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December 23, 2020

VIA ELECTRONIC MAIL

Mr. James R. Beyer
Regional Licensing & Compliance Manager
Bureau of Land Resources
Maine Department of Environmental Protection
106 Hogan Road, Suite 6
Bangor, ME 04401

RE: New England Clean Energy Connect, Condition Compliance Submission; Response to
December 22, 2020 NRCM Comments

Dear Mr. Beyer:

On behalf of Applicants Central Maine Power Company and NECEC Transmission LLC, please
find enclosed a Response to the Comments of NRCM on the Applicants' Condition
Compliance Submission.

Please let me know if you have any questions.

Sincerely,



Matthew D. Manahan

cc: Service List (by email)

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

IN THE MATTER OF

CENTRAL MAINE POWER COMPANY)
NEW ENGLAND CLEAN ENERGY CONNECT)
#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)

**RESPONSE OF CENTRAL MAINE POWER COMPANY
AND NECEC TRANSMISSION LLC TO NRCM'S COMMENTS
ON THE DECEMBER 15, 2020 CONDITION COMPLIANCE SUBMISSION**

Central Maine Power Company (CMP) and NECEC Transmission LLC (NECEC LLC) (collectively, Applicants) hereby respond to the December 22, 2020 comments of the Natural Resources Council of Maine (NRCM) regarding the Applicants' December 15, 2020 Condition Compliance Submission requesting approval of the Field Adjustment Request (FAR) process to comply with conditions in the Department of Environmental Protection's (DEP's) May 11, 2020 Order (Order) concerning the New England Clean Energy Connect Project (Project).

The premise of NRCM's complaint – that the DEP must reject the proposed FAR process because “material project changes such as these must be considered as part of an amendment to the NECEC Order” – is both factually and legally incorrect. NRCM Comments at 2. Applicants made crystal clear in their Submission that no substantial Project changes will be approved via the FAR process. Instead, “[a]ll FARs approved through this process will be limited to changes having temporary or secondary impacts only; will not increase the need for additional mitigation (i.e., in-lieu fees); and will comply with the conditions of approval contained within the MDEP Order and any other special conditions resulting from agency review and approval of individual

FARs.” FAR Submission at 2.¹ Indeed, field adjustments often will result in avoidance, reduction, or minimization of impacts additional to that permitted by the DEP. Importantly, “[m]odifications resulting in increases in permanent impacts will be prohibited from review and approval via the FAR process.” FAR Submission at 2.

These *de minimis* field adjustments, necessitated by field conditions that may be encountered during construction, do not amend the Order or modify the DEP’s findings, conclusions, and conditions within that Order. To the contrary, they are contemplated by this and all DEP Site Law and NRPA orders, as well as stormwater approvals, which recognize in their standard conditions that field conditions may require variations from plans and thus call for review and approval of those anticipated changes based on conditions encountered in the field. These standard conditions require no additional “application” procedure, and none is warranted here to allow a process for site-specific DEP approval, as appropriate to the nature of the work.²

NRCM’s assertions that a process to approve changes that *avoid or minimize* impact, that *reduce* the risk of adverse environmental effects, or that *address significant health and safety issues* is somehow an “attempted end run” around rules meant to protect Maine’s environment has no basis. NRCM’s renewed obfuscation of the DEP’s rules and procedures in furtherance of its strategic attempts to fatally delay the Project should, again, be denied.

¹ For example, relocation of a temporary access road that reduces wetland impacts would qualify for the FAR process, but relocation of a temporary access road that impacts a significant vernal pool would not.

² NRCM asserts that the proposed FAR process is “outside the bounds of the typical (and mandatory) approval and oversight process.” In fact, the proposed FAR process simply formalizes a process DEP has followed for many years for similar projects with lengthy construction periods over diverse field conditions. NRCM similarly asserts that the proposed Category 2 process is “similarly problematic because it does not provide for the full Department review process—including a new application, alternatives analysis, and hearing—that any such ‘adjustments’ would require.” In fact, the proposed FAR process involves *de minimis* changes that are less significant than changes that could be approved by minor revision, which would not require a new permit application, alternatives analysis, or a hearing.

CMP and NECEC LLC respectfully request that the DEP continue to process the FAR Condition Compliance Submission without delay.

Dated this 23rd day of December, 2020.



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