

STATE OF MAINE  
BOARD OF ENVIRONMENTAL PROTECTION



JANET T. MILLS  
GOVERNOR

Mark C. Draper, Chair

William F. Hinkel  
Executive Analyst

Ruth Ann Burke  
Board Clerk

June 10, 2021

**SENT VIA ELECTRONIC MAIL ONLY**

Natural Resources Council of Maine  
James Kilbreth, Esq.  
[jkilbreth@dwmlaw.com](mailto:jkilbreth@dwmlaw.com)

**Re: NRCM Appeal of Commissioner Order Approving a Minor Revision Application of Central Maine Power Company and NECEC Transmission LLC**

**Receipt of appeal; ruling on consolidation; and deadline for responses**

Dear Mr. Kilbreth:

On June 7, 2021, the Natural Resources Council of Maine (NRCM) filed with the Board an appeal of the May 7, 2021, Order of the Commissioner of the Department of Environmental Protection conditionally approving a minor revision application of Central Maine Power Company (CMP) and NECEC Transmission LLC (Minor Revision Order).<sup>1</sup> The Minor Revision Order approved specific revisions to the underlying May 11, 2020, Order of the Commissioner conditionally approving the application of CMP to construct the New England Clean Energy Connect project (NECEC Order).<sup>2</sup>

Three appeals of the underlying NECEC Order were filed by NRCM, NextEra Energy Resources, LLC, and the West Forks Group and are pending before the Board.<sup>3</sup> Additionally, NRCM appealed the December 4, 2020, Order of the Commissioner approving the partial transfer of the NECEC Order to CMP and NECEC Transmission LLC (Transfer Order): that appeal has been consolidated with the pending appeals of the underlying NECEC Order.<sup>4</sup>

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<sup>1</sup> The Minor Revision Order's license number is L-27625-26-V-M/L-27625-TB-W-M/L-27625-2C- X-M/L-27625-VP-Y-M/L-27625-IW-Z-M.

<sup>2</sup> The NECEC Order's license number is L-27625-26-A-N/L-27625-TB-B-N/L-27625-2C-C-N/L-27625-VP-D-N/L-27625-IW-E-N.

<sup>3</sup> West Forks Group is comprised of persons who intervened in the Department licensing proceeding and who are now represented by Elizabeth A. Boepple, Esq., BCM Environmental & Land Law, PLLC. Appellants in the West Forks Group are: West Forks Plantation, Town of Caratunk, Kennebec River Anglers, Maine Guide Service, Hawks Nest Lodge, Ed Buzzell, Kathy Barkley, Kim Lyman, Noah Hale, Eric Sherman, Matt Wagner, Mike Pilsbury, Mandy Farrer, and Carrie Carpenter.

<sup>4</sup> The Transfer Order's license number is L-27625-26-K-T.

This letter acknowledges receipt of NRCM's appeal of the Minor Revision Order and provides notice of the filing of the appeal to interested persons in the matter of the pending appeals of the underlying NECEC Order and Transfer Order. A copy of the Minor Revision Order and NRCM's appeal thereof is available for download at <https://www.maine.gov/dep/ftp/projects/necec/appeals/>.

#### Request for consolidation

In its appeal NRCM requests that the Board consolidate this appeal of the Minor Revision Order with the pending appeals of the underlying NECEC Order and the Transfer Order.

The NECEC Order and the Transfer Order, although discrete final agency actions, have intertwined issues and are based in substantial part on the same administrative record. For administrative economy and consistency, those appeals were consolidated.<sup>5</sup> In its appeal of the Minor Revision Order, NRCM raises arguments not raised in the appeals of the underlying orders and will involve record evidence that is not part of the administrative record for the underlying appeals to be decided by the Board. The administrative economy of consolidating appeals of revisions to or amendments of the underlying NECEC Order diminishes with the increasing complexity of maintaining discrete administrative records associated with each licensing action. NRCM's appeal of the Minor Revision Order will not be consolidated with the other pending appeals and instead will be processed separately, on its own procedural track.

Because the Department staff had knowledge of and utilized the underlying record for the consolidated appeals of the NECEC Order and the Transfer Order in processing the Minor Revision application, the appellant's and respondents' filings in the matter of the appeal of the Minor Revision Order may cite to, rather than attach, evidence in the underlying record. Because the Board will have also considered the supplemental evidence admitted during the processing of the consolidated appeals of the NECEC Order and the Transfer Order, the appellant and respondents may also cite to that evidence in filings and oral argument in the Minor Revision Order appeal.

#### Service list and response to merits of appeal

No supplemental evidence is offered by NRCM in its appeal of the Minor Revision Order. Department rule Chapter 2, *Rule Concerning the Processing of Applications and Other Administrative Matters*, § 24 governs the process for Board appeals of Commissioner licensing decisions. In accordance with Chapter 2, § 24(C)(1)(a), the licensee's and any respondents' complete response to the merits of the appeal must be filed **by 5:00 p.m. on June 30, 2021**. Filings may be submitted by electronic mail provided the signed original document is received by the Board within three working days of the

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<sup>5</sup> Board Chair letter, January 19, 2021.

filing deadline. All filings must be copied to the service list, attached.<sup>6</sup> Filings with the Board must be directed to:

Mark C. Draper, Chair  
Board of Environmental Protection  
c/o Ruth Ann Burke  
17 State House Station  
Augusta, ME 04333-0017  
[ruth.a.burke@maine.gov](mailto:ruth.a.burke@maine.gov)

If you have any questions, you may contact Board Executive Analyst William F. Hinkel at [bill.hinkel@maine.gov](mailto:bill.hinkel@maine.gov) (207) 314-1458 or Assistant Attorney General Peggy Bensinger at [peggy.bensinger@maine.gov](mailto:peggy.bensinger@maine.gov) (207) 626-8578.

Respectfully,



Mark C. Draper, Chair  
Board of Environmental Protection

Attachment: Service List (rev. June 10, 2021)

cc: NECEC Order Service List (rev. June 10, 2021) (via e-mail only)  
Interested Persons List (via GovDelivery)

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<sup>6</sup> For consistency, the Board will utilize for this appeal the same service list developed by the Board in the matter of the consolidated appeals of the NECEC Order and Transfer Order. The service list has been revised to remove the Department's Susanne Miller, who has taken a different position within the agency. Please update your distribution lists to exclude Ms. Miller.

**Board of Environmental Protection  
Consolidated Appeals of  
Central Maine Power Company and NECEC Transmission LLC  
NECEC Order (L-27625-26-A-N, L-27625-TG-B-N, L-27625-2C-C-N, L-27625-VP-D-N,  
L-27625-IW-E-N) and  
Transfer Order (L-27625-26-K-T)  
Service List, rev. June 10, 2021**

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**BEP**

**Unless otherwise specified, all filings are due by 5:00 p.m. to Mark C. Draper c/o Ruth Ann Burke**

Mark C. Draper, Chair  
Board of Environmental Protection  
c/o Ruth Ann Burke  
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**DEP**

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**Board of Environmental Protection  
Consolidated Appeals of  
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NECEC Order (L-27625-26-A-N, L-27625-TG-B-N, L-27625-2C-C-N, L-27625-VP-D-N,  
L-27625-IW-E-N) and  
Transfer Order (L-27625-26-K-T)  
Service List, rev. June 10, 2021**

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**Appellants (cont'd)**

West Forks Plantation,  
Town of Caratunk,  
Kennebec River Anglers,  
Maine Guide Service, LLC,  
Hawks Nest Lodge,  
Ed Buzzell,  
Kathy Barkley,  
Kim Lyman,  
Noah Hale,  
Eric Sherman,  
Matt Wagner,  
Mike Pilsbury,  
Mandy Farrar, and  
Carrie Carpenter  
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