Energy Infrastructure
Interagency Review Panel

Bylaws, Administration, and the Energy Infrastructure Proposal and Review Process

Proposed Rule, January 25, 2012

SECTION I: BYLAWS AND ADMINISTRATION

A. ADMINISTRATIVE FUNCTIONS

The Chair of the Energy Infrastructure Interagency Review Panel (the "Panel") is authorized to carry out all administrative functions of the Panel, including execution of instruments, documents and agreements, appearing in or instituting legal proceedings, managing funds, making determinations pertaining to confidentiality of records, carrying out any resolution of the members or agreement of the Panel and employing experts, officers, agents and other personnel and determining their qualifications, duties and compensation. Compensation of Panel members and Panel consultants will be at the direction of the Panel.

B. BYLAWS OF THE MEMBERS OF THE PANEL

1. **Name.** The name of the Panel is the Interagency Review Panel.
2. **Purpose.** The Panel was created by the Maine Legislature for the purposes set forth in *An Act Regarding Energy Infrastructure Development*, Chapter 655 of the 2010 Public Laws (the "Act").
3. **Members of the Panel.** The members of the Panel shall be appointed and compensated and shall serve such terms as the Act may specify.
4. **Quorum of and action by the members.** If four members are present at the beginning of any meeting, then a quorum exists for the transaction of business. If any member(s) departs from a meeting at which a quorum was originally present, a quorum continues to exist. The affirmative vote of the greater of a majority of those present and voting or four members is necessary for any action taken by the members, except that (1) in the case of an action to enter into Executive Session, the affirmative vote of at least 3/5 of those present and voting is required, and (2) in the case of an action to approve the minutes of a prior meeting, the affirmative vote of a majority of those present and voting who were present at the prior meeting is sufficient. For all actions specific to one or more designated statutory corridors, as that term is defined in the Act, the Commissioner of Transportation or the Commissioner's designee, the Executive Director of the Maine Turnpike Authority or the Executive Director's designee, and the Executive Director of the Loring Development Authority or the Executive Director's designee, shall be voting members only with respect to actions affecting the corridors for which they have designated responsibility.
5. **Officers of the members.** The Chair of the Panel shall be the Director of the Office of Energy Independence and Security (OEIS). The members shall elect from among themselves a Vice Chair who shall serve as secretary, and such other officers as it may from time to time determine. The Vice Chair or other offices other than the Chair shall have a term of one year and shall serve until the election of their successors. The Chair shall preside over meetings of the members. In the absence or incapacity of the Chair or if for any reason there is no Chair, then the Vice Chair shall perform the duties of the Chair. In addition, the Vice Chair, as Secretary, shall sign the minutes of all meetings of the members, after such minutes have been approved by the members.

6. **Regular meetings.** The members will ordinarily meet on the first Monday of each month. The regular meeting schedule will be available on the OEIS website. In the absence of business, the Chair may cancel a regular monthly meeting by notice to the members.

7. **Special meetings.** Special meetings of the members may be called by either the Chair or any three members.

8. **Location of Meetings.** Meetings shall ordinarily be held in Augusta, unless another location is designated by the Chair. The location of the meeting shall be included in the public notice of the meeting.

9. **Notice of Meetings.** Any meeting held on the first Monday of the month shall be deemed a regular meeting for which no advance notice is required other than as required by law. Meetings held on any other day shall be deemed special meetings for which notice must be delivered to the members at least two (2) business days prior to the date of the meeting, by mail, telephone, or e-mail and to the public by posting on the OEIS website and by mail, telephone or email to those interested parties who have requested notice.

10. **Order of Business.** The Chair shall determine the Order of Business of each meeting.

11. **Open Meetings.** Except for matters which may be the subject of executive session as provided in 1 M.R.S.A. § 405, all meetings, public proceedings and deliberative sessions of the Commission shall be open to the public. The Chair may establish time for public comment and may impose limits on public commenters as necessary to promote the effective operation of the Panel.

12. **Records.** All records of the Panel and its actions shall be kept by the Governor's Office of Energy Independence and Security and made available to the public for inspection upon reasonable request except to the extent such records are protected from disclosure by 1 MRSA § 402(3) or 35-A MRSA § 122 pursuant to Sect. II (B)(3) of this rule.

13. **Subcommittees.** The Chair may appoint such subcommittees as may be necessary or desirable for the efficient conduct of the Panel's business and negotiations, provided that no action of a subcommittee is final or binding without the approval of the Panel at a public meeting. The subcommittee shall report a summary of any meetings to the Panel as a whole at its next meeting and included in the Minutes.

14. **Meetings recorded.** At the direction of the Chair, or upon the request of a Proposer or another party, a meeting of the Panel may be recorded. If the recording is at the request of a Proposer or another party, the requesting party will be responsible for the reasonable costs of making the recording and providing the recording to the Panel for its records.

15. **Decision.** The Panel shall issue a written decision on each proposal for use of a statutory corridor. The written decision shall make findings of fact and conclusions of law with respect to the applicable statutory criteria. An aggrieved person as determined by the Panel may request reconsideration based on new evidence that could not have been presented prior to the decision, a mistake of law or other grounds. The decision of the Panel on whether to reconsider a decision is final.

C. CODE OF ETHICS

The members of the Panel recognize that either the existence or the perception of a Conflict of Interest can be harmful. Therefore, the members of the Panel adopt this Code of Ethics regarding Conflict of Interest.

1. Ineligible for any benefits from the Panel:

   No member of the Panel or contractor or employee of the Panel and/or such person's immediate relations may benefit from an application for use of a statutory corridor, other than as a member of the public or in connection with the Panel member's public sector employment.

   No firm, partnership, corporation or other entity, including a sole proprietorship may file or object to an application with the Panel if a member of the board or contractor or employee of the Panel, or such person's immediate relations, is materially involved in management of that entity or has an ownership position in excess of 0.1%. This provision does not apply to the Department of Transportation, Maine Turnpike Authority or Loring Development Authority.

2. Panel members must recuse themselves from any proceeding in which there is an actual or appearance of a conflict of interest. Any potential appearance of a conflict must be disclosed to the Chair and to the Panel in public session, and the Panel shall determine whether such potential conflict is significant or not.

3. A member of the Board, contractor or employee may not accept any gift, compensation or service with a value of more than $5.00 from any person or organization that is either a Proposer, a potential Proposer or an objector to an application. Compensation includes the withholding of any penalty and is also interpreted to include gifts, services or compensation to members of the employee's immediate family or household and to gifts, services or compensations which may be given to anyone on behalf of the employee.

SECTION II: ENERGY INFRASTRUCTURE PROCESS

A. GENERAL

1. Purpose

The purpose of this Rule is to comply with Maine Revised Statutes Title 35-A §122 Energy Infrastructure Corridors and to define a process for any proposal to use an energy infrastructure corridor.

2. Applicability

This Rule applies to any energy infrastructure proposal that is within the jurisdiction of the Panel as defined by Title 35-A MRSA §122.

3. Definitions

The following words and terms, when used in this Rule, shall have the following meanings, unless the context clearly indicates otherwise.

a) **Conflict of interest:** Situation where a person, because of other activities or relationships with other persons, gives, or may potentially give, any Proposer an unfair competitive advantage. As used in this definition, the term "person" includes both individuals and entities. Members are governed by the conflict of interest provisions of Title 5, section 18. If a member believes that a conflict of interest may require that member's abstention in a proceeding, unless the member in question decides to abstain, the question of the conflict of interest must be submitted to a vote of the members present, excluding the member in question.

b) **Energy Infrastructure:** Includes electric transmission and distribution facilities, natural gas transmission lines, carbon dioxide pipelines and other energy transport pipelines or conduits. "Energy infrastructure" does not include:

(1) Generation interconnection transmission facilities;

(2) Energy generation facilities; or

(3) Electric transmission and distribution facilities or energy transport pipelines that cross an energy infrastructure corridor or are within an energy infrastructure corridor for a distance of less than 5 miles.

c) **LOI:** Letter of interest indicating intent to pursue a project involving the location of energy infrastructure within a designated statutory corridor(s).

d) **Memorandum of Understanding (MOU):** A document describing an agreement between the Panel, the Proposer and the owner/controller of the corridor on the specifics of a Proposal, including the procedures for the Technical review which shall include the terms for reimbursements of reasonable costs incurred by the Panel in evaluation of the Proposal.

e) **Occupancy Agreement:** A contractual relationship between the Panel, Owner and/or Controller of the corridor and the Proposer to occupy an area within an energy infrastructure corridor to construct, maintain and operate energy infrastructure for a specified period of time.

f) **Panel:** The Interagency Review Panel as defined in 35-A MRSA §122, 1-B.

g) **Panel's Web Site or Web Site:** The Panel's official web site is hosted by the Governor's Office of Energy Independence and Security and is available at the following address: http://www.maine.gov/oeis/irp/

h) **Proposal:** A formal application to develop, design, construct, operate and/or maintain energy infrastructure in a statutory corridor pursuant to the requirements in Sect. II(D)(3).

i) **Proposer:** Any entity, including any division or affiliate of the entity, that has submitted a LOI or Proposal in order to initiate or participate in a procurement for the development, design, construction, operation, or maintenance of energy infrastructure.

j) **State:** State of Maine.

4. Criteria for Selection of Projects for Energy Infrastructure

a) The Panel will approve an application only if the proposed project:

(1) Materially enhances or does not harm transmission opportunities for energy generation within the State;

(2) Is reasonably likely to reduce electric rates or other relevant energy prices or costs for residents and businesses within the State relative to the value of those rates, prices or costs but for the proposed energy infrastructure development or, if the deciding authority is unable to determine to its satisfaction the impact of the proposal on rates, prices or costs, the owner or operator of the proposed energy infrastructure agrees to pay annually an amount of money, determined by the deciding authority, to reduce rates, prices or costs over the life of the proposed energy infrastructure; and

(3) Is in the long-term public interest of the State, based on a consideration of the extent to which the project:

i. Materially enhances or does not harm transmission opportunities for energy generation within the State;
ii. Is reasonably likely to reduce electric rates or other relevant energy prices or costs for residents and businesses within the State relative to the expected value of those electric rates or other energy prices or costs but for the proposed energy infrastructure development;
iii. Increases long-term economic benefits for the State, including but not limited to direct financial benefits, employment opportunities and economic development;
iv. Ensures efficient use of the statutory corridor through collocation of energy infrastructure, collaboration between energy

infrastructure developers and the preservation of options for future uses;

v. Minimizes conflict with the public purposes for which the state-owned land or asset is owned and any management plans for the land or asset within the statutory corridor and, when necessary, mitigates unavoidable impacts;

vi. Limits and mitigates the effects of energy infrastructure on the landscape, including but not limited to using underground installation when economically and technically feasible;

vii. Increases the energy reliability, security and independence of the State; and

viii. Reduces the release of greenhouse gases.

B. FREEDOM OF INFORMATION, PROTECTION OF PROPRIETARY INFORMATION

1. Purpose.

The purpose of this Section is to provide for free public access to all records of the Panel with certain exceptions. Exceptions shall be construed strictly and narrowly. The purpose of this Section is also to provide protection for proprietary information defined by 35-A MRSA § 122(F-1) and other protection provided for by law.

2. Scope.

This rule applies to all records of the Panel including all books, papers, maps, photographs, recorded tapes, financial statements, statistical tabulations, or other documentary materials or data, regardless of physical form or characteristics, made or received by any member of the Panel in her or his official capacity.

3. Access to Information

a) Right to Information.

Any person shall be allowed access to any record of the Panel unless the record is protected by 1 MRSA § 402 (3) or 35-A MRSA § 122(1-B)(G).

b) Procedure.

A person seeking access to records of the Panel should request access in person at the offices of the Panel maintained by the Office of Energy Independence and Security, 62 State House Station, 111 Sewall Street, Augusta, Maine 04333-0062, by telephone 207-624-7405, or by first class mail. Inspection shall be conducted within the offices of the Panel at a date and time during ordinary working hours reasonably scheduled by the Director of the Office of Energy Independence and Security.

No charge shall be made for inspection of records.

The Panel may require a person desiring copies of any record to pay in advance the actual cost of preparing such copies.

c) Exempt Information

(1) General Principles.

Records that are exempt from disclosure as described in Sect. II(B)(3)(d) below shall not be made available to the public. Only that part of a record which comes within an exemption shall not be made available. Those parts of a record that are not exempt from disclosure shall be made available through the procedures of Sect. II(B)(3)(b), provided that the Panel may require a person seeking access to information to pay the actual cost of separating exempt from non-exempt information.

(2) Exemptions.

Records shall not be made available to the public if they are within any of the enumerated exemptions in 1 MRSA 302 (3), designated as proprietary information under 35-A MRSA Section 122, or otherwise protected from disclosure under applicable law.

d) Treatment of Records Claimed Proprietary

(1) General.

A Proposer or any other person may assert that any records submitted to the Panel by that Proposer or person in connection with an application is either exempt from disclosure under one of the exceptions enumerated in 1 MRSA § 402 (3), or constitutes proprietary information as defined by 35-A MRSA § 122 (1) (F-1) and is protected from disclosure by 35-A MRSA § 122 (1-B) (G). The Proposer must mark such records with the phrase "CLAIMED PROPRIETARY" in a prominent location on each page of the document or on the outside of an instrument, such as a computer diskette. If a record is marked by an applicant as "CLAIMED PROPRIETARY" it does not necessarily mean that the record will be protected from disclosure, only that the Panel will follow the procedure below.

In the event the Panel receives a request to inspect or copy records marked by the provider of that information as Claimed Proprietary Information, the Chair will notify the provider of that information that such a request has been received. If the provider of that information wants the record to be protected from disclosure under Maine's Freedom of Access Act, then the provider of that information shall, within five business days of receiving the Chair's notice, provide the Panel with a confirmatory list of the records that it asserts are protected from disclosure under Title 1 MRSA § 402 (3) (A) or (3) (B) or 35-A MRSA § 122 (1-B)(G), and a brief statement of the Proposer's position. If the Panel determines that the law requires disclosure of the records, the Panel will not release the records for five business days in order to allow any party aggrieved by the decision to seek a court order barring disclosure.

4. <u>Executive Session</u>

a) The Panel may conduct Executive Sessions for the purposes and subject to the procedures established in 1 MRSA Section 405. The Panel may vote to allow others to attend the Executive Session, including, without limitation, staff, counsel,

consultants, and advisors. If the purpose of an Executive Session is to discuss confidential information, the Panel may vote allow the provider of that information to attend the Executive Session.

C. VALUATION

1. Solicitation of Valuation Expert

a) The Panel shall contract for the services of one or more valuation experts to assist the Panel in its duties. At least one expert entering into a contract for valuation services with the Panel must:

(1) Have demonstrated experience in the valuation and evaluation of utility corridors or transportation corridors;

(2) Hold a professional designation from a nationally recognized Organization of appraisers; and

(3) Be licensed in Maine as a certified general real property appraiser in accordance with Title 32, Section 14035 or hold a comparable license from another state.

2. Required Considerations for Valuation

a) Aspects of valuation that must be considered by an expert contracting with the Panel for valuation services shall include, but not be limited to the following:

(1) Costs avoided as a result of using a State or utility corridor including but not limited to costs of acquisition, lease or rental of private land;

(2) Costs of property taxes on private land;

(3) Costs of surveying, appraisal, environmental, engineering and other work necessary for use of private land;

(4) Costs of time and potential conflict regarding use of private land;

(5) The unique and limited nature of a State-owned land or asset; and

(6) All revenues estimated reasonably to be generated by use of the State-owned land or asset.

3. Payment of Costs

a) The costs for the services of a valuation expert hired by the Panel under this section must be paid by one or more Proposers. In the case of multiple Proposers each making partial use of a corridor subject to the Panel's jurisdiction, costs of valuation shall be allocated among Proposers in approximate proportionately, as determined by the Panel.

D. PROPOSALS

1. Solicitation Process

a) The Panel will utilize an ongoing solicitation process for Energy Infrastructure proposals. An ongoing request for LOIs regarding proposals for projects involving the location of energy infrastructure within designated statutory corridors will be available on the Panel's Web Site. In addition, the Panel may, from time to time, issue other solicitations, whether general or specific in nature, by using any other means/media it considers appropriate.

2. Letter of Interest (LOI)

a) Purpose:

An LOI provides a conceptual proposal describing a project and the Proposer's intended use in sufficient detail to enable the Panel and the Proposer to determine the feasibility and availability of the statutory corridor for the proposed use. Detailed plans and specifications are not required at this point. To the greatest extent practicable, the LOI should contain no proprietary or other information that would be considered exempt from disclosure under Sect. II(B)(3)(c).

b) Content:

An LOI shall include the following information:

(1) Proposer's name, address, contact information, and background, including that of any existing or potential partners;
(2) A description of the proposed project including a conceptual design of the facility and an identification of known or anticipated interconnections with existing or planned transportation facilities that will be required if the project is approved;
(3) Proposed project start and end points (including coordinates in decimal degrees, WGS 1984), proposed route, and total length;
(4) A topographic map with a scale of 1:2,000, or other appropriate scale, that delineates the location of the proposed transportation facility;
(5) How independent access to the site will be provided by authorized persons, both during construction and subsequent maintenance operations;
(6) A preliminary list of local, state, or federal agency permits or approvals expected to be required in order to develop or operate the proposed project and a projected schedule for obtaining such permits or approvals;
(7) Date site is needed (timeframe);
(8) Anticipated length of construction (number of months);
(9) Plans for collocation with another carrier;
(10) Legal status of the Proposer and preliminary information concerning the Proposer's legal and financial capacity to carry out the proposal;

(11) A declaration as to whether the Proposer will also be the owner of the infrastructure to be installed, and information regarding the legal status of the owner if different from the Proposer;

(12) A brief analysis of the public benefits of the project and how the project meets the statutory project selection criteria;

(13) Diagram of the typical cross section of proposed facilities, including access and utilities, showing the potential impact it will have on the surrounding facilities; and,

(14) Any additional information that may help the Panel more fully understands the design, purpose, impact, and benefits of the project.

c) Submittal Requirements

(1) Review

The Panel will acknowledge receipt of an LOI at their next regularly scheduled meeting and may schedule a time for the Proposer to make a formal presentation to the Panel or return the proposal as incomplete and specify in writing the reasons it was returned.

The Panel shall request any additional information from the Proposer that may be necessary to determine if the proposal provides reasonable potential for long-term benefits to the State of Maine as required under Sect. II(A)(4)(a).

If the Panel finds that the LOI does not provide reasonable potential for long-term benefits to the State of Maine, the Proposer will be notified in writing of the finding as described in Sect. II(D)(5) and no further action will be required of the Panel.

Whenever these rules require or allow the filing of any paper or submission, that filing is complete upon receipt by the Panel.

3. Proposal requirements.

a) General requirements. Proposal forms must be developed by the Panel and must require such information as the Panel deems necessary to make the necessary regulatory findings.

A proposal from a corporation must be submitted in the corporation's registered corporate name, and must include either a *Certificate of Good Standing* or a statement signed by a corporate officer affirming that the corporation is in good standing.

b) Initial Fee

Prior to submittal of a detailed proposal, the Proposer shall pay an initial fee of $10,000 to the Panel. This fee is separate from, and will not be credited towards, any of the costs for which the Proposer is responsible under the terms of a future

MOU. Upon receipt of the initial fee, the Panel will send the Proposer specific requirements for submitting a detailed Proposal.

4. Technical Review Phase

Upon finding that a proposal does provides reasonable potential to meet the technical requirements of the corridor owner/controller and to provide long-term benefits to the State of Maine, the Panel shall develop and enter into a Memorandum of Understanding (MOU) with the Proposer to conduct a "Technical Review". The signed MOU shall be posted on the Panel's Web Site and shall specify: the end date of the agreement, whether the proposal is known to be a competing proposal to any existing proposals pending before the Panel, and the terms of reimbursement by the Proposer for any reasonable costs incurred by the Panel to evaluate the proposal.

a) Purpose

The purpose of the Technical Review Phase is to identify or address any of the following:

(1) Whether the proposal is likely to meet the requirements of Sect. II(A)(4)(a).

(2) The value of the land or assets proposed for use.

(3) The concerns or considerations of any state or federal entity having ownership or control over the proposed corridor. Examples would include MaineDOT, the Maine Turnpike Authority, and the Federal Highway Administration.

(4) The concerns or considerations of any state or federal entity having a regulatory role over any aspect of the proposal.

(5) Any other questions or concerns that the Panel may deem pertinent to a final decision and the development of a final Occupancy Agreement.

b) Duration

The Technical Review Phase shall be in place for a minimum of three (3) months from the date the MOU is signed. However, the Panel may choose to extend this period as necessary to ensure that all of the above questions are adequately and thoroughly answered. During this period, the Panel may continue to consider additional LOIs and may also enter into multiple MOUs that may or may not conflict or compete with other proposals from either a physical location or market analysis standpoint.

c) Cancellation

If, at any point, the Panel determines that a proposal does not meet one or more of the requirements of Sect. II (A)(4)(a), cannot be reasonably located at the proposed location or the Proposer is found to be uncooperative in any manner, the Panel may end the MOU by notifying the Proposer of the reasons behind the decision and the amount of any outstanding expenses owed under the agreement.

Similarly, if the Proposer determines that their proposal is no longer feasible or in their best interest, they may request to withdraw from the MOU and the Panel, upon such notice, shall notify any consultants, departments, and/or state agencies that may be working on aspects of the Technical Review to cease any further activity, and close out any necessary billing associated with the MOU. Upon payment of any outstanding expenses, the Panel shall formally release the Proposer from the MOU and shall post the release upon the Panel's Web Site.

d) Negotiations

The Panel may elect to enter into negotiations with a single Proposer or competitive negotiations with multiple Proposers regarding the terms of the proposal, Occupancy Agreement with the selected Proposer or Proposers

e) Approval of Proposal

The Panel may approve a proposal upon finding that the proposal meets the requirements of Sect. II (A)(4)(a). Upon approval of a proposal, the Panel will issue a written decision as described in Sect. II (D)(5). Approval of the proposal shall be subject to execution of the Occupancy Agreement by the successful Proposer, and satisfaction of such other conditions as may be required by the Panel. The Panel shall notify the Proposers of the Panel's approval of the selected proposal and intent to award an Occupancy Agreement.

5. <u>Decisions.</u>

The Panel will issue a written decision with respect to any final decision accepting or approving a proposal. A decision approving a proposal may set forth conditions for such approval. A decision either approving or rejecting a decision will set be in a manner sufficient to inform the applicant and the public of the basis of its findings. The decision will make findings of fact and conclusions of law with respect to the decision criteria set forth in 35-A MRSA § 122(1-D) and Sect. II (A)(4)(a) of this rule.

6. <u>Notice of appeal rights.</u>

Each decision approving or denying a proposal must be accompanied by a plain statement of the appropriate rights of administrative and judicial review and the time within which those rights must be exercised. Correspondence notifying the applicant of the Panel's denial must be made by certified mail, return receipt requested. Any person with standing may seek judicial review of a final Panel decision by filing a petition in Superior Court in accordance with 5 M.R.S.A. Section 11001 *et seq.* and M.R.Civ.P. 80C.

E. PUBLIC COMMENT

1. <u>Public notice of proposals.</u>

Following receipt and initial review of all formal proposals and prior to negotiating a

final Occupancy Agreement, the Panel shall post a summary of the proposal on the Panel's Web Site for public comment for a period of no less than two (2) weeks. All comments and the final responses of the Panel shall be posted on the Panel's Web Site.

2. **Public comment on proposals.** Written public comments on proposals are allowed during the course of processing the proposal. The Panel may establish a deadline for the submission of written comments by posting a notice on its Web Site.

3. **Public Meetings**

   a) The Panel will hold at least one non-testimonial public meeting on a proposal. Such meetings are not subject to the procedural requirements of the Maine Administrative Procedures Act, Title 5, Chapter 375, Subchapter IV. The purpose of non-testimonial public meetings is to allow any member of the public to appear and provide oral comment to the Panel on a pending Proposal.

   b) The costs associated with providing public notice of a meeting on an application shall be paid for by the Proposer. The meeting shall be conducted substantially as follows:
      (1) The Proposer shall make a statement in support of the application, addressing the findings required to be made by the Panel in considering the application.
      (2) Members of the public shall be given an opportunity to comment on the application.

   c) The Proposer shall be given an opportunity to respond to the comments presented. The Panel may ask questions of the Proposer and any party addressing the Panel, and may require additional information of the Proposer. The Panel may continue the meeting at its discretion to a later date or specify a period within which it will accept further information or comment.

4. **Discretionary Public Hearings.**

   a) **Criteria for holding public hearings.** Public evidentiary hearings will be held at the discretion of the Panel. In determining whether to hold an evidentiary hearing, the Panel may consider the availability of administrative resources required for such a hearing, the degree of public interest in the proposal, and whether receiving sworn testimony and observing cross examination of witnesses would be helpful to its consideration of the proposal.

   b) **Conduct of public hearings.** Any evidentiary hearings will be held in accordance with the Maine Administrative Procedure Act, Title 5, Chapter 375, Subchapter IV. When scheduling evidentiary hearings, the Panel shall also establish a date by which petitions for intervention must be submitted to the Panel.

F. OCCUPANCY AGREEMENT

Prior to developing and/or operating an energy infrastructure project, the Proposer approved by the Panel shall enter into an Occupancy Agreement with the owner/controller of the corridor. The Occupancy Agreement shall include the following to the extent applicable:

a) Delivery of performance and payment bonds or other forms of performance security acceptable to the Panel in connection with the construction of or improvements to the energy corridor, in the forms and in amounts satisfactory to the Panel.

b) Review and approval of plans and specifications for the Project by the Panel and responsible public entity if the plans and specifications conform to established standards of the Panel and responsible public entity.

c) Inspection of construction or improvements to the project by the Panel and responsible public entity to ensure conformance with engineering standards acceptable to the Panel and responsible public entity.

d) Maintenance of a policy or policies of public liability insurance certificates, which shall be provided to the responsible public entity, or maintenance of self-insurance, each in form and amount satisfactory to the Panel and responsible public entity and sufficient to ensure liability coverage to the public and employees of the facility and to enable the continued operation of the Project.

e) Monitoring of the operations and maintenance practices of the private entity by the Panel and responsible public entity. The private entity shall take all actions as specified in the Comprehensive Agreement to ensure that the qualifying energy infrastructure project is properly operated and maintained.

f) Reimbursement to be paid to the Panel and responsible public entity for services provided by the responsible public entity.

g) Filing appropriate financial statements on a periodic basis.

h) The date of termination of the agreement.

i) User fees, lease payments, service payments, or the availability or other performance-related payments as may be established by agreement of the parties.

j) A copy of any lease or service contract to be filed with the Panel and responsible public entity.

k) Such other terms and conditions as the Panel may require.