STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI
GOVERNOR

DAVID P. LITTELL
COMMISSIONER

IN THE MATTER OF:

Maritimes & Northeast Pipeline LLC **Cumberland County** **Westbrook, Maine** **A-957-75-E-X**	**Departmental** **Findings of Fact and Order** **Sales and Use Tax and Property Tax** **Exemption Certification**

After review of the tax exemption certification application and supporting documents, pursuant to Maine's Sales and Use Tax Law, 36 M.R.S.A. § 1760(30), and Property Tax Law, §§ 655(1)(N) and 656(1)(E)(2), and the Department of Environmental Protection's (Department) *Rules for the Processing of Applications*, 06-096 CMR 2, the Department has considered the application of Maritimes & Northeast Pipeline LLC (M&N), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

1. APPLICATION SUMMARY

A. History. Maritimes & Northeast Pipeline LLC (M&N) owns and operates a natural gas compressor station in Westbrook, Maine. Operation of this facility requires Department licensing of, among other things, air pollutant emissions.

B. Application. On November 18, 2009, M&N filed an application seeking property, and sales and use tax exemption for the SoLoNOx II combustion technology. The application was deemed complete for processing by the Department on November 23, 2009.

C. Scope. This tax exemption certification addresses only the SoLoNOx II dry low NO_x combustion technology incorporated within the combustion section of their two Solar Mars 100 gas turbines. This certification is not intended to cover the entire turbine and/or compressor but <u>only</u> the pieces and parts of that equipment directly associated with the SoLoNOx II dry low NO_x combustion technology.

2. OTHER FINDINGS

A. Decision Obligations.
Pursuant to the Property Tax Law, 36 M.R.S.A. § 656(3), the Department shall issue a determination regarding certification for any air or water pollution control facility for which it has received a complete application by December 15th of the preceding year. Pursuant to the Department's *Rules for the Processing of Applications*, 06-096 CMR 2.14(1) and (2), this Decision shall set forth a findings of fact with sufficient explanation to make interested persons aware of the basis

for the determination that the applicant has met the licensing criteria set forth in the appropriate statute or rule; or deny the application and set forth in the findings the explanation for the basis of the disapproval.

In making tax exemption certification decisions, the Department's responsibility is to determine whether an item is eligible for certification pursuant to the laws of the State of Maine. In a case where an exemption certification is approved, Maine Revenue Service has the responsibility of auditing receipts and determining the amount of reduction of sales and use tax liability. Municipal tax assessors perform the same function regarding property tax.

B. Industrial Air Pollutants.

NO_x and CO are industrial air pollutants as defined in the Department's *Emission Statements* Rule, 06-096 CMR 137.

C. Decision Making Process.

The decision as to whether a facility is eligible for exemption is made by determining the facility's "primary purpose". That determination is made as follows:

1. If the facility serves no pollution control function, then the primary purpose is not pollution control and the exemption is denied.
2. If the facility serves dual or multiple functions, the "primary" function must be determined.
3. If the facility's only function or its primary function is pollution control, then the primary purpose of the facility is pollution control and exemption must be granted.
4. If pollution control is merely a secondary function, then other factors, including taxpayer motivation, must be considered.
5. If the primary motivation for installation of the facility is pollution control, then the Department may conclude that the primary purpose is pollution control and exemption may be granted.
6. If neither the primary function nor the primary motivation is determined to be pollution control, then the primary purpose cannot be pollution control and the exemption is denied.

D. Functions.

The SoLoNOx II dry low NO_x combustion technology incorporated within the combustion section of the Solar Mars 100 combustion turbines has a dual function of both providing fuel to the turbines and reducing the formation of NO_x.

The SoLoNOx II turbine technology utilizes an advanced mechanical design which incorporates a combination of augmented backside cooled liners and an advanced thermal barrier coating for the liners and automatic electronic combustion controls to reduce NO_x and CO during the combustion of natural gas while driving the station's compressor.

The Department has determined that the primary function of the SoLoNOx II dry low NO_x combustion technology is to deliver fuel for combustion. Pollution control is a secondary function.

All associated piping, electrical, concrete, insulation, and structural installations necessary for the construction and operation of the SoLoNOx II dry low NO_x combustion technology are also considered part of this facility.

The SoLoNOx II dry low NO_x combustion technology is not a facility "such as an air conditioner, dust collector, fan or similar facility designed, constructed or installed solely for the benefit of the person for whom installed or the personnel of such person" (or company) and it was not designed or installed for the reduction or control of automobile exhaust emissions.

E. Motivation for installation.

The primary motivation for the installation of the SoLoNOx II dry low NO_x combustion technology was for the purpose of reducing formation of NO_x and CO, industrial air pollutants. No other information in the application or known to the Department demonstrates an additional motivation for installation.

Based on the Findings of Fact in this Order, the Department makes the following CONCLUSIONS:

1. The Department hereby finds that the equipment listed in Section 1.C above is an air pollution facility qualifying for an exemption from property tax pursuant to 36 M.R.S.A., Section 656 (1)(E)(2).

2. The Department hereby finds that the equipment listed in Section 1.C above is an air pollution facility qualifying for an exemption from sales and use tax pursuant to 36 M.R.S.A., Section 1760 (30).

DONE AND DATED IN AUGUSTA, MAINE, THIS 16th DAY OF March 2010.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: James P. Brooks for
DAVID LITTELL, COMMISSIONER

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application: 11/18/09
Date of application acceptance: 11/23/09

Date filed with the Board of Environmental Protection: _____

This Order prepared by Lynn Ross, Bureau of Air Quality.

FILED
MAR 17 2010
BOARD OF ENVIRONMENTAL PROT.
STATE OF MAINE