



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



JANET T. MILLS
GOVERNOR

GERALD D. REID
COMMISSIONER

IN THE MATTER OF

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

On May 3, 2019, the Department of Environmental Protection (Department) and the Land Use Planning Commission (Commission) received an Appeal filed jointly by Intervenor Groups 2, 4, and 10 of specific portions of the Eleventh Procedural Order issued on May 1, 2019. This Department Order reflects the decision of the Commissioner of the Department on that Appeal. A separate decision document will be issued by the Commission.

In the Eleventh Procedural Order, the Presiding Officers denied portions of a Motion to Reconsider, maintaining the decision that that there would not be an opportunity for the parties to submit written rebuttal testimony on the requested Supplemental Evidence before the continuation of the hearing and maintaining the hearing date of May 9, 2019.¹

In this appeal of that Order, Groups 2, 4, and 10 argue that the time allotments provided in the draft schedule², for providing summary of written testimony, with incorporated oral rebuttal testimony, and cross examination were inadequate and would not afford due process. They further contend that one day of hearing would be insufficient given the witnesses and topics previously scheduled and the number of witnesses and volume of Supplemental Testimony filed by the Applicant. The appeal again requests that the schedule provide for pre-filed written rebuttal to the Supplemental Testimony.

The Applicant filed a response to the Appeal stating that the Supplemental Testimony requested by the Department was “simply additional information related to the DEP’s questions regarding information presented during the April 1-5 hearing” and argued that the draft schedule provides adequate time for cross examination.

¹ A third request was granted, allowing the post hearing briefs to include relevant criteria other than what was covered during the hearing days.

² The draft schedule was provided to parties on the afternoon of Friday May 3, 2019.

On May 7, 2019, Intervenor Group 1 submitted a letter in support of Intervenor Groups 2, 4, and 10 appeal.

Based on a review of the Motion to Reconsider, the Tenth and Eleventh Procedural Orders, the Appeal, and the Applicant's Response, the Appeal is granted in part and denied in part.

1. The portion of the appeal requesting additional time for cross-examination is granted. Adverse parties will be given additional time for cross-examination at the hearing on May 9th. Limited amounts of time are provided for "friendly" cross-examination. The draft hearing schedule has been revised significantly, and the final schedule is attached to this Order. To make for a more efficient use of time, some additional witnesses have been combined into panels and the order of witnesses has changed. These changes were made primarily to increase time for cross-examination but also to focus on those issues on which the Department is seeking additional information. For this day of the hearing, parties may cede all or any portion of their time to another party. This may be done in advance of the hearing day or during the hearing but it must be stated on the record before the time in question commences. Further, if any unused time accrues during the hearing day the Presiding Officer may allocate it equitably to parties requesting additional time for cross-examination.
2. The portion of the appeal requesting the reversal of the Procedural Order with regard to the pre-filing of written rebuttal to the Supplemental Testimony is denied. The general issues being addressed in the Supplemental Testimony are not new issues and were addressed to some degree in the five days of hearings in April. The parties had the opportunity to address the more specific topics outlined and questions posed by the Department for the May 9th hearing day in their Supplemental Testimony. In addition, the Tenth and Eleventh Procedural Orders state that rebuttal testimony may be provided orally, as it may be woven into the oral summary of the testimony of each witness on May 9th. Rebuttal exhibits may also be offered at the hearing.
3. The request that additional hearing time be scheduled at this time is denied. The Presiding Officers may continue the hearing if they determine that there are witnesses or issues that have not been thoroughly examined and additional hearing time is necessary for the gathering of evidence the agencies need to make a well-informed decision.

Dated: May 7, 2019



Gerald D. Reid
Commissioner