

**STATE OF MAINE**  
**PUBLIC UTILITIES COMMISSION**

CENTRAL MAINE POWER COMPANY  
Request for Approval of CPCN for the  
New England Clean Energy Connect  
Consisting of the Construction of a 1,200  
MW HVDC Transmission Line from the  
Québec-Maine Border to Lewiston  
(NECEC) and Related Network Upgrades

Docket No. 2017-00232

Natural Resources Council of Maine  
Comments in Opposition to Stipulation

March 1, 2019

The Natural Resources Council Of Maine (NRCM) is opposed to the stipulation filed by Central Maine Power Company (CMP) in the above-captioned docket on February 21, 2019, because it is not in the public interest, is not reasonable, is contrary to legislative mandate, and the parties joining the stipulation do not represent a sufficiently broad spectrum of interests as is required under Chapter 110, § 8(D)(7) of the Commission’s rules. NRCM respectfully requests that the Commission not accept the contested stipulation.

Chapter 110, § 8(D)(6), of the Commission’s rules allows the Commission to accept a contested stipulation only where the Commission determines that the contested stipulation meets the criteria outlined in Chapter 110, § 8(D)(7). Chapter 110, § 8(D)(7), requires the Commission to consider the following four factors when deciding whether to approve a contested stipulation.

- a. Whether the parties joining the stipulation represent a sufficiently broad spectrum of interests that the Commission can be sure that there is no appearance or reality of disenfranchisement;
- b. Whether the process that led to the stipulation was fair to all parties;
- c. Whether the stipulated result is reasonable and is not contrary to legislative mandate; and
- d. Whether the overall stipulated result is in the public interest.

As explained below, the contested stipulation does not satisfy these four criteria and therefore should not be accepted by the Commission.

**The Commission should reject the contested stipulation because it fails to meet the criteria set forth in Chapter 110, § 8(D)(7).**

**I. The contested stipulation does not represent a sufficiently broad spectrum of interests**

The contested stipulation does not represent a sufficiently broad spectrum of interest to satisfy the requirements of Chapter 110, § 8(D)(7)(a). Of the thirty-two parties to the proceeding, only ten have joined the settlement, including CMP, while twenty-two parties have not signed the settlement.<sup>1</sup>

Parties that have not joined the contested stipulation include:

- Ms. Dorothy Kelly (Dot Kelly);
- Maine Renewable Energy Association;
- NRCM;
- NextEra Energy Resources (NextEra);
- RENEW Northeast, Inc. (RENEW);
- Calpine Corporation (Calpine), Vistra Energy Corporation (Vistra), and Bucksport Generation LLC (Bucksport) (collectively referred to as the “Generator Intervenors”);
- Friends of Maine Mountains;
- ReEnergy Biomass Operations LLC (ReEnergy);
- Town of Caratunk;
- Town of Farmington;
- Greater Franklin Development Council (GFDC);
- Trout Unlimited;
- Senator Thomas Saviello;
- Mr. Darryl Wood;
- Town of Alna;
- Town of Wilton;
- Town of New Sharon;
- Town of Jackman;
- Old Canada Road Scenic Byway, Inc.; and
- Franklin County Commissioner Terry Brann.

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<sup>1</sup> On February 19, 2019, the Greater Franklin Development Council (GFDC) submitted a comment letter to the Commission stating the GFDC was endorsing “the project and the Settlement Agreement” but, as of the submittal of these comments, had not signed on to the stipulation. Furthermore, GFDC expressed disappointment in its comment letter that CMP had not incorporated its requests related to the Franklin County Broadband Initiative and requested that the Commission “modify the Settlement Agreement to better utilize the value of CMP’s commitment, to provide greater incentives for additional private investment to expand the availability of broadband.”

Missing from the list of Stipulating Parties are any individual citizen intervenors, any representative of any renewable or conventional energy developers, any towns in Somerset or Kennebec Counties, or any representative of any recreational, scenic, or fish and wildlife interests in the state. While CMP claims that the parties to the contested stipulation represent a broad spectrum of interests, the limited number of stipulating parties represents only a relatively narrow list of interests, focusing mostly on large energy consumers and a small but powerful contingent of business and municipal interest that stand to directly benefit from enticements offered by CMP.

**II. The process that led to the contested stipulation was not fair to all parties;**

While NRCM does not believe that it is possible to modify this flawed project in a manner that would transform this proposed project into something that is in the public interest, NRCM notes that the process that led to the contested stipulation was not fair to all parties. Despite being involved in all formal settlement conferences convened by the Commission staff (occurring on September 7 and 14, 2018, and February 5 and 12, 2019), the contested stipulation was presented as predominantly fixed when NRCM and other parties were first provided the settlement terms in February. Presumably, the terms brought to the February 5 settlement conference by CMP were negotiated between a small subset of parties before other parties were invited to join the contested stipulation. This is evidenced by the fact that the contested stipulation changed very little after parties were shown the “draft” stipulation and few additional parties have signed on to the settlement, most citing CMP’s unwillingness to modify the terms in their rationale for not joining the contested stipulation.

For example, despite engaging in a good-faith effort to reach a settlement with CMP outside of this proceeding, CMP abandoned relatively advanced settlement negotiations with GFDC, after which GFDC became an intervenor in the proceeding. GFDC Comments on stipulation, Feb. 19, 2019. After becoming an intervenor in this proceeding, GFDC approached CMP about incorporating those previously negotiated elements into the contested stipulation now before the Commission, and CMP refused to modify the agreement. Other intervening parties that were not privy to the secret, pre-February 5 negotiations found their concerns similarly dismissed or ignored.

**III. The contested stipulated result is not reasonable, is contrary to legislative mandate, and is not in the public interest.**

The stipulated result is not reasonable, is contrary to the intent of the CPCN statute and is not in the public interest. When a utility files for a CPCN to construct a transmission line the utility must present evidence showing there is a public need for the proposed transmission line. Title 35-A M.R.S. § 3132(6) states that

In determining public need, the commission shall, at a minimum, take into account economics, reliability, public health and safety, scenic, historic and

recreational values, state renewable energy generation goals, the proximity of the proposed transmission line to inhabited dwellings and alternatives to construction of the transmission line, including energy conservation, distributed generation or load management.

Instead of allowing a factual determination of the actual public need or benefit of this project, the contested stipulation requests that the Commission simply find

that a public need exists for the NECEC on the basis that the Project, including the hydropower deliveries from Québec to New England it will enable, provides (i) significant economic benefits for Maine and the ISO-NE region in the form of lower electricity supply prices, reduced reliance on fossil fuel generation, material energy price protection in natural gas price spike events, new jobs, increased gross domestic product, and property tax revenues to host communities in Maine; (ii) reliability benefits to Maine and the ISO-NE region, by delivering baseload hydropower to replace retiring baseload resources, as well as other reliability benefits associated with the NECEC's providing an additional intertie between ISO-NE and Québec and transmission system upgrades associated with the NECEC, all at no cost to Maine electricity customers; and (iii) significant carbon dioxide emission reductions as a result of the Project including the increased use of electric vehicle and heat pump programs in Maine, among others, funded pursuant to this Stipulation, which advance Maine's progress toward meeting its long-term GHG emissions reductions goals as set forth in Maine law;

However, simply stating it in a contested stipulation does not make it so.

The Commission's expert witness, in addition to witnesses from NextEra and the Generator Intervenors, all raised questions about whether the benefits claimed above would materialize and, if the benefits were possible, if they would materialize at the levels promised by CMP. Neither NextEra nor the Generator Intervenors have joined the contested stipulation, nor have they withdrawn the voluminous testimony directly refuting the claims that CMP is asking the Commission to accept, *carte blanche*, in this contested stipulation.

The evidence produced in the seventeen days of technical conferences, six days of hearings, and three public witness hearings raised significant questions about the purported economic impacts from this project (including but not limited to energy market prices, construction jobs, economic impacts in Maine, and property tax revenues), the purported impacts to the ISO-NE energy market, and the purported carbon dioxide emission impacts. Nothing in this contested stipulation changes the fact that this project is unlikely to provide the promised economic, energy, and climate benefits alleged by CMP.

The contested stipulation provides several “CPCN Conditions” that are intended to persuade the Commission and Stipulating Parties that this proposed project is in the public interest. However, these CPCN Conditions do not change the fundamental flaws in this project and are actually more akin to sub-par attempts to mitigate the harms caused by this project as it was initially proposed by CMP. For example,

- CMP proposes to “transfer and convey the NECEC to NECEC Transmission LLC (“NECEC LLC”), a Delaware limited liability company that is a wholly owned subsidiary within Avangrid Networks family of companies and is not a subsidiary of CMP.” Stipulation , p. 16. This concession does not address concerns that CMP executives and other personnel, along with other valuable CMP resources will be diverted to this lucrative project or that, in the event of an emergency that takes out several large transmission lines, including the NECEC, Maine ratepayers will be given second priority to the NECEC. All it does is attempt to effectuate what CMP has been promising will be a term of the agreement all along.
- The \$1.005 million “Transmission Rates Customer Credit” is not a benefit at all. It is merely CMP refunding the money that RNS and LNS transmission customers have already paid to CMP for the portions of the transmission corridor that CMP is using for this proposed project.
- The \$140 million designated as “NECEC Rate Relief Fund” is also not a real “benefit.” Instead, it is a payment that should be required by Maine law for the project’s use of CMP’s resources to promote the NECEC. Because CMP is agreeing that this project should be transferred to a special purpose entity, Title 35-A, Section 707(3)(G), requires that “for any contract of arrangement expected to involve the use by an affiliated interest of utility facilities, services or intangibles, including good will or use of a brand name, the Commission shall determine the value of those facilities, services or intangibles.” This is not a voluntary payment to the state out of good will – CMP is required to make this payment. For this proposed project, CMP is using existing corridors, existing transmission infrastructure, services, and intangibles (such as CMP’s brand name and good will) in Maine to promote the NECEC. Maine should be fully compensated for this, and there has not been an attempt to fully account for the use of these tangible and intangible resources by CMP or determine if \$140 million is sufficient to satisfy the requirements of Maine law.
- The contested stipulation requires CMP to “actively participate in all ISO-NE studies to determine the thermal, voltage and stability ratings for the Surowiec-South interface applicable upon the completion of the NECEC and, consistent with good utility practice, advocate to ISO-NE to maximize the stability rating and the total transfer capacity at the Surowiec-South interface after the completion of the NECEC so that such rating is as

close as possible to the expected thermal and/or voltage limits (2812 MW and 2930 MW, respectively) for that interface.” Stipulation, p. 29. This is merely CMP agreeing to advocate to ISO-NE to mitigate some of the transmission congested caused by the NECEC. The obligation is only to participate and advocate as is consistent with good utility practices, which is a large loophole. There is no guarantee that this will mitigate any of the harm caused by the proposed project.

Some of the benefits offered are also designed to sound impressive but are spread over such a long period that the end results will not be perceptible to any Maine ratepayers. For example,

- The \$140 million designated as “NECEC Rate Relief Fund” is payable over forty year years. When calculated in today’s dollars that is a mere \$47 million. Put another way, Maine ratepayers would only receive six cents off their monthly electric bill. This is simply not nearly enough to mitigate the potential harm to Maine’s economy, natural resources, or renewable energy industry and certainly does not qualify as a benefit to Maine.
- CMP is offering forty annual payments of \$1.25 million to fund low-income customers. However, even when combined with the broader rate relief funds, low-income customers in Maine would only see a benefit of \$2.37 per year. That sum is not enough to provide any real benefit to any low-income ratepayer in Maine.

CMP also offers other enticements with no relation to the proposed project and which do not address the potential harms that the NECEC would create in Maine. For example, while increased access to broadband and funds for education, heat pumps, and electric vehicles are positive for the state of Maine, these deal sweeteners are not related to the project and do not offset the potential harms caused by the project. Furthermore, these deal sweeteners raise the question of whether the Commission should allow a company to receive a CPCN, regardless of the merits of the actual project, whenever that company is willing to provide enough small benefits to powerful interests to induce parties to join a stipulation.

Finally, some of the “benefits” in the agreement are so illusory that they are meaningless and should not be considered in the calculation of benefits at all. For example, CMP agrees to try to hire Maine workers but makes no efforts to address the potential job losses as a result of the NECEC or to address the barriers that CMP has claimed make it difficult to agree to hire Maine workers. The contested stipulation also requires CMP to participate in some regional studies about how to manage the regional transmission infrastructure. Nothing in this language forces CMP to change its current anti-renewable behavior. Nor does it require CMP to do anything more than study potential solutions, meaning that the provisions relating to “mitigating” NECEC’s impacts on the transmission system provide lip service only.

Taken in its entirety, CMP's proposed contested stipulation is actually just a weak attempt to mitigate a flawed project thinly disguised as something that will benefit Maine. We are not fooled. For the abovementioned reasons, NRCM respectfully requests that the Hearing Examiners not accept this contested stipulation.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Susan J. Ely".

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