, Eric Sherman, Kathy Barkley, Kimberly Lyman, Mandy Farrar, Noah Hale, and Tony DiBlasi to the Department on May 16 are entered into the Department's record, but not into the Commission's record.
6. The comments of Carrie Carpenter, Mandy Farrar, and Tony DiBlasi submitted to the Commission on May 17 are stricken as untimely. These individuals are intervenors in the Commission's proceeding and therefore are not members of the public for purposes of the Commission's proceeding. Additionally, because those comments were not addressed to the Department, they are not entered in the Department's record.
7. Roger Merchant is a witness for Intervenor Group 2, and, therefore, may not submit testimony in the time period reserved for members of the public for purposes of the joint hearing. Mr. Merchant's direct testimony to the Commission was stricken on April 2, 2019 because Mr. Merchant failed to appear for cross-examination before the Commission; Mr. Merchant was not withdrawn as a witness. Mr. Merchant's May 17, 18, and 20 public comments were submitted well beyond the close of the hearing on May 9, which was the deadline for submitting any testimony stricken from the record. Mr. Merchant's comments are therefore untimely and are stricken from the Department's and Commission's records.
8. Mr. Dostie's May 20 comments on behalf of West Forks Plantation to the Commission were timely filed as a public comment and are entered to the Commission's record.

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Dated: May 21, 2019



Susanne Miller, Presiding Officer
Department of Environmental Protection



Everett Worcester, Chair and Presiding Officer
Land Use Planning Commission