

**STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

and

**STATE OF MAINE
LAND USE PLANNING COMMISSION**

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

GROUPS 2 AND 10’S OBJECTIONS AND MOTION TO STRIKE

Intervenor Group 2 and Intervenor Group 10 (collectively, “Groups 2 and 10”) by and through their attorneys, BCM Environmental & Land Law, PLLC, request the following rebuttal testimony submitted by Central Maine Power Company (“CMP”) be stricken for all the reasons stated as follows:

Witness Thorn Dickinson:

Page 3 Line 1: beginning with “In determining whether the NECEC Project...” and ending with “the overall purpose of the Project.” This section attempts to explain to the Department of Environmental Protection (“Department”) and the Land Use Planning Commission (“Commission”) what the meaning is of the alternative analysis and allowed use

determination. Mr. Dickinson is not qualified to testify on the legal interpretation of these standards. This testimony should be stricken.

Page 3: beginning with “the overall purpose of the NECEC...” through Page 10. What the purpose may be as framed by CMP’s/Avangrid’s project developer/spokesperson and its response to the competitive bid process for Massachusetts’ RFP (“MA RFP”), is neither response to pre-file testimony, nor relevant to the hearing topics. Why, from a financially competitive perspective in the MA RFP process, CMP chose *not* to find an alternate route that would be less harmful to Maine’s northwest woods is not responsive to the alternative analysis pre-file testimony. Rather this is CMP’s introduction of information it used in making a business decision about how to financially pitch this project to MA’s RFP. Whether an industrial transmission corridor designed as a profit-making endeavor can win a bid to supply electricity for the rate payers in another state may be part of CMP’s analysis, that does not make it relevant for consideration by the Department or the Commission in assessing the impact to Maine’s environment. Moreover, throughout Mr. Dickinson’s rebuttal testimony he asserts that the purpose of the project is to deliver energy per the MA RFP. Even assuming this argument held merit in the Department’s and the Commission’s alternatives analysis, it is difficult to accept that premise since CMP engaged in the permitting process here in Maine *after* Massachusetts selected Eversource’s Northern Pass transmission line project. In short, whatever analysis CMP engaged in to make the project competitively viable for selection by Massachusetts¹ is not, nor should it be, relevant to the Department’s alternative analysis and should therefore be stricken.

¹ As Mr. Dickinson admitted, the Eversource transmission corridor in New Hampshire which Massachusetts selected first but for which Eversource failed to obtain a Site certificate from the New Hampshire Site Evaluation Committee, in fact had a higher sticker price.

Page 11 through the end of the first paragraph on page 13, ending with, “economic viability of the Project.” Mr. Dickinson essentially recites the terms of the settlement agreement entered into for the purposes of CMP obtaining Public Utilities Commission approval for a certificate of Public Convenience and Necessity. Those settlement terms and monetary contributions to resolve, for example, such things as the Public Advocate’s and Conservation Law Foundation’s broader concerns but which utterly fail to address the specific environmental impacts of this project which the Department is charged with assessing, i.e., forest fragmentation that would be directly caused by the chosen 53-mile northern route, are not relevant to the analysis here. Moreover, CMP is now using those settlement terms to basically say that they are tapped out. There is no more money to address the environmental impacts specific to the route location since they have spent their wad on other things. The money would have to come from their own corporate pocket. While this assessment of where CMP chose to grant its corporate largess certainly should be of concern to Mainers, it fails to fit into the specific alternative analysis that the Department is charged with conducting: “The applicant must demonstrate that the proposed project would not unreasonably impact protected natural resources... in light of practicable alternatives... that would be less damaging to the environment.” DEP, 2nd Procedural Order at 4. How CMP has thus far committed to spend additional money is not relevant and this section should be stricken.

Page 13 beginning with, “Therefore, the alternative of burying the transmission line...” through the end of the paragraph. Here again, Mr. Dickinson makes statements that are focused on the economics of the project in light of decisions made to payoff other interests that do not address the environmental impacts to the northern section of the proposed route. His

statement about the project not being viable for its purpose is equally unrelated to the alternatives analysis. This section of Mr. Dickinson's rebuttal testimony should be stricken.

CMP Exhibit CMP-1.1-A CMP's document captioned, "Independent Evaluator's Report" in conjunction with its rebuttal testimony on the alternatives analysis, should be rejected in its entirety. As with Mr. Dickinson's "rebuttal" testimony, CMP attempts to confuse and conflate the Department's alternatives analysis. CMP's *business decision* to pursue necessary permitting to run its industrial transmission corridor through Maine to deliver Hydro-Quebec power to Massachusetts is not relevant to whether there are practicable alternatives that would be less damaging to the environment. CMP's effort to confuse the analysis by introducing the process they and other utility companies engaged in to win the MA RFP is not what the legislature intended for the Department to consider when it created the statutory framework for the alternatives analysis. If corporate profit-making considerations are what the Department and Commission should now consider, then virtually any corporate's profit-making could be used to trump the *environmental* alternatives analysis. It should be self-evident this is not what the legislature intended and not what the Department should consider. Lest we lose sight of the goal in the midst of CMP's rhetoric and blitz of irrelevant data, it bears restating: "The Department of Environmental Protection (DEP) is responsible for protecting and restoring Maine's natural resources and enforcing the state's environmental laws,"² not with weighing the costs to do so against a corporation's profit margin. This Exhibit should be stricken.

For all of the foregoing reasons, Intervenor Groups 2 and 10 respectfully request that the Department and Commission grant Intervenor Groups 2 and 10 Motion to Strike.

² DEP website: <https://www.maine.gov/dep/about/index.html> (last visit April 19, 2019).

Respectfully Submitted,
Intervenor Group 2 and Intervenor Group 10
By their attorneys,



Dated: April 19, 2019

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