

charles.soltan@soltanbass.com
james.bass@soltanbass.com
benjamin.smith@soltanbass.com

(207) 621-6300 (p)
(207) 621-9797 (f)
www.soltanbass.com

August 27, 2018

Via Email and First Class Mail

Mr. James Beyer, Bureau of Land Resources
Maine Department of Environmental Protection
106 Hogan Road Suite 6
Bangor, Maine 04401

Re: New England Clean Energy Connect – Response of Western Mountains & Rivers Corporation to Procedural Order No. 1

Dear Mr. Beyer,

I write this letter on behalf of Western Mountains & Rivers Corporation (“WM&RC”) in response to directives of the Presiding Officer contained in the August 13, 2018 Procedural Order pertaining to the New England Clean Energy Connect (“Project”) that is the subject of the above-mentioned proceeding.

Intervenors have been directed to specify the statutory and regulatory criteria that they wish to address at the public hearing, the specific, contentious or significant topics and matters they wish to address, as well indicate whether they are either in support of or opposed to the proposed project.

Identification of Statutory and Regulatory Criteria

WM&RC wishes to address the following statutory/regulatory criteria at the public hearing:

38 M.R.S. § 480-D (1); DEP Regs. Ch. 315 - whether and to what extent the Project would cause unreasonable interference with existing scenic, aesthetic, recreational or navigational uses of the Kennebec River in the vicinity of the crossing,

38 M.R.S. § 484(3); DEP Regs. Ch. 375 - whether and to what extent any crossing alternatives would create an adverse effect on the natural environment,

DEP Regs. Ch. 315(8) - mitigation of the Project,

38 M.R.S. § 480-D(8); DEP Regs. Ch. 310 - alternatives to the Kennebec River crossing.

Specific, Contentious or Significant Topics to be Addressed by WM&RC

WM&RC seeks to be heard on the various issues identified in Russell Walter's July 17, 2018 letter, which is incorporated herein by reference, and which was filed in support of WM&RC's intervention request. These include, but are not necessarily limited to: issues surrounding the various crossing alternatives and their associated environmental, scenic/aesthetic, and other impacts on users of the river and the surrounding natural environment; the feasibility and practicality of the various crossing alternatives in light of technical, legal, logistical, and other issues presented by the various options; mitigation measures offered by CMP to minimize the environmental and visual/aesthetic impact of the overhead crossing, as well as a Memorandum of Understanding ("MOU") entered into by CMP to WM&RC.

WM&RC's Overall Position on the Project and Overhead Option

As indicated in Russell Walter's July 17, 2018 letter, which is incorporated herein by reference, WM&RC believes that due to engineering, technical, legal and logistical reasons, and the relative harm associated with other crossing alternatives, that there is no reasonable alternative to the overhead crossing of the Project that will have less adverse impact upon the natural and recreational features of the river segment affected by the Project.

Further, given the proposed use of buffering, the placement of structures outside of the viewshed of users of the river, and the other mitigations offered by CMP, including various donations, land grants, and other concessions offered by CMP under the MOU, the scenic, environmental, and cultural characteristics of the Kennebec Gorge and surrounding area will not be diminished but rather preserved by an overhead solution. At the same time, the Forks/West Forks and surrounding communities will experience increased public access and recreational opportunities, enhanced economic development through eco-tourism and balanced use and stewardship of the region's natural resources.

WM&RC's Position on Consolidation With Other Intervenors

WM&RC is unique when compared to other intervenors before the Department. WM&RC's Board of Directors consists of select persons, former county commissioners, former legislators, as well as private business persons in the rafting and eco-tourism industry who have first-hand knowledge of the aesthetic and environmental importance of the Kennebec Gorge region and surrounding areas.

The direct experiences of members of WM&RC's Board, who are part of the rafting community, allow WM&RC to speak directly to the impact of the Project upon users of the Kennebec River and the environmental, visual, and other effects presented by the various crossing alternatives. At the same time, given WM&RC's charitable mission and commitment to

the Kennebec Gorge and surrounding Western Maine area, WM&RC is also well positioned to speak to potential benefits of the Project that may flow from consideration of an overhead solution, including, the various benefits to Western Maine that could result from the mitigation package offered by CMP under the terms of the MOU. No other intervenor can speak to these issues.

WM&RC appreciates the Department's consideration of these comments and looks forward to the September 7th pre-hearing conference. Please call in the meantime if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ben Smith", with a long horizontal flourish extending to the right.

Benjamin J. Smith, Esq.

BJS/car
cc : Service List
Enclosures

**Western Mountains & Rivers Corporation
1488 Middle Road
New Portland, ME 04961**

July 17, 2018

Jim Beyer, Bureau of Land Resources
Maine Department of Environmental Protection
106 Hogan Road Suite 6
Bangor, Maine 04401

**Re: New England Clean Energy Connect – Petition for Leave to Intervene and
Comments of Western Mountains & Rivers Corporation**

My name is Russell Walters, and I am President of Western Mountains & Rivers Corporation (“WM&RC”). With this letter, WM&RC hereby submits its petition for leave to intervene in the pending proceeding involving the applications of Central Maine Power Company (“CMP”) seeking approval for the New England Clean Energy Connect (“NECEC” or “Project”) that is pending before the Maine Department of Environmental Protection (“Department”). It will be represented by Benjamin J. Smith and will address the NECEC’s compliance with the applicable statutory and regulatory standards outlined below.

WM&RC has a direct and substantial interest that will be impacted by the NECEC and should be granted intervention. Specifically, WM&RC is in a unique position to weigh in on whether the Project will impose an unreasonable adverse impact, given that WM&RC’s Board members have considered and evaluated the various Kennebec River crossing alternatives and their impact on the Kennebec River and its users. In order to help mitigate the environmental, natural resource, aesthetic, and community impacts of the NECEC, and in order to provide long-term economic development, recreational, and eco-tourism benefits to the Western Maine region, WM&RC has negotiated a Memorandum of Understanding (“MOU”) with CMP. This petition to intervene describes that MOU and outlines WM&RC’s specific contentions regarding the existing use of the segment of the Kennebec River that the Project proposes to cross, the scenic character of the Kennebec River, unreasonable impacts of the alternatives, and natural resources in the municipality or in neighboring municipalities of the Kennebec River crossing.

Mission of WM&RC

WM&RC is a Maine nonprofit public benefit corporation formed for the purpose of expanding conservation of the Kennebec, Dead, Sandy, Moose, Sebasticook and Carrabassett rivers; developing recreation projects; developing education programs about the history, ecology and uses of Maine’s rivers; and expanding economic development opportunities along the rivers of Western Maine. WM&RC’s Board of Directors is comprised of town selectpersons, former county commissioners, former legislators as well as private business persons in the rafting and eco-tourism industry who have first-hand knowledge of the aesthetic and environmental importance of the Kennebec Gorge region and surrounding areas.

and will greatly reduce the costs of building and maintaining the recreational trails and related infrastructure projects.

CMP has also agreed, subject to and as permitted by applicable laws, regulations, ordinances, and permits, to facilitate access of the Project corridor for ATV, snowmobile, and other recreational uses.

CMP has also agreed, to the extent permitted by FERC and Brookfield (where applicable), to provide public and commercial access to Harris Station, Indian Pond, & Carrybrook for whitewater rafting, boating, fishing, and snowmobile, ATV, bicycle, and other motorized and non-motorized trail uses. Such access will be through CMP's existing easement rights or through CMP's purchase of the Indian Pond Road from Moxie Lands LLC, and the negotiation of a no fee easement for commercial recreational access on Lower Enchanted Road to access the Dead River. In recent years, public and commercial access to these areas has been disrupted and constrained due to changes in private ownership of roads providing access to the Kennebec River, Indian Pond, and the Dead River. Rafting outfitters currently pay \$3.00 per person to access the Kennebec River and have been threatened with substantial increases in the near future. Access to the Dead River is currently only permitted if users and outfitters pay a premium of \$13.50 per person. Renewed access to these areas through potential no fee easement agreements with CMP will improve recreational access to these vital natural resources and spur economic development opportunities for the region.

CMP has also agreed, at its sole expense, to include an optical ground cable with multiple strands of fiber that will enable expanded broadband, wide area Wi-Fi, and other enhanced communication services for the residents and businesses of Androscoggin, Somerset, and Franklin counties through the ability to loop fiber on the Route 27 and 201 corridors. An enhanced fiber network and improved broadband capabilities is essential to the economic growth of Western Maine, and the investment necessary to fund this infrastructure has historically been cost prohibitive to communities, business owners, and other private persons. The commitment by CMP to expand fiber and broadband to the Western Maine region is an important component of the mitigation package, will help WM&RC realize its charitable mission, and will also more broadly help the development of eco-tourism in Western Maine.

WM&RC's Position on Crossing Alternatives

WM&RC has taken great time to consider the various impacts of the crossing alternatives under consideration.

The MOU is intended to offer mitigation that will help offset the environmental, scenic/aesthetic, and other impacts of the various crossing alternatives. Although the MOU allows for some mitigation measures in the event that the NECEC crosses either beneath the Kennebec River or at Harris Station, WM&RC would observe that the relatively minimal intrusion of an overhead crossing coupled with the engineering, environmental, legal, and logistical complexities presented by these other alternatives militate in favor of an overhead crossing of the Kennebec River.

on the Kennebec River for their businesses. Many local governments, private businesses, and environmental groups were parties to the proceeding that led to the last FERC relicensing of Harris Station. A crossing of the NECEC at Harris Station would require a new FERC proceeding, which would be lengthy and time consuming. WM&RC, as a non-profit corporation, would be at a disadvantage in such expensive litigation. Further, because Brookfield's commitments to river users would be the subject of an amended license, and the negotiation of amended license terms, rafting outfitters and other river users could lose ground when compared to the status quo. Following a license amendment, Brookfield may have less of an obligation to provide access to the river and/or fewer commitments to manage and coordinate the flow of the river in a manner that allows for rafting expeditions. The danger of such a potential outcome weighs greatly in favor of an overhead alternative.

Conclusion

In closing, WM&RC's consideration of the environmental, scenic, and other impacts of the alternative crossings by the NECEC have been thoroughly evaluated and considered by WM&RC's Board after discussions with various stakeholders in the Western Maine region. If WM&RC was concerned that an overhead crossing would adversely impact the experiences of rafters or other users of the Kennebec River, it would oppose such an alternative. However, given the engineering design of the overhead crossing, the use of buffering, and the placement of structures outside of the viewshed of users of the river, WM&RC is confident that the experience of rafters will not be diminished. Furthermore, the monetary donations, land concessions, expanded fiber optic / broadband buildout in Western Maine, and other commitments of CMP as part of the mitigation package under the MOU, which were the result of extensive negotiations with CMP, will help protect the scenic, environmental, and cultural characteristics of the Kennebec, Sandy, Moose, Sebasticook, Carrabassett, and Dead rivers.

The Western Maine region has become increasingly reliant on tourism. Only one of three stores that operated historically remains open in West Forks. The number of rafting companies has declined. Where once there were 17 rafting companies in and around The Forks, there are now approximately a dozen. When such an industry declines, families move out of the area. When families leave, schools close. When schools close, children have to be bused to remote schools (for instance, children from The Forks are now bused to Moscow or Bingham), education suffers, and communities unravel. With fewer people, the burden of property taxes falls upon an even smaller population, only compounding the financial impact on an already struggling economy.

The mitigation offered for an overhead solution would help change all of this. The MOU provides seed money to leverage and invest in the development of recreational infrastructure and nature-based tourism, including trails, a visitor center, educational programs, and more. CMP has offered to sell leases on reasonable terms, and to transfer non-critical land and gravel assets to help grow businesses in the area. Located north of Bingham and south of Jackman and with Greenville/Moosehead Lake to the east and Carrabassett Valley/Sugarloaf to the west, The Forks/West Forks area can be reinvigorated as the hub of a future area of economic growth based on nature-based recreation and eco-tourism. Those seeking outdoor experiences of all kinds will come, stay, and return, and Western Maine can begin to thrive as a region. In short, the

CMP Mitigation Grants to WM&RC

