Saddleback Ridge Wind, LLC // Natural Resource Protection Act (NRPA) and Site Location of Development Act applications

- Land Use Regulation Commission, Memorandum and Third Procedural Order , Bowers Wind Project

STATE OF MAINE
DEPARTMENT OF CONSERVATION
MAINE LAND USE REGULATION COMMISSION
22 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0022

PAUL RICHARD LEPAGE
GOVERNOR

WILLIAM H. BEARDSLEY
COMMISSIONER

Memorandum and Third Procedural Order 3[1]

Pre-Hearing Conference
In the Matter of
Development Permit DP 4889
Champlain Wind, LLC
Bowers Wind Project
Prehearing Conference held on April 20, 2011
9:30 am to 11:00 am

On April 20, 2011, a pre-hearing conference was held pursuant to Chapter 5.07 of the Commission's Rules, at the Department of Conservation's Conference Room 109 in Augusta, Maine. An agenda for the pre-hearing conference was distributed prior to the conference, but several discussion items were raised and addressed at the conference by agreement of the attendees. The following memorandum and order recounts the discussions of the attendees at the conference, and includes, among other things, the scheduling of a public hearing, as required by vote of the Commission during the regular business meeting on April 6, 2011 in Bangor, Maine. The site visit date and the deadlines associated with this proceeding also follow. Questions about this memorandum and order should be directed to the LURC staff contact person, as provided below.

Attendees of the Prehearing Conference of April 20, 2011:

LURC Commission
Gwen Hilton, Presiding Officer

LURC Staff
Catherine Carroll, LURC Director
Frederick Todd, LURC Project Planner

Maine Attorney General's Office
Amy Mills, Assistant Attorney General

Applicant
Neil Kiely, Director, Development – New England, First Wind
Geoff West, First Wind
Hallie Gilman, First Wind
Juliet Browne, Esq., Verrill Dana, LLP
Joy Prescott, Project Manager, Stantec Consulting

[1] The Presiding Officer issued the First Procedural Order on March 22, 2011 and the Second Procedural Order on April 21, 2011 with respect to the scenic standard applicable to associated facilities, as that issue is identified at 35-A M.R.S.A. § 3452(2).

Intervenors
Dylan Voorhees, Natural Resources Council of Maine (NRCM)
Sean Mahoney, Conservation Law Foundation (CLF)
Reeve Wood, CLF Intern

Interested Persons
David Corrigan, Concord Twp
Kay Campbell, Lakeville
Gary Campbell, Lakeville
Richard Mathiau, Carroll Plt
Gordon Mott, Lakeville
Daniel Remian, Cushing

Government Review Agencies
Steve Timpano, Maine Department of Inland Fisheries & Wildlife

Others
William Beardsley, Commissioner, Department of Conservation

I. Party status, Interested Persons, and Intervenors

At the prehearing conference the attendees discussed the party status of Intervenors and Interested Persons in this proceeding. For purposes of this order "party" refers to Champlain, LLC (Applicant), and the Intervenors.

A. Interested Persons

The party-status discussion at the prehearing conference focused on the status of Interested Persons in this adjudicatory proceeding. Under LURC Rules, Section 5.14, the Presiding Officer has considerable discretion with regard to defining the role of Interested Persons. Section 5.14 provides

> *Any person may, in the discretion of the Presiding Officer, be permitted to make oral or written statements on the issues, introduce documentary, photographic and real evidence, attend and participate in conferences and submit written or oral questions of other participants, within such limits and on such terms and conditions as may be fixed by the Commission or the Presiding Officer.*

Therefore, depending on the facts and circumstances of a particular matter, Interested Persons have participated in LURC adjudicatory proceedings to varying degrees.

Six Interested Persons[2] attended the pre-hearing conference, and there appeared to be a general interest in consolidating their participation to some degree under the umbrella of the Partnership for the Preservation of the Downeast Lakes Watershed (PPDLW) represented at the conference by Gary Campbell (the PPDLW president, Kevin Gurall, was unable to attend the conference). The Interested Persons present generally indicated an interest in scenic impacts, economic impacts, tangible benefits and conservation, wildlife, water quality, and property values. Some Interested Persons expressed an

[2] Richard Mathiau of Vasselboro and Carroll Plantation attended the conference, but he did not formally ask for Interested Person status until after the conference.

interest in participating more in the nature of party status in this proceeding as opposed to simply receiving notices about the proceeding.

No later than May 6, 2011, Interested Persons shall notify the Commission, the Applicant, and Intervenors as to whether he or she will pre-file testimony, and if so he or she must: formally state a position with respect to this project; preliminarily identify the issue or issues he or she will address; preliminarily identify the witness or witnesses who will provide the testimony, and provide an approximation of the amount of time, if any, requested at the hearing.

Participation in this proceeding at party status capacity, as outlined above, comes with both privileges and responsibilities. Responsibilities generally include compliance with all duly noticed requirements and deadlines. In particular, those pre-filing testimony are required to arrange for the attendance of witness(es) on the scheduled day session of the hearing for cross examination by the parties. Thus, the extent of any participation by any Interested Person, in the day-session of the public hearing and otherwise in this proceeding will be subject to further procedural order following the May 6th filings.

1. Interested Persons

For clarity, below are those persons who have to date requested and received Interested Person status:

1) David Corrigan, 2) Steve Norris, 3) Kevin Gurall of the PPDLW, 4) David Darrow, 5) Pete Borden, 6) Leonard Murphy, 7) Barbara Moore, 8) Gordon Mott, 9) Andrew Buckman, 10) Kay Campbell, 11) Gary Campbell, 12) Timothy Dalton, 13) Paul Rudershausen, 14) Tracy Allen, 15) Phillip Daw, 16) Daniel Remian, 17) Richard Mathiau.

2. May 6, 2011 filing requirements

Any Interested Person filing documents on May 6th, as set forth above, shall serve such filing on all parties and in accordance with the filing requirements set forth in this order.

Subject to subsequent procedural order, however, the Interested Persons are not parties to this proceeding. As such they will receive notice with respect to this project through LURC staff's normal course. Thus, the Applicant and Intervenors are not required to copy any Interested Person with their filings at this time.

B. Intervenors; issues and position regarding project

The Intervenors, Dylan Voorhees on behalf of the Natural Resources Council of Maine (NRCM) and Sean Mahoney on behalf of the Conservation Law Foundation (CLF), participated in the prehearing conference generally and with respect to setting the deadlines reflected in this order. Intervenors discussed their positions at the prehearing conference as either for, opposed or neutral toward this project.

NRCM took no position at the conference, but stated that its focus in this proceeding would generally be limited to scenic impacts and tangible benefits. NRCM shall declare its position on this project no later than May 6, 2011.

CLF took no position at the conference, but stated that its focus in this proceeding would generally be limited to scenic impacts, tangible benefits, the State's energy policy, and economic issues. CLF shall declare its position on this project no later than May 6, 2011.

C. Government agencies

No state or federal agency has indicated an interest in testifying at the public hearing at this time. The Commission, however, reserves the right to request that any of the reviewing agencies present testimony at the hearing or be present to answer questions by the Commissioners. Government agencies that reviewed the application may participate at the public hearing as provided by the Commission's Chapter 5 rules, Section 5.15.

II. Purpose and general framework of the Public Hearing

The **Public Hearing** will be held on **June 27 and 28, 2011, at the Lincoln High School in Lincoln, Maine.** Scheduled evening sessions of the public hearing that are open for general public testimony are being held both Monday and Tuesday at 6:00 PM. On Tuesday the 28th beginning at 8:30 AM until 4:30 PM, the Commission will convene its daytime session involving the parties to this proceeding.

The purpose of the upcoming public hearing is to provide a forum for the Commission to receive evidence relevant to its review of the Development Permit application for the Bowers Wind Project of Champlain Wind, LLC. Public hearings convened by the Commission are subject to applicable State statutes and LURC Rules: Chapter 4, 'Rules of Practice' and Chapter 5, 'Rules for the Conduct of Public Hearings'.

The public hearing will begin with the first of the two scheduled evening public sessions, which will provide the general public with an opportunity to address the Commission with respect to the Bowers Wind Project. Typically, this first evening session begins with an opening statement by the Presiding Officer, a staff statement and administrative history, and a brief summary of the proposal by the applicant. Members of the public sign in at the public session, and indicate whether they would like to address the Commission at the hearing.

The public hearing will resume the next morning for a daytime session to provide the parties in this proceeding with an opportunity to address the Commission and for the Commissioners to ask questions. An opportunity will be provided for brief opening statements, a summary presentation of pre-filed direct testimony, and cross examination. The daytime session of the public hearing is open to the public for observation only. At this time it is anticipated that the Intervenors will participate independently at the hearing, rather than being consolidated or scheduled by topic, but this may be amended by the Presiding Officer as needed in a later procedural order.

The public hearing will conclude following the second of the evening public sessions.

III. Purpose and general framework of the Site Visit

The **Site Visit** for the Commission will leave from Lincoln, Maine on **Monday, June 27th in the AM [time to be determined]**, and it is anticipated that attendees will arrive back in Lincoln by mid-afternoon. The Commission will visit the Bowers Wind Project site in Carroll Plantation and Kossuth Township and other relevant stops to observe, for example, locations of project features, access, and area landscapes. The parties, interested persons, and any member of the public wishing to attend the site visit are welcome to do so.

As discussed at the pre-hearing conference, a proposed itinerary for the site visit will be filed by the Applicant no later than May 6, 2011, followed by an opportunity for comment on the itinerary to be submitted no later than May 13, 2011, and thereafter for review by the Presiding Officer. LURC staff, in consultation with the Presiding Officer, will distribute to the parties on or about June 13, 2011 a final itinerary memorandum and copies of the itinerary will be available at the site visit. The Presiding Officer, however, may at any time alter the itinerary of the visit in order to make it efficient and effective.

Transportation for the Commissioners and the parties will be organized by the Applicant and LURC staff. To facilitate organizational needs, parties interested in attending the site visit must contact LURC Project Planner Fred Todd by June 20, 2011 to sign up for the visit. Members of the public must provide their own transportation. Note that some stops on the visit will be to remote areas with muddy gravel roads, and the public should plan accordingly. The public is encouraged to view general information and the itinerary of the site visit on the LURC website.

During the site visit, representatives of the Applicant and LURC staff may point out various features and locations of the proposed project, and site-specific questions for clarification may be asked by Commission members and other attendees. The Commission, parties, and any attendee shall refrain from inferential considerations or *ex parte* communication.

During the site visit, no party may discuss testimony or otherwise engage in any advocacy or conversations about the Bowers Wind Project with Commission members. The public may attend for informational purposes only and cannot address the Commissioners with respect to this project. The public is afforded that opportunity during the scheduled evening sessions of the public hearing.

IV. Public Hearing Rules and Procedures

As stated above, public hearings convened by the Commission are subject to applicable State statute and LURC Commission Rules Chapter 4 'Rules of Practice' and Chapter 5 'Rules for the Conduct of Public Hearings'.

A. All parties submitting pre-filed testimony must make the witnesses available for cross-examination by the parties at the hearing, and may be subject to questions from the Commission or staff. Other government agencies submitting comments or testimony may be examined by the parties, but parties wishing to do so must indicate before the hearing, no later than June 17, 2011, that they desire to have a representative of that agency present for this purpose. No party will be allocated time to summarize testimony at the hearing unless it has pre-filed testimony.

B. Each party is required to present the summary of pre-filed testimony and to cross-examine efficiently. Parties supporting the same position must coordinate their testimony to reduce redundancy. The Presiding Officer may limit any party's time in order to expedite the hearing and eliminate redundant or insignificant testimony. Cross-examination will occur immediately following each witness or group of witnesses for a party, as the Presiding Officer determines.

C. Testimony by the general public will be heard during the evening sessions on June 27th and 28th, 2011. The public may be asked questions by the Commission and staff. The parties may not cross-examine the public, but may ask for clarification through the Presiding Officer.

D. Witnesses who pre-file testimony relating to any topic on behalf of a party in this matter will not be permitted to testify at either of the evening public sessions. Individuals who are affiliated with a

party in this matter may testify at the public sessions only in their personal capacities, and not on behalf of a party.

E. A general hearing agenda is presented below. A subsequent order containing a more detailed hearing schedule with time allocations will be distributed to the parties and made available to the public after the list of witnesses to be cross-examined has been received and processed by the Presiding Officer.

JUNE 27, 2011

Site Visit: **AM** meeting at location to be determined.
Detailed itinerary to be announced in accordance with the terms of this order
3:00 PM approximate return from the site visit

Monday Evening (6:00 PM): Public Session held at the Lincoln High School, Lincoln, Maine
Opening statement by Presiding Officer, staff statement and administrative history
Brief presentation by the Applicant summarizing the proposal
Public testimony
Recess and closing statement of the Presiding Officer

JUNE 28, 2011

Morning (8:30 AM to 12:00 PM) held at the Lincoln High School, Lincoln, Maine
Presiding Officer opening statement, staff statement, administrative history and record
Parties' opening statements
Summary of Applicant's testimony, cross-examination of its witnesses, questions by Commission, and redirect
Lunch (12:00 PM to 1:00 PM)
Afternoon (1:00 PM to 4:30 PM) held at the Lincoln High School, Lincoln, Maine
Summaries of direct testimony by Intervenors, cross-examination of their witnesses, questions by Commission, and redirect
Evening (6:00 PM): Public Session held at the Lincoln High School, Lincoln, Maine
Opening statement by Presiding Officer, staff statement and administrative history
Public testimony (Additional written testimony from the public may be submitted until the end of the post-hearing comment period.)
Additional summaries and/or cross-examination by the parties may occur as time permits during this evening session.
Closing statement of the Presiding Officer

V. *Ex Parte* Communications

The parties are directed to 5 M.R.S.A. § 9055 and Chapter 5, Section 5.25 of the Commission's Rules, for a statement of legal restrictions on contact with Commission members during pending proceedings, including the site visit. The parties are cautioned to avoid any conduct that could give rise even to the appearance of improper contact with Commission members.

VI. Service list and designated contact persons

A. Service list. LURC staff and the designated contact persons for the Applicant, and each Intervenor constitute the service list. All filings in this proceeding must be copied to the service list. As stated above, any Interested Person making an initial filing on May 6th must copy the service list on the filing. Interested Persons shall receive notice through LURC staff, subject to subsequent procedural order.

B. Contact person responsibilities. The contact persons are responsible for submittal of pre-filed testimony, coordination of other pre-hearing matters, presentation of an oral summary of the pre-filed direct testimony at the hearing, producing witnesses for cross-examination, cross-examining other parties' witnesses, and any post-hearing filings. Each contact person is responsible for assuring filings have been provided to the others in his/her group.

C. Change in contact person. All parties must provide timely notice in writing of any change in the designated contact person to LURC staff and the other parties, and must provide the new contact information.

D. Consolidation of Parties by the Presiding Officer: No party or Interested Person is being consolidated at this time pursuant to the authority granted in LURC Chapter 5 Rules for the Conduct of Public Hearings. However, the right is reserved should it become necessary to do so.

E. Service List Contact information:

1. *Land Use Regulation Commission:*
Frederick W. Todd, Project Planner: 207-287-8786, fred.todd@maine.gov
Land Use Regulation Commission, 22 State House Station, Augusta, ME 04333-00222

2. *Applicant:*
Champlain Wind, LLC
Juliet Browne, Esquire: 207 253-4608, jbrowne@verrilldana.com
Verrill Dana, LLP, 1 Portland Square, Portland, ME 04112-0586

3. *Intervenors:*
1) Dylan Voorhees: 207-430-0112, Dylan@nrcm.org
Natural Resources Council of Maine (NRCM), 3 Wade St., Augusta, ME 04330

2) Sean Mahoney: 207-210-6439, SMahoney@clf.org
Conservation Law Foundation (CLF), 47 Portland Street, Suite 4, Portland, ME 04101

VII. Service List Filing Requirements

1. *Paper copy of the original and electronic copy for the record.* All materials, including exhibits, must be provided to LURC as 1) a signed paper copy original (notarized when appropriate) **and** 2) electronically. For submittals 2 MB in size or less, the electronic submittal may be by email to fred.todd@maine.gov. For larger submittals, one CD copy must be provided containing all materials, including cover letters and attachments associated with that submittal. All CDs must be clearly labeled. Electronic documents must be in either Word (.doc) or Adobe (.pdf) format. Photo files must be in JPEG (.jpg) unless another format is approved by LURC staff. If you have questions about which format to use, please consult LURC staff.

2. *Copying the other Parties.* All substantive submittals, including emails, must be copied by the submitting party to the service list electronically upon submittal to LURC. As set forth above, the service list contains one contact person for each party. If any party requires a paper copy of a submittal that party must request in writing a paper copy from the submitting party, and the submitting party shall timely serve a paper copy on all requesting parties.

3. *Electronic file naming convention.* The titles of all electronic files must be as short as possible, and must use the following naming convention: "Party acronym_Title_DP4889". For example: "LURC_FirstProceduralOrder_DP4889". Electronic file titles must not include characters such as "<, >, /,?, &, !, + ". Underscores and dashes are acceptable.

4. *Format of submittals and deadlines.* All materials submitted must be provided by the date and time due at least electronically. If an electronic submittal is being provided as a CD copy, the CD must be **received** at the LURC office by the deadline. The signed paper version must be timely mailed to LURC's Augusta office, attn: Fred Todd, Project Planner, 22 State House Station, Augusta ME 04333 for U.S. Postal Mail; or 18 Elkins Lane, Augusta ME 04333 for deliveries.

5. *Meeting deadlines for submittals.* The close of business at the LURC Augusta office is 5pm. All materials received after that time will be considered to be submitted the following day, unless LURC staff and the other parties are notified at least one-half day before the deadline, and permission is obtained from LURC ahead of time for a late submittal.

VIII. Relevant Review Criteria

The following are the legal criteria relevant to the Commission's review of this proposal:

- 12 M.R.S., Sections 685-B,2-C, 4, and 4-B of the Commission's statutes;
- 35-A M.R.S., Ch. 34-A, Sections 3451, 3452, 3454, and 3455, the Wind Energy Act
- Other applicable provisions of the Commission's statute, 12 M.R.S., Sections 681 through 689; and Chapter 10, the Land Use Districts and Standards.
- LURC Commission Rules: Chapter 4, 'Rules of Practice' and Chapter 5, 'Rules for the Conduct of Public Hearings'
- Board of Environmental Protection's noise control rules adopted pursuant to Title 38, chapter 3, subchapter 1, article 6; the Site Location Law; DEP Rule Chapter 375.10 Control of Noise.

IX. Pre-hearing filings

A. NRCM, CLF and any Interested Person making a filing set forth at section I of this order, must submit their stated position with respect to the proposed project no later than **Friday, May 6, 2011 at 5:00 pm.**

B. All parties, and any Interested Person making a filing set forth at section I of this order, must provide a tentative list of witnesses and issues they wish to testify on no later than **Friday, May 6, 2011 at 5:00 pm.**

C. All direct testimony must be pre-filed. Pre-filed direct testimony must be sworn, notarized and filed with the Commission by all parties no later than **Monday, June 6, 2011 at 5:00 pm.** A cover letter reciting legal interpretations or arguments the party wishes to assert may be included with the pre-filed testimony. The pre-filed testimony must clearly indicate any experts who will be presenting testimony at the hearing.

D. Any exhibit that a party wishes to introduce into the administrative record must be attached and incorporated into pre-filed testimony or pre-filed rebuttal testimony. Exhibits used at the hearing must not introduce new evidence. It is the responsibility of each party to label their exhibits in a manner that allows them to be easily identified and referenced. Reduced versions of oversized exhibits may be pre-filed, with the full-size exhibit presented at hearing.

The Presiding Officer retains the discretion to allow the introduction of an exhibit at hearing that was not pre-filed based on a showing of good cause; however, such requests will be looked upon with extreme disfavor, and the requesting party will bear the heavy proof of demonstrating why it was not feasible to pre-file the exhibit, and that the need to introduce the exhibit outweighs any prejudice to other parties. Any proposed demonstrative exhibit must clearly reference the underlying, pre-filed substantive source and its location in the pre-filed materials.

The use of exhibits that were not pre-filed and are not in the administrative record for the purpose of impeaching witnesses at hearing may be approved by the Presiding Officer on a case by case basis if the Officer is satisfied that the use of the exhibit as proposed will assist the Commission in its decision making.

Any exhibit used by a party at the hearing that has not been previously submitted must be provided to LURC staff in both paper (one copy) and electronic form by e-mail if 2MB or less in size, or CD if larger than 2MB. Each party is responsible for providing each other party with one copy of its hearing exhibits.

E. **By Monday, June 13, 2011 at 5:00 pm**, parties shall file any objections to pre-filed testimony.

F. All rebuttal testimony and exhibits must be pre-filed. Pre-filed rebuttal testimony must be sworn, notarized and filed with the Commission by all parties no later than **Friday, June 17, 2011 at 5:00 pm.**

G. **By Friday June 17, 2011 at 5:00 pm,** each party shall identify in writing, and make available to the Commission and all other parties, a final list of witnesses of the other parties it wishes to have available for cross-examination, and an estimate of the amount of time it expects to need for cross-examination. An order will be issued thereafter with the final hearing schedule, including times allocated to each party for presentation of testimonial summaries and for cross-examination.

H. By **Tuesday, June 21, 2011 at 5:00 pm**, parties shall file any objections to pre-filed rebuttal testimony.

X. Issues Not Subject of the Proceeding

Issues not subject to the proceedings as expressly outlined in Title 12, the Wind Energy Act and LURC rules will be not allowed into the record and proceedings of this development permit application.

XI. Summary of Pre-hearing Administrative Proceedings *(all deadline dates close at 5:00 PM)*

- May 6: Interested Persons decision on participation and position, Intervenor decision on position, tentative witness and issues list, requests for approximate time allocations at hearing, Applicant's draft itinerary for site visit
- May 13: Comments on draft itinerary of site visit
- May 25: Applicant response to Agency and Consultant Comments.
- June 6: Pre-filed testimony due
- June 13: Objections to Pre-filed Testimony and anticipated site visit itinerary posted
- June 17: Pre-filed rebuttal testimony due

Submit all projected time allotments for testimony summaries and cross examinations
Final list of witnesses to be cross-examined, Parties must request presence of government agencies they intend to cross examine. Parties notify LURC staff regarding site visit attendance.

- June 21: Objections to pre-filed rebuttal testimony
- Procedural Order with times allocated – to be distributed approximately 1 week before hearing.
- Hearing and site visit
  - June 27th - site visit
  - June 27th, evening – public session
  - June 28th, morning and afternoon – technical session (parties)
  - June 28th, evening - public session

XII. Issues Discussed at the Pre-Hearing Conference

1) Tangible benefits. Department of Conservation Commissioner Beardsley briefly attended the conference to meet participants. He stated that the Department would not be a recipient of any tangible benefits from wind power projects.

   Interested Person Gordon Mott requested that the tangible benefits "package" be available in time for preparation of his testimony. Staff anticipates a draft will be available as part of the applicant's response to agency comments on May 25th with refinements available as part of pre-filed testimony on June 6th.

4) Lighting standards. Interested Person David Corrigan asked for clarification on which lighting standards will apply to this project. Juliet Browne stated her understanding that the lighting standards for the turbines are those under the Wind Energy Act.
   The Presiding Officer anticipates a subsequent procedural order to resolve this issue in advance of the June 6, 2011 deadline set for the pre-filing of direct testimony.

5) Scenic standards for review of associated facilities. The Chair resolved this issue in the Second Procedural Order of April 21, 2011.

6) Hearing date and location. There was considerable discussion of the hearing date and location with a general consensus (while not unanimous) for the hearing to be held as close to the project site as possible during the week of June 27th. Locations to be considered included Orono, Lincoln, Lee, and Mattawamkeag. Considering proximity to the project site and the availability of meal and housing accommodations for all involved, Lincoln was considered to be the best of the suggested sites.

XIII. Close of hearing, post hearing briefs, closing statements

Pursuant to this order and Section 5.18(2) of the Commission's *Rules for the Conduct of a Public Hearing*, the hearing record will remain open at the close of the hearing until 5:00 pm Friday, July 8, 2011 for the purpose of accepting public comment, and will remain open until 5:00 PM on Friday, July 15, 2011 for the purpose of receiving rebuttal comments. The hearing record will then close and no additional evidence or argument will be allowed into the record except by leave of the Presiding Officer.

Following the hearing, any additional submissions by the parties that could have been filed at hearing will not be admitted except by leave the Presiding Officer and upon a showing that a submission will assist the Commission in its decision-making and will not prejudice the other parties. Further, at the Presiding

Officer's discretion and within a time prescribed by the Presiding Officer, following the hearing the parties may respond in writing to specific questions asked by the Commission or staff. Upon granting leave or soliciting responses, the Presiding Officer will establish a reasonable period within which other parties may submit written comments on the submissions.

Each party may, but is not required, to submit a no more than 30-page post-hearing brief, including all attachments, summarizing the relevant evidence and the applicable criteria's application thereto, no later than 5:00 pm July 27, 2011.

Each party will be given an opportunity to present a brief closing statement at the Commission's meeting, to be scheduled at a later date, when it deliberates on this matter.

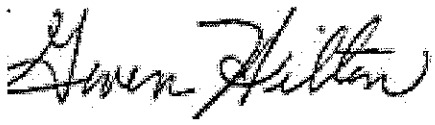
XIV. Authority and Reservations

This order is issued by the Presiding Officer pursuant to LURC Chapter 5, *Rules for the Conduct of Public Hearings*. All objections to matters contained herein should be timely filed in writing with the Commission but are not to be further argued except by leave of the Presiding Officer. All rulings and objections will be noted in the record. The Presiding Officer may amend this order at any time.

Questions regarding this Memorandum and Order or rulings of the Presiding Officer should be directed to Catherine Carroll, Director: 207-287-4930, Catherine.M.Carroll@maine.gov or Fred Todd, Project Planner: 207-287-8786 fred.todd@maine.gov at the Commission's office in Augusta.

No *ex parte* communication may occur with the Presiding Officer or any other Commission member.

DATED AT AUGUSTA, MAINE THIS 29th DAY OF APRIL 2011



By: _____
Gwen Hilton, Presiding Officer