

STATE OF MAINE
BOARD OF ENVIRONMENTAL PROTECTION



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GOVERNOR

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November 12, 2020

SENT VIA ELECTRONIC MAIL ONLY

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**Re: Central Maine Power Company, New England Clean Energy Connect
Department Order L-27625-26-A-N, L-27625-TB-B-N, L-27625-2C-C-N,
L27625-VP-D-N, L-27625-IW-E-N (“NECEC Order”)
Chair ruling regarding West Forks’ Request to Reconsider**

Dear Participants:

On September 25, 2020, appellants Natural Resources Council of Maine (“NRCM”) and West Forks, et al. (“West Forks Group”) filed with the Board of Environmental Protection (“Board”) separate renewed requests for a stay of the May 11, 2020, Order of the Commissioner of the Department of Environmental Protection (“Commissioner”) conditionally approving the application of Central Maine Power Company (“CMP”) to construct the New England Clean Energy Connect (“NECEC Order”). These renewed requests were made after the August 26, 2020, decision by the Commissioner denying NRCM’s and the West Forks Group’s initial requests for a stay of the NECEC Order (“Commissioner’s Stay Decision”).

In response to these renewed requests, I provided other participants to the appeal proceeding – those that had not submitted renewed requests for a stay – an opportunity to submit arguments in support of, or in opposition to, NRCM’s and West Forks Group’s renewed requests for a stay.¹ During this response period, the West Forks Group sought, over the objection of CMP, to supplement its September 25, 2020, request for a stay and comment on NRCM’s request, with the filing of a “Supplement to Motion for Stay of Agency Action and Memorandum in Support of NRCM’s Application for Stay” (“West Forks Group Supplement”).

On October 21, 2020, I ruled that the West Forks Group Supplement was not admitted into the Board record. For the reasons set forth in my October 23, 2020, letter, I subsequently declined to revisit and reconsider the Commissioner’s Stay Decision and did not act on NRCM’s and the West Forks Group’s renewed requests for a stay of the NECEC Order. Accordingly, the Commissioner’s Stay Decision denying NRCM’s and the West Forks Group’s requests for a stay of the NECEC Order represents the Department’s decision on those entities’ stay requests.

On November 6, 2020, the West Forks Group filed a request for reconsideration of my October 21, 2020, ruling “to strike” the West Forks Group Supplement in order to preserve objections for potential appeal beyond the Board. While the West Forks Group Supplement was not considered for purposes of my October 23, 2020, letter and will not be considered in further processing of the appeals of the NECEC Order, that supplement remains in the Board’s record for purposes of any subsequent review. The West Forks Group’s arguments in the Supplement are moot as I already addressed NRCM’s and the West Forks Group’s renewed requests for a stay in my October 23, 2020, letter, and NRCM subsequently filed a motion to stay the NECEC Order in Superior Court pursuant to 5 M.R.S. § 11004, which is currently pending.² At this point, the proper venue for any arguments concerning a stay of the NECEC Order is the Superior Court, and not the Board.

Ruling

For the reasons stated above, I decline to reconsider my October 21, 2020, and October 23, 2020, decisions or to advance the West Forks Group’s requests to the full Board.

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): Service List (rev. October 19, 2020)

¹ See letter from Chair Draper, October 7, 2020, and Chair ruling, October 21, 2020.

² Docket Nos. KEN-AP-20-27 and SOM-AP-20-04.