

**MATTHEW D. MANAHAN**

Merrill's Wharf  
254 Commercial Street  
Portland, ME 04101

**P** 207.791.1189  
**F** 207.791.1350  
**C** 207.807.4653  
mmanahan@pierceatwood.com  
pierceatwood.com

Admitted in: MA, ME, NH

November 9, 2021

**VIA ELECTRONIC MAIL**

James R. Beyer  
Department of Environmental Protection  
106 Hogan Road, Suite 6  
Bangor, ME 04401

RE: 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  
License Suspension Proceeding – Post-hearing Reply Brief

Dear Mr. Beyer:

On behalf of Licensees Central Maine Power Company and NECEC Transmission LLC, pursuant to the Presiding Officer's October 20, 2021 decision and the Fourth Procedural Order in the License Suspension Proceeding, please find enclosed Licensees' Post-hearing Reply Brief.

Please let me know if you have any questions.

Sincerely,



Matthew D. Manahan

Enclosure  
cc (via email only): Service List (updated through 10/6/21)

STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

IN THE MATTER OF

|                                  |   |                    |
|----------------------------------|---|--------------------|
| NEW ENGLAND CLEAN ENERGY CONNECT | ) |                    |
| L-27625-26-A-N/L-27625-TG-B-N/   | ) | LICENSE SUSPENSION |
| L-27625-2C-C-N/L-27625-VP-D-N/   | ) | PROCEEDING         |
| L-27625-IW-E-N                   | ) |                    |

**POST-HEARING REPLY BRIEF OF LICENSEES**  
**CENTRAL MAINE POWER COMPANY AND NECEC TRANSMISSION LLC**

Apparently finally recognizing that the Superior Court’s August 10, 2021 decision in *Black v. Cutko* is not a change in circumstance, because the Bureau of Parks and Lands (BPL) lease remains in effect, the Natural Resources Council of Maine (NRCM) changes tack. It now argues that it is Licensees Central Maine Power Company’s (CMP’s) and NECEC Transmission LLC’s (NECEC LLC’s) offer not to construct the portion of the Project within the BPL leased lands during pendency of the *Black* litigation – an offer which, after the parties negotiated and agreed to it, the Law Court ordered on September 15, 2021 (more than a month after the Commissioner initiated this license suspension proceeding) – that is the “critical” change in circumstance here. NRCM Brief at 4-6. Contrary to NRCM’s assertion, Licensees’ offer to not construct within the BPL leased lands, notwithstanding the still-effective lease they hold over those lands, is no “fatal deficiency.” NRCM Brief at 4. In fact, the fatal flaw in NRCM’s reasoning is that even in the unlikely event that the Law Court affirms the Superior Court’s decision, the BPL can simply reissue the lease, allowing NECEC LLC to continue to construct the Project along the permitted route. In other words, whatever the outcome of the *Black* litigation, NECEC LLC has every expectation that it will be able to construct the Project as permitted. Thus, the Commissioner should decline to take any action here, and for the following reasons.

*First*, the September 15 Law Court order lacks the significance NRCM ascribes to it. Not only can that order plainly not be the change in circumstance upon which the Commissioner initiated this proceeding – the Commissioner explicitly initiated this proceeding on the grounds of the August 10 Superior Court decision – but that order was entered over a month after the Superior Court decision was stayed and after being negotiated by the parties.<sup>1</sup> Licensees could have constructed across the BPL lands between August 13 (the date of BPL’s and NECEC LLC’s notices of appeal and automatic stay of the Superior Court decision) and September 15, but chose not to do so out of respect for the appeals process. The DEP should give the same deference to the process here, as it is the Law Court – not the Superior Court and not the DEP – that is the final arbiter of the validity of the BPL lease. Delogu Written Testimony at 1-2 (Oct. 19, 2021).

In any event, Licensees expect that they ultimately will be able to construct the Project across the BPL lands. As Mr. Dickinson explained in his direct testimony, the Law Court may take one of three courses of action: (1) reversal, (2) vacatur and remand, or (3) affirmance. Dickinson Direct at 4-6. If the Law Court reverses the Superior Court’s judgment, the case would conclude without further proceedings and NECEC LLC would construct the Project pursuant to the terms of the BPL lease. *Id.* at 4-5. If the Law Court were to vacate the Superior Court’s judgment and remand the matter to the Superior Court for further proceedings, as Mr. Dickinson explained, NECEC LLC expects the Superior Court would affirm the basis for BPL’s determination and its issuance of the BPL lease. *Id.* at 5. If the Law Court were to determine

---

<sup>1</sup> On August 24, 2021 Plaintiffs filed a motion in the Law Court to lift the automatic stay of the Superior Court’s judgment imposed by Maine Rule of Civil Procedure 62(e). NECEC LLC and BPL opposed that motion. During a conference of counsel held by the Law Court on September 15, 2021, the parties and the Law Court agreed that Plaintiffs’ motion would be resolved by the Law Court ordering NECEC LLC to refrain from engaging in any construction activities, including vegetation removal, on the leased land during the pendency of the Law Court proceedings, a commitment NECEC LLC previously gave to BPL and Plaintiffs. The automatic stay of the Superior Court’s judgment was not lifted and NECEC LLC’s lease remains in place. Dickinson Direct at 3.

that BPL's failure to make a contemporaneous written substantial alteration determination necessitates a remand back to BPL to make that determination in advance of subsequent review by the Superior Court, NECEC LLC expects BPL will determine that the lease does not give rise to a substantial alteration and affirm its previous decision to issue the lease. *Id.* Finally, if the Law Court were to affirm the judgment of the Superior Court, such a ruling would not foreclose NECEC LLC's ability to obtain a lease over the land at issue. *Id.* at 5-6. In fact, NECEC LLC expects that the BPL in that case would simply reissue the lease, allowing the Project to continue along the permitted route, particularly given that BPL already has argued that the lease does not give rise to a substantial alteration and does not require legislative approval. Hearing recording at approx. 1:48:34, 1:57:50 (Dickinson); Respondents Director Cutko's and the Bureau of Parks and Lands' Rule 80C Brief at 1, 10, 12, 14-19, Docket No. BCD-CV-20-29 (July 2, 2021).

As Mr. Dickinson explained, the Superior Court ruled only that BPL failed to follow a specific procedure before granting the lease; the Superior Court did not rule that NECEC LLC's proposed use of the land substantially altered the use of the land. Dickinson Direct at 5-6. The Commissioner has already reached the same conclusion, responding to the stay requests of NRCM and West Forks after issuance of the *Black* decision that those parties "overstate the Superior Court's decision, which does not find that CMP cannot obtain a lease or build the NECEC project on the proposed route permitted by the Department." Commissioner letter to NRCM and West Forks at 3 (Aug. 20, 2021). To the contrary, and "[m]ore fundamentally, the Superior Court did not rule on the merits of the BPL's lease decision with respect to the 0.9 mile portion of the proposed and permitted route, and even if the Law Court were to affirm the Superior Court's decision, CMP may re-apply for such a lease." *Id.* Accordingly, in the unlikely event the Law Court affirms the Superior Court's judgment, NECEC LLC would be free to seek, and would seek, the same leasehold interest from BPL. Dickinson Direct at 6.

*Second*, because any outcome of the *Black* litigation likely will result in construction of the Project across the BPL leased lands, NRCM and West Forks et al. (West Forks) are correct that Licensees have not gone through the cumbersome and almost certainly unnecessary exercise of obtaining the land rights and conducting the natural resource surveys for alternative routes that likely will never be needed. NRCM Brief at 11; West Forks Brief at 2. But contrary to NRCM’s and West Forks’ allegations, the evidence demonstrates that there are a number of viable Project reroutes that would not involve substantial variation from the existing permitted route, and certainly that would not need to avoid all of Segments 1 and 2. NRCM Brief at 8.<sup>2</sup> In response to the specific allegations of NRCM and West Forks – neither of which specifically challenges the viability of Options 3 and 4 as alternatives to the permitted route – the first two options discussed at the hearing are viable for the following reasons:

**Option 1.** Option 1 is viable because the Project could route under the Pierce Pond Watershed Trust (PPWT) conservation easement lands without violating the terms of that easement. NRCM points to the mention in the easement of “old cellar holes” as “structures” on the Protected Property. Equating old cellar holes, which include some sort of foundation and which extend to the surface of the ground on the Protected Property, with a transmission line located entirely under, and not surfacing anywhere within, the Protected Property is preposterous. That “structures” must have some above-ground impact is made clear in the September 27, 2021 letter of Assistant Attorney General (AAG) Parker, to which NRCM cites, which concerns the digging and vegetation removal necessary to locate a pipeline within an intertidal zone. NRCM Brief at 12. HDD technology to locate a transmission line underground

---

<sup>2</sup> As NRCM emphasizes in its brief, NRCM witness Mr. Reardon testified at the hearing that there may be another alternative (Alternative 2) that would “virtually eliminate” Segments 1 and 2. NRCM Brief at 8, n.2. The evidence shows, however, that there are significant challenges and impacts associated with that alternative, as explained in the underlying licensing proceeding. The alternative that Mr. Reardon identified would therefore be “at the very bottom of the list.” Hearing recording at approx. 1:14:15-1:16:44 (Dickinson).

is wholly different. Excavation and vegetation removal, upon which the AAG relies for her determination that a pipeline to be installed in an intertidal zone is a structure, are not required on the Protected Property with HDD technology and thus an HDD underground transmission line does not conflict with any of the terms of the PPWT Conservation Easement. In fact, the PPWT Conservation Easement itself prohibits further “alteration to the surface of the earth or changes in the existing general topography of the landscape of the Protected Property.” PPWT Conservation Easement at 13. Clearly, the intent of the PPWT Conservation Easement is to address alterations to and structures “on” the surface of the Protected Property, and not under the surface of the earth. Because there are none, neither NRCM’s nor West Forks’ witnesses were aware of any deed restrictions that would prohibit locating the Project under the Dead River or across any of the other lands traversed by Option 1. Hearing recording at approx. 2:16:40 (Reardon), 3:30:01-3:31:11 (Buzzell).

**Option 2.** Similarly, there is nothing in the Moosehead Conservation Easement that clearly prohibits locating the Project under lands subject to that easement. Hearing recording at approx. 1:48:34, 1:57:50 (Dickinson). Furthermore, and despite NRCM’s and West Forks’ discount of the plain language of the Moosehead Conservation Easement, Ms. Tilberg, President and CEO of the Forest Society of Maine (“FSM,” which holds the Moosehead Conservation Easement), was unable during the hearing to point to any language prohibiting transmission lines. Public Hearing recording at approx. 2:08:52-2:14:50 (Tilberg).<sup>3</sup>

---

<sup>3</sup> NRCM states in its brief that “Mr. Dickinson’s response of ‘I have’ to Attorney Kilbreth’s question of whether he had talked to FSM appears to have been entirely fabricated,” and “Apparently, Mr. Dickinson completely invented the testimony that he had had any conversation, let alone a ‘long conversation’ with FSM,” and “Mr. Dickinson doubled-down on his false testimony and attempted to mislead the Department about his (nonexistent) conversations with FSM.” These allegations are outrageous and entirely baseless. As quoted in NRCM’s own brief, Mr. Dickinson stated that “The - I have a long conversation with Forest Society. Uh on this specific, there was an email sent. I do not agree.” In other words, Mr. Dickinson was clearly referring initially to a conversation not specific to the scope of the Moosehead Conversation Easement, but he then referred to that issue specifically: “Uh on this specific [issue] there was an email sent.” In other words, his reference to a “long conversation” was *not* about “this specific issue.” NRCM’s attempt to discredit Mr. Dickinson by ignoring the clear meaning of his words demonstrates the depths to which NRCM is willing to stoop.

Furthermore, the Office of the Attorney General has already opined that the **Option 3** routing of the Project through the Cold Stream Forest is viable. *See* Exhibit NECEC LLC-1-G (July 25, 2018 Memorandum from AAG Parker concerning Cold Stream Forest); *see also* Hearing recording at approx. 1:48:34 (Dickinson) (explaining that the Project could be built either overhead or underground through the Cold Stream conservation easement).

Similarly, no party has challenged the viability of **Option 4**, routing the Project along the permitted route, but under the BPL lease lands that are the subject of the *Black* litigation instead of overhead as currently permitted. Hearing recording at approx. 1:57:50 (Dickinson) (“we could use HDD technology to go underneath that BPL land. So it would be a modified lease, potentially with HDD as a technology.”); *see also* 1:48:34 (Dickinson). Option 4 has the added benefit of not requiring any re-routing of the current permitted route (thus avoiding the additional time needed for an alternatives analysis), in the unlikely event that the Project is unable to be routed overhead across the BPL leased lands. NRCM’s request that the DEP Order be suspended for at least a portion of the Project is neither logical nor necessary, given the alternative routes available in the vicinity of the permitted route. NRCM Brief at 7; *see also* NRCM Brief at 2 (demanding “immediate partial suspension of the Order prohibiting construction and clearing in Segments 1 and 2”).

**Third**, even if those four alternative routing options are ultimately unsuccessful and the Project cannot move forward, there would be no lasting impact to the environment because NECEC LLC is committing to decommission the Project. Recognizing that such decommissioning refutes their allegations of environmental harm were construction allowed to continue, NRCM and West Forks try to downplay this commitment, alleging that NECEC LLC has merely made a “promise to consider” decommissioning and that NECEC LLC “has no realistic plans that would adequately restore the environment if this project cannot be

completed.” NRCM Brief at 4; West Forks Brief at 5. The evidence shows otherwise. In no uncertain terms, Mr. Mirabile testified that in the unlikely scenario of a permanent cessation and cancellation of the Project, “the company would decommission the high voltage direct current (HVDC) transmission line over the corridor, followed by natural revegetation of the area.” Mirabile Direct at 5-6. Mr. Dickinson explained that “a decommissioning plan would be prepared and submitted to the DEP.” Dickinson Direct at 19. As set forth in this plan, Mr. Dickinson explained,

all transmission lines and pole structures would be dismantled and removed. Subsurface components, including pole and equipment foundations, would be removed. No project-related infrastructure would protrude or remain above grade to eliminate any NECEC-related physical hazards. Disturbed areas would be stabilized. Trees would be allowed to regenerate naturally and, similar to what occurs after a forestry operation, would be expected to be re-established as a young forest in between 10 and 20 years. [*Id.*]

NECEC LLC’s clear commitment to decommission the HVDC line so there are no remaining project structures demonstrates that there will be no lasting impact on natural resources or the environment in the event the Project ultimately is not able to move forward.

*Fourth*, because there will be no lasting impact on natural resources or the environment if construction is allowed to continue during the pendency of the *Black* litigation, and because the vast majority of the clearing for the Project is already complete, suspension of the DEP Order would only accomplish harm to the viability of the Project, rather than serve to protect the environment, contrary to what NRCM and West Forks allege. NRCM Brief at 2; West Forks Brief at 4, 6. Licensees expect all clearing to be complete in mid to late December 2021. Hearing recording at approx. 0:31:56 (Dickinson); 1:45:12 (Mirabile). As of the October 4, 2021 submission of pre-filed direct testimony, 108 miles of right of way in Segments 1, 2 and 3 of the Project had been cleared. Dickinson Direct at 7. Accordingly, NRCM’s and West Forks’ request that the Commissioner halt construction is not an attempt to prevent the thoughtfully



mitigated clearing impacts, but rather is another strategic attempt to delay the Project such that it cannot meet its contractual in-service date.

This effort is laid bare by NRCM's reference to the November 2, 2021 Initiative,<sup>4</sup> which NRCM alleges is additional grounds for suspension of the DEP Order. NRCM Brief at 2. Like the September 15, 2021 Law Court Order prohibiting construction on the BPL leased lands, the result of the Initiative is separate from and well beyond the scope of this proceeding.<sup>5</sup> Further, the DEP's rules governing suspension of a license set forth the criteria upon which, and only upon which, the Commissioner may suspend a license. DEP Regs. Ch. 2 § 27. Those criteria fall generally into two categories: (1) significant environmental harm<sup>6</sup> or (2) bad behavior on the part of the licensee.<sup>7</sup> In other words, the thrust of the license suspension provisions do not, and were not intended to, encompass a potential change to a law relating to the licensee's right to construct the permitted project.<sup>8</sup>

---

<sup>4</sup> "An Act To Require Legislative Approval of Certain Transmission Lines, Require Legislative Approval of Certain Transmission Lines and Facilities and Other Projects on Public Reserved Lands and Prohibit the Construction of Certain Transmission Lines in the Upper Kennebec Region" (Initiative).

<sup>5</sup> Nevertheless, on November 5, 2021 the Commissioner re-opened this license suspension proceeding to include argument on whether the Initiative constitutes a change in circumstances requiring suspension of the DEP Order, as NRCM has alleged. NRCM Brief at 2. The Commissioner indicated in her November 5 letter that she will not entertain post-hearing briefing on the Initiative issue. Denying Licensees the opportunity to brief this substantive legal issue, and to address in briefing any issues that may be raised at the November 22 hearing, denies Licensees due process. Licensees suggest, at a minimum, that post-hearing briefs be accepted no sooner than one week after the hearing on the question of whether the Initiative constitutes a change in circumstances that requires suspension of the DEP Order. *See* DEP Regs. Ch. 3 § 23 ("All parties have the right to submit briefs and proposed findings of fact in writing after the close of the hearing and the record, within such time as specified by the Presiding Officer.").

<sup>6</sup> "The licensed discharge or activity poses a threat to human health or the environment;" "There has been a change in any condition or circumstance that requires revocation or suspension of a license;" "There has been a change in any condition or circumstance that requires a corrective action or a temporary or permanent modification of the terms of the license."

<sup>7</sup> "The licensee has violated any condition of the license;" "The licensee has obtained a license by misrepresenting or failing to disclose fully all relevant facts;" "The license fails to include any standard or limitation legally required on the date of issuance;" "The licensee has violated any law administered by the Department; or The license fails to include any standard or limitation required pursuant to the federal Clean Air Act Amendments of 1990."

<sup>8</sup> The Initiative concerns Licensees' right to build the Project. Like the *Black v. Cutko* Superior Court decision, whether Licensees may construct the Project is not only squarely before the Court but also is a matter of standing. As Licensees explained in their initial post-hearing brief, title, right, or interest (TRI) is a prudential consideration relevant only to an applicant's standing, and applicable during the "application processing period" alone. *See* Licensees Post-Hearing Brief at 4-5; DEP Regs. Ch. 2 § 11(D); *see also Murray v. Inhabitants of the Town of Lincolnville*, 462 A.2d 40, 43 (Me. 1983). The Superior Court has already determined that "[t]he fact that an

Further, the Initiative cannot constitute a change in circumstances that requires suspension of the license pursuant to the DEP’s license suspension statute and rules because it purports to adopt a law that is not yet effective and may never become effective as it applies to the Project, and because NECEC LLC has filed suit in Superior Court challenging the constitutionality of all Initiative provisions directed at the Project.<sup>9</sup>

The DEP should not apply the Initiative before it is effective, and before it may ever become effective as applied to the Project, by suspending the DEP Order while the Initiative’s constitutional and lawful application to the Project is before the Maine Superior Court. In fact, the DEP must apply the law that is currently in effect, which is that the Initiative is *not yet effective* and likely will not become effective until January 3, 2022 (as NRCM alleged),<sup>10</sup> if it becomes effective at all. Without an effective new law, and with a pending lawsuit challenging that new law such that it may never actually become effective with respect to the Project, there are no grounds for suspension of the DEP Order.

---

applicant’s TRI is based on a possessory interest that might later be invalidated by a court does not mean the applicant lacked TRI to proceed before the DEP.” Order on NRCM’s Motion to Stay DEP Commissioner’s Order at 8, KEN-AP-20-27, SOM-AP-20-04 (Murphy, J.) (Me. Super. Jan. 11, 2021), citing *Southridge Corp. v. BEP*, 655 A.2d 345, 348 (Me. 1995). Accordingly, even if the Initiative were a change in circumstances – which it is not – it could not be a change in circumstances that requires suspension of the DEP Order because TRI is not an approval standard that is relevant after the DEP has issued a license. 38 M.R.S. § 342(11-B)(E); DEP Regs. Ch. 2 § 27(E).

<sup>9</sup> See *NECEC Transmission, LLC and Avangrid Networks, Inc. v. Bureau of Parks and Lands, Maine Public Utilities Commission, Maine Senate, and Maine House*, Docket No. CV-400. Licensees request that the DEP take administrative notice of the November 3, 2021 filings made in the Cumberland County Superior Court regarding the Initiative, including Plaintiffs’ Motion for Preliminary Injunction with Incorporated Memorandum of Law, and related affidavits, available at: <https://www.necleanenergyconnect.org/constitutional-challenge>. Given NRCM’s discussion of the Initiative and assertion that the DEP should suspend the license during the pendency of the litigation over the Initiative, Plaintiffs’ filings in that litigation are relevant to the Commissioner’s decision here. NRCM Brief at 2 (“Although it seems likely that Licensees will challenge the law should it pass, unless and until they obtain a court decision allowing them to proceed, the Department should not allow continued clearing and construction of a route barred by statute.”). See, e.g., *Facilitators Improving Salmonid Habitat v. Towns of Winterport & Frankfort*, 2003 ME 33, ¶ 5, 819 A.2d 325, 326 (taking judicial notice of the actions filed by the parties in the Superior Court that have arisen from the same dispute that is the subject of the appeal); Me. R. Evid. 201.

<sup>10</sup> NRCM Request for Stay at 3 (Nov. 4, 2021).

Moreover, the Superior Court will turn to these issues in fairly short order via NECEC LLC's pending motion for preliminary injunction, which seeks to enjoin enforcement of the Initiative during the pendency of the case before the Superior Court.<sup>11</sup> That relief, if granted by the Superior Court, would govern (or at least provide important guidance to) the DEP on whether any suspension of the DEP permit is appropriate given the Initiative.

While NECEC LLC certainly does not expect DEP to assume its Superior Court claims will succeed, the DEP should not assume they will fail, as granting a suspension would assume. Under these circumstances, DEP should steer well clear of the implications, if any, of the Initiative on the validity of the DEP Order and, instead, allow NECEC LLC's court challenge to run its course. *See Tomasino v. Town of Casco*, 2020 ME 96, ¶ 13, 237 A.3d 175; *Southridge Corp. v. BEP*, 655 A.2d 345, 348 (Me. 1995).

It would be particularly improper for the DEP to apply any presumptions and purport to resolve the constitutionality of this Initiative (as requested by NRCM), as opposed to leaving that resolution to the Court, given that the statutes at issue are not statutes the DEP administers. Indeed, the Initiative is not enforced by the DEP, nor does it anywhere mention the DEP. There are no substantive law changes to Title 38, which is administered by the DEP. Even the challenged prohibition on construction in the Upper Kennebec Region is codified at Title 35-A, which is administered by the Maine Public Utilities Commission (PUC), to which the DEP defers as to Title 35-A provisions.<sup>12</sup> DEP should not preempt the Superior Court's determination

---

<sup>11</sup> NECEC LLC's Complaint raises serious and significant violations of the Maine and federal constitutions. The Complaint's 142 paragraphs of allegations support challenges to the Initiative based on violations of NECEC LLC's vested rights; transgressing the Separation of Powers and the Maine Constitution; and impairing NECEC LLC's contractual rights and duties in violation of the Contract Clauses of the United States and Maine Constitutions. H.Q. Energy Services (U.S.), Inc., the Industrial Energy Consumers Group, and the Maine Chamber of Commerce have all moved to intervene and, in some cases, have supplemented NECEC LLC's claims with additional challenges to the Initiative's lawfulness.

<sup>12</sup> Licensees note that because the Initiative involves a statutory change that will not be enforced by the DEP nor subject to DEP rulemaking, the DEP was not named as a defendant in the Initiative litigation. Instead, and because the Initiative will be enforced by the PUC and the BPL, those two state agencies are named defendants.

of the preliminary injunction motion – and interfere with consideration of these issues by the Judicial Branch – by effectively enforcing the Initiative through suspension of the DEP Order before a decision by the Superior Court regarding statutes over which the DEP has no expertise. The Commissioner is not the right authority, or even authorized, to determine the constitutionality of any Maine statute, never mind statutes that the DEP does not administer. The question of whether the Initiative will be given legal effect (and codified in the BPL’s and the PUC’s governing statutes) is instead squarely before the Superior Court.

NRCM’s rush to halt Project construction based on a Superior Court decision that has been stayed and a constitutionally-defective Initiative that is not yet law, and where clearing is nearly complete, is little more than an effort to kill this vital Project and prevent its well-established climate benefits from reaching the people of Maine, because NRCM has joined with fossil fuels interests that share its distaste for renewable hydropower. NRCM Brief at 4. The Commissioner should decline to take any action to suspend the DEP Order.

Dated this 9th day of November, 2021.



Matthew D. Manahan  
Lisa A. Gilbreath

PIERCE ATWOOD LLP  
Merrill’s Wharf  
254 Commercial Street  
Portland, ME 04101  
(207) 791-1100

*Attorneys for Licensees*