

**PETITION TO INITIATE COMMISSION RULEMAKING
TO ADD TO THE WINDPOWER EXPEDITED
PERMITTING AREA**

**SUBMITTED TO THE
MAINE LAND USE PLANNING COMMISSION**

BY

NEXTERA ENERGY RESOURCES LLC

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EXHIBITS

- Exhibit A Proposed Expansion Area
- Exhibit B LUPC Zoning Map for Proposed Expansion Area
- Exhibit C Notice of Filing

ATTACHMENTS

- Attachment 1 February 2008 Report of the Governor’s Task Force on Wind Power Development
- Attachment 2 Wind Resource Mapping
- Attachment 3 Wind Atlas of Maine
- Attachment 4 Maine Forest Products Council White Paper “Wind Power in Managed Forests”

INTRODUCTION

On May 8, 2007, the Task Force on Wind Power Development in Maine (the “Task Force”) was established.¹ The Task Force was charged with identifying policy changes that could help achieve three underlying objectives: a) Make Maine a leader in wind power development; b) protect Maine’s quality of place and natural resources; and c) maximize the tangible benefits Maine people receive from wind power development. The Task Force membership included legislators, state employees, non-governmental organizations, and representative of the wind power industry. The recommendations of the Task Force were accepted by all members and subsequently enacted into law pursuant to 2007 Public Law, Chapter 661 (the “Wind Power Act”).

As part of its recommendations, the Task Force identified and the Legislature approved areas where permitting should be expedited for wind power development (the so-called “Expedited Permitting Area”). In addition to Maine’s organized towns, the Expedited Permitting Area included portions of the state where unorganized towns are intermingled with plantations and organized towns². In a footnote, the Task Force specifically stated that the Expedited Permitting Area should only include areas on the fringe of the (then) Maine Land Use Regulation Commission’s jurisdiction that do not encompass concentrations of ecological, recreational, and/or scenic values that are the most significant in the jurisdiction, as well as areas within approximately one township (6 miles) of certain public highways and those areas being considered for wind farm development at that time³. The Task Force also recommended and the Legislature approved a process for adding to the expedited permitting area⁴.

In accordance with 35-A M.R.S. § 3453, NextEra Energy Resources LLC (“NextEra”) hereby petitions the Maine Land Use Planning Commission (“LUPC”) to initiate rulemaking to add approximately 24,777 acres (the “Proposed Expansion Area”) to the existing expedited permitting area identified by the Task Force and the Maine Legislature, as depicted in Figure F-1 of LUPC’s Chapter 10 rule (as modified in 2016 pursuant to P.L. 2015, Chapter 265). The Proposed Expansion Area, which is located within the townships of Chain of Ponds, Seven Ponds, Skinner, and T5 R6, is depicted on the map attached as Exhibit A. The proposed expansion is not only consistent with the standards set forth in Section 3453 and the Commission’s “Guidelines for the Review of Petitions for the Addition of Lands to the Expedited Permitting Area for Wind Development” (“Guidelines”) as published on March 3, 2010 and amended April 6, 2011, it is also consistent with the Commission’s prior decision that this region of Maine, which includes the Kibby Wind Power Project (the “Kibby Project”), is an appropriate location for wind power development. As laid out below, the proposed rule change which would make wind power an allowed use within the Proposed Expansion Area would facilitate the development of approximately 460 megawatts (“MW”) of additional clean renewable power in a location appropriate for wind power development without compromising the principle values and goals of the LUPC’s Comprehensive Land Use Plan (“CLUP”), and encouraging a substantial investment in Maine’s economy.

¹ February 2008 Report of the Governor’s Task Force on Wind Power Development (“Task Force Report”) at 9 and Attachment A, provided as Attachment 1 to this document.

² Task Force Report at 18.

³ *id.*, at 18.

⁴ *id.*, at 20. 35-A M.R.S. §3453.

1.0 Project Proposal and Supporting Exhibits

1.1 Project Purpose

The purpose of this petition is to initiate a rulemaking that would add the Proposed Expansion Area to the Expedited Permitting Area to support the development of NextEra's Moose-Alder Stream Wind power generation facility (the "Project") of up to a total of 460 MW located in seven unorganized territories in northern Franklin and Somerset counties near the Canadian border. A portion of the Project area is currently within the Expedited Permitting Area, and in close proximity to an existing wind project. The proposed Project will help Maine and New England meet mandatory renewable energy goals, as well as provide much needed non-carbon emitting power to the region.

Wind energy provides a clean and economically stable source of electricity for the region. New England's electricity market, including Maine, operates as a single energy market. Generation, energy pricing, and constraints in one part of the market affect the entire New England market. The New England region is expecting to see the retirement of approximately 6,000 MW of older electricity generation facilities in the next few years, leaving the region with a substantial need for new energy generation⁵. The Project will help the region avoid potential reliability risks and suboptimal operating conditions, which would occur if retiring generation facilities are not replaced. Further, currently over 40 percent of the region's energy generation comes from natural gas. During certain times of the year the grid operator is forced to rely on older, more expensive coal and oil fired generation facilities because of constraints on natural gas supplies.

We have sited the Project in close proximity to the existing Kibby Project, which occupies land on the Kibby Range and Kibby Mountain in Kibby and Skinner Townships. As such, the Project is a logical extension of the legislatively-approved wind use in a remote and unpopulated area of the state.

1.2 Description of Proposal

NextEra began exploring the potential for this Project in late 2015, reviewing existing meteorological data and previous development activities in this region. In 2016, NextEra initiated its permitting process, which included consultation with state and federal agencies, desktop environmental analysis and field surveys. Specific pre-construction studies underway include eagle surveys, raptor migration surveys, nocturnal radar surveys, and acoustic monitoring surveys. Meteorological ("met") towers have been established and limited public outreach has been conducted. The initial layout for the Project underwent multiple revisions to avoid and/or minimize impacts to sensitive resources pursuant to feedback from resource agencies.

The proposed Project is located in seven townships in the unorganized territories in northern Franklin and Somerset counties. Geologically, this area along the Maine-Quebec border is referred to as the Boundary Mountains. The Project area has no known permanent residents and only a few seasonal cabins in Alder Stream, Seven Ponds, and Chain of Ponds townships. The region is primarily used for commercial timber and is almost entirely privately owned by timber companies. There are numerous

⁵ ISO New England 2016. Regional Energy Outlook. Available online at: https://www.iso-ne.com/static-assets/documents/2016/03/2016_reo.pdf. Accessed September 20, 2017.

well maintained private roads in the Project area and the region for large timber operations. Although the area may on occasion be used for recreational purposes by the general public, the Project area is privately owned and public access is not a land management objective.

For purposes of convenience, the Project can be broken into two sections: (1) the area north of Route 27 in Franklin and Somerset counties (“Moose Wind”), which will include approximately 71 turbines in the townships of Skinner, Kibby, and T5 R6 BKP WKR, and (2) the area south of Route 27 within Franklin County (“Alder Stream Wind”), which consists of approximately 62 turbines in Chain of Ponds, Seven Ponds, and Alder Stream townships. The generator lead line for the Alder Stream section of the Project crosses the Jim Pond Township into Kibby Township. Between the two areas is the existing 132 MW, 44 turbine Kibby Project, which was constructed in 2009 and is in the Expedited Permitting Area.

The Project also proposes to have a series of energy storage containers located adjacent to the respective Alder Stream Wind and Moose Wind collection substations. Buildings will be constructed to house the batteries and associated equipment such as controls and HVAC. Both the Alder Stream Wind Battery Storage and Moose Wind Battery Storage are designed to store up to 100 megawatt hours (“MWh”) of energy (4 hours at full 25 MW output capacity). As the battery storage facilities are designed to charge only from their associated wind energy facilities, the ability to fully store up to the full MWh capacity of each Battery Storage facility is generally dependent on the availability of the wind resource during off-peak hours, which is typically when wind is more productive.

The Proposed Expansion Area, as depicted on the map at Exhibit A, encompasses an area of approximately 24,777 acres. Exhibit B shows LUPC’s zoning districts laid over the Proposed Expansion Area.

The Project would be considered a “grid scale wind energy development” and would therefore require a permit under Maine’s Site Location of Development Act (“SLODA”) from the Maine Department of Environmental Protection (“MDEP”). Consistent with the extensive field work and agency and stakeholder consultation that occurred in the nearby Kibby Project and other more recent projects, NextEra will site and design the Project, including its supporting facilities such as roads, generator lead lines, and buildings, in a manner that demonstrates that the Project will have no undue adverse impacts. In particular, the SLODA application will address multiple specific permitting issues, including the following:

1. Visual quality and scenic character effects;
2. Tangible benefits (environmental and economic);
3. Noise and shadow flicker effects;
4. Avian and bat species effects;
5. Public safety, including setbacks; and
6. Decommissioning plans.

As such, this Petition offers a macro-level narrative of how allowing wind power as a permitted use within the Proposed Expansion Area will not compromise the principal values and objectives of the CLUP. A detailed narrative and analysis of potential impacts, as well as avoidance and mitigation measures, will be included in the subsequent development application.

1.3 Transmission

The Project will connect to the Gold Brook Substation that is part of Central Maine Power Company's proposed Maine Clean Power Connection Transmission Project ("CMP's MCPC Transmission Project"). The Project connection from the Alder Stream Wind portion will be an approximately 20 mile 345kV transmission line from the proposed Alder Stream Collection Substation to the Gold Brook Substation. The Moose Wind Collector Substation will be located adjacent to CMP's proposed Gold Brook Substation. As part of the development of the Project, NextEra will commission or participate in an interconnection feasibility study and interconnection system impact study, which will identify any upgrades needed to maintain the reliability of the bulk transmission system. NextEra expects these studies will be completed in a timeframe consistent with commencing construction in the fourth quarter of 2020.

1.4 Notice of Filing

The Applicant has been told by LUPC staff that additions to the Expedited Permitting Area are treated as routine technical rulemaking and as such there is no requirement for notice of filing of a petition to initiate rulemaking. However, upon advice from LUPC staff, the Applicant prepared notice and distributed it to stakeholders. A copy of this notice and the addresses to which the notice was sent are attached at Exhibit C.

2.0 Statutory Criteria for Expansion of Expedited Permitting Area

2.1 Logical Geographic Extension

Under the Guidelines, an extension of Expedited Permitting Area is allowable if the portions of the Expedited Permitting area set by townships or other political boundaries cuts across "ridgelines or other naturally occurring geographic features relevant in siting wind power". There is no specific definition in the Guidelines as to what qualifies as a geographic feature, except that the Commission will compare the Project acreage within the originally designated Expedited Permitting Area against that of the proposed expansion. Approximately 53% of the proposed Project area, all associated components (e.g. turbines, roads, substations, maintenance building(s), laydown areas, and generator lead lines) falls within the original Expedited Permitting Area.

Beyond this simple metric there are a number of "geographic features" that demonstrate that the Potential Expansion Area represents a logical geographic extension of the currently designated Expedited Permitting Area. For each of these factors the scale of analysis is at the landscape level, as is appropriate for projects of this magnitude, rather than at the micro-siting level. In addition, the analysis adopts the Guideline's guidance that artificial lines such as township boundaries should not take precedence over natural features when considering a utility-scale wind project, whose success is significantly dependent on those very features. Each of these geographic features is described below.

Previous Legislative Identification

The Task Force recommended and the Legislature approved the inclusion in the Expedited Permitting Area of Kibby Township and Alder Stream Township. Neither of these areas is on the fringe of the (then) Maine Land Use Regulation Commission's jurisdiction or within approximately one township (6 miles) of certain public highways. As such, the selection of these areas is based on the determination on the part of the Task Force and the Legislature that these areas represent viable locations for the installation of a utility-grade wind energy facility.

The inclusion of both Kibby and Alder Stream townships demonstrates that, at a landscape level, the Legislature considered this region viable for wind power development. Given that the Proposed Expansion Area lies on either side of these townships, it is reasonable to assume that if development activities had been considered in the Proposed Expansion Area at the time that the Wind Power Act was under consideration, then this region would have been included. Moreover, the successful operation of the Kibby Project further demonstrates the viability and suitability of this region for wind power development.

Geological Formation

The topography of this area indicates that it represents a single geological formation. The Expedited Permitting Area and the Proposed Expansion Area have a continuous mountainous connection, while to the northwest and southeast the topography becomes relatively flat with low hillsides. As such, there is a landscape geographic connection between the mountains in the Proposed Expansion Area and the original Expedited Permitting Area, even if there is not necessarily a micro-level (e.g., hiker) connection.

In the northeast section of the Project area, the Bedrock Geologic Map of Maine⁶ depicts the entirety of the Kibby Township, which is in the Expedited Permitting Area, and almost all of the Proposed Expansion Area to the northeast are Chain Lakes Massif, indicating that they are in the same geologic expanse. The Maine Geologic Survey (MGS) describes the Chain Lakes Massif as being Precambrian age (>650 million years old). In the southwest section, the townships within the Expedited Permitting Area, Jim Pond and Alder Stream, exhibit multiple types of bedrock, including Chain Lakes Massif, variations of Jim Pond Formation (CAj), ultramafic rocks, and gabbro/diorite/ultramafic rocks. All of these formations are also within the Proposed Expansion Area. As with the northeast quadrant, all of these bedrock formations are classified as Precambrian age.

Previous Wind Development

As shown in Exhibit A, the turbines associated with the Kibby Project generally lie in a northeast – southwest orientation. The turbines proposed within the Proposed Expansion Area also follow this same orientation, based on the geography of these interrelated, nearby mountain ridges, supporting the conclusion that the proposed Project is a logical geographic extension of the currently designated Expedited Permitting Area.

⁶ Osberg, Phillip, Arthur Hussey II and Gary Boone. Bedrock Geologic Map of Maine. Maine Geologic Survey. 1985.

Wind Resource

In investigating the development potential for the Project, NextEra developed wind resource mapping for the region. As show in Attachment 2, the Proposed Expansion Area represents a logical geographic extension of the high-value wind areas within the currently designated Expedited Permitting Area.

Economic Necessity

One hindrance to the State of Maine achieving its wind development goals has been the inability to locate sites that would allow for installation of large utility-scale wind facilities. The wind resource and remoteness of the proposed Project represent an ideal location, as demonstrated by the acceptance of the Kibby Wind Farm. However, in order to be financially viable, given likely development and transmission costs, the Project layout must include turbines outside of the original Expedited Permitting Area. The Proposed Expansion Area does not represent a broad region but, instead, a discrete area that has been targeted as being suitable for wind turbines and related infrastructure, with a high quality wind resource.

2.2 Importance in Meeting State Wind Energy Goals

Progress Toward State Goals

As established by the Task Force and approved by the Legislature in 35-A M.R.S. § 3404(2), the goals for wind energy development are that there be: a) at least 3,000 MW of wind energy capacity by 2020, including 300 MW of off-shore; and b) at least 8,000 MW by 2030 including 5,000 MW from off-shore wind. The Wind Power Act also provides at § 3404(1) that it is the policy of the State in furtherance of these goals “to encourage the attraction of appropriately sited development related to wind energy . . . consistent with all state environmental standards; the permitting and financing of wind energy projects; and the siting, permitting, financing and construction of wind energy research and manufacturing facilities.” While the Task Force recognized that the State’s wind energy goals were “ambitious,” they also stated that they are “realistic, achievable and necessary.”⁷

According to the American Wind Energy Association, as of the first quarter of 2017 Maine has only 901 megawatts of installed wind capacity. The proposed Project is important in meeting the State’s wind energy development goals because it would move the State more than 50% closer to meeting those goals (about 460 MW more than the current 901 MW), and would bring the State from 45% to about 68% of the State’s 2015 goal.

In addition to its importance in meeting the state’s wind energy development goals, the Project would assist in meeting other policy objectives. The state of Maine’s Renewable Portfolio Standard (RPS) establishes a goal of 40% renewables by 2017. Public Law 403 of 2007 converted this goal into a mandatory standard, which the Maine Public Utilities Commission has since designated the "Class I" standard. Based on the most recent report available, as of 2015 the state of Maine’s electricity suppliers

⁷ Task Force Report at 5.

were in compliance with the State's Class I and Class II portfolio requirements⁸. A report by London Economics International for the Maine Public Utilities Commission concluded that the RPS program, in concert with those of other states, would increase the state's gross domestic product by \$1.1 billion as well as produce over 11,000 jobs⁹. Public interest in low cost renewable energy alternatives has also increased in recent years due to concerns over the environment and national energy security.

The Project's Potential for Energy Generation

The Project represents an opportunity to move Maine closer to its stated goals in an area contiguous with an existing, viable wind farm in a region specifically identified as suitable for application of an expedited permitting regime. The U.S. Wind Atlas identifies the northwest portion of Maine as Wind Power Class 5, indicating excellent wind resource potential.¹⁰ The addition of the Proposed Expansion Area to the Expedited Permitting Area will facilitate development of approximately 460 MW of additional clean renewable power in a location appropriate for wind power development. The acceptance of this petition will have therefore have a significant impact on the progress toward the state's wind energy goals.

Viability

The Project is proposed by NextEra, a leading clean energy company which is an indirect subsidiary of NextEra Energy Inc. (NEE). NEE has consolidated revenues of nearly \$16 billion, 45,900 megawatts of generating capacity, and 14,700 employees. NEE is a Fortune 200 company with a market capitalization of approximately \$70 billion as of October 20, 2017.

In 2016 alone, NextEra commissioned 1,400 MW of wind energy and 1,100 MW of solar energy. With more than 14,000 MW of wind and 2,000 MW of solar in operation, NextEra is the world leader in producing electricity from the wind and sun. In fact, NextEra has more wind capacity in its portfolio than all but six countries in the world.

The proposal is not contingent on external financing during development. Financial requirements will be met through capital funding from NextEra's parent. Due to its size, credit standing, and available liquidity, NextEra does not need or envision seeking financing for design, procurement, construction, or placing the Project into service.

NextEra is currently undertaking the detailed environmental and other surveys necessary to support a SLODA application, which is expected to be filed in the 4th Quarter of 2018. Construction is scheduled to commence in the 4th Quarter of 2020, so that the Project may come on-line in the 4th Quarter of 2021.

NextEra has entered into Wind Energy Easement Agreements and/or Option Agreements with the landowners for the wind portions of the Project, including the Penobscot Nation, for a period that meets

⁸ Maine Public Utilities Commission. Annual Report on New Renewable Resource Portfolio Requirement: Report for 2015 Activity. Accessed on October 25, 2017 at: <http://www.maine.gov/tools/whatsnew/attach.php?id=741005&an=1>.

⁹ London Economics International. Review of RFP Requirements and Compliance in New England States: Maine RPS Summary. Accessed on October 10, 2017 at: http://renewablemaine.org/pubs/LEI_Study_Summary_by_MREA.pdf.

¹⁰ The Wind Atlas Map for Maine can be found at <http://rredc.nrel.gov/wind/pubs/atlas/maps/chap3/3-22m.html> and is included as Attachment 3 in the accompanying Background Material in Support of this Petition.

or exceeds the expected life of the turbine units. In addition, its affiliate, Blue Heron Land Associates, LLC (“BH”), has entered into easement option agreements to interconnect the Alder Stream Wind portion’s new interconnecting power line (“gen-tie”) to the Gold Brook Substation. (The Moose Wind portion does not require a gen-tie as the proposed collection substation is located adjacent to the Gold Brook Switching Station.)

Impact to Public Resources and Public Infrastructure

As discussed below, this Project represents an exceptional opportunity for energy generation with only a small impact on public resources based on important natural, recreational, scenic, archaeological and historic resources in the area. The impacts to public infrastructure will be negligible and of short duration.

2.3 Consistency with Principal Values and Goals of the CLUP

The CLUP contains four principal values and multiple goals that are intended to help define the character of the areas under the Commission’s jurisdiction. However, as noted in the CLUP, the Commission “recognizes that goals or policies may at times conflict with one another and will, in such cases, balance the various policies so as to best achieve its vision for the jurisdiction.”¹¹ As a threshold matter, it is important to recognize that this Petition simply seeks to add approximately 24,777 acres to the Expedited Permitting Area, with the net effect that wind power development would be an allowed use in that area. Any actual development of such a facility would require the submission of all required permit applications, with a detailed analysis of, among other things, the specific environmental, recreational, visual, and other potential impacts associated with the proposed Project. As such, the discussion below is intended to provide a general overview of how the addition of the Proposed Expansion Area to the Expedited Permitting Area will be consistent with the principal values and goals of the CLUP at a level of detail sufficient to demonstrate that the criterion set forth in 35-A M.R.S. § 3453(3) has been met.

2.3.1 Project Setting

The Project is located in a mountainous region managed for commercial forestry. The site is remote with access largely limited to logging roads and skid trails. There are no year-round use residential buildings located within the Project area, although there are seasonal camps whose land is leased from the timber companies in certain locations. Harvesting and forest management activities dictate the composition of forest communities. The area is not designated for recreational uses, although the land owners allow hiking, snowmobiling, and hunting on their lands.

2.3.2 Principal Values

2.3.2.1 Economic value of the jurisdiction derived from working forests and farmlands

The Proposed Expansion Area and the surrounding area are currently managed as a commercial forestry operation. Commercial forestry is a main stay of the State’s economy with an estimated economic

¹¹ CLUP at 5.

impact of \$8.5 billion in 2016¹². Maine has seen a decline in the forest products industry in recent years but wind power and other compatible uses of working forest lands may help to stabilize the industry. The Commission has previously stated that wind power is a use consistent and compatible with commercial forestry.¹³ The Maine Forest Products Council (MFPC) wrote a policy paper supporting the integration of wind projects into working forests, noting that “landowners need diverse income streams to balance the cyclical nature of wood pricing and long time frames for returns on investment.” The paper concludes that wind power can be part of a long-term sustainability plan for working forests and is compatible with other forest uses. The MFPC paper is provided as Attachment 4 to this petition.

The addition of the Proposed Expansion Area into the Expedited Permitting Area would have a positive impact by helping to sustain working forests in the region.

2.3.2.2 Diverse and abundant recreational opportunities

The Project area is not maintained as a public recreational area and any such opportunities are ancillary and incidental to the primary land use. There are no owner-maintained hiking trails in this area and the only fixed features are three fire towers (Kibby Mountain, Snow Mountain, and Tumbledown Mountain) that are currently in a state of disrepair. Snowmobile and ATV trails are maintained by recreational groups after receiving permission from the land owners. As such, this region should not be considered important for recreational uses as it is not a guaranteed use but a permissive one by the same landowners that have entered into agreements to allow the development of the Project.

As part of the development of the Kibby Project TransCanada conducted a recreational use survey for an area encompassing a fifteen mile radius around that then-proposed project. The majority of recreational users engaged in hunting, snowmobiling, ATV-riding, and fishing. The survey found that the majority of individuals surveyed felt that the proposed Kibby Project would have a “low” or “very low” impact on their recreational experience in the area.¹⁴ Based in part on this evidence, the Commission concluded that the Kibby Project “is consistent with the principal value of maintaining diverse and abundant recreational opportunities....as the Project area has a relatively low level of recreational use and the dominant recreational uses would not be negatively affected by the Project.”¹⁵

The Proposed Expansion Area is expected, given its proximal and perhaps more remote location, to offer the same or less recreational value as the adjacent Kibby Project. There are no owner-maintained recreational facilities so that, as was identified in the assessment of the Kibby Project, the ease of access and extensive trail network in the Bigelow Range and Rangeley Lake region draw recreational users away from the Project area.

The extension of the Expedited Permitting Area will not reduce existing recreational opportunities, particularly given this value’s focus on large stretches of undeveloped land. In fact, by facilitating the

¹² Maine Forest Products Council. Maine’s Forest Economy. Accessed online on October 12, 2017 at: <http://maineforest.org/wp-content/uploads/2016/09/Maines-Forest-Economy-10-12-2016.pdf>.

¹³ See, e.g., Zoning Petition (ZP) 709 at 57-58; November 2007 Findings of Fact and Decision in ZP 713 at 35-36.

¹⁴ See ZP 709 Application § 9.4.

¹⁵ ZP 709 at 58.

increase in roadways in this area, the inclusion of the Proposed Expansion Area should support this value for the primary users.

2.3.2.3 Diverse, abundant and unique high value natural resources and features

a) Water Resources

The only named lake within the Proposed Expansion Area is Prick Pond. Waterways within the Proposed Expansion Area include branches of Alder Stream, Little Alder Stream, Gold Brook, Cold Brook, Dud Brook, Hay Bog Brook, Number Six Brook, Smart Brook, the West Branch of Moose River, Spencer Stream, and Caribou Flowage. Under existing regulations, a SLODA development permit will be required to provide a stormwater management narrative that would discuss, among other topics, the pre- and post-development runoff associated with the development, stormwater treatment facilities, and the expected maintenance regime. As such, the protection of water resources can be adequately addressed during the permit review process.

b) Fish and Wildlife Resources

The Project Area includes portions of the Moose River, Haybog Brook, Smart Brook, Spencer Stream, and Caribou Flowage, as well as multiple small ponds. Under existing regulations, a SLODA development permit will be required to address the expected impacts on fisheries, if any. Therefore, adding the Proposed Expansion Area to the Expedited Permitting Area will not compromise any values related to fisheries habitat.

Potential species of ecological concern in the area include the Canada lynx, bald and golden eagles, certain bat species, the northern bog lemming, and Bicknell's thrush. Studies would be conducted for these species, in consultation with the Maine Department of Inland Fisheries and Wildlife ("MDIFW"), to determine presence or absence and, as necessary, identify avoidance, minimization, and/or mitigation activities to reduce any impacts. Therefore, adding the Proposed Expansion Area to the Expedited Permitting Area will not compromise any values related to wildlife resources.

c) Ecological Values (Plants and Natural Communities)

The Project area is an industrial forest, whose vegetative communities are largely managed in accordance with land owner harvesting goals. Consistent with other wind developments, site specific surveys would be completed in the Project area and potential adverse impacts to ecological resources would be avoided, minimized, and/or mitigated. Conservation and protection of plant, wildlife, and fisheries resources is provided for at the permitting stage. Existing review criteria provide for the protection of these resources, and these criteria are the same whether a place is within or outside of the Expedited Permitting Area.

d) Mountain Areas and Other Geologic Resources

The goal of the CLUP with regard to mountain resources is to “[c]onserve and protect the values of high-mountain areas from undue adverse impacts.”¹⁶ The CLUP specifically notes that wind power “is increasingly recognized as the most significant renewable source of electricity that is economically viable at the utility scale,” and observes that “the best wind resources in Maine are located in high-mountain and off-shore coastal areas.”¹⁷ Previous Commission decisions, including for the Kibby Project, have affirmed that wind power developments do not, in and of themselves, constitute an undue adverse impact.

The goal of the CLUP regarding geological resources is to “[c]onserve soil and geological resources by controlling erosion and by protecting areas of significance.”¹⁸ Under existing regulations, a SLODA development permit will be required to provide a soil survey map and report, as well as a discussion of geotechnical issues. Such an application would also be required to include a stormwater management narrative that would discuss, among other topics, the pre- and post-development runoff associated with the development, stormwater treatment facilities, and the expected maintenance regime.

Based on level of detailed review that would be required for any proposed wind power facility, the addition of the Proposed Expansion Area into the Expedited Permitting area would have no impact on soil or geological resources.

2.3.2.4 Natural character

This value refers largely to remoteness and the relative absence of development.¹⁹ While there is little traditional residential or commercial development in proximity to the Proposed Expansion Area, a number of factors contribute to distinguish it from remote areas within the Commission’s jurisdiction. These include: a) proximity to transportation corridors; b) motor vehicle accessibility; c) level of commercial activity; d) proximity to existing development; and e) proximity to existing infrastructure.

a) Proximity of Transportation Corridors

The Proposed Expansion Area is located near State Route 27, a heavily-travelled thoroughfare that provides ready access to the U.S. / Canadian border via the Coburn Gore checkpoint. The Gold Brook Road connects to Route 27 and from there to a network of logging roads and skid trails that allow for access to the Project area. A traffic study conducted in conjunction with the Kibby Project indicated that the Gold Brook Road is an established transportation corridor for commercial and passenger vehicles in addition to logging trucks.

¹⁶ CLUP at 16.

¹⁷ CLUP at 187.

¹⁸ CLUP at 15.

¹⁹ CLUP at 244.

b) Motor Vehicle Accessibility

From the Gold Brook Road and Route 27, the Project area, including the Proposed Expansion Area, is accessible via private roads as well as a timber roads and trails. This road network allows a high degree of access into the area, beyond that which would normally be expected in an isolated and remote region.

c) Level of Commercial Activity

Because the timber operations involve a regular cycle of forest maintenance and logging, there is regular vehicular traffic throughout the region. Field crews conducting studies to support the development of the Project routinely encounter logging trucks throughout the site. As a result, the region does not support a traditional wilderness experience as might be offered by a more remote location.

d) Proximity to Existing Development

The Project site is located approximately six (6) miles from the organized township of Eustis (population ~620) and less than ten (10) miles from the town of Jackman (population ~850). LUPC development districts in Coburn Gore are approximately five (5) miles from the Project site.

e) Proximity to Existing Infrastructure

The Project area is relatively close to existing infrastructure, including roads and transmission lines, compared to other areas under the Commission's jurisdiction. Most significantly, the Project area surrounds the Kibby Project, an existing utility-scale wind farm that has been in full operation since 2010.

In light of the foregoing, the addition of the Proposed Expansion Area to the Expedited Permitting Area will not compromise the CLUP's natural character values, including the value of remoteness and the relative absence of development.

2.3.3 Broad Goals

The CLUP states that the Commission will focus on the achievement of the following three broad goals:

1. *Support and promote the management of all the resources, based on the principles of sound planning and multiple use, to enhance the living and working conditions of the people of Maine and property owners and residents of the unorganized and deorganized townships, to ensure the separation of incompatible uses, and to ensure the continued availability of outstanding quality water, air, forest, wildlife and other natural resource values of the jurisdiction.*
2. *Conserve, protect and enhance the natural resources of the jurisdiction primarily for fiber and food production, outdoor recreation and plant and animal habitat.*
3. *Maintain the natural character of certain areas within the jurisdiction having significant natural values and primitive recreational opportunities.*

This Petition seeks to add approximately 24,777 acres to the Expedited Permitting Areas, which would have the immediate effect of making wind power development an allowed use. As previously discussed, wind farms have been established as a compatible use with commercial forest operations and in fact represent a potentially important stable source of income for these property owners. There are no full-time residences within the vicinity of the Proposed Expansion Area. The closest distance from a camp to a turbine is approximately 0.75 miles. The Project would not interfere with fiber or food production in any manner.

A broad discussion of the potential natural resource issues that might arise should the Proposed Expansion Area be added to the Expedited Permitting Area is provided in other sections of this Petition. Any high-value resources identified as a result of studies will be adequately protected in a permit review process, where the SLODA will require a demonstration that there are no undue adverse impacts.

The Project area is managed as a commercial forestry operation, and human disturbance occurs throughout the area on a fairly regular basis. There is no information that suggests that the Project area contains any particularly significant natural resources and, as previously discussed, the extensive forestry use of the area as well as the proximity to transportation networks is detrimental to any primitive camping opportunities.

It is worth noting that the Proposed Expansion Area contains many of the same qualities of character as the Kibby Project, which was determined by the Commission to be consistent with the broad goals of the CLUP. Specifically, the Commission found that the location and design of the Kibby Project would be compatible with traditional land uses, including forestry, agriculture, and recreation, and would maintain the existing natural resource values and character of the area.²⁰

2.3.4 Specific Goals

2.3.4.1 Location of Development

The goal of the CLUP regarding the location of development is to “[g]uide the location of new development in order to protect and conserve forest, recreational, plant or animal habitat and other natural resources, to ensure the compatibility of land uses with one another and to allow for a reasonable range of development opportunities important to the people of Maine, including property owners and residents of the unorganized and deorganized townships.”²¹ With regard to wind farm development, the CLUP recognizes that, “the best wind resources in Maine are located in high-mountain and off-shore coastal areas.”²²

The Commission has previously established the compatibility of wind energy development with the Project area’s primary land use, forest management. Recreational and natural resources are discussed in more detail under the specific goals for those resources. Based on the existing land and the proximity of existing infrastructure, the Proposed Expansion Area is a suitable location for wind energy development

²⁰ See ZP 709 at 59-63.

²¹ CLUP at 6.

²² CLUP, 187.

and the type of place that the CLUP envisions that wind energy and related utility facilities should be located.

2.3.4.2 Economic Development

The goal of the CLUP regarding economic development is to “[e]ncourage economic development that is connected to local economies, utilizes services and infrastructure efficiently, is compatible with natural resources and surrounding uses, particularly natural resource-based uses, and does not diminish the jurisdiction’s principal values.”²³ In furtherance of this goal, the CLUP established that the Commission should “[e]ncourage . . . resource-based industries and enterprises which further the jurisdiction’s tradition of multiple use without diminishing its principal values.”²⁴

The primary land use in the Project area is forest management, and wind energy development is compatible with that use. The Maine Forest Products Council has previously testified before the Commission that wind energy development can provide an additional source of economic value for forest landowners, helping to preserve the forest economy, especially as the value derived from timber production declines. Specifically, the Project is expected to add over \$3 million annually in direct landowner payments.

Wind power development also brings economic benefits to the region as a whole through tax revenue and direct and indirect spending during construction and the operational life of a project. Under the SLODA, any expedited wind power development must provide a demonstration of significant tangible benefits to the local communities. Maine’s Wind Energy Act requires a minimum tangible benefit package of no less than \$4,000 per wind turbine. This will result in at least \$11 million of direct benefit for the local economy. In addition to this benefit, the Project is expected to generate over \$6.19 million in annual tax revenue for the locations in which the Project will be located. During the construction phase, the Project will generate over \$11 million in direct revenue for 200 full-time-equivalent (FTE) labor and construction jobs, and 37 FTE construction related services jobs, many of which will come from the local area. These people will work, live, eat, and recreate in local communities near the Project (such as the Town of Eustis).

Therefore, the addition of the Proposed Expansion Area to the Expedited Permitting Area would meet the CLUP’s economic development goal.

2.3.4.3 Site Review

The goal of the CLUP regarding site review is to “[a]ssure that development fits harmoniously into the existing communities, neighborhoods and the natural environment.”²⁵ There are no residential or business districts within the Project area. Any wind project would be compatible with the region’s primary land use, forest management, as well as other forest uses and the natural environment. And specific issues with regard to environmental concerns would be addressed through the application of

²³ CLUP at 7.

²⁴ CLUP at 7.

²⁵ CLUP at 7.

the SLODA permit review standards. The addition of the Proposed Expansion Area to the Expedited Permitting Area would meet the criteria of the site review goal.

2.3.4.4 Infrastructure

The goal of the CLUP regarding infrastructure is to “[e]nsure that infrastructure improvements are well planned and do not have an adverse impact on the jurisdiction’s principal values.”²⁶ The Project would utilize existing roads and trails to the extent feasible, thereby minimizing the degree of new construction. Collection and transmission lines would be adjacent to roadways as practicable to reduce the encroachment on natural values, although the current allowed land uses already are responsible for significant disturbance. The addition of the Proposed Expansion Area to the Expedited Permitting Area would meet the criteria of the infrastructure goal.

2.3.4.5 Development Rate, Density and Type

The goal of the CLUP regarding development rate, density and type is to “[e]nsure that development is of a rate, density and type conducive to maintaining the jurisdiction’s principal values.”²⁷ The addition of the Proposed Expansion Area to the Expedited Permitting area would maintain the jurisdiction’s principal values and have no adverse impact on the existing development rate, density, and type in the area.

2.3.4.6 Affordable Housing

The goal of the CLUP regarding affordable housing is to “[f]acilitate the provision of affordable housing in appropriate locations to households with a full range of incomes.”²⁸ The addition of the Proposed Expansion Area into the Expedited Permitting area by the Commission would have no impact on affordable housing in the region.

2.3.4.7 Land Conservation

The goal of the CLUP regarding land conservation is to “[e]ncourage the long-term conservation of select areas of the jurisdiction that are particularly representative of its cultural and natural values, including working forests, high-value natural resources and recreational resources.”²⁹ The CLUP established a policy to “encourage conservation of large, landscape-level areas of the jurisdiction, particularly those that allow continued use of the forest for wood products.”³⁰ A policy paper by the MFPC entitled “Wind Power in Managed Forests” states that wind power can facilitate the continued operation of forest management on land through the creation of a stable and predictable source of revenue.³¹ The addition of the Proposed Expansion Area to the Expedited Permitting Area would facilitate land conservation, including preservation of a working forest.

²⁶ CLUP at 8.

²⁷ CLUP at 9.

²⁸ CLUP at 9.

²⁹ CLUP at 10.

³⁰ CLUP at 10.

³¹ A copy of this policy paper is included as Attachment 4 in the accompanying Background Material in Support of this Petition.

2.3.4.8 Agricultural Resources

The goal of the CLUP regarding agricultural resources is to “[c]onserve and protect working farms, encourage the development of new farming enterprises, and conserve agricultural soil resources.”³²

The addition of the Proposed Expansion Area to the Expedited Permitting Area would have no impact on farmlands and the agricultural economy in the region.

2.3.4.9 Air and Climate Resources

The goal of the CLUP regarding air and climate resources is to “[p]rotect and enhance the quality of air and climate resources throughout the jurisdiction.”³³ Policies associated with this goal include encouraging state, federal, and international initiatives directed at reducing emissions of air pollutants. *Id.* The Commission has previously accepted testimony and evidence on wind power’s beneficial effect on air and climate resources through the displacement of fossil fuel-based energy generation, and wind power’s impact on the reduction in greenhouse gas emissions is well known. The CLUP acknowledges those benefits and recognizes wind power as “the most significant renewable source of electricity that is economically viable at the utility scale”³⁴ The addition of the Proposed Expansion Area to the Expedited Permitting Area would have a positive impact on air and climate resources.

2.3.4.10 Coastal Resources

The goal of the CLUP regarding coastal resources is to “[p]rotect and conserve the special natural and cultural resources of coastal islands and mainland townships, and help sustain the traditional resource-based economies of these areas.”³⁵ The addition of the Proposed Expansion Area to the Expedited Permitting area would have no impact on coastal resources, except indirectly by reducing the region’s reliance on fossil-fuel-based sources of energy, and thus contributing to cleaner natural resources in the entire State of Maine.

2.3.4.11 Cultural, Archeological, and Historical Resources

The goal of the CLUP regarding cultural, archeological, and historical resources is to “[p]rotect and enhance archaeological and historical resources of cultural significance.”³⁶ In applications submitted to install met towers in the Project area, a letter was sent to the Maine Historic Preservation Commission on April 2, 2016 “to request a search of the Commission’s existing database for information on any known or potential prehistoric site locations, historic sites and structures, and areas of cultural or historic importance within the vicinity of the proposed met tower location.” On May 13, 2016, Kirk Mohney, Director of the MHPC, responded by stating that “[b]ased on the information submitted, I have concluded that there will be no historic properties affected by this proposed undertaking, as defined by Section 106 of the National Historic Preservation Act.” A similar request for information was sent to Chris Sockalexis, THPO of the Penobscot Indian Nation. Mr. Sockalexis responded as follows: “This

³² CLUP at 11.

³³ CLUP at 11.

³⁴ CLUP at 187.

³⁵ CLUP at 12.

³⁶ CLUP at 13.

project appears to have no impact on a structure or site of historic, architectural or archaeological significance to the Penobscot Indian Nation as defined by the National Historic Preservation Act of 1966, as amended.”

A search of the National Register of Historic Places identified 40 registered resources in Franklin County and 51 registered resources in Somerset County. Of these, none is within eight (8) miles of the nearest currently proposed turbine and only three are within fifteen miles. The Arnold Trail, which is listed as a historic district, is approximately two (2) miles from the Project area and parallels Route 27 in a forested setting for much of its length. It is described as follows (NPS 2012b):

Benedict Arnold's expedition in the autumn of 1775 failed in its objective of seizing Quebec, but it had an important result in forcing the division of Lord Howe's army to provide reinforcements for Quebec. Thus Howe could not subjugate the Middle States in 1776, and the British suffered a major setback trying to reunite Howe's army in 1777. Arnold left Fort Western (now Augusta) on September 24, 1775, moved up the Kennebec River about 70 miles, portaged to the Dead River, followed up it to Chain of Ponds near the present Canadian border, and arrived at Quebec early in November with 600 of the 1,100 men with whom he had started. The route can be determined along rivers with considerable accuracy. The sites of numerous portages and campgrounds need fuller study, however, which has been undertaken by the Maine Division of State Parks.

Given the Trail’s distance to Route 27, the forest buffer, and the topography of the landscape, it is unlikely that adding the Proposed Expansion Area to the Expedited Permitting Area would negatively impact this cultural resource. However, under the SLODA’s regulatory requirements, a visual impact assessment would be conducted with respect to this resource, as part of any development application. In addition, detailed field investigations would be completed to determine if additional cultural, archeological, and historical resources are located within the Project area, in consultation with the Maine State Historic Preservation Office (“SHPO”). The results of these studies, as well as any findings by the SHPO, would be submitted with any development permit application, and any proposed project will need to minimize adverse impacts on cultural, archeological, and historical resources.

As such, the addition of the Proposed Expansion Area would be consistent with the goals of the CLUP regarding cultural, archeological, and historical resources.

2.3.4.12 Energy Resources

The goal of the CLUP regarding energy resources is to “[p]rovide for the environmentally sound and socially beneficial utilization of indigenous energy resources where there are not overriding public values that require protection.”³⁷ The CLUP seeks to accommodate energy generation installations that are consistent with the State’s energy policies, suitable for the proposed locations, and designed to minimize intrusion on natural and cultural resources and values.³⁸ Based on the analysis provided herein, there are no overriding public values that require protection, so the addition of the Proposed Expansion Area to the Expedited Permitting Area would encourage the utilization of indigenous wind energy resources, and thus be consistent with this goal.

³⁷ CLUP at 13.

³⁸ CLUP at 13.

2.3.4.13 Forest Resources

The goal of the CLUP regarding forest resources is to “[c]onserve, protect and enhance the forest resource in a way that preserves its important values, including timber and fiber production, ecological diversity, recreational opportunities, as well as the relatively undeveloped remote landscape that it creates.”³⁹ As discussed earlier, the Commission has previously accepted evidence that indicates that wind energy development can enhance the value of, and help to maintain, the working forest. A policy paper developed by MFPC concludes that wind power can be part of a long-term sustainability plan for working forests and is compatible with other forest uses. MFPC also commented that wind power development represents a small percentage of forest acreage, typically located in areas that are less suitable for growing trees, while providing improved access for landowners, enhanced firefighting capability, and increased access for traditional recreational uses.

Based on this information, the addition of the Proposed Expansion Area to the Expedited Permitting Area would encourage the continued management and preservation of forest resources.

2.3.4.14 Geological Resources

The goal of the CLUP regarding geological resources is to “[c]onserve soil and geological resources by controlling erosion and by protecting areas of significance.”⁴⁰ Under existing regulations, a SLODA development permit will be required to provide a soil survey map and report, as well as a discussion of geotechnical issues. Such an application would also be required to include a stormwater management narrative that would discuss, among other topics, the pre- and post-development runoff associated with the development, stormwater treatment facilities, and the expected maintenance regime. Based on the level of detailed review that would be required for any proposed wind power facility, the addition of the Proposed Expansion Area to the Expedited Permitting area would have no impact on soil or geological resources.

2.3.4.15 Plant and Animal Habitat Resources

The goal of the CLUP regarding plant and animal habitat resources is to “[c]onserve and protect the aesthetic, ecological, recreational, scientific, cultural and economic values of wildlife, plant and fisheries resources.”⁴¹ The CLUP establishes policies to, among other things, regulate land use activities to protect sensitive habitats and to protect wildlife habitat in a fashion that is balanced and reasonably considers the management needs and economic constraints of landowners.⁴²

a) Plant Resources

In conjunction with applications to the Commission for the installation of temporary metrological towers (resulting in permits DP 4915-B and DP 5016), the Maine Natural Areas Program reviewed its Biological and Conservation Data System files. MNAP indicated that, according to its information, there is

³⁹ CLUP at 14.

⁴⁰ CLUP at 15.

⁴¹ CLUP at 16.

⁴² CLUP at 16.

Subalpine Fir Forest on Snow Mountain. Consistent with other wind developments, site specific surveys would be completed in the Project area and potential adverse impacts to ecological resources will be avoided or minimized.

b) Animal Habitat Resources

As discussed in Section 2.3.2.3(b) above, NextEra will undertake detailed field studies within the Project area in consultation with MDIFW. If sensitive species are identified, NextEra will continue to work with MDIFW as part of any application development to ensure wildlife and fisheries habitat are protected in accordance with CLUP's wildlife and fisheries resource goal.

Thus, addition of the Proposed Expansion Area will be consistent with the goal of conserving and protecting the aesthetic, ecological, recreational, scientific, cultural and economic values of wildlife, plant and fisheries resources.

2.3.4.16 Recreational Resources

The goal of the CLUP regarding recreational resources is to “[c]onserve the natural resources that are fundamental to maintaining the recreational environment that enhances diverse, abundant recreational opportunities.”⁴³ As discussed earlier, the Project area is not managed for recreational use, so any recreational opportunities are incidental to the primary land use. Previous studies related to the Kibby Project indicate that the primary recreational opportunities are traditional activities such as hunting, snowmobiling, ATV riding, and fishing, primarily on private forest lands that are not posted. Wind energy development is compatible with all of these uses, and the development of maintenance roads can enhance some of these experiences.

The Proposed Expansion Area is expected, given its proximal location, to offer the same or less recreational value as the adjacent Kibby Project. There are no owner-maintained hiking trails in this area and the only fixed features are three fire towers (Kibby Mountain, Snow Mountain, and Tumbledown Mountain) that are currently in a state of disrepair. Snowmobile and ATV trails are maintained by recreational groups but the proposed development will not interfere with these uses. As was the case with the Kibby Project, the ease of access and extensive trail network in the nearby Bigelow Range and Rangeley Lake region draw recreational users away from the Proposed Expansion Area. Moreover, there are no unique recreational opportunities in this area.

The addition of the Proposed Expansion Area to the Expedited Permitting Area will not reduce existing recreational opportunities, particularly given the CLUP's focus on large stretches of undeveloped land.

For the nearby Kibby Project, the Commission concluded that the proposed development “is consistent with the principal value of maintaining diverse and abundant recreational opportunities....as the Project area has a relatively low level of recreational use and the dominant recreational uses would not be

⁴³ CLUP at 17.

negatively affected by the Project.”⁴⁴ The addition of the Proposed Expansion Area to the Expedited Permitting Area will conserve recreational resources.

2.3.4.17 Scenic Resources

The goal of the CLUP regarding scenic resources is to “[p]rotect the high-value scenic resources of the jurisdiction by fitting proposed land uses harmoniously into the natural environment.”⁴⁵ A general discussion of potential impacts to nearby scenic resources is provided herein, but a specific evaluation will need to be made as part of the SLODA permitting process, utilizing a specific turbine design and layout as part of development applications.

The most prominent water source in the vicinity of the Project area is Chain of Ponds, which consists of Round, Natanis, Long, Bag, and Lower ponds, connected by short waterways. The chain begins in Chain of Ponds Township and is the headwater of the North Branch of the Dead River. The Maine Wildlife Lake Assessment designates this feature as Management Class 2, meaning an especially high value accessible and undeveloped lake. It further rates Chain of Ponds as having outstanding fisheries, wildlife, scenic, and physical resources as well as significant shoreline and culture resources. State-owned public reserve lands include the shoreline of Round Pond (approximately three miles from the Proposed Expansion Area), almost all of the Natanis Pond shoreline (approximately three miles from the Proposed Expansion Area), and the eastern shorelines of Long and Bag ponds (approximately 2.5 and 2 miles, respectively, from the Proposed Expansion Area).

Chain of Ponds is approximately two miles from the operating Kibby Project and a few of those turbines can be seen from various vantage points. However, this visual impact was identified in a visual assessment submitted with the development application, and the Commission nevertheless concluded that impacts to scenic resources would not be unduly adverse.⁴⁶ At its closest point the Proposed Expansion Area is the approximately the same distance from Chain of Ponds as is the Kibby Project.

Other water bodies of potential interest are Jim Pond (approximately nine miles), Spencer Lake (approximately five miles), Tim Pond (approximately five miles), Rock Pond (approximately one mile), Baker Pond (approximately three miles), Big Island Pond (approximately one mile), and Kennebago Lake (approximately five miles). Waterways of potential interest would be Alder Stream, the North Branch of the Dead River, Caribou Flow, and Moose River. As with the Chain of Ponds, it is likely that impacts to these water resources would be limited or non-existent, but this would be confirmed through the completion of a visual impacts analysis.

The Arnold Trail, which is listed as a historic district, is approximately two (2) miles from the Project area and parallels Route 27 for much of its length. Given the Trail’s distance to Route 27, the forest buffer, and the topography of the landscape, it is unlikely that adding the Proposed Expansion Area to the Expedited Permitting Area would negatively impact this cultural resource. However, under the SLODA

⁴⁴ ZP 709 at 58.

⁴⁵ CLUP at 18.

⁴⁶ See ZP 709 at 44, 60.

regulatory requirements, a visual impact assessment would be conducted with respect to this resource, as part of the development application.

Based on existing regulatory requirements, including the development of a visual impacts assessment study, the addition of the Proposed Expansion Area to the Expedited Permitting Area will not compromise high value scenic resources.

2.3.4.18 Water Resources

The goal of the CLUP regarding water resources is to “[p]reserve, protect and enhance the quality and quantity of surface waters and groundwater.”⁴⁷ In furtherance of this goal, the CLUP sets forth the policy that the Commission should “[p]rotect the recreational and aesthetic values associated with water resources.”⁴⁸ Within the Proposed Expansion Area there is only one named waterbody (Prick Pond) and multiple waterways (e.g., Moose River, Haybog Brook, Smart Brook, Spencer Stream, and Caribou Flowage). The type of review required for surface waters and groundwater resources as part of SLODA permitting relies on specific site plan details in order to ascertain compliance with state standards for such issues as stormwater and erosion. Visual impacts associated with surface water would also be evaluated in connection with specific development plans. Based on the level of detailed review that would be required for any proposed wind power facility, the addition of the Proposed Expansion Area to the Expedited Permitting Area would have no impact on water resources.

2.3.4.19 Wetland Resources

The goal of the CLUP regarding wetland resources is to “[c]onserve and protect the ecological functions and social and economic values of wetland resources.”⁴⁹ There are only limited wetland or shoreland districts located in the Proposed Expansion Area. See Exhibit B. Specifically, there are approximately 877 acres of mapped P-SL2 subdistricts in the Proposed Expansion Area and approximately 283 acres of mapped P-WL in the Proposed Expansion Area. Detailed wetland delineation surveys will be conducted as part of any permit application, as the type of review required for wetland resources relies on specific site plan details, and potential impacts would be fully addressed under the DEP’s rules for evaluating development permits. Based on the level of detailed review that would be required for any proposed wind power facility, the addition of the Proposed Expansion Area into the Expedited Permitting area would have no adverse impact on wetland resources.

For the foregoing reasons, NextEra respectfully requests that the Commission initiate rulemaking in accordance with 35-A M.R.S. §3453 and 5 M.R.S. Chapter 375 to add the Proposed Expansion Area to the Expedited Permitting Area.

⁴⁷ CLUP at 18.

⁴⁸ CLUP at 18.

⁴⁹ CLUP at 19.

EXHIBIT A

PROPOSED EXPANSION AREA

EXHIBIT B

LUPC ZONING MAP FOR PROPOSED EXPANSION AREA

EXHIBIT C

NOTICE OF FILING

The attached Notice of Filing of Petition to Initiate Commission Rulemaking to Add to the Expedited Permitting Area will be published in the Kennebec Journal. Copies of the Notice will also be sent to the following legislators:

The Honorable Senator Thomas Saviello
Maine Senate District 17
60 Applegate Ln.
Wilton, ME 04294

The Honorable Senator Rod Whitemore
Maine Senate District 17
P.O. Box 96
Skowhegan, ME 04976

The Honorable Frances M. Head
Maine House District 117
P. O. Box 61
West Bethel, ME 04286

The Honorable Chad Wayne Grignon
Maine House District 118
181 Fox Hill Road
Athens, ME 04912

Copies of the Petition have been send to the Franklin County and Somerset County Commissioners.

**NOTICE OF FILING OF PETITION TO INITIATE COMMISSION RULEMAKING
TO ADD TO THE EXPEDITED PERMITTING AREA**

This is to notify you that NextEra Energy Resources LLC (“NextEra”) is filing a petition with the Maine Land Use Planning Commission to initiate rulemaking for the purpose of amending Appendix F of Chapter 10 of the Commission’s rules (the “Petition”). The proposed amendment would add approximately 23,977 acres of land located in the townships of Chain of Ponds, Seven Ponds, Skinner, and T5 R6 BKP WKR to the Expedited Wind Energy Development Area Designation set forth in Appendix F of Chapter 10 of the Commission’s rules.

This Petition is being filed in accordance with 12 M.R.S. § 685-A(13) and 35-A M.R.S. § 3453, and Chapter 4.06 of the Commission’s Rules. Any subsequent rulemaking initiated by the Commission will be noticed in accordance with Chapter 4.06(5) of the Commission Rules and the applicable provisions of 5 M.R.S. § 8053.

The Petition will be filed for public inspection at the Maine Land Use Planning Commission office in Augusta on or about November 15, 2017. Copies will also be available at the Franklin County Commissioners’ Office at 140 Main Street in Farmington, Maine and the Somerset County Commissioners’ Office at 41 Court Street in Skowhegan, Maine.

If you have any questions about this Petition please contact the Maine Land Use Planning Commission by calling 207-287-2631.

ATTACHMENT 1

**FEBRUARY 2008 REPORT OF THE GOVERNOR'S
TASK FORCE ON WIND POWER DEVELOPMENT**

REPORT OF THE GOVERNOR'S TASK FORCE ON WIND POWER DEVELOPMENT:

Finding Common Ground For a Common Purpose



(Photo from Walter Gooley, Wind Power Task Force Flight, November 28, 2007)

**FINAL REPORT
February 2008**

This report was unanimously approved by the members of the Governor's Task Force on Wind Power Development with the following understanding:

Consistent with "Mutual Understandings" among Task Force members agreed to early in the project, I concur with the content of the Report of Governor's Task Force on Wind Power Development.

Further, I understand that for this effort to be successful, it is important that the Task Force members stand united in encouraging respect for the conclusions the Task Force has reached, and the implementation of these recommendations as a coherent whole.

**R. Alec Giffen (Chair), Director, Maine Forest Service
Senator Phillip Bartlett
Juliet Browne, Verrill Dana LLP
Pete Didisheim, Director of Advocacy, Natural Resources Council of Maine
Judith A. Dorsey, Retired Lawyer
Representative Stacey Fitts
Senator Walter Gooley
Jody Jones, Wildlife Ecologist, Maine Audubon Society
John Kerry, Director, Governor's Office of Energy Independence & Security
Kathleen Leyden, Coastal Program Manager, State Planning Office
David Littell, Commissioner, Dept. of Environmental Protection
Representative W. Bruce MacDonald
Milton McBreairty, Business Manager, IBEW Local Union 567
Patrick McGowan, Commissioner, Dept. of Conservation
Dave Publicover, Appalachian Mountain Club (alternate member)
Steve Timpano, Environmental Coordinator, Dept. of Inland Fisheries & Wildlife
David Wilby, Executive Director, Independent Energy Producers of Maine**

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Acknowledgements

Special thanks to Ann Gosline of Gosline & Reitman Dispute Resolution Services for organizing the group process used to develop this report, her assistance in thinking through tough issues and being there whenever advice was needed; to Todd Burrowes for bearing the burden of much of the staff work required for the Task Force to be successful; to John Weber for his assistance on community wind, trends in technology and in offshore wind development; to David Douglass, for assistance on economics issues; to Rondi Doiron for the myriad tasks, large and small, she handled in organizing meetings and field visits and producing the report; to Greg Lord for website design and upkeep, and keeping our meetings on the air at Bolton Hill; to Greg Miller for updating our maps repeatedly; and to all the members of the Task Force for their open-minded and constructive approach to the issues, and unanimous support for this report.

R. Alec Giffen, Chair

Executive Summary

Following months of analysis and study, the Task Force on Wind Power Development in Maine has unanimously approved this report concluding that each of the goals established by Governor Baldacci can be achieved: Maine can become a leader in wind power development, while protecting Maine's quality of place and natural resources, and delivering meaningful benefits to our economy, environment, and Maine people. Achieving all three of these goals simultaneously, however, will require careful planning and balanced decision-making.

Maine has a significant wind resource that can be tapped to provide clean, indigenous renewable power that will not produce greenhouse gas emissions or other air pollution, and that will increase the reliability of the region's electricity supply. After a detailed review of Maine's wind resource, regional and projected markets for clean power, technology trends, and Maine's greenhouse gas emission goals and policy commitments, the Task Force concludes that Maine should seek to host at least 2,000 megawatts (MW) of installed wind power capacity by 2015, and at least 3,000 MW by 2020. The Task Force believes that at least 300 MW of the 2020 goal could be achieved with projects built offshore.

The Task Force recognizes that achieving these goals is not entirely within Maine's control, and will depend on factors such as technology developments, future energy costs, federal policies, and more. It further recognizes that, as the Governor directed, these goals should be accomplished without compromising Maine's special quality of place, and in a fashion that provides tangible benefits for Maine people.

These are ambitious goals for wind power development, but we believe they are realistic, achievable and necessary. As part of a broader energy policy, Maine has an opportunity and responsibility to help reduce our dependence on fossil fuels, increase energy independence, and reduce environmental impacts caused by energy generation. Wind power has an important part to play within such a policy. Wind power is broadly recognized to be the most significant, economically viable, utility-scale renewable source of electricity currently available, which helps explain why it is the fastest growing power source in the world.

The Task Force recognizes that wind power can be an important part of Maine's energy and climate strategies, but the Task Force also believes that Maine and the region must work hard collectively to dramatically increase energy efficiency, encourage development of other cost-effective renewable energy technologies, and reduce greenhouse gas emissions from the full range of sources. Accomplishments are needed with all of these strategies, and progress in any one area will not obviate the need for action elsewhere. To increase our energy security, reduce our reliance on fossil fuels, and help curb the threat of climate change, we need to do it all.

For Maine to become a leader in wind power development, changes must be made in the regulatory process for wind power projects, and a planned approach must be established to help guide wind power projects to appropriate sites.

Maine's regulatory framework for large development projects such as wind power was created 40 years ago, long before utility-scale wind power was considered a possibility. Regulatory

Report of the Governor's Task Force on Wind Power Development

criteria need to be updated and clarified so that applicants, decision-makers, and the public have a clear understanding of how project applications will be judged. In this report, the Task Force recommends a number of specific changes to streamline the process for wind power permitting and to make the process more predictable and coherent for all interested parties.

Maine is a large state with significant wind resources in many different locations, from the interior mountains to the coast, and from Aroostook County potato fields to Down East islands and offshore. Current and projected improvements in wind power technology, and changes in the electrical power market which favor clean power sources, are having the result of increasing the number of places in Maine where utility-scale wind power projects may be economically viable. This is an encouraging development that could substantially reduce conflicts over the siting of wind power projects.

Because utility-scale wind power turbines are very large, they can be visible from a considerable distance. Maine has many treasured and unique scenic and natural resources which could be degraded through a haphazard approach to wind power development. For that reason, the Task Force strongly supports implementation of a planned approach for wind power development which would reward well-sited projects with expedited review.

The Task Force recommends that the Legislature establish Expedited Review Areas in Maine which would include all organized towns and a portion of the Land Use Regulation Commission's (LURC) jurisdiction. The Task Force has developed a map that delineates the boundaries of the areas it recommends for expedited processes. For unorganized territories within these areas, a rezoning application would not be required since wind power would be designated as an allowed use, with a development permit. In Maine's organized towns, wind power permitting would be streamlined and projects would be judged by a visual impact standard appropriately customized to wind power development. In designating areas for expedited review, Maine would be sending a clear signal to wind power developers about the areas within the state that appear to be most appropriate for wind power development.

The Task Force also evaluated opportunities for encouraging wind power development at the community level, and we have included a number of recommendations to help spur community and small-scale wind power.

The Task Force hopes that the approach provided in this report can help instill a sense of common purpose among people throughout Maine – bringing together those who care deeply about the development of clean and reliable power, those committed to protecting the natural character and resources of Maine's landscape, and those who see wind power as an important opportunity for creating economic benefits from an indigenous energy source.

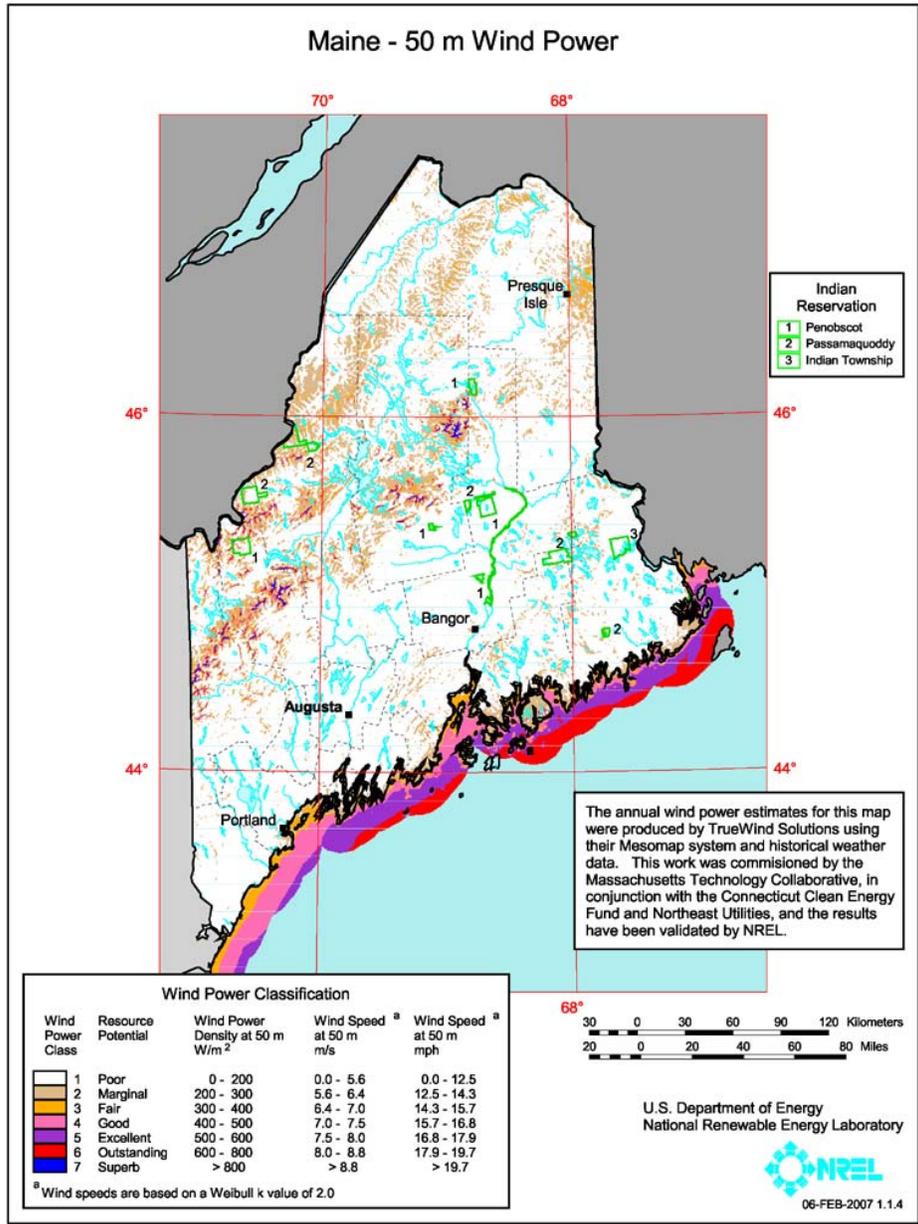
It is unlikely that all conflict surrounding the siting of wind power projects can be eliminated, but tensions can be substantially reduced through careful site selection by developers, and thoughtful involvement of Maine people in the permitting process.

The Task Force sees the path forward for wind power development in Maine within a larger context of common purpose with the rest of the New England states who, with Maine, are part of a regional effort to reduce our greenhouse gas emissions to 10 percent below 1990 levels by 2020. Each state has unique opportunities to achieve reductions, but all must share a common commitment toward meaningful climate protection. While Maine has a substantial amount of the

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regional wind resource, and thus the potential to develop a great deal of wind power, we expect other New England states to do their part in developing renewable energy, boosting energy efficiency, and reducing greenhouse gas emissions from all sectors.

Figure 1
Maine Wind Resource Map



Source: U.S. Department of Energy, National Renewable Energy Laboratory (2007). Also provided as Attachment D.

Background and Process

Background. Wind power is the fastest growing utility-scale source of renewable energy in the world. Growth and expansion of the wind power industry holds great promise for Maine, which has the greatest wind energy potential of any New England state and ranks 19th in the United States as a whole.

Wind power has significant potential to benefit Maine and our region, and address major state and regional energy-related changes. Wind power's economic and environmental benefits include reduced dependence on imported fossil fuels (see Attachment L for an overview of the greenhouse gas emission benefits that can result from the development of wind power); improved energy security through use of an indigenous, renewable resource; and generation of electricity without the greenhouse gas emissions that result from use of fossil fuels, regardless of where they originate. Moreover, wind power development can provide short and long-term economic and employment benefits for Maine citizens both directly and indirectly, through stimulation of growth and development in related businesses and industries.

Two of the major, energy-related challenges that Maine is facing are the need to reduce greenhouse gas emissions and the need to increase the reliability of our electricity supply. Wind power holds great promise in helping meet each of these challenges.

The existence and magnitude of the threats posed by climate change are generally acknowledged. In the United States, the Northeast region has taken the lead in addressing emissions from the electricity sector by developing the Regional Greenhouse Gas Initiative (RGGI). RGGI is a ten-state CO₂ cap-and-trade program covering CO₂ emissions from electrical generating units, under which the Northeast region must limit CO₂ emissions in 2009 and place a cap on them by 2014. The cap will be reduced by 10 percent by 2018.

Maine is also participating in a greenhouse gas emissions reduction effort as a member of the Conference of New England Governors and Eastern Canadian Premiers (NEG/ECP). The NEG/ECP group adopted a Climate Action Plan in 2001 which established greenhouse gas reduction goals across all sectors, and included a goal of reducing total greenhouse gas emissions to 10 percent below 1990 levels by the year 2020. The NEG/ECP goals were enacted into Maine law in 2004 (38 MRSA §576).

These goals are very aggressive, and cannot be met without unprecedented efforts on the part of all Maine citizens. Wind power must play a major role in those efforts because of its potential for greenhouse gas emission reduction as outlined in Attachment L.

Tackling the challenge of increasing the reliability of our electricity supply will be no less difficult. New England, in general, and Maine in particular, are heavily dependent on natural gas for generation of electricity. According to ISO New England (ISO-NE), in 2006 natural gas represented almost 40 percent of New England's total installed electric generation capacity, which is nearly 12,000 MW. Maine's reliance on natural gas is even greater.

While much attention is paid by the public to the retail price of electricity, there appears to be little public understanding of the very important and very real issue of energy reliability. Threats to the reliability of our electricity supply are no longer limited to those times of the year when

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brownouts are most expected – hot, muggy summer days. Maine's most recent experiences have occurred during winter months; for example on December 2, 2007, when an all-day power watch was declared by ISO-NE due to a natural gas-related "capacity deficiency."

Demand for electricity continues to grow in Maine and in New England as a whole. The demand for natural gas in other sectors of the economy has been increasing steadily as well. According to *Annual Energy Outlook 2004*, issued by the Energy Information Administration of the U.S. Department of Energy, total natural gas consumption in New England from all sectors is expected to grow 31.6 percent between 2004 and 2024. That figure is conservative compared to projections by the natural gas distribution industry itself. It is imperative that Maine begin to help address this problem by, among other things, decreasing its reliance on natural gas for generating electricity. Wind power holds great promise in this regard.

At the same time, wind energy development proposals have environmental impacts and have generated generalized and site-specific concerns regarding effects on natural resources, related public uses, and communities. As with other development, proper siting can avoid or minimize adverse impacts.

A proactive approach to addressing issues and opportunities presented by wind power development will help in attracting investment in wind energy; facilitating siting of facilities in a manner that appropriately safeguards the state's natural resources, communities, unique character and attributes; increasing the reliability of Maine's electricity supply; and realizing tangible economic and environmental benefits for Maine people from the wind power development that takes place within Maine.

Governor Baldacci's May 2007 Executive Order (see Attachment A) creating the Task Force envisions such an approach and, accordingly, has the following three underlying objectives:

- To make Maine a leader in wind power development;
- To protect Maine's quality of place and natural resources; and
- To maximize the tangible benefits Maine people receive from wind power development.

This report, which focuses on how to facilitate siting of wind power development in ways that optimize its benefits to our state, provides the Task Force's recommendations to the Governor on key steps to meet these policy objectives and so secure the numerous environmental and economic benefits of this indigenous renewable energy resource, while minimizing its adverse impacts.

Task Force membership. The Task Force's members (see Attachment B), among whom are several legislators, were selected to ensure the benefit of different perspectives and expertise in its deliberations and thus, provide opportunity for development of the strong and effective solutions that may result from forging consensus among diverse viewpoints.

Chair; Staffing. The Governor selected Maine Forest Service Director Alec Giffen to chair and oversee the work of the Task Force, with primary staff support from the Maine State Planning Office (SPO) and consultant Ann Gosline. Ann, as well as Todd Burrowes and John Weber of SPO, were critical to the development of this report and the Task Force is indebted to them for their extraordinary efforts. Staff of the Departments of Environmental Protection (DEP), Conservation (DOC), Inland Fisheries and Wildlife (IF&W), Marine Resources (DMR), and

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Economic and Community Development (DECD), as well as LURC and Public Utilities Commission (PUC), also provided advice and information to inform and guide the Task Force's deliberations. Rondi Doiron of the Maine Forest Service provided critical secretarial and organizational services.

Website. In order to provide the public with ready access to information considered by the Task Force and to provide comments, DOC established and maintained a website (www.maine.gov/windpower) housing detailed information regarding the meetings and issues under its purview.

Task Force meetings. Beginning its work in July 2007, the Task Force met 12 times to consider information and develop options focused on advancement of the three policy objectives noted above. In addition, DOC afforded Task Force members opportunities to view in the field both functioning wind turbines and areas for which turbines are proposed. Members of the public, including representatives of the wind power industry and concerned citizens, had opportunities at each Task Force meeting to provide comments on matters under discussion, and made important contributions to the Task Force's work through their active participation in its meetings and with the subcommittees (see Attachment C for a list of people who participated in various ways). The Task Force expresses its particular appreciation to residents of the town of Mars Hill who on several occasions traveled to the meetings in Augusta to share their experiences and concerns. Agendas and summaries of each of the Task Force's meetings, as well as public comments on this effort, are posted on the above-noted project website.

Overview of approach and topics considered. The Task Force's iterative study process focused on development and consideration of options to address key issues regarding the following: environmental and land use laws regarding siting of grid-scale wind power development facilities; encouragement of development of community-scale wind power (principally through the work of a subcommittee of the Task Force); and economic and related energy policies to encourage siting of wind power in ways that benefit Maine people. The following is a brief summary of the Task Force's inquiry in each of these areas.

- Environmental and land use issues. A primary focus of the Task Force's work involved consideration of options to address issues and concerns to remove potential barriers in Maine's environmental review process to efficient and effective decisions regarding siting of grid-scale wind power projects. The PUC's 2005 study of the wind industry's potential in Maine recommended such consideration. The discussion on this issue was informed by testimony presented by wind industry representatives, conservation groups and members of the public (some with concerns about adverse consequences of siting wind power projects, others with concerns about failing to do so). Based on this input, the Task Force considered a number of straw proposals for improvement of Maine's regulatory framework. As can be seen from the materials on the website, these straw proposals covered the full range of possibilities that Task Force members could identify. Staff at DEP and LURC assisted the Task Force in explaining and responding to questions regarding pertinent laws and regulations which those agencies administer.

The recommendations in Section II of the report are the product of the Task Force's deliberations on these issues.

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Given comparative lack of industry interest in pursuing development of offshore and nearshore wind resources in the near term, due at least in part to cost considerations and current technological limitations, the Task Force focused its discussion on issues regarding development of onshore areas. Estimates of the state's wind power potential do suggest there is very significant potential for development of wind power in ocean areas, particularly deeper waters beyond Maine's three-mile limit (See Figure 3 and Attachment D), and the Task Force recommends that Maine aggressively pursue capitalizing on that potential.

Section VI provides the Task Force's recommendations regarding nearshore and offshore wind energy development.

- Community-scale and smaller-scale wind power development. Notwithstanding its principal focus on grid- scale projects, the Task Force recognizes the benefits and importance of community and smaller-scale wind projects, which include their potential to address local energy supply and cost concerns and to foster public awareness of wind energy's benefits and acceptance of its related environmental and land use effects. In fact, the Task Force understands that in some countries with a good deal of wind power, most of it is community-owned. To address issues associated with smaller-scale wind power generation, such as community-sized or residential-sized projects, the Task Force appointed a subcommittee on community wind. The subcommittee was charged with exploring barriers and issues associated with the development of such projects in Maine. The subcommittee was chaired by Representative Bruce MacDonald and Representative Stacey Fitts, and held three well-attended morning workshops in the fall of 2007. At these workshops, information regarding existing and proposed facilities, the industry, and regulatory information from the PUC was presented and discussed through a series of speakers. The subcommittee prepared a series of recommendations supported by background information, all of which was presented to and accepted by the full Task Force. See Section III.
- Economic and Energy Policy Issues. To ensure a firm factual foundation and shared understanding of key issues, the Task Force considered presentations and information regarding Maine's wind energy potential (the nature, location and current and emerging technologies available to tap this indigenous renewable resource), the economics of the wind industry, and related electric power transmission issues.

PUC Chairman Kurt Adams and agency counsel Mitch Tannenbaum, and DEP Commissioner and Task Force member David Littell were particularly helpful to the Task Force in developing and presenting information regarding the regional energy system, electric transmission, the Regional Greenhouse Gas Initiative, and other renewable energy policy issues as they relate to wind power.

The Task Force also discussed approaches for setting state goals regarding wind power development in light of energy, economic development, and environmental policies. Task Force member Pete Didisheim made available to the Task Force analyses of how much wind power will be needed to satisfy New England states' renewable energy generation requirements, the New England Governors/Eastern Canadian Premiers' climate action plan goals, regional greenhouse gas reduction goals, and potential

locations in Maine where wind development appears to be economically viable (study prepared by Robert Grace, Sustainable Energy Advantage, LaCapra Associates, and AWS TrueWind). Information from this study, funded by the Natural Resources Council of Maine, the Conservation Law Foundation, the Union of Concerned Scientists, Environmental Defense, and the Kendall Foundation, was valuable to the Task Force in considering the potential role of wind power generation in Maine and how wind power fits within a larger context of renewable energy development and energy utilization across New England (see Attachment E).

The Task Force's resulting recommendations regarding assurance that wind power development benefits Maine people and communities and provision of economic development incentives are provided in Sections III and IV.

The Task Force's recommendations regarding state wind energy goals are provided below in Section I.

I. Goals for Wind Power Development in Maine

The Task Force was asked to propose specific goals for installed wind power development in Maine for the years 2010 and 2020, and to provide an estimate of the economic and emission-reduction benefits of achieving such goals. The Task Force concluded that the year 2010 was too near to be affected significantly by recommendations in this report, so we focused instead on the development of goals for 2015 and 2020.

The Task Force considered the issue of wind power goals for Maine within the larger context of New England's electrical generation system and Maine's energy and greenhouse gas reduction policies. We specifically considered information in the following areas: projections of electricity use through the year 2020, the role that energy efficiency could play in reducing growth in electricity demand, technology trends and economic viability for wind power and other renewable energy sources, the estimated amount and geographic locations of the wind resource in each of the New England states, and existing policies aimed at promoting clean energy development and reducing greenhouse gas emissions.

In 2001, Maine joined with each of the New England states and Eastern Canadian provinces in a Climate Action Plan designed to reduce greenhouse gas emissions to 10 percent below 1990 levels by 2020. This goal was enacted in Maine law in 2003¹, and in Maine's Climate Action Plan of 2004. It is clear to the Task Force that the development of a significant amount of new, renewable energy will be necessary to help meet Maine's greenhouse gas reduction commitments. A detailed modeling analysis prepared by a consultant team led by Bob Grace of Sustainable Energy Advantage confirmed this assessment. Specifically, the Grace analysis concluded that approximately 11,000 MW of wind power would be needed in New England in order to meet our 2020 greenhouse gas reduction goal, even assuming a major increase in energy efficiency across the region, substantial development of other renewable energy sources

¹ An Act to Provide Leadership in Addressing the Threat of Climate Change PL 2003 c. 237 (enacting 38 MRSA c. 3-A).

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(including solar and tidal), and significant contributions in greenhouse gas reductions from transportation and other sources. A higher amount of wind power would be needed if the states were to falter in these other areas.

Because of its size and geography, Maine has as much wind resource potential onshore as the rest of New England combined. The potential for offshore wind power development is also very large, yet the costs of offshore wind power remain high, particularly so in the near-term for deep tidal zones along Maine's coast. The viability of such projects in shallower waters to our south, closer to areas with large demands for electricity, may be more promising.

With these factors in mind, the Task Force has concluded that **Maine should seek to host at least 2,000 MW of installed wind power capacity by 2015, and at least 3,000 MW by 2020. The Task Force believes that at least 300 MW of the 2020 goal could be achieved with projects built offshore.** The Task Force recognizes that achieving these goals is not entirely within Maine's control, and will depend on factors such as technology developments, future energy costs, federal policies, and more. Further, as the Governor charged the Task Force, these goals should be accomplished without compromising Maine's special quality of place, and in a fashion that provides tangible benefits for Maine people.

We believe that a significant proportion of the wind power projects needed to meet these goals can be located in areas at lower elevation (below 3,000 ft), and with lower wind speeds, than were considered the cutoff for economically viable projects even a few years ago. We base this conclusion on the fact that wind developers currently are pursuing projects in Aroostook County potato fields, Washington County blueberry barrens, and relatively low-lying hills elsewhere in the state.

This level of wind power development could have significant economic benefits for Maine. Construction of 3,000 MW of wind power would involve billions of dollars in capital investment, and would generate more than \$25 million in annual property tax payments. Lease payments also could be substantial and important to Maine people. If projects are built in Aroostook County potato fields, for example, the lease payments to farmland owners could represent a very significant source of revenue – as has been demonstrated in other states.

Most of the employment associated with wind power projects occurs during construction. Building 2,000 MW to 3,000 MW of wind projects in Maine would involve dozens of Maine companies and employ several hundred workers, many with specialized skills, over an extended period. Each megawatt of installed capacity is likely to generate over \$125,000 in construction wages (yielding some \$250 to \$450 million overall). These projects would generate high-quality maintenance jobs, and could stimulate jobs associated with the manufacture of turbine components. Some turbine component manufacturing jobs already exist in Maine.

Wind power development can contribute to Maine's energy security and energy independence by reducing dependence on foreign sources of energy. The environmental benefits of wind power development in Maine would occur within a larger context of the region's efforts to reduce greenhouse gas emissions 10 percent below 1990 levels by 2020. The Task Force believes that Maine must be prepared to do its part in meeting this goal, but we also expect the other New England states to carry their fair share of the load.

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There may be a limit to how much wind power development the people of Maine will accept over time as part of their contribution toward the broader common purpose of addressing climate change, especially if other states are not also making similar commitments. If Maine is called upon to achieve more than its responsibilities for meeting the region's energy and greenhouse gas reduction goals (including through wind power, other renewables, energy conservation, etc.), then the region should contribute to meeting Maine's related needs (e.g., reduced electrical rates, transmission costs, and resource conservation needs).

Recommendation

❖ Track progress toward achievement of state wind energy goals

In order to ensure ongoing progress, the Task Force recommends that the Office of Energy Independence and Security (OEIS) track progress toward meeting the above-stated goals on an annual basis. The Task Force further recommends that a comprehensive assessment be conducted in five years. Specifically, the Task Force recommends that the Governor's Office by December 2013, utilizing state agencies as appropriate, conduct a full review of the status of meeting the 2015 wind power goals, and the likelihood of achieving the 2020 goals. This assessment should examine experiences from the permitting process, success in implementing the recommendations of this report, projections of wind developer plans, technology trends, and the status of Maine and each of the other New England states in making progress toward reducing greenhouse gas emissions. The assessment should provide recommendations to the Legislature, including any revisions that may seem appropriate regarding Maine's wind power development goals, permitting processes, identification of expedited permitting areas in LURC territory (see related recommendation in Section II), or policies that may seem necessary and appropriate, specifically including, but not limited to, consideration of whether or not creation of an independent siting authority is advisable.

The Task Force suggests that OEIS coordinate this effort with related recommended efforts to monitor pertinent technological developments and address their state policy implications. See Section VII, below.

Lead agency: OEIS; ongoing

II. Permitting Grid-Scale Wind Power Projects

The principal issue focused on by the Wind Power Task Force has been determining how Maine's process for licensing wind power projects could be made more rational and streamlined. This focus is related to the first of the Governor's objectives in creating the Task Force – that is, making Maine a leader in wind power development. Grid-scale wind power projects are considered by the Task Force to be projects which are large enough to trigger the Site Location of Development Act. In general terms, the Site Law trigger for wind power projects is the creation of at least three acres of what are termed “impervious surfaces,” which consist of rooftops, roads, parking areas, turbine sites, and other similar areas not revegetated after being stripped of vegetation, or development of an area 20 acres or more in size. As used in this report,

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the term “grid-scale wind power project” includes, in addition to generating facilities (turbines), transmission lines, together with all associated equipment and facilities, that are constructed solely for the purpose of electrically and physically interconnecting the generating facilities to the transmission system (i.e., the power grid).

To put this issue of wind power siting in its historical context, Maine’s regulatory system was initially developed almost 40 years ago, long before grid-scale wind power projects were a consideration. Therefore, it should come as no surprise that the regulatory system was not set up with modern wind power projects in mind.

The Problems Identified

The Wind Power Task Force has identified the following problems with Maine’s process for licensing or permitting wind power projects:

- **Confusion over the benefits of wind power development.** Wind power displaces electricity generated from fossil fuels and reduces emissions of atmospheric greenhouse gases and a variety of other pollutants (SO_x, NO_x, mercury, etc.). However, because back-up plants, many of which burn fossil fuels, are needed for when wind velocities are low, there has been some confusion among both the public and decision-makers over whether and the degree to which these benefits really exist. This confusion needs to be clarified dispositively so that the regulatory process can focus on real environmental issues.
- **Maine’s current regulatory approach does not recognize the benefits of wind power.** As stated above, Wind power projects provide positive environmental benefits by displacing fossil fuels and avoiding emissions of atmospheric greenhouse gases and a variety of other pollutants (SO_x, NO_x, mercury, etc.). However, Maine’s regulatory processes for evaluating and reaching decisions on permits for development projects have not been designed to consider such benefits. Although an explicit “balancing” of project benefits with project impacts is not proposed, the benefits of wind power should be taken into account in designing an appropriate regulatory process as proposed herein.
- **The requirement that projects fit harmoniously with the natural environment.** The Site Location of Development Act, which provides for the principal but not the exclusive state land use approval typically needed to site a wind energy project in the organized portions of Maine, includes a requirement that the project be found to fit harmoniously with the natural environment from scenic, as well as other, perspectives. (*See* 38 MRSA § 484, sub-§3. LURC’s standards for review of proposed development, including wind energy projects, and LURC’s rules regarding rezoning to a planned development subdistrict, contain a comparable requirement.) (*See* 12 MRSA § 685-B, sub-§4; LURC rules chapter 10.24[3]). However, grid-scale wind power projects are, in many cases, highly visible features of the landscapes where they occur as they consist of multiple turbines, often on or near a ridge line, and transmission lines to hook the power produced into Maine’s electrical grid. As a result, in the view of the Task Force, this test, as it concerns potential effects on scenic resources, is inappropriate for grid-scale wind power projects. Clarification of how this standard applies to evaluation of the potential effects of wind power projects on scenic resources, or replacement of this standard with an alternative wind power-specific standard, is therefore advisable.

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- **LURC's rezoning criteria.** For LURC's High Mountain Area Protection Districts (established for all areas above 2,700 feet), the Commission requires proof that the rezoning to a planned development subdistrict would provide "substantially equivalent protection" compared to that provided by the existing High Mountain Area Protection District (P-MA subdistrict). High Mountain Area Protection Subdistricts were designed to protect fragile mountain environments. While logging, ski area facilities (which by necessity must occur in mountain areas), roads and utility facilities are allowed in the P-MA zone subject to permitting, wind power development is not allowed in the P-MA subdistrict, or any other LURC protection subdistrict. A requirement that an applicant seeking rezoning for a planned development subdistrict demonstrate that a string of turbines, roads and transmission lines provides a substantially equivalent level of environmental protection to that provided under a P-MA zone is, in the judgment of the Task Force, inappropriate. Further, while LURC's findings and rulings in these regards are due deference, they have not been tested in the courts, and future Commissions could interpret these standards differently than the current Commission. Lastly, LURC's rezoning criteria also include a requirement that the developers show that they have chosen the "best available site." This requirement applies in both High Mountain Protection Area Districts and in other districts as well. Again, while LURC is due deference, there may be broad differences in interpretation of this standard. Clarification of this standard as it relates to wind power is therefore advisable.
- **Rezoning currently occurs entirely in reaction to development plans.** At the present time, rezoning for wind power development occurs only in response to applications from developers. The 1997 Comprehensive Land Use Plan called for creation of a statewide plan for wind power development, but such a plan has not been done. More recently, state agencies attempted to create siting guidelines for wind power projects, but the resulting document is very general and not likely to result in significant guidance to developers (Maine Department of Environmental Protection 2005). A more comprehensive approach is needed that helps guide wind power development proposals, based on general compatibility with existing land uses.
- **Limited energy expertise among the members of LURC and BEP.** Members of LURC and BEP have traditionally been chosen based upon their expertise regarding environmental and natural resources, as opposed to energy-related, issues. Decisions on wind power projects are highly complex and informed decisions require considerable knowledge of energy systems, energy markets, transmission line systems, and the relationship of wind power projects to them. Regulatory experience reviewing wind power projects has demonstrated the importance of having such expertise represented on decision-making bodies.
- **Lack of resources for permit processing and delays in permit processing.** The state agencies which process the relevant permits, LURC and BEP, can require substantial review periods, particularly when one of these volunteer, citizen boards has several pending projects which are highly complex. This has been a particular issue with LURC, which is currently dealing with Plum Creek's proposal for a large-scale Lake Concept Plan, as well as several wind power projects. Given the nature of volunteer citizen boards, adjudicatory procedures, and the uneven nature of the flow of major projects, it is difficult for boards to meet all of their obligations in a timely manner. For example, adjudicatory hearings typically require

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three to five days and these proceedings are in addition to board or commission meetings on other topics. Further, the demands placed on these boards increasingly require specialized expertise. Providing these resources, as well as the staffing required for presentations and the preparation of board orders, is particularly challenging given the State of Maine's current budgetary situation. As a result, complex projects, not necessarily just wind power projects, can face delays largely due to a backlog of projects or the complex, unfamiliar issues they raise. Such delays are costly to the applicants and discourage wind power development in Maine.

- **Differences in processes between the agencies.** While very similar in the issues that they address in reaching siting decisions, agency processes differ in some regards, both because their mandates differ and because they have evolved independently. As a result, similar projects potentially can be subject to different state-level review standards and timeframes depending on whether they are located in the unorganized territories or not. Further, some projects occur in the jurisdictions of both DEP and LURC, and these differences in processes can be particularly confusing or frustrating to wind developers and counterproductive in achieving timely consideration of these projects. When considering this issue, it is important to recognize that there is a fundamental difference in the mandates of DEP and LURC which results in confusion in understanding the regulatory requirements of these agencies. DEP is an environmental permitting agency (“siting”), while LURC must also determine the appropriateness of locating major projects in specific areas (“zoning”) before it even gets to the siting criteria.
- **Lack of clarity on some regulatory issues.** In the case of a few issues, wind power projects have specific characteristics which are different than those of other types of development projects. For example, in the case of wind power projects, it is particularly important to understand impacts on birds and bats and how noise from a variety of components of wind power projects can affect people living and working in the vicinity. Further, as explained above, because their requirements have evolved largely independently, there are some differences between the specific approaches taken to such regulatory issues by LURC and DEP. DEP has very specific rules and standards that have developed over almost 40 years for the types of development it has regulated under the Site Location of Development Act and Natural Resources Protection Act. The standards that govern LURC's rezoning decisions are, by their nature and purpose, not comparably detailed and the Task Force heard testimony that they are inherently less predictable, making it difficult to justify the multi-year investment in investigations and site acquisition to determine whether or not development of any given site is cost-effective enough to submit it for permitting. These regulatory differences and lack of clarity on some issues have led to confusion or frustration among developers, lack of regulatory predictability, and inefficiencies.

Recommendations

Based on this assessment of the problems, the Wind Power Task Force recommends that the following be considered by the Governor as solutions to the problems identified above.

❖ Clarify the benefits of wind power projects

The topic of whether or not wind power projects actually result in reductions of atmospheric pollutants has somewhat surprisingly turned out to be a major issue in the public dialogue at recent hearings. Legislation to implement the recommendations of the Wind Power Task Force and statements from state officials should clarify that wind power projects do result in reductions of atmospheric greenhouse gases and other air pollutants (specifically, but not limited to CO₂, NO_x, SO_x, and mercury – see Appendix L). The Task Force recommends that, with input from DEP and PUC, this issue be put to rest by a dispositive policy statement from the Legislature.

❖ Identify areas where permitting for wind power development will be streamlined

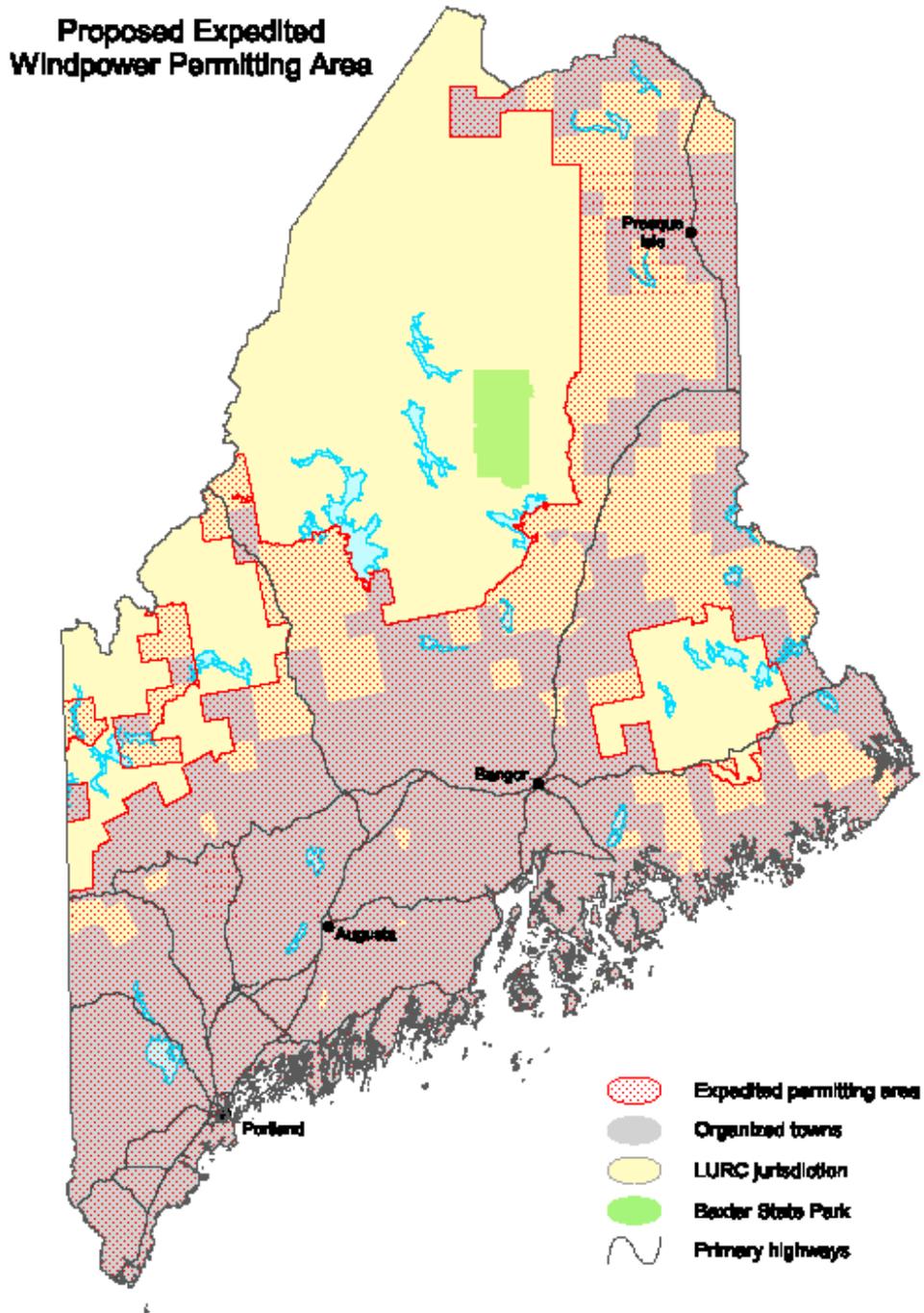
The Task Force believes that potential conflicts over the siting of proposed wind power projects would be substantially reduced if the state designated where wind power projects would qualify for expedited permitting. In the judgment of the Task Force, the area where permitting should be expedited (Fig. 2) is the entirety of Maine's organized towns and portions of the unorganized territories which lie on the fringe of the jurisdiction of LURC where unorganized towns are intermingled with plantations and organized towns.²

² More specifically, the Task Force recommends that the following types of areas be designated for expedited permitting:

- All organized towns (as regards the area to be included for expedited permitting, the Task Force's intent is to recommend inclusion of all portions of the state's organized area above the mean high water line in the case of waters subject to tidal influences [i.e., it does not include state owned submerged lands beyond the intertidal zone]);
- Portions of the unorganized territories that are generally on the fringe of the jurisdiction where unorganized townships are intermingled with plantations and organized towns, but excluding 1) broad areas that encompass concentrations of ecological, recreational and/or scenic values that are among the most significant in the jurisdiction, and 2) smaller areas (primarily, but not necessarily limited to, P-MA zones) that possess ecological, recreational and scenic values of particular significance; and
- Areas within approximately one township (6 miles) of certain public highways and which include potential development sites under active investigation, and which do not qualify for exclusion under the previous bullet.

The Task Force recognizes that certain areas within the expedited area are not available for wind power development. These include conservation lands owned by the U.S. Department of Interior, certain other public conservation lands or portions thereof, and certain lands owned by private entities where such development is not consistent with the management objectives or terms of acquisition of such lands.

Figure 2



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The Task Force recommends that the map depicting the expedited permitting area and a legal definition of where it exists within Maine be made part of the legislation to implement these recommendations. This approach has a number of advantages: principal among them is eliminating uncertainty and resolving this issue definitively now. The legislation should also articulate the process outlined below by which LURC could add areas designated for expedited permitting. In this regard, the Task Force recommends that when petitioned to do so, LURC consider adding areas to the portions of LURC jurisdictions designated for expedited permitting. Such areas would be limited to logical geographic extensions of the areas already identified for expedited permitting, and which are deemed important to meeting the state's goals for wind power development, and further, where their inclusion would not compromise the principal values of the LURC's jurisdiction and the goals of the Commission's Comprehensive Land Use Plan.

In recommending establishment of the expedited permitting area, the Task Force intends that site-specific issues regarding projects proposed, including but not limited to potential impacts on significant wildlife habitat, or other protected natural resources or existing uses, would continue to be addressed through the applicable DEP or LURC permitting process. Likewise, the Task Force recognizes that wind energy development would not be appropriate in certain areas, including but not limited to conservation lands owned by the U.S. Department of Interior, certain other public conservation lands or portions thereof, and certain lands owned by private entities where such development is not consistent with the management objectives or terms of acquisition of such lands.

Areas not included in the expedited permitting area would be subject to the existing regulatory structure and standards, and nothing in this report is intended to change, either expressly or by implication, the criteria by which such projects would be evaluated. Similarly, nothing in this report is intended to change, either expressly or by implication, the criteria by which projects currently under review by LURC or DEP are evaluated.³

❖ **Streamline permitting**

Throughout the expedited permitting area, (see above), limit consideration of a grid-scale wind power project's effect on scenic character to consideration of the wind turbines' scenic impacts on public resources of statewide or national significance, and establish an approach to scenic reviews appropriate for wind power projects.

Essentially, this involves establishing an approach to scenic reviews of wind power projects more suited to permitting of wind turbines than existing standards designed for other types of projects (see Attachment M). As applied to wind turbines, a scenic analysis would be triggered by impact on a defined scenic resource found to be of statewide or national significance. See Attachment G for the definition of these scenic resources.⁴

³ The Task Force recognizes that a permit application for a wind power project, like any other development project, will be governed by applicable laws and rules in effect on the date on which the permit application is accepted.

⁴ The scenic impact of supporting infrastructure such as buildings, roads, parking lots, and power lines will be evaluated under existing Site Law scenic criteria, as may be modified consistent with the Task Force's desire to streamline the permitting of wind power projects located in the expedited permitting area, and will not be contingent on visibility from resources of state or national significance.

❖ **Within the area where permitting will be expedited in the unorganized territories, eliminate LURC's rezoning process with respect to grid-scale wind power project applications**

As outlined above, wind power development was not specifically contemplated when the LURC rezoning process was initially developed. Rezoning a parcel in effect authorizes a use that, while not authorized under the existing district, is deemed appropriate for the proposed area. If, as is proposed herein, it is determined by legislative action that wind power development is appropriate in the area identified for expedited permitting, the rezoning process is no longer needed. Under current law, if a proposed wind power project is located partly in the organized area and partly in the unorganized territories of the state, and if, as proposed herein, the project is an allowed use within the proposed district(s) of the unorganized territories, then DEP may review the project as a whole and no permit from LURC is required. The Task Force notes that transmission lines for wind power projects in the unorganized territories of Maine will in many cases extend into organized areas to connect with the grid. Consequently, in such cases, if a grid-scale wind power project is established by the Legislature as an allowed use in the expedited permitting area and the project's generator lead were proposed to be a part of the project, DEP would have authority to assume permitting jurisdiction even if the project's turbines were located in the unorganized territories.

❖ **Expedite permit processing at DEP**

This recommendation contemplates refining the way in which permits for wind power projects are handled by the DEP. This would include:

- Making the Commissioner of DEP responsible for issuing all original permits for wind power projects. This would involve an expedited process and timeframes for permit decisions. (Note: Meeting these requirements for expedited consideration will, in some cases, require retaining expertise from outside state government). The costs of outside review necessary to meet these timeframes will require a special agency fee, which at least some wind developers have indicated they are willing to pay⁵.
- Having the BEP function as an appeals board for decisions made by the Commissioner as outlined above. BEP hearings on appeals would be based on the record assembled by DEP in considering these cases.

⁵ Specifically, the Task Force recommends that the DEP Commissioner make decisions within 185 days. (Note: The 185-day or 270-day timeframe starts after a completed application has been accepted.) So that the application can be processed within these timeframes, applicants are responsible for doing requisite studies for permitting – such as reviewing available data and knowledge bases, delineating wetlands and vernal pools in the project footprint, and one to two seasons of bird/avian studies – before filing an application or negotiating alternative measures (e.g., mitigation) with the agencies. The Task Force recognizes that the transmission line portion of a project may require federal approval by the U.S. Army Corps of Engineers (ACOE) due to wetlands issues, and final resolution of the state review may be contingent on completion of the ACOE's review. Consequently, the DEP 185-day approval timeline is meant to address only resolution of matters subject to DEP's sole jurisdiction. A hearing, if any, would require a 270-day review (an additional 85 days) and would be held by the Commissioner pursuant to DEP rules. Appeals to the BEP would be based on a record review with a 120-day timeframe for appeal decisions. Court appeals would go directly to the Law Court.

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- Having legal appeals from decisions go directly to the Law Court rather than to Superior Court to emphasize the importance of permitting wind projects without long legal appeals.

❖ **Add energy expertise to DEP and LURC**

For wind power projects, the Task Force recommends adding the chair of the PUC or his or her designee as a non-voting member of BEP and LURC. The PUC Chair would not be required to attend hearings, but would be allowed full participation with the BEP and LURC in deliberative sessions with non-voting status so as to avoid the potential for a deadlock created by changing the number of voting members. The addition of the PUC Chair as a non-voting member will not affect the PUC's current ability to place information into the record of agency proceedings.

❖ **Supplement staff resources and expertise available for permit processing**

Encourage LURC and DEP to charge permit processing fees that enable them to hire outside expertise they need to facilitate the processing of permits in a complete and timely manner (not the entire cost of review). LURC and DEP already have this authority, although DEP's authority requires amendment, and there is some evidence to suggest that agencies have been reluctant to use it for fear of criticism of excessive fees. The Task Force recommends that the Governor encourage the Commission, the Board and the Department to utilize this mechanism to get the resources they need to reach complete and timely decisions.

❖ **Adopt and adhere to timelines for permit review**

DEP already has timelines for permit review (185 days)⁶ and is able to meet them consistently for over 97 percent of its permits. LURC should adopt these same timelines and adhere to them.

❖ **Harmonize the regulatory processes used by DEP and LURC⁷**

As outlined earlier, because the two state regulatory processes have somewhat different mandates and have evolved independently, LURC and DEP now have somewhat different processes, forms, etc. for processing wind power development projects. These should be

⁶ Permit review timeframes can be put on hold at the request of an applicant to allow the applicant to gather more information required to meet applicable standards. By allowing applicants to put applications on hold, the DEP does not need to deny an application which it might be able to approve with the proper information, and applicants avoid the need to withdraw and resubmit the entire application, unless they prefer to do so.

⁷ DEP and LURC should be directed to revise their administrative procedures to ensure that wind power permit applications are processed as uniformly and expeditiously as possible statewide, and to that end to make administrative changes that may be accomplished under existing law (rule or statute) as soon as practicable. The agencies would consult with interested parties in making such changes. The agencies should also be directed to initiate rulemaking (minor technical rules) and identify any statutory changes necessary to that end as soon as practicable. The Task Force suggests that the agencies jointly report to the Legislature on recommended statutory changes. Potential changes in administrative procedures include, but are not limited to, creation of a common application form and application fee schedule (for DEP the removal of the special fee cap will allow more use of outside experts); creation of common protocols regarding information needed to review key issues; creation of a common and clear approach and schedule for determining if an application is complete for review; developing a schedule for application processing; using consultants to facilitate review; developing a common criteria for decisions on when to hold a public hearing; and developing common procedures for circulating draft orders.

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harmonized to facilitate the process for reaching a decision on wind power proposals as soon as practicable.

❖ Refine LURC's approach and standards for the review of certain issues

LURC lacks specific standards for the review of certain issues commonly raised by wind power projects or uses standards which are not as refined as those used by the DEP. While LURC's standards have proven comprehensible, the Task Force recommends that LURC adopt the same approach as DEP to review of the following issues:

- Bird and bat impacts, in accordance with study protocols as outlined in a memorandum, developed by DEP and DIF&W and presented to the Task Force at its January 9, 2008 meeting (see Attachment H).
- Noise (see related recommendation below)
- Shadow flicker (see related recommendation below)
- Impacts on scenic resources of state or national significance (see Attachments G and M).

The Task Force notes and endorses that the attached recommendations regarding guidelines for wind power project ecological studies (focused on assessing potential avian and bat impacts) and noise and shadow flicker (Attachments H and I, respectively) are to be used as guidance by DEP, LURC, IF&W and other review agencies. These are "guidance" rather than rules because the state of the science is advancing in these areas, particularly for evaluation of wind power projects. Using guidance rather than rules allows reviewing agencies to apply professional and scientific judgment to adjust the guidance. This is particularly important if, as we expect, significant study over the next two to three years advances the state of the science on these issues. These attachments reflect current scientific understanding of these issues as reflected in for example the National Research Council of the National Academies' "Environmental Impacts of Wind-Energy Projects" (2007).

❖ Clarify state approach to noise and shadow flicker issues

In accordance with information presented by DEP Commissioner Littell, the Task Force finds that, with one exception (see below), no change in DEP's rules is needed to address wind power projects' potential noise impacts. The Task Force further finds that shadow flicker, which may be an issue with some proposals, is an issue which is amenable to objective, quantitative assessment and that DEP and LURC can appropriately address this issue under existing authority. Accordingly, the Task Force recommends that:

- DEP amend its Site Law rules (Chapter 375.10(E)) to give DEP clear authority "to establish any reasonable requirement to ensure that the developer has made adequate provision for the control of noise," and that DEP adopt the several refinements of its approach, under existing law, for assessing wind projects' potential noise impacts, both prior to and after construction, outlined in the memorandum presented to the Task Force at its January 9, 2008, meeting (see Attachment I); and
- DEP and LURC develop guidance, for adoption by both agencies, on protocols to address noise and shadow flicker issues, which includes identification of information that applicants must provide and how that information will be assessed.

❖ **Refine LURC's Comprehensive Land Use Plan**

The Task Force recommends that LURC be called upon to refine its Comprehensive Land Use Plan (now under revision) to deal with wind power development in a manner consistent with these recommendations.

❖ **Ensure tangible benefits for Maine people**

Consistent with the Governor's third objective for the Wind Power Task Force, "To maximize the tangible benefits Maine people receive from wind power development," the Task Force recommends adding to the regulatory approval criteria for a wind power project that, in addition to meeting environmental standards, projects be found to provide significant tangible economic or environmental benefits to Maine people. These projects may include but are not limited to the following: construction-related employment; local purchase of materials; employment in operations and maintenance; property taxes; reduced electrical rates; natural resource conservation; or other comparable benefits, with particular attention to assurance of such benefits to the host community and communities that surround the wind power project; and that construction, operations and maintenance activities shall be performed by trained, qualified and licensed workers in accordance with 32 MRSA chapter 17 and other applicable laws. This additional permitting requirement is justified because wind power development will receive expedited permitting as outlined above, and has unique, unavoidable effects on public resources and public uses.

❖ **Ensure that all commercial wind power projects meet state rules regarding noise and setback**

As noted above, the Site Law is triggered by the scale of development: in general, a development project of 20 acres or more in size or which creates 3 acres or more of impervious surface triggers state jurisdiction under the Site Law. As noted earlier, such a project is termed a "grid-scale wind power project" in this report. Consequently, some smaller but yet commercial wind developments (a project whose primary purpose is generation of power for sale to the grid as opposed for the generator's own use) will not trigger the Site Law would not be subject to state review and siting requirements that address noise, shadow flicker, safety and related concerns. Given the relatively recent emergence of the wind industry in the state, few Maine municipalities have ordinances that address wind energy development specifically; and many municipalities may lack the technical resources needed to evaluate potential noise and related impacts from commercial wind facilities. The Task Force notes that a commercial wind power project, even if not grid-scale, could present noise-related or shadow flicker effects of concern to persons who live in the vicinity. In order to ensure consideration of these issues, the Task Force recommends that, if the proposed development involves location of turbines in a municipality and is not otherwise subject to DEP permitting under the Site Location of Development Act, a developer obtain from DEP a certification that the proposed facility meets the requirements of DEP's noise control regulations promulgated under the Site Law, and pertinent DEP siting requirements regarding shadow flicker.

Research into the issue of safety-related setbacks for wind energy turbines shows that the setbacks developed in other jurisdictions through ordinance and regulation vary from 105 percent of the tower height (including rotor extended vertically) to more than 1,000 feet, and

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differ as well regarding the point from which setback is measured (e.g., property line or dwelling). Setbacks appear to have been designed to address potential concerns such as ice throw, rotor throw, and tower collapse. The Task Force notes that one turbine manufacturer, General Electric (GE), suggests a distance of 1.5 times the total height of the tower (hub height plus rotor diameter)⁸ to address the risk of ice throw. The Task Force notes that for planned development subdistricts LURC has a general setback requirement of 400 feet, which may be greater or lesser to address project-specific circumstances. In the state's organized areas, development setback is an issue typically addressed through local ordinance. The Task Force did not evaluate the merits of particular setbacks, and accordingly, makes no recommendation regarding specific standards. The Task Force does believe that this is an issue which should be addressed, as appropriate, in making land use permitting decisions. Accordingly, with due consideration of GE's above-noted setback recommendation and that of other manufacturers or professional associations, the Task Force suggests that both DEP and LURC ensure this issue is addressed in accordance with their current authorities (amended if necessary). Further, the Task Force recommends that DEP, in the context of the certification for commercial projects not otherwise subject to state review as suggested above, recommend a setback appropriate to protect public health and safety, based on the recommendation of a qualified engineer.

The Task Force notes that a municipality may decide to address these and additional issues through a local ordinance more stringent than pertinent DEP standards. The Task Force suggests that the recommended model state ordinance (see Section III) be designed to facilitate well-coordinated local and state review.

The Task Force suggests that DEP be authorized to charge a developer an appropriate fee for this review and certification, which may be conditioned on specific siting requirements, potentially including setbacks from residential structures, as appropriate. In addition, the Task Force recommends that DEP's certification decision itself not be within the original jurisdiction of, or subject to appeal to, the BEP, or subject to judicial review other than as an aspect of an appeal of a pertinent municipal land use decision.

Conclusion on Permitting Wind Power Development in Maine

In sum, the Wind Power Task Force is persuaded that there are a number of problems with the state's existing regulatory system, that these problems are significant, and that they deserve serious attention. These problems have arisen because Maine's environmental licensing process was initially set up almost 40 years ago, long before grid-scale wind power development was seen as a viable use of the Maine landscape. The Task Force has observed that these problems have resulted in considerable confusion and frustration from several perspectives, including those of developers, regulators, other decision-makers, and persons who care about expediting the development of Maine's wind resources, as well as those focused primarily on maintaining Maine's special quality of place.

The Task Force is persuaded that resolving these problems, as outlined earlier, will indeed assist Maine in assuming a leadership position on wind power development in the Northeast, while maintaining its special quality of place and providing tangible benefits for Maine people.

⁸ See: http://www.gepower.com/prod_serv/products/tech_docs/en/downloads/ger4262.pdf.

III. Encouraging Community-Scale Wind Development

Currently, approximately one percent of Maine's electrical generation is from wind power, and a tinier percentage than that comes from small and community-owned wind generators. Yet the state has enough potential wind power resources to provide a far higher percentage. The benefits of wind power are not just available in the large-scale setting of wind farms where the generated power is sold to electrical utilities. Economically and socially beneficial applications using residential-sized up to commercial-sized wind turbines on a smaller scale are also possible. The purpose of this section is to present the potential benefits of, and barriers to, small and community-scale wind power in Maine, concluding with recommendations to remove barriers and promote additional small and community wind in Maine.

Generator Sizes

For purposes of this discussion and the ensuing recommendations, three sizes of wind generators are discussed:

1. Small, so-called "appliance" or residential-sized turbines for individual residences or small businesses (up to about 20 to 25 kilowatts [kW]);
2. Medium-sized turbines that are above residential-sized up to 250 kW, and may be at roughly the state's net metering limit (100 kW), that might be useful for groups of homes, schools, or larger electricity users;
3. Larger projects comprised of turbines exceeding the medium-sized class, ranging from the typical 660 kW machines to 2 MW turbines. Ownership in these projects has a primary community component, though there may be a developer involved due to financing and technical resources needed to complete a project.

Differentiating among the three scales of community wind becomes important for some of the particular recommendations below.

Ownership Patterns

Small and community wind projects are defined not only by size, but also by ownership. By definition the category excludes wind power development by commercial wind power developers as primary owners. Community wind is defined as generation capability owned by individual homeowners, individuals or groups of local investors forming LLCs, or by local institutions such as hospitals or businesses, or as wind projects developed and installed on public property by a municipal entity, such as a municipal utility, school district, county jail, or other small jurisdiction. These owners may partner with commercial developers for technical or financial reasons.

LLC Ownership Flip Model. One ownership model of particular interest is based on the so-called Minnesota "Flip Model," which allows outside investors to become a partner by underwriting up to 45 percent of the cost of the project in return for federal income tax benefits.

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Ownership of the project is flipped back to the local entity when the federal tax benefits cease after 10 years.

Small and Community Wind Potential

Small and community wind projects have the potential to positively affect public acceptance of wind power, while in some cases also contributing clean, renewable power to the electrical grid. It is anticipated that the eventual appearance of wind turbines in many locations spread across the state will raise public awareness that wind indeed is a usable resource for power generation and that technology exists to exploit it. With increasing public awareness that fossil fuel generation is a major cause of global warming, wind power will likely come to be seen as a good way for citizens to take responsibility for and mitigate the environmental impacts of traditional electricity generation. Community wind projects provide an important opportunity to educate the general public on issues associated with climate change, reduction in carbon dioxide emissions, and alternative energy sources. By their nature, community wind projects do not raise some of the issues that larger-scale projects do. These aspects of community wind should be taken advantage of – the value of community wind projects goes beyond basic economics. Today's small residential-scale wind systems cost as little as \$13,000 installed, which makes this technology accessible to individual consumers. Bringing the option of wind energy to everyone allows people to become involved in the overall goals of the state.

While the Task Force's subcommittee viewed the major potential of community wind as primarily educational, the point should not be lost that in some countries with major wind power contributions to the grid, community wind is the dominant form of ownership.

For example, 84 percent of the turbines in Denmark are owned by residents instead of commercial investors (Bolinger 2004). In Germany 88 percent of the turbines are community-owned (Bolinger 2004). This picture offers evidence that, over the long term, community wind in Maine could move from small-scale educational and awareness-raising efforts to larger-scale contributions to the electricity generation system. In Maine, more than 50 small/residential-scale wind systems were installed in 2007 including one at former President Bush's home in Kennebunkport. More than 150 additional small/residential-scale wind systems are expected to be installed in Maine in 2008.

Economic Contribution

A study developed by the University of Minnesota determined that community wind in the United States has a greater impact on local economies than does corporate wind (Kildegard & Myers-Kuykindall, 2006). According to the study, "community wind has four times the economic impact on local value added, and 2.8 times the impact on local job creation, relative to a corporate-owned development."

Barriers to be Overcome

- **Land use restrictions.** Local land use ordinances may not address wind turbines, resulting in uncertainty over what local standards may apply to a project.
- **The high cost of feasibility studies.** The feasibility study portion of project development may be difficult for some projects. Typically, feasibility studies cover financial, wind speed

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and duration, siting, and grid-connection components, all of which may be complex issues depending on the scope and size of a proposed project.

- **Poor wind resources.** Current technology limits the locations where wind power can be sited due to low wind velocities.
- **Access to transmission lines.** Some prime locations for wind power development may be at sites far from existing transmission lines – this too can limit feasibility.
- **Interconnection process.** Interconnection studies, and the process of arranging to connect to the grid, may be difficult for some projects.
- **Securing financing.** Arranging for financing may be difficult, particularly for projects lacking a private partner.
- **Lack of state incentives.** Lack of state incentives may hinder financing and/or economic viability.
- **Lack of support from the community.** Community support is important for gaining local approvals – this highlights the potential importance of the educational aspects of such projects.

Recommendations

❖ **Develop a model municipal wind power ordinance**

- The model ordinance is intended for voluntary use and adoption in municipalities statewide. It is intended to serve as an incentive for the development of wind power by providing standard ordinance language. Since few communities have such ordinances currently, SPO should: 1) monitor adoption and implementation of local wind energy ordinances to determine if the model ordinance is enabling communities to reasonably regulate wind energy⁹ and successfully address wind energy project-related issues; and 2) develop and periodically recommend changes to the ordinance's provisions as warranted. The model ordinance should address issues of potential community concern including setbacks, height, and noise issues, and address three general classes of community-scale wind (smaller-scale, medium, and larger).

Lead agency: SPO; complete by Spring 2009

❖ **Remove obstacles at the pre-construction stage**

- Support and expand the PUC agreement with the University of Maine to build capacity in Maine to assist with meteorological studies. This partnership is also a logical one to expand upon to help address other obstacles to wind power development (such as assistance with economic analysis). The Task Force recognizes that additional funding may be needed to expand this partnership.
- Request the PUC to study and develop appropriate rules regarding fee structures and timelines for utility companies to respond to requests for interconnection studies. The Task Force recommends a report back to the Legislature's Joint Standing Committee on

⁹ If communities are found to be unreasonably blocking wind energy development, additional actions may be justified.

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Utilities and Energy (Utilities and Energy Committee) on findings and recommended rule changes to correct deficiencies in present practices by January 2009.

- Investigate use of existing cell phone towers as sites for collecting meteorological data (MET studies).

Lead agency: PUC; complete by Spring 2009

❖ Provide a data clearinghouse

- Assist with other aspects of wind power development by building a knowledge base, using the PUC-University of Maine partnership mentioned above as a foundation, and drawing in Maine Maritime Academy and the Community College System.

Lead agency: PUC; ongoing responsibility.

- Expand the OEIS to include a clearinghouse and outreach function to provide information to the public on available grants, consultants with special expertise, and lists of equipment providers.

Lead agency: OEIS, through legislative approval as necessary.

❖ Provide financial incentives/economic assistance

- Redefine PUC proximity rule such that proximity means within a service territory

Lead agency: PUC; report to Utilities and Energy Committee by January 2009.

- Develop revolving loan program (i.e., Efficiency Maine) to assist in feasibility studies. PUC currently has a program for renewables that is geared to construction; the program's rules should be refined so that work at the feasibility stage would be eligible as well.

Lead agency: PUC; report to Utilities and Energy Committee by January 2009.

- Allow net metering at or below 100 kW for generation capacity in group ownership.

Lead agency: PUC, working with Utilities and Energy Committee.

- Offer rebates for small installations (appliance size) similar to the solar rebate program presently offered at the PUC. This could be done as an expansion of the existing solar program, recognizing wind power, like solar power, as an emerging technology but with better paybacks and fewer technical drawbacks. A stipulation should be included that installations be done at sites that at a minimum demonstrate class 2 wind resource according to AWS True wind maps or other wind data.

Lead agency: PUC, working with Utilities and Energy Committee.

- Provide Business Equipment Tax Rebate (BETR) treatment for wind generating equipment above the appliance size.

Lead agency: OEIS and Maine Revenue Services, working with the Legislature's Joint Standing Committee on Taxation (Taxation Committee)

- Provide sales tax exemption for all small and community wind power equipment.

Lead agency: OEIS and Maine Revenue Services, working with Taxation Committee

❖ **Designate a facilitator within DOE/PUC to engage Maine schools in the Wind for Schools Program¹⁰**

- The Wind for Schools program currently involves five states (Colorado, Kansas, Nebraska, Montana, South Dakota); five additional states are planned for Spring 2008. Maine should become engaged in this effort.

Lead agencies: US Department of Energy/PUC; as soon as possible to take advantage of program planning.

❖ **Enhance the involvement of Maine's education system**

- Investigate the need for additional research and development funding in the University of Maine System and/or Maine Maritime Academy.
- Direct the community college system to investigate wind power training needs.

The Task Force recognizes that state agencies' abilities to provide the financial and technical assistance recommended in this section and elsewhere in the report will be contingent on the funding available for these purposes.

Responsible entities: Request University System, Maine Maritime Academy and the community college system to report back to Governor/Legislature by September 30, 2008.

IV. Optimizing the Economic Benefits of Wind Power to Maine Communities and People

The Task Force believes that growth in wind energy generation in Maine is a necessary and appropriate element of an overall energy strategy to help meet state, RGGI and other renewable energy objectives, and to increase the reliability of Maine's electricity supply. The Task Force further believes that, guided by the recommendations outlined in this report, this growth will optimize the benefits for Maine citizens through projects which minimize and offset the potential, project-specific adverse effects of wind energy development on natural resources, public uses, and community amenities, while providing clear and tangible benefits to communities that host wind energy facilities, as well as to society as a whole.

The ability of Maine to achieve the ambitious goals for wind power development suggested in this report and to bring the many benefits of wind energy to Maine people depends, in part, on the existence of sufficient transmission line capacity. Most of Maine's existing transmission system was developed over four decades ago, and was designed to service hydropower and other traditional electricity generation systems. Maine's utilities and independent transmission companies are currently studying substantial new investment in transmission across the state. The implications of these potential projects for wind power development are among many factors – along with reliability, cost to consumers, siting considerations, and other issues – that

¹⁰ <http://www.eere.energy.gov/windandhydro/windpoweringamerica>.

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will go into determining whether projects are built. In order to realize the tremendous potential of wind power in Maine, the existing challenges of interconnecting wind projects with the grid must be addressed.

The challenge of improving Maine's transmission capacity and reliability will require responses from both Maine and the New England region, particularly to work out issues like allocating the costs of new transmission among its beneficiaries. In the past, new transmission lines have also faced significant siting challenges.

These potential improvements to Maine's transmission system, including where upgrades are made, how much capacity is expanded, and how this investment will be paid for, will have implications for all types of generation, including wind. Experience in other states and in Europe suggests that a proactive approach to the transmission issues associated with wind power can be very helpful in achieving renewable power goals and minimizing conflicts over siting.

Notwithstanding the significant environmental, economic, and energy-related benefits of extending its reach in Maine, wind power development, like all development, has potential for associated adverse effects on certain natural resources, public uses, and community amenities in the areas developed. By its nature, wind energy development involves a land use that is new to Maine. Land requirements for wind energy projects vary widely depending on many issues including turbine size, topography, and project layout among others. Projects in Maine to date (Stetson, Kibby, and Mars Hill) have used an average of about 5 acres per MW of installed capacity. Projects may, in some circumstances, allow existing land uses to continue in and around the turbine; for example, agricultural and commercial timber harvesting uses may often continue.

Wind power's notable benefits, such as reduced reliance on fossil fuels and their attendant air quality and climatic effects, are enjoyed by the public generally; but the project-specific effects, such as noise and wildlife and recreational impacts, are experienced locally. As the National Academy of Sciences states in its 2007 report assessing the environmental impacts of wind power development:

“[T]he environmental benefits of wind energy, mainly reductions in atmospheric pollutants, are enjoyed at wide spatial scales, while the environmental costs, mainly aesthetic impacts and ecological impacts such as increased mortality of birds and bats, occur at much smaller spatial scales” and that “[T]here are similar, if less dramatic, disparities in the scales of occurrence of economic and other societal benefits and costs.” (National Research Council of the National Academies 2007, p. 148)

The Task Force notes that concerns have been expressed that as wind energy expands its footprint in the region, Maine may bear a disproportionate share of the costs and impacts associated with meeting the broader region's need to reliably meet its energy needs while reducing emissions. The Task Force's recommendations seek to optimize the benefits of wind energy to Maine, in ways that appropriately address the disparities noted above. The recommendations include suggested improvements to the state regulatory process to ensure that project-specific environmental impacts, along with project-specific economic benefits, are considered in a manner appropriate to wind energy development (see Section II above); encouragement for current efforts to address transmission issues as needed to facilitate growth of

the wind industry in Maine; and initiatives to realize the tangible economic benefits that the wind power industry can bring to the state.

Recommendations

❖ Continue current state energy policy-related efforts to ensure that diversification of the state's energy mix and development of transmission infrastructure benefit Maine

PUC Chairman Kurt Adams briefed the Task Force on the Commission's current efforts to ensure that the development of new generation (including wind power) needed to diversify the state's energy mix and transmission infrastructure is beneficial to Maine electricity consumers. The Task Force understands that the Commission and other state officials continue to work on a regional level, along with other New England states and Canada's Maritime provinces, to explore opportunities for Maine to meet demand for diverse, non-carbon emitting electricity resources in a manner that benefits Maine.

One possible outcome of these efforts, described in detail in the Maine/New Brunswick Phase I Report (June 26, 2007) and the Commission's Final Report on Maine's continued participation in ISO-NE (January 15, 2008), are incentives for Maine to site wind power and other renewable generation facilities as well as necessary transmission.

The PUC anticipates conducting a comprehensive review of the state's transmission system during 2008 in the context of expected utility transmission expansion and upgrade proposals. The review will include an assessment of the system in light of the substantial potential for wind power development throughout various areas of the state and the need for expansions and upgrades to integrate new wind power projects into the region's electricity grid. The Task Force finds these current and future efforts to be valuable in attaining benefits from the development of wind power for Maine citizens and electricity consumers, and accordingly, strongly recommends that they continue.

The Task Force notes that the states of Texas and Colorado, for example, have taken affirmative steps to identify and address inadequate transmission infrastructure serving areas with significant wind power development potential, and where significant conflicts over siting are not expected. Although the Task Force recognizes that approaches in these or other jurisdictions may not be well-suited to Maine, given differences in energy markets, economic conditions and other factors, the Task Force does believe that considered attention to this issue, in the context of current decision-making regarding Maine's transmission system, is important.

Lead agency: PUC; ongoing

❖ Encourage developers' efforts to provide direct economic benefits to communities that host grid-scale wind power projects through preferential access to or favorable rates for power generated by the project

In several instances in Maine, wind power developers have entered into voluntary agreements with host communities or Maine businesses to provide power at favorable rates or other energy-related benefits. In testimony to the Task Force, Jack Cashman, policy advisor to Governor Baldacci, noted the existence of an agreement to effect the sale of power

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from a wind power generator to a manufacturing company at a negotiated rate that will help stabilize the company's long-term power costs and suggested that it provides a model for ensuring tangible public benefits.

The Task Force believes that agreements which produce direct and tangible economic benefits to communities that host grid-scale wind power projects should be encouraged. The Task Force further believes that developers' commitments to provide benefits should be considered as appropriate in regulatory proceedings regarding siting of wind energy facilities (see Section II).

Lead agency: No specific implementation action required

❖ Actively explore opportunities to site and support the growth of wind energy-related businesses in Maine

At present, Maine is the leader among the New England states in terms of installed wind energy capacity. This creates an opportunity and potential advantage for Maine in attracting new wind energy-related businesses, given the growing level of in-state experience and expertise that is relevant and of value to the wind industry. The University of Maine Advanced Engineering Wood Composite Center's (AEWC) current research and development initiative focused on development and testing of new composite wind blade technology is illustrative. A key aim of this initiative is to attract Vestas, one of the world's leading wind turbine manufacturers, to locate a planned North American research and development facility in Maine.

The Task Force suggests that the state, through the work of DECD and other agencies, can play a key role in fostering growth and development of a variety of wind energy enterprises in Maine. DECD is currently working with the wind power industry in Maine. Accordingly, the Task Force suggests that DECD take the following actions:

- Cooperate and assist the University of Maine AEWC's efforts to spur development of wind power-related manufacturing in Maine; and
- Form an advisory committee, comprised of wind power development companies active in Maine, to explore opportunities for business attraction and development of wind power and other renewable energy-focused business clusters, perhaps through a cluster enhancement grant from the Maine Technology Institute.

Lead agency: DECD; action recommended as soon as practicable in relation to current pertinent DECD efforts

❖ Encourage public-private partnerships to develop workforce capacity in Maine to support the wind energy industry

In addition, as indicated above in its recommendations regarding community wind, the Task Force encourages the state's higher education institutions, professional associations, and wind energy developers to actively explore formation of public-private partnerships to develop and fund educational programs to provide Maine students and professionals the knowledge, skills, and training needed to service and support wind energy facilities. The rapidly growing wind industry could provide suitably trained Maine electrical workers,

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environmental consultants, engineers, project managers, assemblers, manufacturing workers, and other professionals with opportunities in relation to projects in Maine, other states and Canada.

Lead agency: DECD/Wind power advisory committee (see prior recommendation); action recommended as soon as practicable in relation to current pertinent DECD efforts

❖ **Explore provision of incentives to communities that host grid-scale wind power projects through PUC's Efficiency Maine Program and the Carbon Savings Trust Fund**

Efficiency Maine, which is a statewide program administered by the PUC, promotes efficient use of electricity and reduction of customers' electric costs through education, grants and loans to assist businesses and residential ratepayers with energy efficiency initiatives. Funds for Efficiency Maine come from electricity customers through a system benefits charge (35-A MRSA §3211-A).

The Legislature created the Energy and Carbon Savings Trust Fund to support and implement goals of the cap-and-trade program in legislation authorizing Maine's participation in the Regional Greenhouse Gas Initiative, PL 2007 c. 317. The Fund, which begins its work in July 2008, is to be funded with revenues from sale of carbon dioxide allowances and forward capacity market¹¹ or other capacity market payments received pursuant to the RGGI program. Three trustees are to be appointed to administer the Fund.

The Task Force recommends that the Legislature's Utilities and Energy Committee consider amendment of the legislation governing the administration of each of these programs to include an equitable means to give business and residential customers in a municipality or unorganized township in which a grid-scale wind power project is located tie-breaker status regarding an application for funding of a qualifying energy efficiency project. Such means may include a requirement that such an applicant's grant proposal be afforded additional points as compared with otherwise equivalent competing proposals. This tie-breaker status would only apply when two comparable projects are exactly tied in the ranking by the Carbon Trust.

Lead entity: Utilities and Energy Committee, with information from PUC and DEP; for consideration during First Regular Session of the 124th Maine Legislature

❖ **To the extent Maine tribes wish to do so, explore potential state roles, if any, in addressing financing-related barriers unique to Maine tribes interested in development of commercial wind power facilities**

The Task Force notes that the PUC's 2005 report on feasibility of wind power in Maine indicated that there may be significant potential for development of wind energy on lands of

¹¹ The objective of the Forward Capacity Market (FCM) is to purchase sufficient capacity for reliable system operation for a future year at competitive prices where all resources, both new and existing, can participate.

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the Passamaquoddy Tribe and Penobscot Nation, and that “the Maliseet and Micmac tribes are in earlier stages of considering wind power potential.” The Commission further found that:

“The development of wind power on tribal lands, however, faces the same obstacles as development in other areas of the state. As with any wind power project, the major difficulty is obtaining long-term financing on reasonable terms. This problem is made more complicated in that the applicability of state laws related to financing and contractual remedies with respect to projects on tribal land is less clear than for other projects. This creates some uncertainty that could make financing more expensive or difficult to obtain. Ownership of facilities on tribal lands appears to be a high priority for the tribes. However, the tribes generally do not have the funds for large equity investments. In addition, tribal ownership could negate the benefit of the federal PTC because the tribal projects are generally not taxable; a relatively large taxable corporation would likely need to be involved as an equity owner for at least the 10-year life of the PTC.”

In accordance with this PUC finding, the Task Force recommends that the DECD consult with the Passamaquoddy Tribe, Penobscot Nation, Houlton Band of Maliseet Indians, and/or the Aroostook Band of Micmacs, regarding their interest in further discussion with the state of the potential financing-related issues raised in the PUC's report; and that DECD coordinate an effort among the PUC, FAME, and the interested tribe(s) to explore the above-noted issues in PUC's report and develop recommendations for further action to address them, for consideration by the Governor.

Lead agency: DECD; Fall 2008

V. Providing State Economic Incentives to Foster Development of Wind Energy and Related Businesses

In general, direct economic benefits of wind energy development in Maine could include capital investment dollars and resulting property taxes and job creation, related not only to wind energy generation projects themselves but also project design, turbine manufacturing, construction, and operation and maintenance. Professor Orlando E. Delogu of the University of Maine School of Law provided the Task Force an overview analysis of the potential economic benefits of developing the wind energy industry in Maine (see Attachment J). As an example, the 42 MW Mars Hill facility now on-line involved a capital investment of about \$95 million and will provide the town of Mars Hill \$10 million over 20 years through the use of a tax increment financing (TIF) agreement. According to the developers of the Mars Hill project, during construction over 300 Maine people (from a variety of disciplines and firms) were employed; their permanent in-state employment group now numbers 13. Extrapolating these numbers, developing the wind energy industry in Maine to the 2,000 to 3,000 MW level in keeping with the goals the Task Force recommends could result in billions of dollars of capital investment and the creation of thousands of jobs. Additionally, as Professor Delogu points out, if a sufficient number of projects are in the pipeline, economies of scale would likely lead to additional

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development of support industries (blade manufacturing, technology advancement, etc.) in Maine. Finally, there could be additional economic benefits in Maine related to electricity rates and the potential for land conservation, which has been proposed as a part of some projects.

The economics of wind power are based on whether the combination of the wind resource, transmission costs, market prices, and government incentives are enough to cover the cost of purchasing, installing, and operating the turbines. Wind power has reached the point where it can be cost-competitive against more conventional fossil fuel-based generation, if located at sites with adequate wind speeds, access to transmission lines, and transportation infrastructure to facilitate tower construction and turbine delivery.

The cost to generate power from wind may decrease in the future. As technology improvements increase efficiency, more electricity will be generated for each dollar invested. Additionally, the financing costs may also go down. The average wind project spends more than 60 percent of the development costs to pay for equipment and construction (Wiser and Bolinger 2007). A small change in the interest rate on loans can have a significant impact on profits. Today, financing cost tends to be higher for wind because it is still considered a higher-risk investment when compared with more conventional energy projects. As more wind is successfully incorporated into current generation and distribution, such perceptions of relative risk are likely to abate.

Since electricity can't be stored, the electricity market requires complex regulation and system controls to match supply to demand. A non-profit administrative organization called the ISO-NE operates the New England power grid and oversees the wholesale electricity market. ISO-NE administers an auction that determines the wholesale price paid to generators. The price paid to all generators is equal to the price of the last megawatt of electricity required to meet current demand. This ranges from \$22 per megawatt hour (MWh) on the slowest days to a \$1,000 per MW at peak demand. In 2006, the price was between \$40 and \$80 per MWh 90 percent of the time with the average \$56 per MWh. (ISO-NE 2006, p. 42).

Wind power, along with other renewable sources, has an advantage in the market. Each New England state has a renewable portfolio standard (RPS). This requires that a certain percentage of electricity used to meet retail demand come from renewable sources. Maine, Connecticut, Rhode Island, and Massachusetts apply their respective standards to current sales. The percentages range from 2.5 percent to 30 percent, but use different definitions of renewable. Wind is recognized as renewable under all standards.

The RPS establishes a market for Renewable Energy Certificates (RECs). In order to meet its renewable energy obligation under an RPS, a supplier may purchase a credit representing production from a renewable source separate from the electricity. Providers of renewable energy are credited with one REC for each megawatt hour they produce. An Alternative Compliance Payment (ACP) is paid by the utility or supplier if it is unable to purchase enough RECs to meet the RPS requirements. This establishes a cap on the price of RECs.

Most of the New England states are increasing their RPS requirements for the future. Currently, RECs from older renewable energy facilities have little value, usually well below the ACP. However, RECs from facilities that began or restarted operations after about 2000 are paid premium prices in Massachusetts, Connecticut and Rhode Island. According to the ISO-NE (2006), "the New England renewable projects in the ISO Generator Interconnection Queue will not provide sufficient energy to meet the aggregate RPS energy requirements set for New

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England for 2010.” Unless more renewable resources are developed, the price of RECs will increase and one may expect that price increase to be passed on to electricity customers.

An additional incentive for wind development is the future implementation of the Regional Greenhouse Gas Initiative (RGGI). RGGI is a ten-state CO₂ cap-and-trade program being developed and implemented in the Northeast. Under RGGI, the Northeast region must limit CO₂ emissions in 2009 and place a cap on them by 2014. The cap will be reduced by 10 percent in 2018.

The federal government currently supports the development of wind power by offering tax incentives. In order to encourage electricity generation from renewable, domestic sources wind power providers are offered a Production Tax Credit (PTC). This allows a 1.9 cent deduction per kilowatt produced in the first 10 years of operation. The credit requires regular renewal from Congress and has been allowed to lapse several times in the past. The latest renewal extends the credit to all facilities operational before December 31, 2008. The PTC enables many wind power providers to compete in current markets where they otherwise would not be able to. Although the PTC provides a significant benefit to wind developers, the threat of its lapse may impede progress on development that is not in place before the expiration date.

The second major incentive offered by the federal government is Modified Accelerated Cost Recovery System (MACRS). This is another tax incentive that allows wind developers to deduct the depreciation of their capital from their income in a manner termed five-year double declining balance accelerated depreciation. This compares to 15-year, 150 percent declining balance for natural gas plants. By reducing taxable income, a wind project's tax liability is greatly reduced.

In testimony to the Task Force, Maine's Public Advocate and the PUC chair observed that provision of area-specific development incentives for wind power development has potential to facilitate creation of alternative energy clusters, renewable energy-focused industrial parks, or comparable aggregations of renewable energy-related businesses. At the state level, Maine has two areas of state tax policy that although not specific to wind power could be utilized by developers of wind power projects – these are the use of tax increment financing and the Pine Tree Development Program. PUC's above-referenced 2005 wind energy report recommended against additional state tax incentives to promote grid-scale wind generation development; and in testimony to the Task Force, PUC reaffirmed this perspective. In their testimony to the Task Force, wind power representatives did not suggest that additional state tax incentives are needed to allow wind power development in Maine. Developers did, however, explain the appeal and importance of state policy that makes project-related taxes predictable and cited Maine's tax increment financing (TIF) program, which stabilizes taxes over a multi-year assessment period, as an example of an effective program which was used for UPC's Mars Hill project (which essentially has a set tax payment per megawatt over a period of 20 years).

In addition to the use of TIFs, an additional incentive for wind energy development is available through the state's Pine Tree Development program, which has been successful in facilitating growth and development in a variety of places around the state. Focused on encouraging manufacturing businesses, the program provides a package of income, sales and property tax-related incentives (“Pine Tree Development benefits”) to encourage business location and expansion in designated areas. The eligibility of wind power projects is based on a finding by the Maine Revenue Services, which determined that wind energy development, which in Maine's

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deregulated market is undertaken by private developers as opposed to utilities, is a type of manufacturing that is eligible under current law for Pine Tree Development Zone benefits.

Recommendations

❖ **Retain current state tax incentives for wind energy development**

Wind energy development in Maine is currently eligible for benefits through the Pine Tree Development program and the use of TIFs. The use of a TIF program has been successfully applied in the Mars Hill project. Therefore, the Task Force recommends that current state and local taxation-related tools are adequate to facilitate siting of wind power generation and should continue to be used as appropriate in accordance with existing authorities.

Lead agency: No additional implementation actions suggested

❖ **Work with Maine's Congressional delegation to secure extension of the federal Production Tax Credit**

The federal Production Tax Credit (PTC), which as noted above has been a key element in financing wind energy development, lapses on December 31, 2008. The most recent federal energy bill, the Renewable Fuels, Consumer Protection, and Energy Efficiency Act of 2007 (H.R.6), became law without provision for extending the PTC for renewable energy facilities. Maine has a large number of proposed renewable facilities that are eligible for the PTC. For example, according to the ISO-NE Interconnection report, there are over 620 MW of proposed wind generation in Maine that could come on line by the end of 2009 (<http://www.iso-ne.com>). In each of two previous years when the tax credit lapsed, there was a 75 percent reduction in the number of new wind generators installed (<http://www.awea.org/projects/>).

Because it has played an essential part in supporting development, e.g., by providing the initial stability in pricing that is necessary to secure financing, the Task Force urges continuing efforts with Maine's Congressional delegation to ensure renewal and continuation of the federal PTC.

Lead agency: Governor's office, with assistance from PUC and SPO; ongoing.

VI. Advancing Wind Energy Development in Offshore Waters

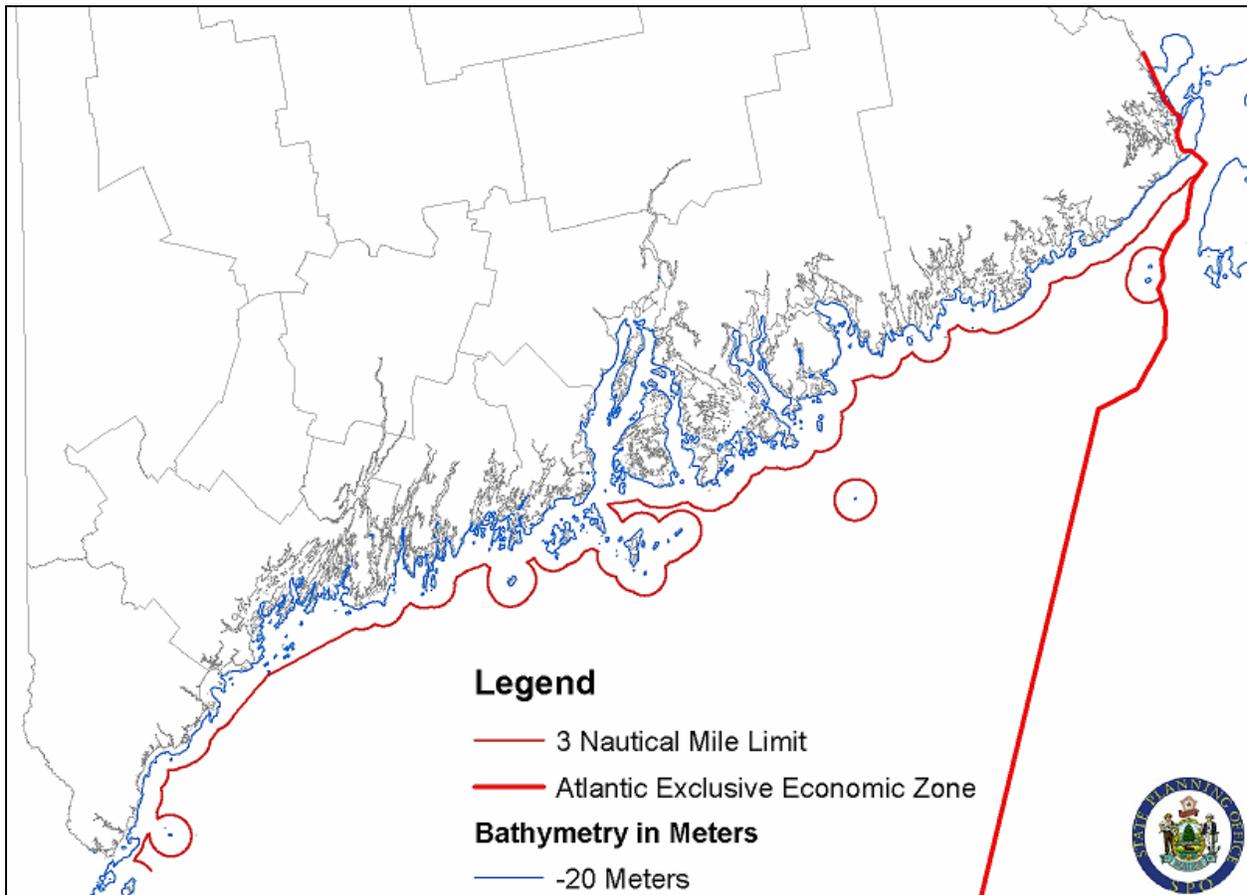
In Maine, all wind energy projects proposed to date have been on land. Consequently, the Task Force focused principally on issues associated with land-based wind energy development. However, as depicted in Attachment D, the wind resources off the Maine coast are considerable and offer much potential for future development. To help Maine take advantage of this potential, the Task Force discussed the issues associated with offshore wind energy development and developed recommendations for addressing these issues. This section of the Task Force report discusses how Maine can: a) further our understanding of the characteristics of nearshore and offshore wind and operating conditions; b) improve the regulatory process for wind energy in

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coastal waters; c) work closely with federal regulators; d) engage coastal stakeholders; and e) advance new technologies.

Generally speaking, because many offshore areas around the world have high wind energy potential, enhancing offshore wind energy technology is currently a focus for the industry. Siting wind turbines offshore requires consideration of available wind, water depth, substrate type (e.g., sand vs. ledge) availability of construction equipment and expertise, cost, and transmission line placement. Much of the potential electricity generation offshore Maine is in water deeper than current technology-based depth limitations, which range from 50 to 75 feet (Coakley 2008; Applied Technology and Management, Inc., et al. 2007; Musial 2007) – compare Figure 1 (shown earlier) with Figure 3, which portrays the 20-meter (approximately 60-foot) bathymetry line in relation to the state and federal boundaries. Notably, offshore projects in Europe are generally situated in water depths of less than 60 feet (Firestone et al. 2006). While some pilot projects are being developed in deeper water (about 125 feet), in general wind industry experts envision that the improvements in technology needed to improve the economic viability of offshore projects are on the order of ten years in the future (Coakley 2008). Attachment K provides an overview of current challenges and anticipated advances in offshore wind energy technology. Despite these challenges, it is clear that the high wind energy potential in deep waters directly offshore Maine is an opportunity for the wind power industry.

Figure 3
Water Depth and Jurisdictional Boundaries Along Maine’s Coast



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A second aspect of the drive toward new technologies is related to the need for specific information that is necessary to characterize wave and current conditions for project engineering purposes (Cape Wind 2008). The National Oceanic and Atmospheric Administration and Gulf of Maine Ocean Observing System have monitoring buoys offshore Maine, but these are widely placed in the Gulf of Maine and measure wind at surface levels (rather than the hub height elevation of wind turbines). In his presentation to the Task Force, Maine Maritime Academy (MMA) professor Richard Kimball discussed a collaborative effort by the University of Maine, MMA, and the College of the Atlantic to obtain meteorological data on Mount Desert Rock, a small island approximately 20 miles south of Northeast Harbor, Mount Desert Island. Applying Maine expertise through efforts such as this will be very valuable in assisting the development of offshore technology. Advances in the use of remotely sensed data (e.g., through Light Detection and Sensing (LIDAR) and satellite data) may also lead to increased understanding of the offshore wind resource in a more cost-effective manner than individual meteorological tower-based studies (International Energy Agency 2006 and Musial and Butterfield 2006).

The Task Force believes that there is a knowledge base and expertise in Maine (through colleges, universities, and engineering and construction firms, for example) that positions the state well to become a leader in the development of offshore wind technology.

As can be seen from comparing Figures 1 and 3, not only is much of Maine's offshore wind potential in deep water; but in addition, much of the area with higher wind potential is outside of Maine's jurisdiction. Projects in the waters off of Maine's coast are in state jurisdiction if they are located three miles or less from the shore (i.e., in "state waters"). Projects that are located more than three miles from the shore are in federal waters. This distinction affects the regulatory review of potential wind energy development, since projects in state waters are subject to approval under Maine regulatory programs (e.g., NRPA) and state leasing authority through the DOC's Bureau of Public Lands. Wind energy development projects have not been reviewed through the lens of these programs, since no such projects have been proposed to date, and there may be new regulatory issues that offshore wind energy could raise. The situation is different in federal waters where Maine has only limited control over project siting and development. The federal Coastal Zone Management Act's federal consistency provisions do provide Maine with some influence over federal decisions that effect Maine's coastal areas. However, the federal government is currently refining its approach to these decisions. Recent changes in federal law aim at clarifying federal management authority regarding offshore energy development. The 2005 Energy Policy Act gives the federal Minerals Management Service (MMS) authority to manage alternative energy-related uses in federal waters, including wind power. The MMS is currently developing regulations "intended to encourage orderly, safe, and environmentally responsible development of alternative energy resources" (U.S. Minerals Management Service 2008). Maine has provided MMS with comments during the development of the regulations, which include a leasing provision for use of these public lands for alternative energy development.

The Task Force believes that the state's involvement in and monitoring of the development of federal programs related to the siting of offshore wind energy, such as through the MMS regulation development, is important. Additionally, recognizing the fact that offshore wind energy projects have not been proposed in Maine to date, the Task Force believes that an

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examination of Maine's existing regulatory structure in state waters is warranted. This effort would involve having appropriate stakeholders look at the types of issues that such projects may raise, since the siting of new facilities in state waters could be a lengthy and contentious process due to the threat of displacement of current uses (related to ports, fishing, aquaculture, navigation, commerce, and/or recreation, for example), concerns of riparian owners, and environmental impacts. Some of this work has already begun. In 2007, Governor Baldacci issued an Executive Order¹² directing SPO and DMR to implement the recommendations resulting from a study of bay management conducted by these agencies. Implementation of this bay management study includes collection of new data on coastal resources, improved state agency coordination, ongoing interaction with coastal stakeholders and pilot projects in coastal regions to develop and test new approaches to management of state waters. The Task Force recommends that a pilot project related to wind power be pursued, as described below.

Recommendations

❖ Aggressively pursue development of Maine's offshore wind potential

Maine should actively pursue development of its offshore wind potential.

Lead agency: OEIS; ongoing

❖ Streamline Maine's environmental laws as applied to offshore wind energy projects

In addition to involving different stakeholders, offshore wind power development proposals may present different or additional regulatory issues than those encountered by land based projects. Consequently, the Task Force recommends that DEP and LURC, in consultation with DMR, DIFW, and SPO/Maine Coastal Program, review the efficacy of pertinent environmental laws as applied to offshore wind energy development, review potential streamlining measures, and recommend any necessary statutory changes to the Governor.

Lead agency: DEP, in coordination with LURC and SPO; by January 2010

❖ Complete development of rules regarding leasing for large-scale projects and evaluate the potential for other wind power-related improvements to the state's submerged lands leasing program

The Bureau of Public Lands (BPL), in consultation with DEP, LURC, DMR, and DOC, should amend its submerged lands leasing rules, if and as necessary, to ensure an appropriate fee for large-scale projects, including potentially wind energy projects, and to make other potential improvements to its rules, if any are needed to address wind power-related issues efficiently and effectively, while maximizing benefits to the public from siting on state-owned land.

Lead agency: BPL; initiate rulemaking in summer of 2008

¹² See http://www.maine.gov/tools/whatsnew/index.php?topic=Gov_Executive_Orders&id=35856&v=Article.

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❖ **Promote dialogue with coastal stakeholders about nearshore and offshore wind power siting**

SPO and DMR should consider the development of a pilot project to engage coastal stakeholders in proactive discussions about wind power, with the intent of understanding perceptions, potential impacts and possible obstacles to wind power siting off Maine's coast.

Lead Agency: SPO and DMR 2009-2010

❖ **Develop guidance regarding siting of wind power development on state-owned submerged lands**

SPO should work with BPL, and in consultation with DMR, DIFW and DEP, and other agencies as appropriate, to develop guidance regarding siting of wind power projects on state-owned submerged lands.

Lead agencies: SPO and BPL; upon completion of above-noted rulemaking

❖ **Monitor and continue involvement in federal regulatory program development regarding offshore wind energy development**

SPO, Maine Coastal Program, in consultation with other state agencies as appropriate, should continue its monitoring and involvement with federal regulation development, such as is currently occurring with the federal Minerals Management Service.

Lead agency: SPO; continuing

❖ **Help position Maine's universities and colleges, and private engineering and construction firms to become leaders in offshore wind power**

In partnership with Maine's universities and colleges, and appropriate private industry, DECD and Maine Technology Institute should explore ways to enhance the offshore wind power industry. Issues related to materials development, improvements in technology, construction expertise, cable placement, and others should all be explored.

Lead agency: DECD and Maine Technology Institute; ongoing

❖ **Increase understanding of Maine's coastal wind resource**

The Department of Marine Resources and the Maine Geological Survey (MGS), in consultation with SPO/Maine Coastal Program, should work with the Gulf of Maine Ocean Observing System, NOAA and other data providers to further characterize the wind resource off the coast of Maine through meteorological studies and remotely sensed data.

Lead agencies: DMR and MGS; ongoing.

VII. Monitoring Technological Developments and Their Policy Implications

The basic architecture of wind turbines (three-blade turbine which operates at a fixed-speed and having a direct connection to the grid has not changed much in the previous decades, although as wind power's viability has increased many issues are being addressed (Industry Canada 2007). In general, these advances in technology, summarized below, are driven by a need for lower costs, enhanced reliability, higher efficiency, and reductions in grid impact. The focus of this section is on land-based technology. Section VI provides an overview of technological advances being pursued in the offshore.

- **Lowering costs.** Nationally, on a cost per kW basis, since the 1980s the cost for installation of wind turbines has fallen by roughly \$2,700 per kW to approximately \$1,500 per kW (US Department of Energy 2006). Much of that reduction occurred before the year 2000, however; since 2000, costs on a per kW basis have leveled out nationally or risen slightly, due in large part to recent increases in turbine costs (US Department of Energy 2006). In general, lowering costs has been a focus of much of the current efforts by both industry and government. Current research has a strong focus on reducing costs in several ways: cutting costs related to design improvements; lowering operations and maintenance costs; and improving efficiency.

In addition, in response to issues associated with economies of scale, the current industry trend is to use larger turbines to lower per unit generation costs. At present, General Electric (GE) is the largest domestic manufacturer of turbines. GE's land-based 1.5 MW machine is most commonly used, although its 2 to 2.5 MW turbines are coming into use (Applied Technology and Management, Inc., et al. 2007). GE is developing a 3.6 MW turbine which should be commercially available in three to five years, and is also developing larger designs (up to 5 MW in size) (Applied Technology and Management, Inc., et al. 2007). The push toward larger turbines is not presently limited by material availability or industrial capacity according to the manufacturing industry (Lyons 2007), although the current supply of turbines for certain applications is limited (e.g., smaller turbines and those for offshore use).

One of the issues associated with the larger turbines is their increased weight, which may have ramifications for construction (including difficulties in transporting such machines to a project site) and life-spans. Consequently, and also to investigate improvements in turbine efficiency, there is research into the use of lighter materials (e.g., carbon-fiber tips for blades) for turbines (Industry Canada 2007) as well as different rotor designs (US Department of Energy 2007). A lack of space at blade-testing facilities has been a problem, although there are new facilities under development in Massachusetts and Texas (US Department of Energy 2007).

Ways of enhancing potential revenues from wind power projects are also being evaluated. For example, various investigations are underway to combine electricity generation from wind turbines with other technology, such as desalination plants (National Renewable Energy Laboratory 2008b) or the production of hydrogen. This latter effort is the subject of a demonstration project currently underway in Colorado (US Department of Energy 2007).

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- **Reducing grid impact.** The fixed-speed nature of many turbines has led to issues with the grid connections. Variable-speed operation, now in limited use but also the subject of current study, offers better quality output to the grid (US Department of Energy 2008), particularly with larger (greater than 1 MW) turbines. Integration of such turbines with the grid is also being researched to improve project connection modeling and understanding (National Renewable Energy Laboratory 2008b).
- **Enhancing reliability.** Research regarding improvements in turbine reliability is focused on reducing operation and maintenance costs – which are particularly important for gearboxes (Industry Canada 2007) – and may be up to 40 percent of the total system cost (US Department of Energy 2007). Similar investigations are also underway into extending the working life of systems beyond their current roughly 25-year lifespan to as much as 50 years (US Department of Energy 2007).
- **Increasing efficiency.** Related to cost, but also intended to help expand the geographical area of their potential siting, research is underway to develop turbines that generate power more efficiently at lower speeds (National Renewable Energy Laboratory 2008a and US Department of Energy 2008). Specific areas of study include development of larger rotors that are cost-efficient; development of taller designs that can be assembled on-site; and increased efficiency in electricity generation equipment and turbine electronics (US Department of Energy 2008).

In sum, technological advances are increasing the cost-effectiveness of wind-generated electricity and increasing the geographical area where wind generation is economical. The pace of this research is difficult to determine, but with increasing competition in the market and increasing public policy focus on issues associated with the need for renewable sources of energy, the pace in gaining increased knowledge can be expected to quicken.

The prospects for improvements to wind technology discussed above have a number of implications for land use and environmental regulators and other policy makers. Much of the technology that is being pursued is intended to allow the development of wind energy in places where wind velocities are currently not high enough to be economic. In the future, more area in Maine could be suitable for wind power development than is currently the case. Other technological advances focus more on improving economic viability of projects through increased efficiency and reliability, which could also have the effect of increasing the number of proposals in Maine. If projects are proposed that combine technologies, it is foreseeable that these projects could pose new technical or regulatory issues. See the offshore discussion for potential ramifications of technology improvements with potential to affect offshore Maine.

Recommendations

❖ **Track technical advances in the wind energy industry with an eye toward potential regulatory and/or policy implications**

As discussed above, technological advances are expected to create new opportunities for wind energy development, which may in turn give rise to environmental, land use or economic issues of interest to the state. The Task Force recommends that the Governor's Office of Energy Independence and Security (OEIS), in consultation with the PUC, monitor developments in wind power technology, for use both on land and offshore, and through the

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Energy Resources Council or other appropriate policy-level forums, coordinate with state agencies to ensure awareness of technological advances and timely identification of any state policy implications.

Lead agency: OEIS; ongoing

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Attachments

- A. Executive Order from Governor John E. Baldacci**
- B. Wind Power Task Force Members**
- C. Other Participants**
- D. NREL Wind Resources Map**
- E. Summary of Sustainable Energy Advantage Wind Analysis**
- F. DEP Rules Chapter 315 (10)**
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- H. Guidelines for Wind Power Project Ecological Study Recommended by the Maine Department of Environmental Protection and Maine Department of Inland Fisheries and Wildlife**
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Attachment A. Executive Order from Governor John E. Baldacci



OFFICE OF
THE GOVERNOR

NO. 31 FY 06/07
DATE May 8, 2007

**AN ORDER ESTABLISHING THE GOVERNOR'S TASK FORCE ON
WIND POWER DEVELOPMENT IN MAINE**

WHEREAS, Maine energy policy seeks to promote the development and use of renewable energy sources to help reduce Maine's dependence on imported fossil fuels, provide economic development, and promote security; and

WHEREAS, scientists have concluded that increases in greenhouse gas levels, including but not limited to carbon dioxide, are resulting in worldwide climate change; and

WHEREAS, wind power does not generate greenhouse gases and is broadly viewed as having fewer environmental impacts than other forms of electrical power generation; and

WHEREAS, wind power is the fastest growing utility-scale source of renewable energy in the world; and

WHEREAS, Maine has the highest wind potential of any New England state and ranks 19th in terms of wind potential in the United States as a whole; and

WHEREAS, wind power development can provide short term and long term economic and employment benefits for Maine citizens; and

WHEREAS, the State's wind resources occur in various areas of the State that may have important ecological, natural resource, remote resource, and other values that are important to Maine people that can lead to conflict regarding the siting of wind power facilities; and

WHEREAS, Maine could become a leader in New England in the development of wind power if a comprehensive approach is pursued that involves guidelines that direct wind power toward appropriate locations; well-designed and efficient regulations; the protection of areas where wind power is not appropriate; and collaboration among state agencies, wind power developers, interested parties, and the public.

NOW, THEREFORE, I, John E. Baldacci, Governor of the State of Maine, do hereby establish the Governor's Task Force on Wind Power Development in Maine.

Report of the Governor's Task Force on Wind Power Development

Purpose and Duties

The purpose and duties of the Task Force shall be to:

1. Examine the regulatory process and review criteria by which wind power projects currently are evaluated in Maine, identify barriers to wind power development and compare Maine's policies with approaches used in other jurisdictions;
2. Identify and recommend any changes deemed beneficial for assuring that Maine has a balanced, efficient and appropriate regulatory framework for evaluating wind power projects. Changes might include, but are not limited to, updating statutory and regulatory review criteria, technology-specific wind power siting guidelines, opportunities for streamlined permitting for certain categories of wind power projects and the use of negotiated settlement tools for resolving conflicts;
3. Propose policy changes that would help facilitate the development of wind power in Maine and establish a lead agency for tracking wind power generated in Maine, monitoring technological advances in wind power generation and providing educational materials regarding wind power;
4. Examine and make appropriate recommendations regarding Federal, State and local programs and financing options available to assist in the development of wind power projects;
5. Identify a range of options, benefits and incentives that might be available to communities that are affected by wind power projects;
6. Create guidelines and related information that would assist wind power developers in identifying areas in the State of Maine that are more appropriate for wind power development, and avoiding areas that are not appropriate for wind power development, due to legal, natural resource or public value constraints; and
7. Propose goals for installed wind power in Maine for 2010 and 2020, provide an estimate of the economic and emission-reduction benefits of achieving such goals and suggest strategies to attain those goals.

To fulfill these duties, the Task Force shall collaborate and coordinate with the Land Use Regulation Commission, the Department of Marine Resources, the Department of Economic and Community Development, the Department of Agriculture, the Public Utilities Commission, the Office of the Governor, members of the Maine Legislature and other interested members of the public.

The establishment of this Task Force is not intended to delay or interfere with wind power projects that are already in the permitting process.

Membership

The Governor shall appoint 16 members to the Task Force. One member shall be the Commissioner of the Department of Conservation, or his designee; one member shall be the

Report of the Governor's Task Force on Wind Power Development

Commissioner of the Department of Environmental Protection, or his designee; one member shall be the Director for the Office of Energy Independence and Security; one member shall be the Commissioner of the Department of Inland Fisheries and Wildlife, or his designee; and one member shall be the Director of the State Planning Office or her designee.

The remaining appointments shall include diverse members with relevant knowledge and experience in wind power development, land use and conservation policies and regulation, renewable energy policies, electricity and transmission policies and infrastructure, natural resource and remote recreation values, and environmental impacts from electrical power generation.

The President of the Senate may appoint two members of the Senate, and the Speaker of the House may appoint two members of the House of Representatives. Members shall serve at the pleasure of their appointing authority.

The Governor shall appoint the chair of the task force from among the members. The chair will schedule, set the agenda for, and preside at Task Force meetings.

Staff

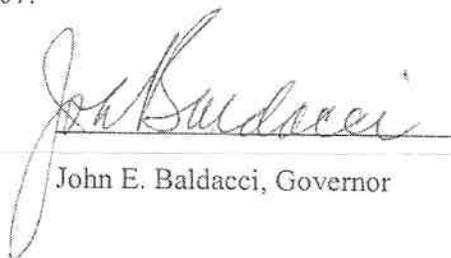
Staff support to the Task Force will be provided by the Land Use Regulation Commission, the State Planning Office, Department of Environmental Protection, and other state agencies as needed. The members of the Task Force shall serve without compensation.

Report

The Task Force shall submit its recommendations to the Governor no later than January 15, 2008, after which the Task Force will dissolve.

Effective Date

The effective date of this Executive Order is May 8, 2007.



John E. Baldacci, Governor

Attachment B. Wind Power Task Force Members

R. Alec Giffen (Chair), Director, Maine Forest Service
Senator Phillip Bartlett
Juliet Browne, Verrill Dana LLP
Pete Didisheim, Director of Advocacy, Natural Resources Council of Maine
Judith A. Dorsey, Retired Lawyer
Representative Stacey Fitts
Senator Walter Gooley
Jody Jones, Wildlife Ecologist, Maine Audubon Society¹³
John Kerry, Director, Governor's Office of Energy Independence & Security
Kathleen Leyden, Coastal Program Manager, State Planning Office
David Littell, Commissioner, Dept. of Environmental Protection
Representative W. Bruce MacDonald
Milton McBreairty, Business Manager, IBEW Local Union 567
Patrick McGowan, Commissioner, Dept. of Conservation
Steve Timpano, Environmental Coordinator, Dept. of Inland Fisheries & Wildlife
David Wilby, Executive Director, Independent Energy Producers of Maine

¹³ Dave Publicover of the Appalachian Mountain Club served as an alternate member.

Attachment C: Other Participants

(Note – This list is not complete)

Kurt Adams, Chairman, Maine Public Utilities Commission (PUC)
Philip Ahrens, Pierce Atwood (representing wind power developers)
Daniel Alberts, Citizen
Thomas Austin, Maine Public Utilities Commission
George Baker, Professor, Harvard Business School
Richard Barringer, Research Professor, Muskie School of Public Service
Steve Bennett, Citizen
Terry Bennett, TransCanada Energy Ltd.
Todd Burrows, Maine State Planning Office
John Carpenter, Citizen
Catherine Carroll, Executive Director, Land Use Regulation Commission
Howard Carter, Saco Wind Power Project
Jack Cashman, Governor Baldacci's staff
Steve Clark, Maine Appalachian Trail Club
Coke Coakley, Florida Power & Light
Josh D'Agnato, UPC Wind
Dick Davies, Public Advocates Office
Orlando E. Delogu, Emeritus Professor of Law, University of Maine School of Law
Terry DeWan, Consultant, Scenic Issues
Nick Di Domenico, TransCanada Energy Ltd.
Holly Dominie, Consultant, Scenic Issues
Frank Dunlap, Florida Power & Light
David Douglass, State Planning Office
Larry Flowers, National Renewable Energy Laboratory
Gore Flynn, Business Development and Finance Consultant
Rob Gardiner, Principal, Independence Wind, LLC
Sarah Giffen, Land Use Regulation Commission
Ann Gosline, Facilitator, Gosline & Reitman
Robert C. Grace, President, Sustainable Energy Advantage, LLC
Dudley Greeley, Citizen
Scott Hawken, Florida Power & Light
Chris Herter, Wind Developer
Bill Hopwood, Hopwood, Inc.
Jim Hutzler, Citizen
Dr. Richard Jennings, Citizen
Matthew Kearns, Director of Project Development, UPC Wind Management
James H. Keil, Stantec
John Kerry, Director, Governor's Office of Energy Independence & Security
Richard Kimball, Assistant Professor of Engineering, Maine Maritime Academy
Ron Kreisman, Environmental Attorney
Harley Lee; Endless Energy Corp.
Dr. Robert Lindyberg, P.E., Assistant Director for Boatbuilding and Marine Composites, The
AEWC Center at the University of Maine

Report of the Governor's Task Force on Wind Power Development

David Lovejoy, Deputy Superintendent, Mountain View Youth Development Center, Charleston Correctional Facility

Sean Mahoney, Conservation Law Foundation

Bill McGuinness, Island Institute

Sam Merrill, Assistant Research Professor of the Muskie School of Public Service and Director of the New England Environmental Finance Center

Bruce Munger, Citizen

Janet Parker, State Planning Office

Bob Proudman, Director of Conservation Operations, Appalachian Trail Conservancy

Nate Sandvig, Business Development, Noble Environmental Power

Suzanne Sayer, Environmental Geophysicist

Glenn Schleede, President Energy Market & Policy Analysis, Inc,

Joseph Seale, Citizen

Marcia Spencer-Famous, Land Use Regulation Commission

Patrick Strauch, Executive Director, Maine Forest Products Council

Mitchell Tannenbaum, Attorney, Maine Public Utilities Commission

Jeff Thaler, Environmental and Natural Resources Attorney, Bernstein & Shur

Karin Tilberg, Governor Baldacci's staff

Fred Todd, Manager, Planning and Administration, Land Use Regulation Commission

Dain Trafton, Citizen

Wendy Todd, Mars Hill Resident

Dylan Voorhees, Natural Resources Council of Maine

Bob Weingarten, Spokesman, Friends of the Boundary Mountains

Al Wiley, Florida Power & Light

John Zimmerman, President, Vermont Environmental Research Associates, Inc.

Subcommittee on Community Wind

Representative Bruce MacDonald—Co-chair

Representative Stacey Fitts—Co-chair

Steve Bennett, Freedom

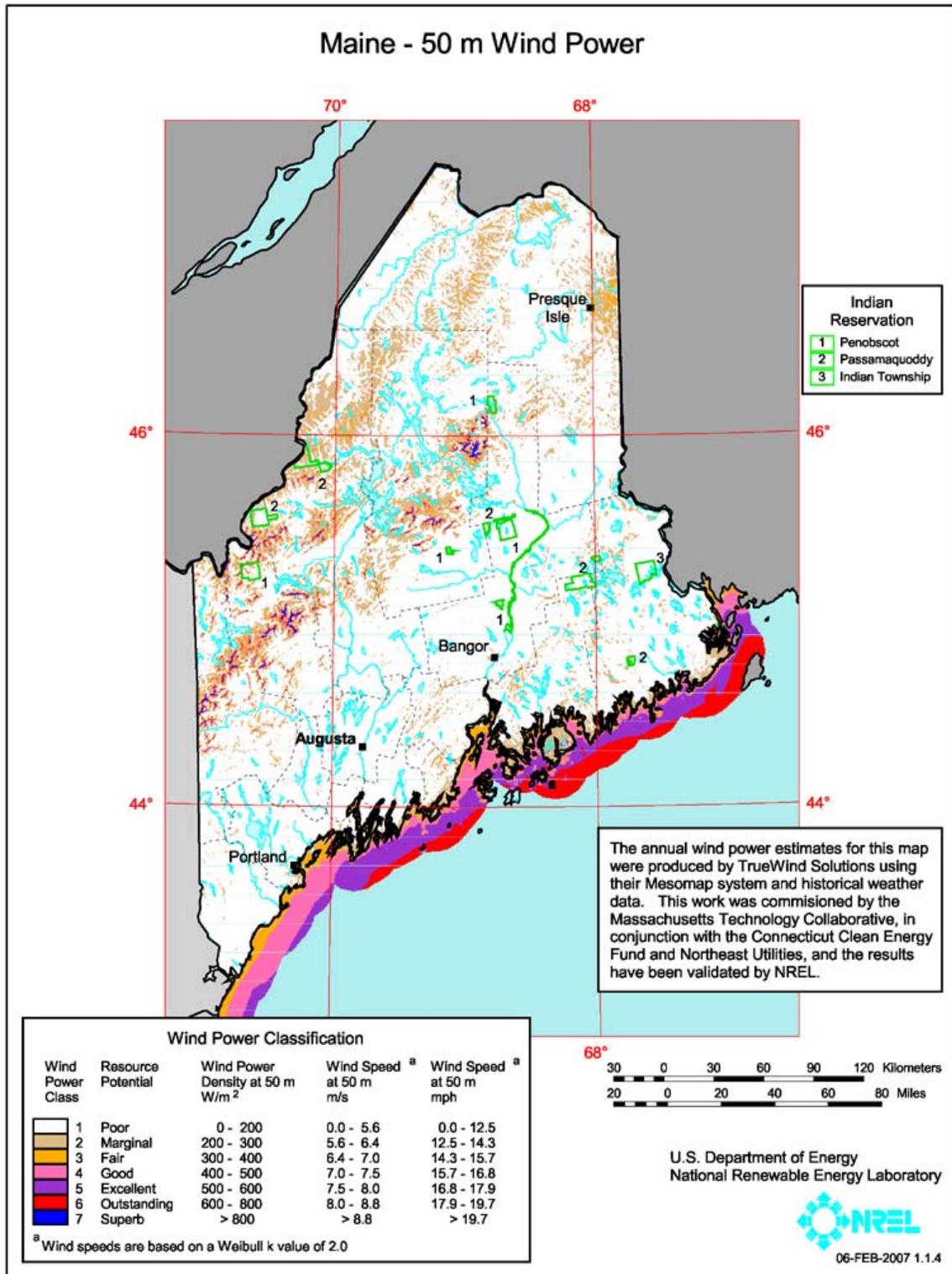
Suzanne Sayer, Kittery

Bill McGuinness, Island Institute

John Carpenter, citizen

Dr. Richard Jennings, citizen

Attachment D. Maine Wind Resources Map



Source: U.S. Department of Energy, National Renewable Energy Laboratory (2007).

Attachment E. Summary of Sustainable Energy Advantage Wind Analysis

To help the Governor's Wind Power Task Force analyze the need for wind energy and Maine's wind power potential in a regional context of energy economics and climate protection goals, a consultant team consisting of Sustainable Energy Advantage, LaCapra Associates and AWS Truewind was retained by the Natural Resources Council of Maine, Conservation Law Foundation, Union of Concerned Scientists, and Environmental Defense, with additional support from the Kendall Foundation. Bob Grace of Sustainable Energy Advantage was the lead consultant. A short description of the analysis is provided below. The organizations involved in the project will release a more detailed report in Spring 2008.

The purpose of this analysis was to answer three important questions:

- 1) How much renewable energy, including wind power, does the region need to meet existing policy objectives—including RPS, RGGI and the climate protection goals established by the New England Governors (38 MRSA §576)?
- 2) What is the realistic potential for wind power development in Maine and the other New England states?
- 3) Given energy market conditions today and going forward a decade, what is the most economic way to achieve our renewable energy and wind power needs within the region, and what does this imply for the distribution of generation development in Maine and throughout the region?

In brief, the analysis determined that the region will need to develop at least 10,000 MW of wind power by 2020 in order to produce enough clean, indigenous energy to meet our environmental and economic policies. If Maine and the region are unable to utilize energy efficiency aggressively, the need may be around 15,000 MW. The region has more than 9,000 MW of developable onshore wind power potential—possibly as much as 18,000 MW if emerging wind projects can economically harness very low-wind areas. Between 55 to 80 percent of that potential is located in Maine. In addition the region may have approximately 8,000 MW of shallow water offshore wind resources that could potentially be developed in the next decade, the majority located in the waters off Massachusetts. However, based on what is known today of offshore wind economics and the state of technological development for this relatively immature application of wind power technology, it is unclear whether much of this low-wind or offshore potential will be economically competitive or feasible. The supply and demand model used by the consultants presented a range of scenarios for determining the most economic amount and location of wind power regionally. Those results for Maine ranged from 4,000 MW to over 10,000 MW.

Estimating our Renewable Energy Needs

Existing policies in Maine and other New England states require an increase in renewable power production. Formal Renewable Portfolio Standard laws in place in all New England states except Vermont, have explicit requirements for an increasing percentage of renewable power. In addition, the Regional Greenhouse Gas Initiative (RGGI), which comes into effect in 2009, will require the participating states to meet their electricity needs within a fixed and eventually declining carbon budget—which will require an increase in low- or zero-carbon generation.

Report of the Governor’s Task Force on Wind Power Development

Beyond existing laws and regulations, our need for renewable energy is also driven by our overall greenhouse gas reduction goals. In 2001, Maine and the other New England states and Eastern Canadian provinces adopted a Climate Action Plan with specific emission reduction goals. In 2004, these goals were enacted into Maine law (38 MRSA §576). For the purposes of this analysis, the law identifies the 2020 goal as reducing emissions to 10 percent below 1990 levels. According to the latest available data, this means a reduction of 38 million tons of carbon dioxide regionally.

Exactly how much renewable energy these future policies will require depends on our overall electricity demand and our ability to reduce carbon emissions from non-electric sources. The team evaluated two electricity demand scenarios, a “high growth” scenario used by the New England Power Pool, and a “low growth” scenario which would reflect demand if the region achieved nearly all the available cost-effective energy efficiency measures. Consistent with existing state and federal carbon mitigation studies, the final analysis assumed that 45 percent of our carbon reductions could occur from transportation, forestry and other sectors.

The results indicate that by 2020 the region will need approximately 37,000 gigawatt-hours (GWh) of renewable energy per year under the low growth scenario and approximately 53,000 GWh under the high growth scenario.¹⁴ (For reference, electricity sales in Maine are currently around 13,000 GWh per year.) Wind power is not the only renewable source available to meet this need—the extent to which wind power in each state could meet that need is described below.

New England’s Wind Power Potential

Maine’s wind power potential has been estimated several times over the years based on wind resource modeling and other relevant features, such as proximity to transmission lines.¹⁵ This analysis conducted and presented to the Task Force represents the most sophisticated evaluation to date. It is based on wind speed modeling at turbine hub heights of 260 ft (80 m), which more accurately reflects current and near-term wind turbine technology than previous modeling data. The raw wind potential was then filtered twice. First, the analysis excluded several categories of land usage where wind power will be infeasible or categorically undesirable—for example state parks, very steep slopes, lakes or wildlife refuges. Second, it discounted the availability of different land types according to estimates of the amount of land that might “reasonably” be available. For example this ranged from discounting, or removing from consideration, 100 percent of the land within two miles of the Appalachian Trail, 85 percent of National Forest Land, 50 percent of forest land and 0 percent of agricultural land. These reductions did not reflect the specific positions of the Task Force nor the sponsoring organizations but reflected a starting point in recognizing that not all windy lands could or would be developed. In Maine, this left 1,966 km² (685,000 acres) of developable land. The resulting onshore megawatt potential, sorted by state and wind Power Range¹⁶, with Power Range 5 the windiest and most scarce, are shown in the following table.

¹⁴ The range of uncertainty is about 3000 GWh and reflects different amounts of energy imports. The 2015 amounts are approximately 23,000 GWh to 27,000 GWh respectively, plus or minus 2000 GWh.

¹⁵ For example, *Report on the Viability of Wind Power Development in Maine*, Maine Public Utilities Committee (Presented to the Utilities and Energy Committee of the Maine Legislature, January 27, 2005.)

¹⁶ Power Range is based on the wind power in watts per square meter; this measure is distinct from, but related, to Wind Class (which is defined at a lower hub height).

Report of the Governor's Task Force on Wind Power Development

	Power Range					State Total
	1	2	3	4	5	(MW)
Maine	3,811	825	359	160	165	5,320
Vermont	919	605	262	97	64	1,947
New Hampshire	721	288	116	46	53	1,224
Massachusetts	539	271	75	13	3	901
Connecticut	25	-	-	-	-	25
Rhode Island	-	-	-	-	-	-
Total						9,417

In response to feedback from the Task Force and others, the team evaluated the potential from an even lower class of wind (referred to as Power Range “0”). Power Range “0” represents winds at speeds below which have previously been considered economically feasible for commercial-scale wind power development. The economic feasibility of this wind resource remains relatively untested, however the amount of land in this category is very extensive, particularly in Maine. The consultant team estimated that as much as 9,300 MW of additional potential might theoretically be available from these areas in Maine over the next decade. However, it is important to note that to generate the same amount of energy as wind generators in areas considered commercially viable for wind development, approximately 50 percent more turbines would be required.

The offshore wind potential was evaluated by estimating wind potential in shallow water (<50 ft) within 20 miles of land, using existing national wind resource modeling and discounted based on existing estimates of the amount of area reasonably available. This resulted in approximately 1,200 MW of offshore potential off of Maine, 430 MW off of Rhode Island, and 6,500 MW off of Massachusetts, for a total of about 8,000 MW.

Results of the Final Economic Analysis

In order to ground the analysis in an economic reality, the team prepared a renewable energy supply and demand model with many inputs. A variety of assumptions were used in this model, based on the best information available today and a broad set of empirical data. The final model included aggressive development of emerging renewable energy technologies, including tidal and solar (nearly 1,000 MW by 2020), as well as continued increases in wind power technology and capacity factors. Biomass, hydropower and landfill gas potential were also considered. The projected resource build out was predicated on the relative economics of each resource type and its resource potential.

The results indicate a range of scenarios for meeting the needed amount of additional renewable energy as economically as possible. In all cases biomass, landfill gas and hydropower played a very small role in meeting this need because the other resources have more limited resource potential than wind and because wind power, even in more expensive areas, was more cost-effective. With a high growth electricity demand, approximately 15,500 MW of wind power will be required to meet the 53,000 gigawatt-hours of renewable power described above, plus approximately 1,000 MW of biomass, hydro/tidal and solar. Under a low growth demand, the amount of wind power needed would drop to approximately 11,000 MW.

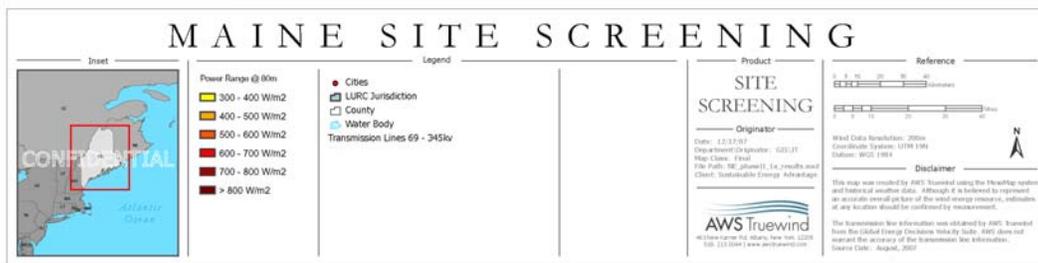
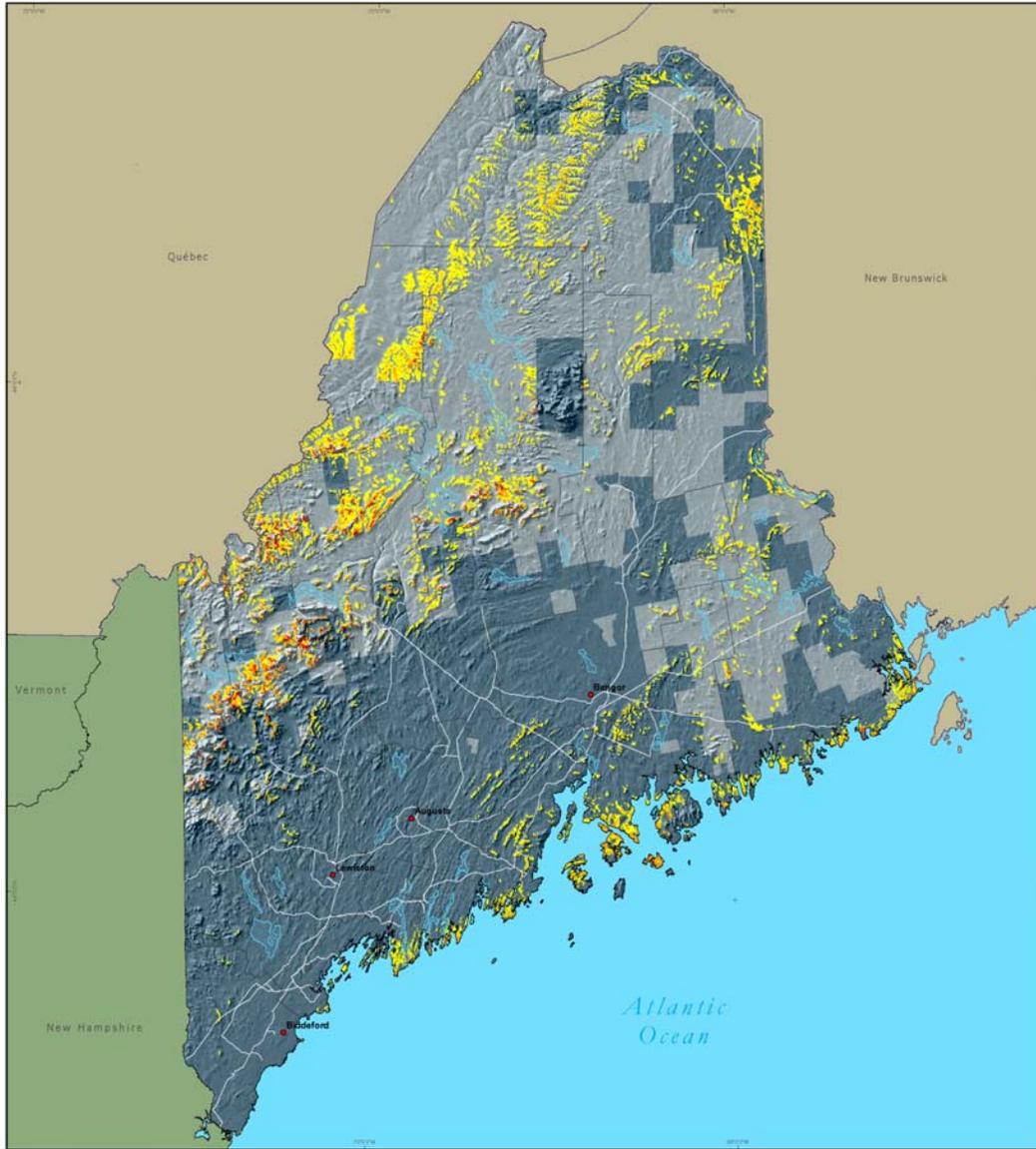
Report of the Governor's Task Force on Wind Power Development

The results of the economic model also indicated possible development patterns by state. The results differed considerably based on assumptions about the economic feasibility of the low-wind areas in Maine. These low-wind areas are very large but their economic viability is uncertain. At one extreme, where these areas are considered economically unviable, approximately 4,000 MW of onshore wind in Maine would be called on, plus nearly 4,500 MW in the rest of New England, plus 4,000 to 7,000 MW of offshore wind (with 300 to 350 in Maine). In another scenario in which large amounts of lower-wind areas in Maine are assumed economically viable, 7,700 to 12,000 MW of onshore wind in Maine would be called on, plus approximately 4,000 MW of onshore wind in the rest of New England. A number of factors, including grid structural limits, make this result unlikely. The 4,000 MW scenario is more feasible and represents a sound pathway to meeting the region's renewable power objectives in an economically efficient way.

Wind Resource Map

The attached map depicts onshore areas in Maine that appear to have sufficiently strong wind velocities to support economically viable wind power projects during the timeframe defined by the Bob Grace analysis, through 2020. Lower wind areas are indicated in yellow, and higher wind velocities are shown in red. The map shows potential wind resource areas that remain after the landscape exclusions mentioned above have been applied. This map is based on modeling by AWS Truewind. Actual wind velocities may differ, based on field data gathered by a developer.

Report of the Governor's Task Force on Wind Power Development



This map provides a modeling of areas where wind power projects may be economically viable in Maine, based on assumptions used in the Bob Grace analysis. Parks, conservation lands, and other landscape exclusions have been screened out. Projects in lowest power range (yellow) have not been proven in Maine, yet changes in technology and energy costs suggest that wind projects may become viable in these areas through 2020.

Attachment F. DEP Rules Chapter 315 (10)

Chapter 315 (10) – Scenic resources. The following public natural resources and public lands are usually visited by the general public, in part with the purpose of enjoying their visual quality. Under this rule, the Department considers a scenic resource as the typical point from which an activity in, on, over, or adjacent to a protected natural resource is viewed. This list of scenic resources includes, but is not limited to, locations of national, state, or local scenic significance. A scenic resource visited by large numbers who come from across the country or state is generally considered to have national or statewide significance. A scenic resource visited primarily by people of local origin is generally of local significance. Unvisited places either have no designated significance or are “no trespass” places. Sources for information regarding specific scenic resources are found as part of DEP’s Visual Evaluation Field Survey Checklist (doc. #DEPLW0540) provided in the application.

- A.** National Natural Landmarks and other outstanding natural and cultural features (e.g., Orono Bog, Meddybemps Heath);
- B.** State or National Wildlife Refuges, Sanctuaries, or Preserves and State Game Refuges (e.g., Rachael Carson Salt Pond Preserve in Bristol, Petit Manan National Wildlife Refuge, the Wells National Estuarine Research Reserve);
- C.** A state or federally designated trail (e.g., the Appalachian Trail, East Coast Greenway);
- D.** A property on or eligible for inclusion in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966, as amended (e.g., the Rockland Breakwater Light, Fort Knox);
- E.** National or State Parks (e.g., Acadia National Park, Sebago Lakes State Park);
- F.** Public natural resources or public lands visited by the general public, in part for the use, observation, enjoyment and appreciation of natural or cultural visual qualities (e.g., great ponds, the Atlantic Ocean).

Attachment G. Scenic Resources of State or National Significance

Under the approach proposed by the Task Force, scenic impact of wind turbines would be evaluated when turbines would be visible from viewpoints in resources listed in Chapter 315 (10) A through E, (which are resources of state and national significance).

- A. National natural landmarks, federally designated wilderness areas, and other outstanding natural and cultural features (e.g., Orono Bog, Meddybemps Heath);
- B. A state or federally designated backcountry trail (e.g., the Appalachian Trail);
- C. A property on the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966, as amended (e.g., the Rockland Breakwater Light, Fort Knox);
- D. National or state parks (e.g., Acadia National Park, Sebago Lakes State Park);
- E. Scenic impact of wind turbines would be evaluated for a subset of resources set out in Section F that are resources of state or national significance, specifically:
 1. Lakes and ponds previously identified as having highly significant scenic value (specifically, 66 lakes in the organized townships identifies in the “Maine’s Finest Lakes” study, and 280 lakes and ponds in LURC jurisdiction designated as “outstanding” or “significant” from a scenic perspective in the Wildlands Lakes Assessment);
 2. Segments of rivers identified as having scenic significance in the Maine Rivers Study;
 3. A subset of Public Reserved Lands: DOC, in cooperation with DEP and LURC, will determine viewpoints on the state’s public reserved lands that are of state or national significance from a scenic perspective, using criteria set out in Chapter 315, (e.g., significance of resources and number of people who visit from around the state or nation). This could be done prospectively, or on a case-by-case basis;
 4. Scenic turnouts on the state’s designated scenic highways;
 5. Scenic points of state and national significance in Maine’s coastal zone, as identified in *A Proposed Method for Coastal Scenic Landscape Assessment with Field Results for Kittery to Scarborough and Cape Elizabeth to South Thomaston*, Dominie et al, October 1987; *Scenic Inventory Mainland Sites of Penobscot Bay*, Dewan and Associates, et al, August 1990; and *Scenic Inventory Islesboro, Vinalhaven, North Haven and Associated Offshore Islands*, Dewan and Associates, June 1992 or other inventories conducted using a similar methodology approved of by the Maine State Planning Office.

**Attachment H. Guidelines for Wind Power Project Ecological Study
by the Maine Department of Environmental Protection and Maine
Department of Inland Fisheries and Wildlife**

February 1, 2008

These guidelines are intended to assist wind power developers in Maine and supplement existing Maine statutes and rules developed under the Site Location of Development Law and Natural Resources Protection Act for ecological impact and are focused on assessing potential avian and bat impacts from large scale wind power development in Maine.

- Initial site screening: Initial siting requirements should include screening for bird, bat and wildlife habitat using known data. For initial siting applicants should screen known data on bird, bat, wildlife in the general area of the development and on the specific project site (consulting DIF&W Essential Habitat maps, consult with USFWS on endangered and threatened species, review *Beginning with Habitat Maps*, DIF&W/DEP database of significant wildlife habitat, state database for G1, G2, S1, S2, and S3 imperiled communities). While required for application submittal, screening information should be shared early on in the siting process with DEP, DIF&W, Maine Natural Areas Program, and DMR staff to gather feedback for the applicants and aid in the determination of where to focus additional investigations for final application submittal. Early consultation based on screening information is crucial to determine study needs to study designs.
- Pre-construction study requirements: The Department and review agencies will generally require the submittal of at least two migratory seasons, spring and fall, of bird/bat nocturnal radar, diurnal surveys for migratory birds and raptors, and acoustic studies for bats. If high value resources or habitats are present (e.g. eagle nest, high raptor use, migration corridor, endangered or threatened species), scoping and additional study will be required.
- Methodology for bird and bat pre-construction studies: Bird and bat studies should follow the *Methodologies for Evaluating Bird and Bat Interactions with Wind Turbines in Maine*, including Appendices I-IV, compiled by Maine Audubon based on work of the Maine Windpower Advisory Group, DIF&W, and Wildlife Windpower Siting committee (draft April 12, 2006). When methodologies will vary from specific recommendations in this *Methodologies* document, applicants should consult with DEP and DIF&W.
- Seasonal surveillance period: In most cases, radar studies should be done of at least one fall and one spring migration with at least 20-30 nights each season, representing various seasonal weather fronts. See *Methodologies* at p. 4.

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- Combination of approaches advisable:¹⁷ Preconstruction bird and bat studies by multiple methods: nocturnal bird/bat nocturnal radar,¹⁸ diurnal surveys for migratory birds and raptors, acoustic studies for bats, and other studies should be conducted for a minimum of two migratory seasons in the site area. If high use by bird/bats or high-value habitat or species are identified, four migratory seasons may be necessary. Particular attention should be paid to identification of site characteristics that may attract birds/bats such as thermals, forested ridge lines, saddles, etc.
- Lighting: Site design should consider limiting lighting of related maintenance buildings, power stations, etc. equipment that may attract birds in bad weather and insects (therefore bats) at night. Lighting on the towers themselves should consider research on attraction of birds (bats shown not to be attracted to red F.A.A. lighting). See NRC at p. 86 and p. 321.
- Post-construction bird and bat mortality: Mortality studies for birds and bats should be conducted for a 2-3 year period (i.e. 2-3 spring and 2-3 fall migration seasons) within 5 years of start of operation. These studies should follow the *Methodologies* recommended for post-construction review and consult with DEP/IF&W when an applicant desires to vary from recommended methodologies.
- Post-construction study plan: The post construction study plan should be co-related to pre-construction study design to provide robust data on environmental impacts that are comparable between the pre and post construction condition.. For example, before-after/control impact (BACI) design is useful for impact study design. See NRC pp. 280-83.
- Use of thermal imagery: While relatively new, use of thermal imagery has been documented to be valuable when compared with radar data on birds, bat and insect activity in windpower areas. See NRC p 329. Initial application of thermal imaging at a few sites is encouraging: when used with long-range imagery capability has been found capable of detecting 100% of the small passerine (song bird) passage within 3000 meters of the unit. See NRC p 332. When combined with height information (presumably from radar), thermal imagery is the only sensing instrument found to be “excellent” by the National Research Council for detection, tracking and quantification of bird and bat passage. See NRC, *Table C-2 pp. 286-87, see also NRC pp. 331-336*. If initial screening or initial studies indicate significant concern with potential wind facility rotor interaction with bird/bats species in the projection area or a potential migration corridor, or other

¹⁷ The National Research Council's review of observational/monitoring methods found that: “In many cases, using a combination of approaches will be of value as no single method can be used for unambiguously assessing natural populations or the effects of wind turbines on biotic communities. Each approach has its own strengths, limitations, and biases. Investigators should understand the limitations, applicability, and operational considerations of each method before deploying them in the field. Local field guides and taxonomic keys for species identification are essential tools for investigators . . . “ *Environmental Impacts of Wind-Energy Projects*, National Research Council of the National Academies (2007) at p. 285.

¹⁸ In addition to the *Methodologies* document commending use of both X-band radar pointed vertically and S-band radar pointed horizontally, note that the National Research Council concludes that marine radar should have a transmitter power as high as possible (25kW or greater). See *Methodologies* at p. 3 and NRC at p. 317.

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specific concerns, use of thermal imagery provide another technology to confirmation migration passage rates and bat activity in vicinity of turbines..If significant mortality occurs at a site despite the best pre-construction review, thermal imagery may be used for post-construction investigation of bird/bat interaction with windpower facilities.

- Mortality species identification: If post-construction studies indicate substantial bird/bat mortality, identification of the species present in the area surrounding a windpower project is essential to assess facility impacts. For carcasses and partial remains, specific identification may require bird feather or bat hair samples. *See NRC pp 338-39.* Mitochondrial and DNA markers can determine sources populations of birds/bats that move long distances and identify geographic origin of bats and birds killed at wind-energy facilities.. *NRC p. 338.* Bat hair and bird feather samples are maintained in national repositories (American Museum of Natural History for birds/bats tissues collected below wind turbines and Conservation Genetics Research Center at UCLA for feathers samples for genetic analysis) and when conditions specifying use of repositories for samples may be appropriate in certain circumstances. *See NRC at 291.*
- Maine studies: Studies conducted for projects in Maine will provide valuable data nationally for windpower development in forested ecosystems. Because much existing research on bird and bat population impacts has occurred in desert, prairie, or open agricultural landscapes, research being conducted for Maine projects will contribute to scientific understanding of questions on which limited research data exists. *See NRC pp. 132-38 on information needs and research recommendations.*

Attachment I. DEP Standards on Noise and Shadow Flicker at Wind Power Projects

January 10, 2008

To: David Littell, Commissioner

From: Andrew Fisk, Bureau Director, Land & Water Quality

Re: DEP standards on noise and shadow flicker at windpower projects

Noise standards

The Department has extensive experience with its noise regulations (06-096 CMR, Chapter 375) which are administered under the provisions of the Site Location of Development Act. These rules have been in place since 1979 and have been applied to hundreds of different types of projects around the state. These rules were developed to consider a wide range of activities that generate different types of noise in different settings. The rules were consciously designed to consider many different types of developments, rather than be particular to any one type of noise or development. That said, there are rules and ordinances that have been developed for particular types of projects, including wind power projects.

Following the issuance of the Site Location permit for the Mars Hill windpower project, which required the submission of detailed predevelopment wind studies, the Department worked with the owners of the facility to scope and then review a post-development noise study. This monitoring work began in spring 2007 and is continuing through the winter of 2008. The results of this ongoing assessment of the noise generated by the project have been reviewed by the Department as well as a consultant hired by the Department to peer review the work of the applicant's consultant.

As a result of the consultant's assessment of other existing noise rules developed for windpower projects; the Department's experience with its own noise regulations; and the peer review of both pre- and post-development noise studies at the Mars Hill site, the Department has developed a number of specific conclusions and recommendations regarding the applicability of the noise rules to wind power projects.

Shadow flicker

There has been some comment provided to the Department that wind turbines have caused impacts on private residences from shadow flicker when sun shines behind an operating turbine. Maine's northern latitude may make wind power projects susceptible to causing irritating shadow flicker as a result of low altitude sun during certain times of year. Shadow flicker is described as "moving shadow on the ground resulting in alternating changes in light intensity" and has been noted to cause concern in Northern Europe (NRC 2007). The NRC report notes that there is available modeling software that allows for shadow flicker to be assessed and mitigated in the layout and design of windpower projects that are near developed areas.

Conclusions & recommendations

- ❖ Except for one clarifying change outlined below, the existing statute and rules are sufficient to allow the Department to regulate the noise effects of wind power turbines. DEP's noise rules conform with the stated best practices of the National Research Council's 2007 report on the "Environmental Impacts of Wind-Energy Projects."
- ❖ Revise Chapter 375.10 (E) to provide the Commissioner with the authority to "establish any reasonable requirement to ensure that the developer has made adequate provision for the control of noise . . ." Present language limits that authority to the Board of Environmental Protection (BEP) only.
- ❖ Noise generated from wind turbines does have attributes that warrant particular focus in the review of projects, including the low-frequency modulating noises generated as turbine blades pass by towers.
- ❖ Analysis of ambient noise generated by wind must be carefully evaluated with specific equipment in pre-development and post-development monitoring so that it is not considered a component of noise generated by a wind turbine.
- ❖ Post-monitoring studies require careful placement of monitors that account for the effects of topography, prevailing wind (at both ground and turbine levels).
- ❖ Post-monitoring studies must be conducted during operational conditions that generate the most noise and during seasons or times when sound propagation is likeliest (such as wintertime snow cover).
- ❖ Variances from the existing noise regulations should only be granted in the circumstances set forth in the applicable section of the DEP regulations, where particular attention must be focused on precisely determining the characteristics of ambient noise.
- ❖ LURC should adopt parallel rules to those of the DEP to provide more detailed guidance than LURC rules currently provide and to make standards consistent statewide.
- ❖ To ensure that shadow flicker is not an adverse impact on protected locations, applicants for windpower projects in either LURC or DEP jurisdiction should demonstrate where shadow falls will occur and to what extent shadow flicker will result. Shadow flicker should be considered in the design of any project and minimized to the extent practicable. There is sufficient statutory authority in DEP and LURC law to request and review this information.

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Attachment J. The Benefits, the Quid Pro Quos for Fashioning a Streamlined Approach to Commercially Sized Wind Energy Facility Siting

¹⁹

Orlando E. Delogu, Emeritus Professor of Law, University of Maine School of Law

January, 2008

In response to the call for a streamlined approach to commercially sized wind energy facility (and necessary transmission line) siting some have asked— why should Maine bear the burden of these large, noisy and arguably unsightly facilities, what's in it for Maine citizens? That's a fair question; it's not enough to simply say because we can, because we have the wind resource. That seems too altruistic, perhaps even a little gullible. Moreover, there are far more compelling reasons— sound, hard-headed economic, employment, and public policy reasons that taken together constitute a meaningful array of benefits— the quid pro quos for accepting 25-40 (perhaps more) commercially sized wind energy facilities over the next 3-5-7-10 years.²⁰ An enumeration of this array of benefits follows.

1. First, each of the facilities proposed to date in Maine represents a significant level of new capital investment. The amount proposed to be invested for each facility varies with the size of the facility, site differences and differing transmission line needs, but the range to date is between \$95-270 million dollars.²¹ Though some of this capital investment will move out of state to buy materials and equipment not presently available or made in Maine, a good bit of the invested capital (including the physical facilities and the transmission lines needed to move the energy produced onto the grid) are, and will remain, in Maine. This investment will enhance state and local tax bases,²² create jobs, and have beneficial ripple and multiplier effects on Maine's economy far into the future. Finally, if one expands the numbers cited above (see f.n's 21 and 22) from the 5 facilities (that have been or are being contemplated) to the realistically possible level of 25 (or more) such facilities, we can see that this energy source, this industry, has the capacity to infuse somewhere between \$2-3 billion dollars of new capital investment into Maine economy. By historic standards these are staggering numbers, but at the same time this is

¹⁹A version of this paper was presented to Governor Baldacci's Wind Energy Task Force in November, 2007.

²⁰This would almost certainly generate between 2,000-3,000 MW of electricity. To understand what this means in more practical terms it seems useful to know that 100 MW of energy output would meet the energy needs of between 30,000-35,000 average size households. Using the mid-points of this date, 2,000-3,000 MW of electricity would thus meet the energy needs of 812,000 households. According to US census data there are presently approximately 550,000 households in Maine.

²¹A rule of thumb in the industry is that each MW of wind energy output requires a capital investment of approximately \$2 million dollars. The five facilities that have recently been discussed in Maine, for example, range from \$95 million dollars of investment for the 42 MW. Mars Hill facility (now on-line); to \$130 million dollars of investment for the 90 MW Redington facility (declined by LURC); to \$110 million dollars of investment for the scaled back version of Redington, the 54 MW Black Nubble facility (awaiting LURC disposition); to \$100 million dollars of investment for the 57 MW Stetson project (recently approved by LURC); and finally, \$270 million dollars of investment for the proposed 132 MW Kibby wind power project.

²²The Mars Hill facility, for example, is committed to a property tax payment of \$500,000 dollars annually for the next 20 years, a total of \$10 million dollars. This has provided a meaningful level of tax relief to every other property taxpayer in the town.

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a level of investment that is clearly within reach— **Maine has the critically necessary wind resource.**²³

2. Second, the cryptic reference to jobs in the preceding paragraph requires expansion. Wind energy development along the lines suggested above will give rise to two types of employment—both are important. To begin with, each facility will create a range of direct (and mostly short-run) employment opportunities. Site selection, facility design, engineering, the permitting process, site improvement, and actual construction will all require personnel (many of whom will be highly trained and highly paid professionals) for varying lengths of time. And, though employment levels at any one facility will drop once the facility comes on-line, there will then be a base level of permanent employees trained to operate, maintain, and monitor operations. These jobs too will require well-trained, and commensurately well-paid people.²⁴ **Of equal or greater importance is the fact that many of these jobs will be located in northern Maine, an area of the state where unemployment, and wage levels have been a constant problem.**

The second (more indirect) type of wind energy related employment involves the design, fabrication, assembly, and maintenance of the equipment utilized by wind energy facilities. Almost everything from towers, to blades, turbines, electronic controls, etc., now comes from out of state suppliers— this outflow of capital investment and jobs to other states, Canada, and Europe must change. It robs Maine of the full economic potential which the capital investment in wind energy facilities is capable of creating. The employment potential here is huge. But It can only be realized if we in fact develop a real wind energy industry in the state – only if we move from one on-line facility to 3, 5, 10, 25+ such facilities— only if this scaled-up level of activity has projects which are at every stage of development, i.e., the permitting phase, actual construction, and on-line operation. This reality will give rise to a totally different mind-set among suppliers of wind energy equipment and component materials. They will no longer be content to ship bulky and delicate equipment into Maine— they will reduce costs and improve service by operating in Maine, in close proximity to an industry that has both critical mass and continuing growth potential. The growth in wind energy facilities in Texas (see f.n. 26) is directly on-point. A recent AP report noted that:

“Texas wants to be home to more than just the place with the most wind energy generation capacity... [Texas wants to be] an industry hub... the place where the industry grows, where companies manufacture and assemble wind turbines.... If you had a pipeline of several years worth of projects, manufacturers would set up plants here Then you would be supporting a manufacturing base for turbine [and all other wind energy] equipment, not just power generation.”²⁵

²³It is worth noting that Texas (another state with extensive wind energy capacity) grew its wind energy output from 180 MW in 1999 to 3350 MW in 2007; another 1250 MW of output are under actual construction and will come on-line in 2008.

²⁴Published data provided by UPC Wind, the developers of the Mars Hill facility, indicate that during the construction phase of their project over 300 Maine people (drawn from a variety of disciplines and firms) were employed; and their permanent in-state employment group now numbers 13; this, from a single 42 MW facility. Extrapolating to 25+ facilities and 2,000-3,000 MW of output, one sees that the direct employment potential is significant.

²⁵Steve Quinn, AP, “Texas Tops in Wind Energy Production.” USA Today, July 25, 2006.

This is precisely what we want for Maine— to be an industry hub serving in-state and regional (New England and Eastern Canada) wind energy equipment needs— with all of the employment potential that status portends. Here too, the jobs created will be mostly skilled and high-paying. **And again, this employment will be located primarily in northern Maine providing the economic boost this region needs.** But we must realize that these benefits are possible only if we steal a march on neighboring states— only if we enable this industry to take-off. The creation in Maine of a streamlined approach to wind energy facility siting is a critical step moving us in this direction.

3. Beyond the growth in tax base and jobs that an expanded number of wind energy facilities will create, there is a third type of benefit, i.e., the creation of permanent high-value conservation (open space) easements on land owned by the wind energy developer²⁶ as part of the exchange that identifies and ultimately permits a wind facility to be placed on suitable (from a wind energy standpoint) but less scenic land areas. This fashioning of a trade-off— of a win/win scenario between wind energy developers and the public sector may not be possible in every wind energy development setting. But the possibility should be examined during the permitting phase of each facility that presents itself for siting approval.²⁷

4. A fourth type of benefit that 2,000-3,000 MW, or more, of wind energy (25+ facilities) will almost certainly create has two facets— the first is sometimes referred to as “energy security”— a stability of supply because these facilities are rooted in Maine, and the wind resource will not go away. The second, is some reduction in the cost of in-state electrical energy. Will this drop in energy costs be significant— probably not. Will it be felt everywhere in the state— again, probably not. But Maine today has one of the highest electrical energy costs of any state in the nation— any downward movement (or even the stabilization of electrical energy costs) is a benefit, a step in the right direction. Published data from the federal government’s Energy Information Administration clearly shows that states that produce a significant quantity of electrical energy, whatever the source— hydroelectric in TVA or Pacific Northwest states— coal and oil burning in mid-west, mid-Atlantic, and Gulf Coast states, and most recently wind energy in Texas, enjoy lower electrical energy costs across the spectrum of users— residential, commercial, and industrial than do non-electricity generating states.²⁸

5. Finally, the long-term environmental benefits in Maine that 2,000-3,000 MW of wind energy (25+ facilities) would give rise to are very real. Our dependence on fossil fuels for energy production (with all of the air emission problems associated with these fuels) would be reduced;

²⁶ For example, LURC’s understandable (laudable even) effort to bar by regulation any and all development at elevations above 2,700 feet is a strategy that is legally questionable at best, and impermissible at worst. In many settings non-development at these higher elevations may be more permissibly achieved if it grows out of a voluntary agreement between the state agency (LURC) and a wind energy facility developer/landowner.

²⁷ This is the approach being taken by Plum Creek in its development application (currently before LURC) which requests (a rezoning and approval) of a significant level of residential and recreational development in defined areas, while at the same time subjecting other (much larger areas) to permanent conservation easements which preclude almost all future non-woods related development. The opportunity here (as in wind energy development settings) for mutually beneficial public/private trade-offs seems obvious.

²⁸ See Energy Information Administration, Average Retail Price of Electricity by State, July, 2007.

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carbon emissions in particular would be reduced;²⁹ the seemingly relentless pace of global warming would be slowed; and most importantly, given Maine citizen's attitude towards nuclear power, we realistically position ourselves to fend off louder and louder demands (globally, in the nation, and ultimately in Maine) for a resumption of nuclear energy development/production. As global warming progresses, these demands will be harder to resist unless we are prepared to put an alternative (non-fossil fuel) energy source online. Wind energy is such an alternative.

Conclusion:

Our wind resources are real; they have extraordinary potential. The question before us is—do we have the political will to exploit this potential, to create a real wind energy industry (25+ facilities— 2,000-3,000 MW) in Maine. The range of benefits outlined above would seem to provide ample motive for moving in this direction. However, we seem to have difficulty getting out of our own way. Continuing to debate the technical efficacy of, and/or the environmental benefits of wind energy (which seem huge when compared with further reliance on fossil fuels for energy), coupled with our fragmented approach to wind energy facility siting, will almost certainly leave the promise of this industry largely unfulfilled. Alternatively, the creation of a more coordinated, a streamlined approach to wind energy facility siting is calculated to enable the promise of this industry to emerge. These streamlining steps (if taken) will, over time, encourage private sector energy developers to channel essential capital investment dollars into Maine— the rest will follow in due course— direct and indirect employment opportunities, public-private (conservation oriented) development agreements, a stability of energy supply, lowered energy costs, environmental benefits. Texas' experience suggests that this scenario is realistic. Maine is poised to do likewise— the time to act is **NOW**.

²⁹Based on national carbon reduction data arising from presently online wind energy facilities, wind energy development in Maine along the lines projected in this paper would enable some 3.4 million tons of carbon emissions to be avoided annually.

Attachment K: Assessment of the Status of Offshore Wind Power Technology, Economic Viability and Future Outlook

To date, no wind energy projects have been proposed for waters off the coast of Maine. Wind energy facilities are operating in Europe and are being pursued offshore in other places in the United States. Germany, Denmark, the Netherlands, Great Britain, Ireland, and Sweden collectively generate approximately 900 MW of wind-produced electricity through offshore installations (Musial 2007), many of which are government-sponsored demonstration projects (Applied Technology and Management, Inc., et al. 2007). There are several offshore wind energy development proposals under review in the United States. The Cape Wind project off Massachusetts is a well-known proposed project that remains under active consideration. Other projects are under consideration are off the coasts of Delaware, New York, and Texas.

There are a number of areas where technological advances are being pursued to increase the practicality (and economic viability) of siting wind turbines in deeper waters. Issues being studied include those related to: construction, development of different foundations to support turbines, transmission, and operations and maintenance costs. Each of these topics is discussed below.

The water depth issue is important from a construction standpoint because of construction feasibility and increased cost as depth increases. To date, offshore wind turbine construction has generally involved the use of monopiles driven into the bottom or gravity-foundation designs—foundations weighted at the bottom to provide stability (Massachusetts Technology Collaborative et al. 2005). For monopiles, in general the deeper the water depth, the deeper the foundation must extend to ensure stability of the turbine against wind, wave, and current forces (Applied Technology and Management et al., Inc. 2007); this becomes difficult particularly with certain bottom types. Typically, such monopiles are pile-driven into the bottom, so that areas with softer bottoms are most feasible from a construction standpoint. While drilling through harder bottoms is possible, it can be cost-prohibitive (Coakley 2008). Construction equipment availability for such deep-water infrastructure in the United States is also very limited. Large “jack-up barges” capable of lifting the turbines must be used, along with large pile-driving equipment and cable-laying ship-based equipment (General Electric 2007).

The wind power industry and research institutions are exploring the use of different foundation approaches and technologies to enable siting of turbines in deeper waters. For example, floating turbines have been explored, in part drawing upon the more experienced oil and gas industry. A prototype model was launched in late 2007 offshore Italy in water depths of about 300 feet (Blue H Technologies BV 2007). Current International Energy Agency research includes examination of the use of floating turbines at depths greater than 500 feet (International Energy Agency 2006). Results of a Massachusetts Institute of Technology study indicate that floating platforms at depths of up to 600 feet performed well during modeling and may be economically feasible (Wayman and Sklavanous 2006). Other types of foundations are also being examined. For example, Talisman Energy has a pilot project with a 5 MW-sized turbine that also utilizes a different type of foundation structure (combination mono-pile on top of a truss-supported platform) in approximately 150-foot-deep water (Musial 2007).

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The need for potentially long transmission cables connecting offshore sites with the onshore grid leads to concerns not only with construction practicality and cost but also power loss. In general, cables longer than 20 miles in length can have significant power loss (Coakley 2008). However, work is being done to address this issue through improved cable material technology and/or use of converter stations to allow cables to conduct direct current. Additionally, project costs can be increased because of financing institutions' requirements for insurance coverage for the cables, which can add millions of dollars annually in costs (Coakley 2008). Finally, cable connections to the existing electric grid may be an issue if the grid near landfall requires upgrades to handle the new power supply.

A final, but significant, issue with offshore facilities is their inherent high cost of operations and maintenance, which can be up to 25 percent of the cost for offshore projects (Butterfield et al. 2005). Since it is critical that down-time for turbines be reduced as much as possible, accessing and working on in-place turbines in an efficient and safe manner is an important part of a project's economic viability. This has also been an area where technology is coming into play, for example through the development of ultra-stable boats designed to allow workers access to turbine platforms in seas up to six feet in height or more (General Electric Energy 2006).

In general, to address some of the cost issues associated with offshore development, larger turbines are also being developed to improve economies of scale (i.e., reduction in the unit cost per kilowatt generation) for offshore projects. Currently, there is a 3 MW turbine for marine use available in Europe, but not the United States. General Electric is developing a 3.6 MW-sized turbine for use in near-shore environments, which should be commercially available in 3 to 5 years (Applied Technology and Management, Inc., et al. 2007). With grant money from the United States Department of Energy, General Electric is developing a 5 MW-sized turbine with a longer term development horizon (General Electric Energy 2006).

Overall, therefore, despite the issues associated with siting wind turbines offshore, technological advances are improving the economic viability for offshore projects by allowing larger turbines that take advantage of economies of scale and to be sited in deeper waters over which there is greater wind power generation potential. As noted above, indications are that offshore Maine has strong potential for wind power development, and Maine efforts to further understand this potential are underway. As projects in the United States and elsewhere continue to be developed and constructed, this will in turn lead to the necessary experience and technical capability to look at wind power over deeper waters (Musial and Butterfield 2006). Incentives for technological advances (e.g., increased electricity generation costs leading to a more attractive economic model for offshore wind energy development, or government subsidies or programs) may also help to increase the pace of development.

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Attachment L. Emission Benefits of Wind Power

The following pages contain excerpts from DEP and PUC presentations before the Land Use Regulatory Commission in August, 2007. As part of these presentations, LURC had asked about clarifying if wind energy projects reduce greenhouse gas emissions. These presentations explain the emissions benefits regarding reduction in greenhouse gasses.

Wind Power and Air Quality

Maine's Energy Policy and the Development of Wind Power
Land Use Regulatory Commission
August 1, 2007



David Littell, Commissioner, Maine DEP

1

Presentation Outline:

- Maine Climate Action and RGGI
- LURC Questions:
 - RGGI energy efficiency investment: How will it affect electricity prices?
 - Wind energy impacts on climate and air quality?
 - Wind power impacts on cap and trade programs?

2

Wind, Climate, and Air Quality?

- Wind energy, as available, will displace fossil fuel-fired generation in the regional power pool
- Displacing fossil fuel generation reduces emissions of all types thereby improving air quality and climate impacts in Maine and the region

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LURC Questions

Would wind power in Maine help the state meet its commitments under various cap and trade programs (such as those for NOx, Sox, and CO2)?

Would it affect the cost of these programs to Maine citizens and/or businesses?

19

Wind and Cap-and-Trade

- Yes:
 - Wind generation has no direct emissions
 - Wind displaces generation that does emit SO₂, NO_x, and CO₂, among other pollutants
 - Therefore wind can help the state meet its emission reduction commitments under multiple programs
 - In doing so, wind generation makes it easier and less costly to meet its obligations
 - And, it makes it easier overtime to lower the compliance caps further reducing emissions

20

ISO NE Draft Electricity Scenario Analysis June 2007

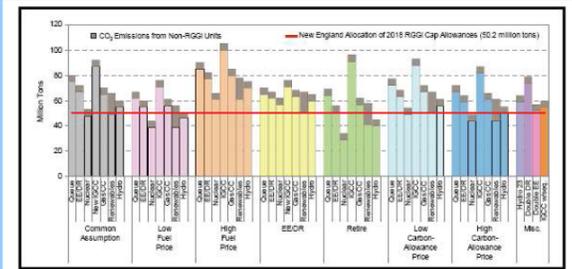


Figure 5-10: Total annual CO₂ emissions, grouped by sensitivity case and showing the New England allocation of the 2018 RGGI cap allowances.

Note: Table includes emissions for units that are not obligated to comply with RGGI requirements.

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ISO NE Draft Electricity Scenario Analysis June 2007

[M]eeting the region's CO₂ emissions targets under the Regional Greenhouse Gas Initiative (RGGI) will require some economic combination of adding substantial amounts of low- or zero – CO₂ emitting resources along with having affected power generators buy additional CO₂ allowances from sources outside the region, relying on offsets in other sectors and re-dispatching the electric system, among other actions. (Page 7)

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MAINE PUBLIC UTILITIES COMMISSION

Wind Power and State Energy Policy Presentation to the Land Use Regulation Commission August 1, 2007

Introduction

The Land Use Regulation Commission (LURC) is currently considering three separate wind power development applications. In a July 21, 2007 memorandum, LURC staff asked the Public Utilities Commission (MPUC) to respond to several specific questions and concerns regarding wind power and how wind fits within the State's overall energy policy. The MPUC was asked to provide its response through a presentation during a LURC meeting to be held on August 1, 2007.

The following are the MPUC's responses to the LURC's stated questions and concerns.

MPUC Responses

1. Would new wind power in Maine be consistent with the State's energy policies?

A) Yes. Maine's energy policy supports the development of new wind power in the State as discussed below.

Maine has a long-standing energy policy that favors the development and operation of diverse generation resources, such as wind power, as a means to minimize electricity prices and price volatility. In the Electric Restructuring Act (which became effective in 2000), the Legislature included the following statement of policy:

In order to ensure an adequate and reliable supply of electricity for Maine residents and to encourage the use of renewable, efficient and indigenous resources, it is the policy of this State to encourage the generation of electricity from renewable and efficient sources and to diversify electricity production on which residents of this State rely in a manner consistent with this section.¹

¹ 35-A M.R.S.A. § 3210(1).

1

To implement this policy, the Restructuring Act included a "portfolio requirement" that mandates that at least 30% of the electricity to supply retail customers in the State come from renewable or efficient resources.²

In 2003, the Legislature enacted the Maine Wind Energy Act. The Act included legislative findings that state:

The Legislature finds that it is in the public interest to explore opportunities for and encourage the development, where appropriate, of wind energy production in the State in a manner that is consistent with all state and federal environmental standards and that achieves reliable, cost-effective, sustainable energy production on those sites in the State that will attract investment and permit the development of viable wind energy projects....³

The Act also contains a determination of public policy that states:

It is the policy of the State that its political subdivisions, agencies and public officials take every reasonable action to encourage the attraction of appropriately sited wind-energy-related development consistent with all state and federal environmental standards....⁴

In its 2006 session, the Legislature enacted An Act To Enhance Maine's Energy Independence and Security.⁵ The Act contains several policy statements. One of the articulated policies is:

That the share of new renewable capacity resources as a percentage of the total capacity resources in this State on December 31, 2007 increase by 10% by 2017....⁶

² 35-A M.R.S.A. § 3210(3).

³ 35-A M.R.S.A. § 3402.

⁴ 35-A M.R.S.A. § 3404.

⁵ P.L. 2006, ch. 677.

⁶ 35-A M.R.S.A. § 3210-C(2)(A).

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Report of the Governor's Task Force on Wind Power Development

In its April 9, 2007 report, the Maine Energy Council ("MEC")⁷ stated:

The development of renewable generation resources in Maine and throughout the region has the potential to reduce and stabilize electricity costs to Maine consumers, enhance system reliability and reduce the impact on the environment from the generation of electricity.⁸

Finally, during the 2007 session, Maine's Legislature amended the State's portfolio requirement to add a mandate that specified percentages of the electricity supply that serves Maine's consumers come from "new" renewable resources.⁹ The purpose of this law is to promote the development of new renewable resources, particularly new wind projects.

2. Is the newly passed law "An Act To Stimulate Demand for Renewable Energy" (L.D. 1920), which established requirements for new renewable power capacity, relevant to the development of wind power in Maine? Would building new wind power facilities be consistent with the new law and its purpose?

A) The newly passed law is not only relevant to the development of new wind power, but its particular purpose is, to a large degree, the promotion of new wind projects. The new law mandates that specified percentages of the State's electricity usage come from "new" renewable resources. The purpose of this law is to create an additional demand for specific types of resources and thus promote their development. Because of the economics and other constraints regarding the development of other types of renewable resources, new wind power is the type of resource that is likely to meet most of the new demand created by the enactment of LD 1920. There would need to be approximately 400 MW of new wind power development over a ten year period to meet the requirements contained in LD 1920.

⁷ The MEC was established by Legislation to evaluate matters affecting electricity supply and costs and to provide recommendations to the Governor, the MPUC, other appropriate state agencies and Legislature regarding these matters. The MEC is composed of legislators and stakeholders with expertise in electricity matters.

⁸ MEC Report at 10.

⁹ P.L. 2007, ch. 403 (LD 1920).

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3. Is there a "transmission congestion" problem in Maine? Essentially, can energy produced by wind generators coming on-line be used, or is there inadequate line capacity?

A) Depending on the location of a particular project, new transmission may need to be constructed so that new wind generation can be used. Transmission costs needed to safely interconnect a project to the grid are the responsibility of the developer. However, the costs of new transmission to relieve "congestion" are not typically the developers' responsibility. Congestion tends to lower energy prices and is likely to impact the assessment of the economics of a new wind project if that project causes congestion. The rules of the ISO-NE (the New England region's transmission system operator) are established to create economic incentives for the removal of transmission constraints. In addition, the economic incentives to remove congestion are magnified by the operation of the federal production tax credits ("PTCs") and renewable energy credits ("RECs"). Both the PTC and REC benefits are directly related to amount of energy actually produced by the generators. Thus, if wind facilities operations are significantly constrained by transmission congestion, they will not receive the financial benefits of the PTCs or the RECs.

4. Wind farm opponents say that Maine already has excess generating capacity and therefore does not need wind generated capacity. Please comment.

A) The wind farm opponents are incorrect. Despite the fact that Maine has excess generation and is currently a net exporter of electricity, the development new diverse generating facilities (i.e. facilities that are not fired by natural gas) in Maine and throughout New England is crucial to the economic needs of Maine. As explained in detail in the MPUC review comments in both the Kibby and Stetson projects, Maine and New England are over-reliant on natural gas generation. This over-reliance on natural gas has resulted in large increases in electricity prices, substantial price volatility, and a less reliable system. For the reasons specified below, the addition of new diverse (non-gas) generating resources spread throughout Maine and New England will have a moderating effect on electricity prices and price volatility, and result in a more secure system.

As more non-gas generation is added to the mix, cheaper gas resources and non-gas resources will set the clearing prices in a greater number of hours. This would have the general effect of reducing both the level and volatility of electricity prices throughout the region. To the extent new generation is constructed within Maine's borders, the benefit to Maine consumers is more direct in that the result would be lower prices within the Maine zone. In addition, any overall reduction in the demand for gas that results from the addition of non-gas resources in the region should have the effect of reducing the price of natural gas which translates

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Report of the Governor's Task Force on Wind Power Development

into lower electricity prices. Moreover, a reduction in the region's reliance on natural gas would result in a more secure system that is less vulnerable to gas shortages and thus less susceptible to curtailments and blackouts. The addition of new generation within Maine has the additional benefit of making it less likely that shortages of electricity that may occur in the rest of New England would affect service in Maine. For example, if the addition of new resources in Maine increases the amount of time that transmission constraints out of Maine exists, the ISO-NE is less likely to require rolling blackouts in the region to include Maine.

5. Will wind power displace another clean energy source (like hydro)?

A) Because wind and other clean energy sources like hydro facilities have no fuel costs, both should generally operate to their full capacity (depending on the availability of wind and water). One resource may displace another if there is a transmission constraint in the region in which the resources are located. However, as mentioned above, economic incentives exist for such transmission constraints to be removed. If constraints are not removed, then consumers could benefit from lower prices. Many would view this result as a benefit.

6. Because wind is an intermittent source, is it necessary to keep fossil fuel generators on-line to provide energy when the wind farms are not generating?

A) The intermittent nature of wind power will not result in any additional need to keep fossil fuel generators "on-line" to provide backup energy when the wind facilities are not generating. Current regional rules already require that a certain amount of "reserve" generation be available in the event of generator outages. The amount of reserves is based on the size of the largest resources in the region. For New England, the largest resources are Seabrook (1200 MW) and the Hydro-Quebec tie line (1700 MW). Thus, a number of wind facilities spread across the region of the capacities contemplated would have no effect on the operation of the region's reserves.

Attachment M. Approach to Scenic Impacts

38 M.R.S.A. § 484(3) of the Site Law requires a developer to demonstrate that it has made “adequate provision for fitting the development harmoniously into the existing natural environment” and that the development not unreasonably adversely affect “existing uses, [and] scenic character.” The Task Force recommends that, within the expedited area and for scenic considerations only, the requirement for fitting wind power projects harmoniously into the existing natural environment be eliminated,³⁰ and that an amendment to Section 484(3) be adopted to clarify how the existing uses and scenic standard applies to wind power projects. Language to the following effect is proposed as a new Section 484(3)(G) to the Site Law; again, this language would apply only in the expedited area:

“The Legislature recognizes that wind turbines are potentially a highly visible feature of the landscape and will have an impact on views; therefore, the requirement that a development fit harmoniously into the natural environment is eliminated for wind power projects and the test for determining whether a wind power project adversely affects existing uses and scenic character is whether the development significantly compromises views from scenic resources of state or national significance such that it has an unreasonable adverse impact on scenic values and existing uses of those scenic resources.”

It is understood that existing uses can include the appreciation of scenic resources.

In addition, the Department would adopt the following as guidance, similar to what the Department has proposed for bird and bat studies.

- In determining whether a project significantly compromises views from scenic resources and as a result would have unreasonable adverse impacts on those scenic resources and existing uses, the Department shall consider only the scenic resources identified in Attachment G to the Task Force Report [Scenic Resources of State or National Significance].
- The Department shall provide guidance to the applicant on whether a visual impact assessment is required to evaluate visual impacts on identified scenic resources.
 - There shall be a rebuttable presumption that no visual impact assessment is required for those portions of the project located more than three miles from a scenic resource. The Department may require a scenic analysis beyond three miles if it is persuaded by substantial evidence that the scenic resource is especially significant and that impacts may be substantial.
 - Portions of a project located more than eight miles from a scenic resource will be understood to be insignificant from a scenic perspective.
 - In determining whether a visual impact assessment is required and in determining whether a project has an unreasonable adverse impact on scenic resources and existing uses of those resources, the Department shall take into account:

³⁰ Note the precise mechanism for accomplishing this has yet to be determined and in fact it might be possible to accomplish by simply clarifying how the requirement may be met for scenic considerations.

Report of the Governor's Task Force on Wind Power Development

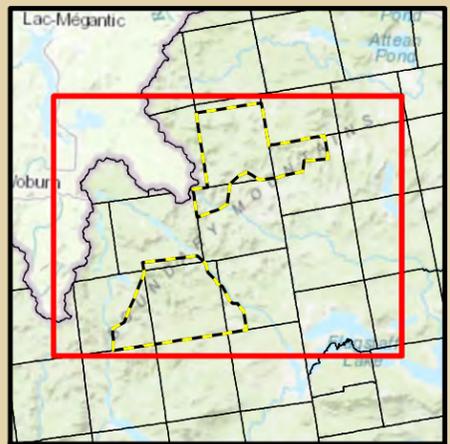
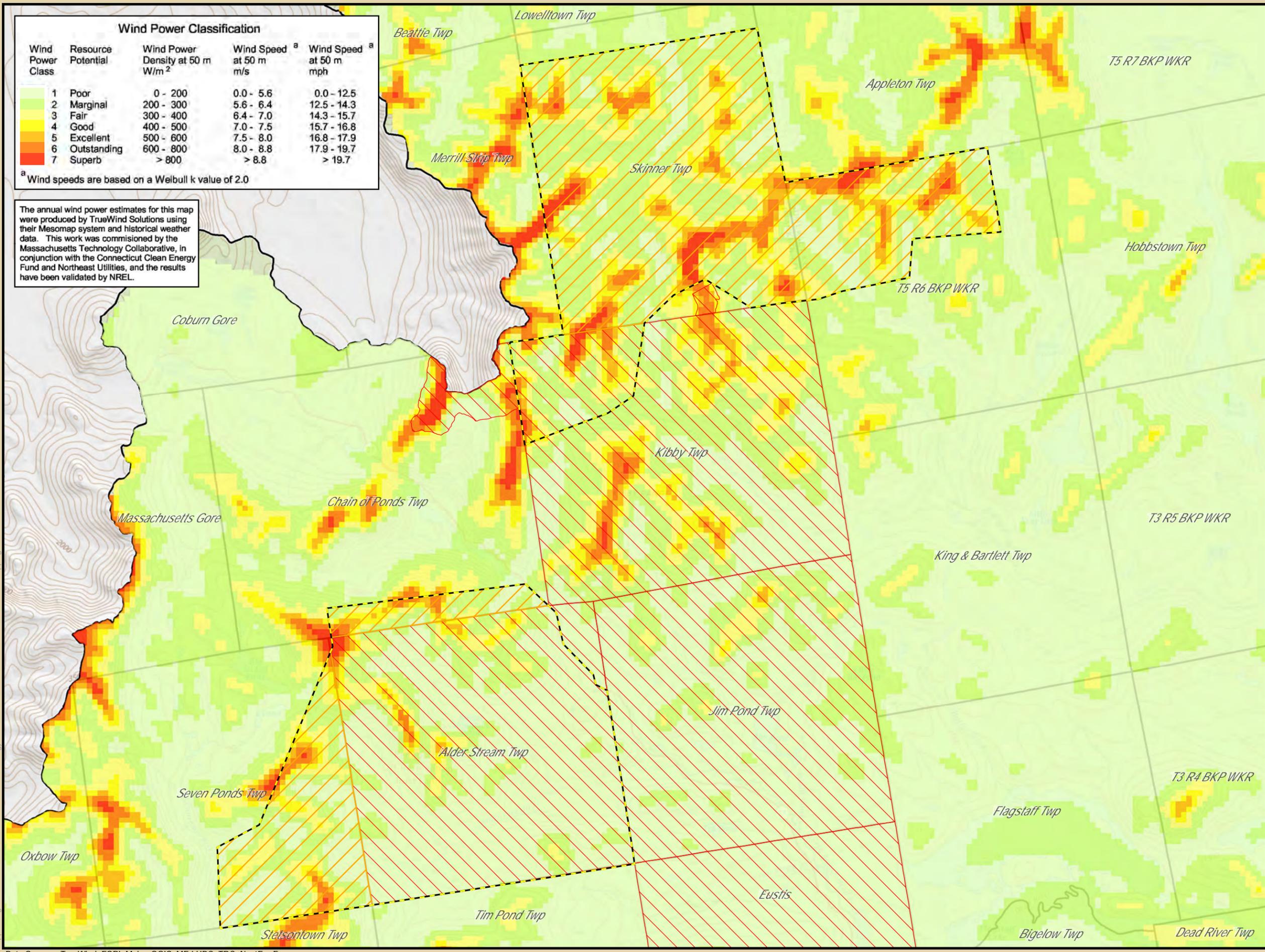
- The significance of the scenic resource;
 - The existing character of the surrounding area;
 - The expectations of the typical viewer;
 - The project purpose and the context of the proposed activity;
 - The extent, nature, and duration of public use; and
 - The scope and scale of the potential impact of the project views on the scenic resource, including the number and extent of turbines and transmission lines visible from the scenic resource, as well as their distance from the scenic resource and the project's prominence in the landscape.
- In determining whether a project has an unreasonable adverse impact on scenic resources and existing uses related to those scenic resources, the Department recognizes that wind turbines are potentially a highly visible feature of the landscape and may have an impact on views. The fact that the project, including but not limited to, one or more turbines or part of a transmission line, may be a highly visible feature in the landscape does not by itself mean the visual impact is unreasonable, even if the scenic resource is a high value resource used by many members of the public. Other factors to consider are the scenic character of the landscape in which the project is located, the expectations of users of the scenic resource, and how significantly the public's use and enjoyment of the resource would be adversely impacted by the presence of the project.
 - The Task Force recommends that this same approach for reviewing the scenic impacts of wind power projects be adopted by the Land Use Regulation Commission, and recognizes that this will require statutory changes to accomplish this objective.
 - The Department of Environmental Protection and the Land Use Regulation Commission shall adopt guidance to implement this approach.

ATTACHMENT 2
WIND RESOURCE MAPPING

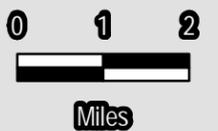
Wind Power Classification				
Wind Power Class	Resource Potential	Wind Power Density at 50 m W/m ²	Wind Speed ^a at 50 m m/s	Wind Speed ^a at 50 m mph
1	Poor	0 - 200	0.0 - 5.6	0.0 - 12.5
2	Marginal	200 - 300	5.6 - 6.4	12.5 - 14.3
3	Fair	300 - 400	6.4 - 7.0	14.3 - 15.7
4	Good	400 - 500	7.0 - 7.5	15.7 - 16.8
5	Excellent	500 - 600	7.5 - 8.0	16.8 - 17.9
6	Outstanding	600 - 800	8.0 - 8.8	17.9 - 19.7
7	Superb	> 800	> 8.8	> 19.7

^a Wind speeds are based on a Weibull k value of 2.0

The annual wind power estimates for this map were produced by TrueWind Solutions using their Mesomap system and historical weather data. This work was commissioned by the Massachusetts Technology Collaborative, in conjunction with the Connecticut Clean Energy Fund and Northeast Utilities, and the results have been validated by NREL.



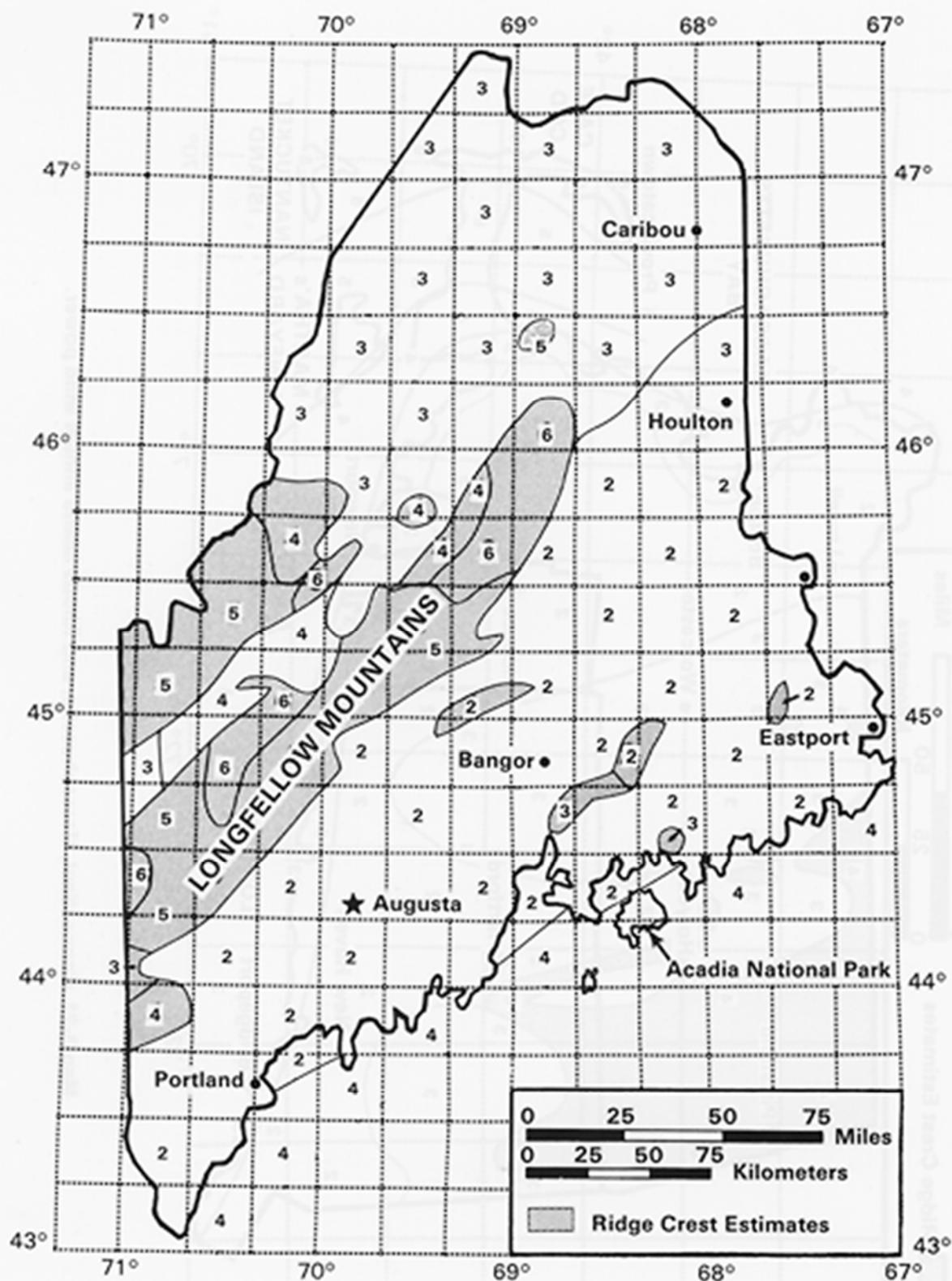
- Proposed Project Boundary
- Proposed Expansion to the Expedited Windpower Project Permitting Area
- Expedited Windpower Project Permitting Area
- Town Boundary



Alder Stream and
Moose Mountain
Exhibit E
Wind Resource Mapping

\\appesr1\gis\PROJECTS\AUGUSTAIN\Exhibit E - Wind Resource Mapping.mxd

ATTACHMENT 3
WIND ATLAS OF MAINE



ATTACHMENT 4

MAINE FOREST PRODUCTS COUNCIL WHITE PAPER

“WIND POWER IN MANAGED FORESTS”



Maine Forest Products Council

The voice of Maine's forest economy

Companies represented on the MFPC Board

American Forest Mgmt.
Anderson Equipment
Baskahegan Co.
BBC Lands LLC
Cross Insurance
Family Forestry
Farm Credit East
Fontaine Inc.
Hancock Lumber
H.C. Haynes
Huber Resources
Innovative Natural
Resource Solutions
J.D. Irving
JM Cote Co.
Katahdin Forest Mgmt.
Key Bank
LandVest Inc.
Limington Lumber
Louisiana Pacific
Maibec Logging
Nicols Brothers
Pingree Associates
Pleasant River Lumber
Plum Creek
Prentiss & Carlisle
ReEnergy
Richard Wing & Son
Robbins Lumber
Sappi Fine Papers
Southern Maine Forestry
Stead Timberlands
Timber Resource Group
Timberstate G.
Verso Paper
W.T. Gardner & Sons

Wind power in the managed forest

*Comments by the Maine Forest Products Council
for the LUPC wind power zoning review process*

The Maine Forest Products Council (MFPC) represents more than 300 member companies, including logging contractors, paper mills, biomass energy facilities, pellet manufacturers sawmills and the owners of more than 9 million acres of commercial forest land, most located within the LUPC jurisdiction. For the reasons discussed below, we believe it is important for LUPC to keep areas currently zoned to allow wind power in the expedited permitted area. Wind power provides important economic benefits to landowners that host such projects. It's important to know that it is compatible with traditional forest uses and therefore will help maintain Maine's working forests, which are the cornerstone of the Maine economy. Finally, the Maine DEP has a robust permitting process in place to ensure that any specific site is appropriate for wind development and that potential impacts are adequately addressed.

Introduction

Maine's forest products industry has an \$8.5 billion annual economic impact, including 33,538 jobs, according to a 2016 study by the University of Maine. Timber production is the primary economic activity on our forestlands, but the \$1.2 billion agriculture and \$8.2 billion tourism industries also rely on forestland.

Since natural resource commodities vary in return in the marketplace -- saw log crops, for example, take at least 70 years to mature -- forestland owners need opportunities to diversify income from their land. That helps them stabilize their investment and supports their core function of sustainable forest management. Other export products that have been traditional parts of the forest economy include water and ice, hydro-power, sand, gravel and granite.

Innovation not only is critical to diversifying landowners' income, but also in long-term sustainability. Mainers have a long tradition of creating new products for changing needs and the forest products industry has been remarkably adaptable. In fact, lack of innovation and capital investment usually is the downfall of uncompetitive manufacturers.

Our industry already is adapting to the challenges in national and international fiber markets. For example, the types of paper being produced is moving away from media print and toward tissue and packaging and labeling paper. Oriented strand mills in

Easton and Houlton manufacture specialized chipboards used throughout North America in modern home construction. The domestic and international markets for wood pellets for both thermal and electrical needs are growing. Innovation in wood extracts is a rapidly growing opportunity as well.

Landowners, too, are adapting by expanding their income streams through traditional means, such as leasing small areas of land as recreational camps, and more modern activities, such as long-term leases for cell phone towers.

Wind energy projects can diversify forest landowners' investments

Energy production in Maine's forests also has a long tradition, but changes are occurring here as well. Hydropower and biomass energy have been used since before Maine became a state. Now wind power has become an affordable energy source without fuel cost or air emissions. For some landowners, wind power can be part of a long-term sustainability plan and it is compatible with other forest uses.



Record Hill wind project in Roxbury

Wind power projects are an opportunity for those who own land with higher wind value that is not far from transmission lines. As the transmission system is built throughout the state, wind resources near these lines can be used to meet the needs of the regional electric system for generation diversity, price stability and reduced carbon emissions.

Installation of wind power facilities on forested acres is a very small percent of the acreage base – commonly less than 1 percent – and will not alter sustainable harvest goals for the state. The sites best for wind are often the worst for growing trees, as the soils are thinner and less productive and the conditions are more severe. Pads range from .5 to 2.5 acres, depending on turbine size.

The Record Hill project in Roxbury, for example, is at about 2,100 feet elevation and the difference in the height and quality of the trees from the lower edge of the parcel to the higher ridge is very noticeable.

Wind projects also bring an additional benefit for landowners: Improved road quality and increased access to areas where access might otherwise be too expensive. Skidding distances also are reduced; forest fire protection is enhanced and some recreation activities are easier to access. Wind power does not interfere with the

traditional recreational uses that many landowners allow, including hunting and snowmobiling.

Wind power expedited zones and landowner rights

Revisiting an established zoning determination is a significant precedent that is being established in the LUPC jurisdiction, even if the window of opportunity is limited. In the expedited wind power process, a petitioner can request a zoning change on expansive parcels of land that they do not own. This precedent is concerning to MFPC members regardless of whether they benefit from wind projects on their land. We urge the Commission to carefully examine this process in the light of the policy precedent for other zoning changes for a variety of land uses. Should a small but vocal minority of residents be able to determine the opportunities for zoning on the majority of the township in which they reside?

Honoring the rights of landowners and the participation of residents and property owners is an established criterion in the LUPC Purpose and Scope statute. Similarly, you are encouraged in the statute to “encourage and facilitate regional economic viability.” Zoning decisions are only the first step in a process of establishing wind power projects, which relies on a comprehensive permitting process to evaluate site-specific issues.

Forest landowners want to be able to manage their land and natural resources in compatible, sustainable ways. As uses for forest resources change, landowners expect and need to have the ability to adapt and access new markets. Land use zoning should allow for innovation and adaption with these resources.

Impacts on neighbors, both real and perceived, are considered during the regulatory permitting process. Zoning should not obstruct the opportunity for a beneficial land use to adapt and balance with other uses in each location.

Summary

- Landowners need diverse income streams to balance the cyclical nature of wood pricing and the long time frames for returns on investment.
- Wind power facilities are compatible with the “Working Forest” model important for Maine’s economy.
- The footprint of pads, roads and transmission lines is a small percentage of the forestland base.
- Increased forest management intensity can result in the site location of these projects, but the restrictions still allow operable forest operations to occur at the foot of these structures.
- While taxes on a lease area are very significant, the remaining properties in the town or LUPC can enjoy significant tax relief, in some cases as much as a 10 mill difference in the tax rate.
- Just like 2 x 4s, electrons from Maine’s forests can help some landowners stabilize investment and sustainably manage forestland.
- Landowner rights are a statutory consideration in reversing previous zoning decisions.