

STATE OF MAINE
BOARD OF ENVIRONMENTAL PROTECTION



JANET T. MILLS
GOVERNOR

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August 12, 2021

SENT VIA ELECTRONIC MAIL ONLY

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Re: NRCM Request for a Stay of New England Clean Energy Connect Order

Dear Participants:

On August 11, 2021, appellant Natural Resources Council of Maine (NRCM) filed with the Board of Environmental Protection (Board) a request for a stay of the May 11, 2020, Order of the Commissioner of the Department conditionally approving the application of Central Maine Power Company (CMP) to construct the New England Clean Energy Connect (NECEC Order) as well as all subsequent related Commissioner decisions transferring, amending and revising the NECEC Order.¹ The request for a stay was also addressed to the Commissioner of the Department of Environmental Protection (Department).

¹ Subsequent to issuance of the NECEC Order, the Commissioner issued an order on December 4, 2020, approving the partial transfer of the NECEC Order to NECEC Transmission LLC (Transfer Order), and on May 7, 2021, issued two orders conditionally approving minor revision applications of CMP and NECEC Transmission LLC. Appeals of the NECEC Order, Transfer Order, and one of the two Minor Revision Orders issued on May 7, 2021, are pending with the Board.

In NRCM's filing it argues that either the Board Chair or the Commissioner, or both, may issue a stay upon demonstration by the petitioner that it has made the necessary showing to obtain a stay pursuant to the Administrative Procedure Act, 5 M.R.S. § 11004.

As I stated in my October 23, 2020, decision on the renewed request for a stay filed by NRCM and West Forks Group, at this time the Commissioner, along with her staff, has the benefit of direct knowledge of the underlying and voluminous agency record in the formulation of the decisions made in issuing the NECEC orders for which a stay is sought. Additionally, I understand that the request for a stay would extend to one order of the Commissioner that is not currently before the Board for appellate review. For the above reasons, administrative economy, and consistency, NRCM's request for a stay is more appropriately addressed by and is referred to the Commissioner. Since your request was made to both me and the Commissioner, who is in receipt of the request, no further action of the Board is warranted at this time.

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

Respectfully,



Mark C. Draper, Chair
Board of Environmental Protection

cc (via e-mail only): Commissioner Loyzim
Service List (August 3, 2021)