STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

and

STATE OF MAINE
LAND USE PLANNING COMMISSION

IN THE MATTER OF

CENTRAL MAINE POWER COMPANY	)
NEW ENGLAND CLEAN ENERGY CONNECT	)
#L-27625-26-A-N/#L-27625-TG-B-N/	)
#L-27625-2C-C-N/#L-27625-VP-D-N/	)
#L-27625-IW-E-N	)

RESPONSE OF CENTRAL MAINE POWER COMPANY TO INTERVENOR GROUPS 2, 4, AND 10'S MOTION FOR RECONSIDERATION

The Presiding Officer issued the Tenth Procedural Order on April 19. Now, after ten days and with only two days remaining until the filing deadline for the voluntary supplemental information called for in that order, Intervenor Groups 2, 4, and 10 make a last-minute motion, asking the Department to (1) reconsider the prohibition on pre-filed rebuttal testimony related to the supplemental information and (2) set forth new deadlines for such rebuttal including, a new hearing date. This request is yet another delay tactic, coming in at a characteristically eleventh hour, and it should be denied.

First, Intervenor Groups 2, 4, and 10's complaint that the May 1 deadline to produce the supplemental information called for in the Tenth Procedural Order does not leave sufficient time for parties to respond is without merit. The Presiding Officer clearly limited the information requested to that outlined in Paragraph 2, and granted the parties a full 12 days to respond, if they so desire. Additionally, the Presiding Officer granted the parties a full 20 days to respond to the specific topics outlined in Appendix A, allowing the parties to address the supplemental evidence

at the hearing on May 9. Tenth Procedural Order ¶¶ 3-4. This is sufficient time for all parties to generate as well as review the supplemental evidence.

Second, the Presiding Officer ordered the filing of supplemental testimony in response to evidence presented during the April 1-5, 2019 hearing dates. The Tenth Procedural Order does not amount to a Chapter 3, Section 16(A) request for additional information "prior to the hearing." Rather, the Presiding Officer's requests are responsive to the evidence presented during the hearing, and thus are governed by Chapter 3, Section 5(D), which provides:

> If additional information needs arise during the hearing, the Presiding Officer shall afford the applicant a reasonable opportunity to respond to those information requests prior to the close of the hearing record.

Where the Presiding Officer makes such a request after the commencement of the hearing, as occurred here, there is no requirement that the request for additional information be made with a reasonable time for response prior to the scheduled hearing, as there is for additional information requests prior to the hearing. It would not make sense to so require, given the ongoing nature of the hearing and the proximity of the request to the close of the record.

Third, the Department is not holding hearings on additional topics, as Intervenor Groups 2, 4, and 10 suggest. Those Intervenor Groups have been on notice as to the substance and depth of the May 9 hearing since at least the third pre-hearing conference on March 26, 2019, and their prior request that the Department consider CMP's rebuttal testimony as a permit modification was soundly rejected in the Seventh Procedural Order. Seventh Procedural Order ¶ II.9.a. As CMP has stated in numerous prior pleadings, it is not amending its application nor proposing any undergrounding, tapering, or taller pole structures beyond what it has already proposed. Nevertheless, as noted above, the Presiding Officer is permitted under the Department's rules to request additional information based on the hearing, which she has done here. Granting the

parties an opportunity to also provide supplemental evidence and to respond to CMP's evidence is in fact a benefit to Intervenor Groups 2, 4, and 10.

Finally, as Intervenor Groups 2, 4, and 10 are aware, oral presentations and cross-examination at the April 1-5 hearing dates went much more quickly than expected, causing all parties to meet during the hearing to consider further consolidation of the hearing days and resulting in an early finish to the April 4 and April 5 hearing days even without such consolidation. Past experience in this very proceeding does not evoke the "marathon day" that Intervenor Groups 2, 4, and 10 claim to fear; the length of that day can be controlled with cooperation from all parties. Groups 2, 4, and 10's request for an additional hearing day is nothing more than yet one more delay tactic and should be denied.

For the foregoing reasons, the April 29, 2019 Motion to Reconsider of Groups 2, 4, and 10 should be denied.

Dated this 29th day of April, 2019.

Matthew D. Manahan
Lisa A. Gilbreath

PIERCE ATWOOD LLP
Merrill's Wharf
254 Commercial Street
Portland, ME 04101
(207) 791-1100

Attorneys for Applicant Central Maine Power Company