



Central Maine Power

**THIS IS A VIRTUAL DUPLICATE OF THE ORIGINAL HARD COPY  
SUBMITTED TO THE COMMISSION IN ACCORDANCE WITH  
ITS ELECTRONIC FILING INSTRUCTIONS**

November 6, 2009

Karen Geraghty  
Administrative Director  
Maine Public Utilities Commission  
State House Station #18  
242 State Street  
Augusta, Maine 04333-0018

Re: CENTRAL MAINE POWER COMPANY and PUBLIC SERVICE COMPANY OF  
NEW HAMPSHIRE, Request for Certificate of Public Convenience and Necessity for  
Maine Power Reliability Program Consisting of Construction of Approximately 350  
miles of 345 kV and 115 kV Transmission Lines  
Docket No. 2008-255

Dear Ms. Geraghty:

Enclosed for filing in the above-captioned proceeding please find CMP's Motion to Seal  
Confidential Testimony by Mary and David Fournier.

Sincerely,

Debra J. Mills  
Analyst, Regulatory & Tariffs

Enclosure

cc: All Parties

An equal opportunity employer

83 Edison Drive | Augusta, ME 04336

tel (207) 623-3521

[www.cmpco.com](http://www.cmpco.com)

  
An Energy East Company

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2008-255

November 5, 2009

CENTRAL MAINE POWER COMPANY and )  
PUBLIC SERVICE OF NEW HAMPSHIRE )  
Request for Certificate of Public Convenience )  
and Necessity for the Maine Power Reliability )  
Program Consisting of the Construction of )  
Approximately 350 Miles of 345 kV and 115 kV )  
Transmission Lines ("MPRP") )

CMP'S MOTION TO SEAL  
CONFIDENTIAL TESTIMONY BY  
MARY AND DAVID FOURNIER

---

By its counsel and pursuant to Section 772 of the Commission's Rules of Practice and Procedure, Central Maine Power Company (CMP) moves to seal confidential portions of the October 23, 2009 "Intervenor Updated Testimony" of Mary and David Fournier (Fournier Testimony) in the above-captioned docket.

The portions of the Fournier Testimony CMP requests be redacted contain confidential energy infrastructure information and information presented during confidential settlement discussions among the parties. (For the convenience of the Commission, a redacted copy of the Fournier Testimony is attached to this Motion.) The former is governed by Protective Order No. 2 and can be provided only to parties that have signed the non-disclosure agreement attached to that protective order. The latter includes statements made in settlement negotiations and, absent consent of the parties, must remain confidential pursuant to Section 772 of the Commission's Rules and consistent with Rule 408 of the Maine Rules of Evidence and the State's policy favoring the protection of confidentiality of settlement discussions.

In moving to seal the confidential information contained in the Fournier Testimony, CMP does not concede the accuracy of the contents of the Fournier Testimony.

For the reasons above, CMP respectfully requests that the October 23, 2009 "Intervenor Updated Testimony" of Mary and David Fournier be sealed and the attached redacted version be made available in its place.

*H. F. Gilman*

---

Jared S. des Rosiers  
Hallie F. Gilman  
Pierce Atwood LLP  
One Monument Square  
Portland, ME 04101  
(207) 791-1390

Counsel for Central Maine Power  
Company

Mary & David Fournier  
16 High Meadow Farm Road  
Eliot, ME. 03903  
October 23, 2009

Atty. James Buckley  
& Karen Geraghty  
Administrative Director  
Maine Public Utilities Commission  
242 State Street  
Augusta ME 04330  
Sent via fax to: (207) 287-1039

RE: CMP & PSNH/Request for  
CPCN/MPRP  
Docket # 2008-255

INTERVENOR UPDATED TESTIMONY

Dear Jim and Karen,

Our testimony is divided into three parts.

Part I. addresses some of the need issues associated with CMP's 10/7/09 response to Staff's 9/30/09 Settlement Proposal and some of the related cost issues of that response.

Part II. Addresses Land-Use and Property Owner Issues as described in CMP's 10/7/09 Response to Staff's 9/30/09 Settlement Proposal.

Part III. Addresses CMP's business, land use and construction practices as we have experienced them throughout their reconstruction of their relocated Section 197, 115Kv transmission line, both on our land and other land encumbered by that transmission line. CMP's Section 197 is the subject of MPUC's Docket # 2007-591, Ten Person Complaint, regarding CMP's unfair acts and practices. These experiences are also relevant to MPUC Docket # 2008-255.

Part I.

[REDACTED]

The 345Kv line from Three Rivers to South Gorham has not been proven to be necessary for Maine transmission reliability. The need for more transmission in the southern part of the state does not exist within the near future based upon realistic load requirement forecasts. The only "need" for this 345 Kv line would be

for CMP to profit by selling the surplus electricity out of Maine through New Hampshire which does not satisfy the "need" criteria of Maine's CPCN law requirements. Due to the economy related factors and other related factors important to conservation affecting the environment, the demand for electricity has dropped and is most likely to continue to drop for some time. Further conservation measures would be far more beneficial to Maine's environment and ratepayers than would be to allow CMP and PSNH to build excessive and very costly transmission.

The costs of CMP's adding the 345Kv line from Three Rivers to South Gorham, as they have proposed do not include a new 345Kv substation adjacent to the existing 115 Kv substation at Three Rivers.

The PSNH transmission lines built from a new 345Kv Three Rivers substation appear to also require further work on other PSNH substations in Eliot prior to crossing the Piscataqua River from South Eliot over to PSNH's Newington, NH Station.

Additionally costs added, as proposed by CMP (& PSNH) for this unneeded 345Kv transmission line would require a significant amount of cost and construction on relocating and reconstructing 115Kv transmission lines north of Three Rivers to South Gorham to make room for the 345Kv line. Very costly upgrades to existing substations in southern Maine would also be needed.

CMP states this 345Kv line would enable additional flows from North to South, thus supporting wind development in Maine. It is not proven that wind development in that part of Maine would be developed in a practical and effective manner and if ever wind development does happen in the lower portions of Maine, distribution and transmission should be built in a way to lessen line loss as much as possible.

We strongly disagree with the ridiculous notion that transmission for some possible future wind generation in southern Maine should be built now at such an enormous expense because wind generation might at some point in the future be built. We agree with

If the need for the 345Kv line exists in the future and all of the many costly related upgrades, we see no reason why CMP & PSNH couldn't apply for a CPCN at that time and then if the true need exists, cost socialization for these projects should then meet the requirements for ISO's approvals.

We want to clearly emphasize here also, that given the state of Maine's citizens' impact by the current economy and the shakiness of the economy in the foreseeable future, that any MPUC approvals given in this case need to take the seriousness of costs impacts to the ratepayers. Such impacts could easily include many ratepayers having to choose between having electricity or food. CMP's (& PSNH's) excessive proposals are based on their desire to make excessive profits and not to ensure reliability for Maine's transmission needs.

Part II. We take issue with [REDACTED]

The fact is that CMP has used the "danger tree" clause in some easement deeds to remove healthy trees for the purpose of expanding the land use area of the corridor to make room for their proposed MPRP "upgrades". They have done this in parts of the corridor where they reconstructed and relocated Section 197, rather than purchasing at least tree clearing rights from some property owners. [REDACTED] to improve this situation is very important to the landowners and would help in the regulation of the utility company from taking the use of land which is not theirs to use. We will elaborate on this in Part III.

[REDACTED]

It appears possible, that a TIF, if applied for by Lewiston may not get approved and if so those costs would end up being shared by Maine's ratepayers. [REDACTED]

[REDACTED] A  
TIF reimbursement is done by tax rebates to a company and can take up to 30 years for the costs to be rebated (refunded).

We feel that CMP's testimony on the TIF issues is misleading.

[REDACTED] Regarding EMF issues, we see nowhere in the case where CMP has proven that it is safe for people living in close proximity to the EMF's created by CMP's proposed 115Kv and especially 345Kv lines. There is ample evidence that serious health risks are likely linked to those EMF's. None of the land owners who will become affected by MPRP, if approved, have had the financial means, obviously, to rebut CMP's experts regarding EMF's and so the ability for landowners to equally participate in this area does not exist. Our experience with CMP in the past has shown us that CMP gives very little thought to the quality of life of landowners. We feel that it is important to note here also, that CMP cuts its cost to about bare nothing when it comes to compensating land owners for use of land and avoids any compensation if they can get away with it.

We also would like to point out that Maine's eminent domain law regarding utilities not being able to take land by eminent domain, through the MPUC, forbid them from doing so within 300 feet of an occupied dwelling. Yet, much closer than 300 feet to such homes, CMP proposes to build high voltage lines without much regard to safety, aesthetic impacts and property devaluation by planning and proposing inappropriate transmission siting.

The Commission is responsible for ensuring that safety, health and aesthetics are accounted for in the appropriate siting of transmission lines. We ask that the Commission take our concerns seriously in your decisions and we feel our concerns are the same or similar to thousands of Maine ratepayers and landowners who will be affected by your decisions.

Part III. We now take this opportunity to testify to our experiences with CMP's business, land use and construction practices in their 2008-2009 reconstruction of their relocated Section 197 transmission line. We have found CMP to be very unfair to us in the use of our land and to some other landowners along the Section 197 corridor, which is one of the corridors also proposed by CMP in the MPRP project. In August of 2007, we received a letter from CMP's real estate department expressing their desire to purchase an additional 15 feet of easement on our land to "rebuild" Section 197. In an effort to make this testimony as concise as possible, we will confine it to the most important points; however, more information is available on the MPUC web-site, virtual case file, for Docket # 2007-591. In that CMP letter we were asked to contact the real estate department's broker. There were a number of conversations that took place including two then with the project manager. CMP said they planned to build with taller single poles, the 115Kv construction and wanted to build it 45 feet closer to our home, on our land. The reason was for safety clearance from the original Section 197 and to build it with that line operating during most of the construction. At that time, CMP was well into the process of planning for MPRP, which would require more space than the easement width, which had been kept fully cleared to the boundaries. The easement width was and

still is 225 feet. At no time did CMP employees, who were asked many questions, ever mention needing to move Section 197 over to make room for MPRP to us. We, along with most of Maine's citizens had no knowledge of MPRP at that time. We have spoken with a number of other abutters about this, some whom sold further easement rights to CMP and some who did not. No one was told by CMP about MPRP. One couple, even after asking if CMP planned to build something else, was told no. That amounts to, at the very least, deceit.

We tried to gain as much understanding of the project as possible and based on all information CMP gave us began discussing compensation with the real estate broker, as did some of our neighbors. When we found out it was CMP's intention to also build the new Section 197 tall enough not only to carry 115Kv lines, but also to under build an extra 69Kv line and that they had not included that 69Kv line in their MPUC construction filing, we decided a ten person complaint needed to be filed with MPUC. Other reasons for the complaint had to do with CMP not being honest with their information in other areas. We had very little knowledge about CMP's business practices then, nor of how to participate in a MPUC case. We have since then devoted much time and expense to try to have some impact on CMP's practices becoming more fair and ethical.

The Commission opened an investigation in March of 2008 on Docket # 2007-591. Within that investigation, one of the discoveries was that CMP failed to notify abutters within a 100 unit condominium complex, called Woodland Hills in South Berwick. We notified the abutters when we found that out and many became actively involved in that case.

The Commission issued Orders in Docket # 2007-591 on August 22, 2008, which permitted CMP to build the new Section 197 line on a 30 foot offset from the center line of the original section 197 line. In those orders the Commission directed CMP to do two things to accommodate land owners without adding unreasonably to the cost, "to meet with property abutters who ask for a meeting at their property, so they can tell CMP representatives their preferences for pole heights, pole locations, tree clearance and the like. In this context, CMP will make a good faith determination whether the landowners' preferences can be accommodated and shall accommodate proposed site-specific changes that will maintain adequate safety and reliability at a reasonable cost". The commission also directed CMP "to construct and use all temporary access roads needed for this project so as to minimize damage to property. Furthermore, road sites should be restored to the extent practicable to their original state."

On our property neither of those directives has been complied with by CMP. What CMP did do regarding tree clearing, after testifying to the Commission regarding clearing only one danger tree on our land (the top was leaning into the corridor and we agreed with its removal) was to cut a depth of 15 feet of healthy trees outside of the corridor. In our easement deed from 1949, on our land CMP has the right to cut "danger trees" outside of the easement which in their judgment would interfere with the operation

of the line that was constructed in 1950. That line was further away from the trees and the trees posed no danger at all to that line. CMP misused the "danger tree" clause to construct the new line closer to the trees without getting tree clearing rights from us, and therefore caused the non danger trees to be closer to the new lines where they may have caused a problem. In other words, CMP needed the additional 15 feet of space for its new line toward our home and took it. The way CMP went about it was to, on January 13, 2009, send someone to our land with no notice to use orange spray paint on about ten trees which they planned to cut. The trees were very large beautiful oak trees which were growing long before 1950. After we discovered the orange spray paint – because we saw snow shoe tracks in the snow heading for the trees, we tried hard to stop them from cutting the trees. On January 23, 2009, during a Commission/CMP phone conference hearing which we were allowed to listen to, but not participate in, CMP stated it was going ahead with the project on our land and planned to cut four of the trees. Some of those trees had large diameter multiple trunks growing from the ground so the tree loss was equal to more than four trees. During that phone conference hearing, the Commission questioned CMP about pole preference locations, etc. on our land and others. Before the conference was even over CMP's contractors began crossing over our land with multiple construction machines to begin building the pole next to our property which stopped any hope of ours to get our pole preference location. The beeps and noise of the machinery were very audible on the phone conference hearing as the recording of that conference shows.

As to CMP giving us a reasonable pole location, they refused to move the location another 35 feet to the north, which would have placed the pole behind the existing tree buffer on our land. For CMP to have done this would have caused a span of 503 feet between pole 104 (our land) and pole 105 to the south. The span as CMP has built it between poles 104 and 105 is 468 feet. CMP's poles 101 and 102, near our land have a span of 528 feet between them. That is a span of 25 feet longer than what we asked for on pole 104's location. The increase in span, which we asked for would have caused a need for the pole to be about 85 feet above ground rather than 74.5 feet above ground and a stronger class of pole which CMP had used elsewhere in the line. The difference that should have been made by CMP in our pole location preference would have done the following: rather than seeing pole 104 from most rooms in the house out in the open space of our back yard, it would have been totally out of view behind the trees. In the most often used area of our back yard, we would not see the pole. Also, when driving down our road to our home, rather than having the ugly pole tower over our house about 35-40 feet above the roof, the pole would be hidden behind the trees. Because our road is curved, as one drives toward our home, the view of the pole travels across the entire width of our home. The difference in our property value has been lowered, at this point, by about \$100,000. due to both the severe changes from the exterior and the interior.

As far as our pole preference not adding unreasonably to the cost of the project, in the Commission's August 22, 2009 orders they discuss the Laurie Downs case, another Ten Person Complaint, Docket #2002-665. The order approving the stipulation was

issued on August 14, 2003. In that order, the Commission allowed for up to 15% of added costs to accommodate changes within the stipulation and that if it was exceeded, they were to go back to the Commission.

In the Section 197 reconstruction, CMP's project manager, after stating that the engineering design was 100% complete agreed to move pole 95 another 40 feet to the north to accommodate the abutters' preference for pole location in Woodland Hills. That, as he stated, required the pole height above ground to change from 74.5 feet (the above ground height for pole 104) to 83.5 feet above ground and required guy wires- according to the project managers emails to the Woodland Hills residents. Pole 95 must also have required it to be a stronger class of pole to make the location change.

The second directive to CMP by the Commission regarding the reconstruction of Section 197, which CMP has not complied with on our land and on land owned by some other abutters is that: they did not construct the project to minimize the damage to the land in its use of temporary access roads, nor have they restored "road sites" to "the extent practicable to their original state".

What CMP's contractors did do on our land is this: The contractors (mostly from Virginia and Florida, not Maine) used as much of our land as possible to construct Pole 104 on our land and poles 103 and 102 to the north. They crossed our land back and forth for days, rutting up the land, destroying some of the erosion controlling junipers and other low vegetation. They got heavy equipment stuck in the wetland area of our land and next to it. They did not use construction mats as required by the MDEP on and near our land, although their construction reports to MDEP say they did. Our photographs of the construction while it was happening say they didn't. They cut the trees on our land, mentioned earlier, or rather butchered them and made many trips with the cut trees across our land in many "access roads" and left a large amount of tree debris on our land. They excavated a large area of our land to make a level pad about 30 feet by 30 feet to construct pole 104. CMP testified to the Commission in its January 23, 2009 phone conference hearing, that our preferred location for pole 104 would require the excavation and their pole location would not. Obviously, not true. That excavated area has been left very rough and the tree debris not only hinders our being able to mow our grass as much as we used to, but also causes unsafe conditions to walk on in most of those land areas. Additionally, if CMP repair employees need to access that land by foot it would be a problem safety-wise. CMP has so far refused to even clean up their mess let alone restore it. The Commission should enforce its orders. The burden put on us by the Commission's lack of enforcing CMP to comply with its orders is enormous, expensive and stressful. We are concerned that CMP will continue negatively, beyond any reason, to impact others and ourselves in such a way if the Commission does not regulate more strictly.

On June 30, 2009 we sent a claim to CMP regarding restoring our property to a respectable condition. We filed that claim on the MPUC Dockets #'s 2007-591 and

2008-255 on July 1, 2009. No responses came from CMP, as was relayed to staff at the Commission. Mary called CMP's claim department, Utility Shared Services twice asking about the claim. She was given a claim number over the phone and was told we needed to give as much detail as possible on the second call. On June 30, 2009, 61 photos showing damages to our property were enclosed with the claim as was done with the July 1, 2009 filing with the Commission. The photographs certainly show plenty of damage. "Before" construction photos were also filed with the Commission and given to CMP in the past.

On October 9, 2009, in an effort to be clear on what CMP needs to process a claim from us, Mary called and then wrote our requests to Utility Shared Services. A written response has been recently received saying that we should send cost estimates to restore our property. We have had professionals come to do estimates and are waiting for those, so we can send them to CMP. CMP could have told us they needed that back in July of this year.

We have also discussed and written requests of CMP to provide for tree buffering of the new pole 104. They have refused to do so.

CMP in the spring of this year hired a landscape designer from OEST Associates of South Portland to meet with Woodland Hills residents and CMP's project engineer on Section 197. In June or July of this year CMP had numerous evergreen trees planted adjacent to the corridor at Woodland Hills to provide tree buffering to the poles located there. We feel we are being discriminated against due to Mary being the lead complainant in the Docket # 2007-591, Ten Person Complaint.

We would like to see CMP improve its treatment of ourselves and our property and for the Commission to cause this to happen, not only for ourselves, but for the many other land owners who will be affected by such practices.

Also, on our land, where Pole 104 is built, the MDEP project manager instructed CMP by email on 7/21/09, after a site visit here, to "apply seed and mulch to the area around the base of pole 104 before the end of the growing season". CMP has not even done that and we believe at this point, the 2009 growing season is over.

On land near us, other owners have had property damages involving CMP not cleaning up the tree debris and damaging vegetation, not restored and also a private paved road was damaged. One patch was done on the road by CMP's contractors, but the remaining damaged areas of the road were not repaired. That private road was used excessively for accessing land and also to park heavy equipment and poles. On one day, the private snowplowing contractor could not get by, we were told and an oil delivery truck could not pass the equipment due to lack of space to make the delivery.

We have read all of the land owner's letters to the Commission on the MPRP

docket and although some of the circumstances are different, the theme is the same. The landowners have asked the Commission to help them and not to let CMP take from them their enjoyment of life in their homes and their hard earned quality of property values and comfort, safety and health in their homes. Some of these land owners are young and raising children, some have health problems already and some are elderly. In our neighborhood there is a young family raising two children with a third child due.

We land owners are all asking for the Commission to seriously consider the permanent impacts to us with your decisions. We cannot stress this strongly enough.

Sincerely,

Mary Fournier

David Fournier

Copies to: Service List