



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



JANET T. MILLS
GOVERNOR

MELANIE LOYZIM
COMMISSIONER

IN THE MATTER OF

CENTRAL MAINE POWER CO.)
 NECEC TRANSMISSION, LLC) LICENSE SUSPENSION PROCEEDING
 25 Municipalities, 13 Townships/Plantations,)
 7 Counties (listed Appendix A))
 L-27625-26- A-N)
 L-27625-TG-B-N) PUBLIC HEARING
 L-27625-2C-C-N) SECOND PROCEDURAL ORDER
 L-27625-VP-D-N)
 L-27625-IW-E-N)

This Second Procedural Order sets forth the Presiding Officer’s decisions with respect to designations of rebuttal witnesses and objections to pre-filed testimony submitted by the parties.

1. On October 4, 2021, the deadline set forth in the First Procedural Order in this matter, Intervenor Natural Resource Council of Maine (NRCM) and Licensees Central Maine Power and NECEC Transmission, LLC submitted pre-filed direct testimony. On October 7, 2021 Intervenor, West Forks and NRCM, and the Licensees submitted rebuttal witness lists. Licensees additionally submitted objections to the pre-filed testimony of NRCM as well as an objection to West Forks’ designation of rebuttal witnesses. NRCM filed objections to Licensees’ pre-filed testimony.

OBJECTIONS TO WITNESS DESIGNATION

2. Licensees object to West Forks’ designation of rebuttal witnesses on the basis that as West Forks did not submit a direct testimony witness list or pre-filed direct testimony in accordance with the deadlines imposed by the First Procedural Order, they should not be permitted to name these rebuttal witnesses, especially in this number and with the same descriptions of subject matter. The Licensees contend that West Forks’ witnesses should have instead been designated as direct testimony witnesses and required to pre-file their direct written testimony within that timeframe provided by the First Procedural Order. Licensees contend that the testimony of the designated witnesses will be unduly repetitive.
3. After considering the Licensees’ objection and West Forks’ response, the Presiding Officer declines to grant Licensees’ request that West Forks’ rebuttal witnesses be prohibited from providing testimony. The rebuttal witnesses listed by West Forks will be permitted to provide testimony in rebuttal as set out below in this Procedural Order, however the time for rebuttal will be limited and the scope of rebuttal testimony must be

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limited to responding to the direct testimony foiled by the opposing party. The Presiding Officer further declines to grant Licensees' request that the hearing be delayed to provide the opportunity for Licensees to file sur-rebuttal testimony. To the extent West Forks' rebuttal witnesses provide testimony which exceeds the scope of rebuttal testimony as described in this Order, it will be stricken and disregarded.

OBJECTIONS TO PRE-FILED TESTIMONY

4. Licensees object to certain portions of the pre-filed direct testimony submitted by NRCM on the basis that it fails to comply with the topic limitations set out in the First Procedural Order. After considering Licensees' objections, the Presiding Officer finds as follows:
 - Licensees' request to strike the pre-filed written testimony of Senator Richard Bennett, as it relates to the legislative history of L.D. 228, and the merits and predicted outcome of the ongoing *Black v. Cutco* litigation, is granted. Exhibits C and D of that testimony will be struck from the record consistent with this finding.
 - Licensees' request to strike statements made on page 4 of the pre-filed testimony of Jeffrey Reardon, related to the necessity of receiving two-thirds legislative approval for the crossing of certain public lots and the likelihood of Licensees' success in that endeavor, is granted.
5. NRCM objects to the Licensees' witnesses' pre-filed direct testimony on the bases that it is too vague and that it contains inaccuracies. NRCM also objects to certain portions of the pre-filed direct testimony submitted by Licensees on the basis that it fails to comply with the topic limitations set out in the First Procedural Order. After considering NRCM's objections and the Licensees' response, the Presiding Officer finds as follows:
 - NRCM's request to strike statements made by Licensees' witnesses related to certain benefits that the project would provide, namely: jobs, tax reductions for local governments, fiber optics improvements, electricity prices and NECEC benefits funds, is granted.
 - NRCM's request that the testimony of Licensees' witness Lauren Johnston be stricken as unduly repetitive is granted. Ms. Johnston will still be permitted to be available as a rebuttal witness.
 - NRCM's requests that testimony be stricken as either impermissibly vague, or factually inaccurate, are denied. To the extent NRCM believes Licensees' testimony to be unduly vague or inaccurate, this is more appropriately addressed

in rebuttal testimony and through the process of cross-examination at the hearing.

REBUTTAL TESTIMONY

6. As described in the First Procedural Order, written rebuttal testimony must be submitted by 5:00 p.m., October 12, 2021.
7. Rebuttal testimony is limited to testimony which is precisely directed to rebutting statements or theories presented by the adverse party and is not to exceed the scope of written direct testimony. Rebuttal evidence is admissible when it counteracts or disproves the evidence of the adverse party. It is not an opportunity for presenting new arguments. Factual issues which are raised for the first time in rebuttal will be disregarded.
8. In an adjustment to the previously set forth time for cross-examination after direct testimony at the hearing, each party will be allowed 20 minutes for cross-examination of the witnesses of each opposing party. Each party will be given 15 minutes to present a summary of written rebuttal testimony. The 15-minute limit will apply to each party regardless of how many rebuttal witnesses they have designated. An additional 10 minutes in total will be provided to each party for cross examination of rebuttal witnesses for an adverse party.

FURTHER PROCEEDINGS

9. Given the accelerated time frame of this hearing process, redacted copies of the testimony consistent with this order will not be provided at this time. These will be provided as time allows during the hearing process. The parties are urged to be mindful of the nature of this proceeding, to limit filings consistent with the hearing topics identified in the First Procedural Order, and to avoid submitting filings raising objections, replies, and sur-replies, except when strictly necessary.

Dated: October 8, 2021



Marybeth Richardson
Presiding Officer

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