



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



JANET T. MILLS
GOVERNOR

GERALD D. REID
COMMISSIONER

IN THE MATTER OF

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

This Tenth Procedural Order (Order) sets forth rulings of the Department of Environmental Protection (Department) on matters relating to the continuation of the hearing on May 9, 2019. This Order applies only to the Department aspects of the proceeding and is not a joint order with the Land Use Planning Commission.

SCOPE OF HEARING ON MAY 9, 2019

1. Based on the evidence gathered during the first five days of the hearing, held from April 1 through April 5, 2019, the Department requests additional information and evidence from the applicant and the parties to assist the Department in its analysis of the NECEC application. This requested evidence will be limited in scope to alternatives, and mitigation specifically to address resources of particular concern or significance. Parties will have the opportunity to present this information in the form of supplemental testimony from witnesses and exhibits. Supplemental testimony and exhibits will be due May 1, 2019. Witnesses must be available for cross-examination and questions from the Department on May 9, 2019.

2. The Department requests supplemental information and evidence on the following topics:

Whether undergrounding, tapering, or taller pole structures in areas identified during the hearing as environmentally sensitive or of special concern (for example, The Nature Conservancy's nine identified areas, Trout Unlimited's mention of Tomhegan Stream, and other specific wildlife corridors identified by parties) are technically feasible and economically viable minimization or mitigation measures. Also, whether any of these techniques would satisfy concerns raised at the hearing or be a preferred alternative. Information and evidence on these environmentally sensitive or special concern areas must include specific locations, such as GPS coordinates, latitude/longitude, or locations between existing pole structures to allow all parties and the Department to pinpoint the locations.

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3. Parties should be prepared to discuss the specific topics outlined in Appendix A of this Procedural Order at the May 9th hearing. The Department also requests that the applicant submit documents listed in Appendix B of this Procedural Order.
4. There will be no opportunity for written rebuttal testimony in response to this requested supplemental evidence; however, parties may include rebuttal testimony in their oral summary of the supplemental evidence on May 9th and cross-examination will be allowed.
5. As a result of this request for information, some additional witnesses may be submitting testimony; they must be present at the hearing. Therefore, the schedule for the hearing will not be developed until after the submittal of the supplemental evidence on May 1st. Time allotments requested for cross-examination will not be determined until after May 1st. Also, the parties should be prepared for the possibility that the hearing may extend into the evening of May 9th.
6. As a reminder, the oral summary of the supplemental testimony should be concise to allow for the bulk of the time to be used for cross-examination and questioning by the Department.

CLARIFICATION OF WITNESSES WHO MUST BE PRESENT ON MAY 9

7. On April 8, 2019, Counsel for Intervenor Group 8 requested clarification on whether Mr. Russo is required to be present at the hearing on May 9th. On April 10, 2019, Counsel for the Applicant requested clarification on Mr. Russo's presence on May 9th as well as clarification on which of the Applicant's witnesses must to be present.
 - a. Mr. Russo. Because Mr. Russo did not submit any rebuttal testimony, and because all parties had an opportunity to cross examine him on his direct testimony (and there was significant unused time left remaining for that purpose), he is not required to be present on May 9th. If Intervenor Group 8 were to submit additional supplemental testimony from Mr. Russo as described in this Order, Mr. Russo would be required to be present.
 - b. Dr. Calhoun. Because of extenuating circumstances, Dr. Calhoun was not able to present her testimony at the hearing on April 4, 2019. Upon request by counsel of Intervenor Group 4, with no objection from the other parties, Dr. Calhoun was permitted to postpone her testimony to May 9th. On April 10, 2019 Counsel for Intervenor Group 4 confirmed that Dr. Calhoun will be available to testify on May 9th, and therefore she is expected to be available to summarize her testimony and be cross-examined.
 - c. Applicant's witnesses.

- i. New rebuttal witnesses. Mr. Freye, Mr. Tribbett, Mr. Bardwell, and Mr. Edmond are all new witnesses in rebuttal and are required to attend the May 9th portion of the hearing in order to give parties additional time to review their testimony and prepare for cross-examination.
- ii. Other witnesses with rebuttal testimony. The Department requests that Mr. Dickinson, Mr. Goodwin, Ms. Johnston, Ms. Segal, and Mr. DeWan, also be present on May 9th. This is to ensure that the Department has the opportunity to question these witnesses on information that may be submitted or require further exploration as a result of supplemental testimony described in this Order. These witnesses may have additional information that is necessary for the Department's analysis and decision.

ADDITIONAL INFORMATION AND LOGISTICS ABOUT MAY 9

8. The hearing will start at 8:00 am at the Cross Center in Bangor, which is located at 515 Main Street, Bangor Maine. The entire day and evening portions of the hearing will be for parties to present their witnesses, cross-examination and questions from the Department. A public comment session is not included in this day of hearing.
9. As a reminder, parties may use exhibits in their oral summary that are part of their testimony. These exhibits must be exact copies of the exhibits filed with their testimony, and may not be changed or modified in any way. If a party has any new exhibits to be used in cross-examination, please bring 20 copies.
10. Parties who will require technology or special equipment to be available during the hearing should coordinate their needs by May 3, 2019 with Mr. Jim Beyer at the Department at 207-446-9026 or at NECEC.DEP@maine.gov.

Dated: April 19, 2019



Susanne Miller
Presiding Officer

Appendix A to the Tenth Procedural Order

The applicant and the parties should be prepared to discuss the following more specific topics at the May 9 hearing:

Construction Questions:

1. Typical construction details and sections for the areas proposed for tapering. Clarify whether during initial construction the entire 150-foot corridor is cleared, or if only the wire zone is cleared and the remaining width selectively cut.
2. Description of construction process, staging, and impacts for 100-foot or taller poles.
3. A more detailed description of undergrounding techniques including direct burial, duct bank installation, or trenchless installation. This should also include typical dimensions, materials and cross-section diagrams.
4. A description of the differences of normal operation and maintenance (O&M) activities between overhead and underground lines.
5. Whether fewer longer sections (versus more shorter sections) of the line could be undergrounded that would minimize both the number of transition stations as well as the environmental impact of the project.
6. Explanation of why a permanent road would need to be constructed to each splice location (undergrounding), but not for overhead poles. Explanation of why matting along the ROW (which could be used for overhead poles) could not be used for splice boxes.
7. How the determination was made that a 75-foot wide cleared width would be necessary for a potential underground line.
8. Whether there is more cleared area with a 150-foot wide overhead line or with a 75-foot wide underground line including termination stations.
9. Explanation of the number or percentage of cable faults in underground cables vs. overhead lines.
10. Whether cooling station structures were included in the undergrounding cost estimates, what size or type of structure would be needed, how many, and at what distances along the line.
11. Identify engineering standards, safety or design codes, etc. that specifically apply to this project.

12. Explanation of the conditions considered when engineers determined that horizontal directional drilling would be the lowest impact trenchless method for the NECEC Project.

Environmental Questions:

13. Whether taller poles and travel corridors could provide enough of a link between the habitat on both sides of the corridor for species like the pine marten.
14. In TNC's nine areas of concern, whether travel corridors must be located within a certain distance of the structures (poles), and what the minimum width would be of the travel corridors in order for species like the pine marten to use them.
15. In TNC's nine areas of concern, whether tapering would adequately reduce the forest fragmentation of any clearing. \
16. Locations where tapering vs. taller overhead poles would be preferred.
17. Whether tapering within the 100-foot buffers around streams would provide adequate large woody vegetation for streams in segment 1 which are typically less than 10 feet wide.

Cost/Financial Questions:

18. A description of the differences of normal operation and maintenance (O&M) costs between overhead and underground lines.
19. What the costs would be to underground fewer longer sections (versus more shorter sections) of the line (to minimize transition stations and environmental impact) as well as other practical constraints to this approach.
20. Comparison of cost for constructing a crane path to every pole location (overhead lines) with the cost to construct an access road to every splice box (undergrounding).
21. Explanation of why tapering vegetation is more expensive than keeping the entire 150-foot ROW to scrub shrub height.
22. Additional description of allowance for funds used during construction (AFUDC), and whether there is any AFUDC included in the \$950 million original project cost estimate.
23. What the difference is between conceptual level estimates and preliminary estimates, and how final construction-level cost estimates compare to conceptual level cost estimates.

24. Whether the original \$950 million cost estimate included indirect costs such as CMP and Avangrid personnel.

Routing Questions:

25. Explanation of how the connection point was chosen on the Quebec/Maine border, and whether this was decided by Hydro-Quebec or real estate constraints. Whether there is flexibility in this location or if there are other tie-in points on the Quebec border.
26. Whether an underground route co-located with Route 201 would be technically feasible, economically viable, and/or a satisfactory option to mitigate concerns raised during the hearing.

Appendix B to the Tenth Procedural Order

The applicant is requested to provide additional documents by May 1st on the following items:

1. Data was provided from the Maine Forest Service for 2015-2017 on acres of forest that were clear cut (See Mark Goodwin rebuttal testimony, page 18). Please provide this same data for multiple years/decades prior to 2015 so as to determine long term trends in clear cutting acreage.
2. The Application stated that Plum Creek Maine Timberlands LLC “specifically did not want a transmission line located along the Spencer Road.” Please provide evidence from the landowner to that effect.
3. A plan showing the alternate route noted in Section 3 of Mr. Bardwell’s rebuttal testimony.
4. For all the cost estimate summary sheets in the rebuttal testimony, please provide additional backup spreadsheets or details for how each of the line item costs were determined.