

**UNITED STATES OF AMERICA  
BEFORE THE  
UNITED STATES DEPARTMENT OF ENERGY  
OFFICE OF ELECTRICITY**

**CENTRAL MAINE POWER COMPANY  
(NECEC TRANSMISSION LLC)**

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**DOCKET NO. PP-438**

**ANSWER OF CENTRAL MAINE POWER COMPANY AND  
NECEC TRANSMISSION LLC TO CALPINE CORPORATION'S  
REQUEST FOR LEAVE TO INTERVENE  
OVER TWO YEARS OUT-OF-TIME AND COMMENTS**

Pursuant to 18 C.F.R. § 385.214 (2019)<sup>1</sup>, Central Maine Power Company (“CMP”) and NECEC Transmission LLC (“NECEC LLC”) hereby submit an answer to Calpine Corporation’s (“Calpine”) January 30, 2020 request to intervene and comments addressing aspects of CMP’s New England Clean Energy Connect Project (“NECEC Project” or the “Project”) in the captioned proceeding. CMP filed an Application for Presidential Permit in this proceeding on July 26, 2017.<sup>2</sup> For the reasons set forth below, CMP and NECEC LLC submit that DOE should deny Calpine’s request for leave to intervene over two-years out-of-time, dismiss its comments, and reject the relief sought therein.

**I.  
INTRODUCTION**

On July 27, 2017, CMP submitted an Application for a Presidential Permit in Docket No. PP-438 authorizing the construction, operation, maintenance, and connection of the NECEC

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<sup>1</sup> 18 C.F.R. § 385.214 codifies Rule 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC”). As provided in the Federal Register notice of CMP’s Application for a Presidential Permit in this proceeding, the Department of Energy (“DOE”) considers motions to intervene in Presidential Permit proceedings under FERC Rule 214. 82 Fed. Reg. 45013 (Sept. 27, 2017).

<sup>2</sup> On August 26, 2019, CMP filed a supplement with DOE stating that it will transfer and assign the Project to a new special purpose entity, NECEC Transmission LLC, and accordingly requested that the DOE issue the Presidential Permit requested in Docket No. PP-438 in the name of NECEC Transmission LLC as the sole applicant for the Presidential Permit.

Project's facilities at the Québec-Maine border in Beattie Township, Franklin County, Maine. As set forth in the Application, the Project is a High Voltage Direct Current (HVDC) above-ground electric transmission solution capable of delivering 1,200 MW of clean energy generation from Québec to the New England Control Area. The transmission facilities to be constructed in proximity to the Québec-Maine border as part of the Project require a Presidential Permit. As noted above, DOE published a notice of the Application in the Federal Register on September 27, 2017. That notice required motions to intervene or comments to be filed on or before October 27, 2017. CMP and NECEC LLC submitted letters on August 28, 2019 and January 3, 2020 updating DOE regarding permitting activities in Maine and the transfer of the Project from CMP to NECEC LLC.

On January 30, 2020, two years and three months after the deadline established in the Federal Register, Calpine moved to intervene out-of-time and submitted comments contending that the Application does not demonstrate that the Project is in the public interest. As will be detailed below, many of Calpine's comments repeat arguments it raised at the Maine Public Utilities Commission ("MPUC"). The MPUC rejected those arguments in its Order Granting Certificate of Public Convenience and Necessity and Approving Stipulation, issued May 19, 2019 in Docket No. 2019-00232 and found that the Project is in the public interest.<sup>3</sup> The Massachusetts Department of Public Utilities ("MA DPU") also found that the power purchase agreement associated with the Project are in the public interest. Calpine's arguments with respect to the timing and content of the Application for Presidential Permit are unfounded. Similarly, the DOE should reject Calpine's meritless arguments. In the alternative, if DOE considers Calpine's

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<sup>3</sup> A copy of the MPUC order was attached to CMP's August 28, 2019 update letter in this proceeding.

comments, it should do so without granting late intervention or making Calpine a party to this proceeding.

## **II.** **DISCUSSION**

### **A. Calpine's request to intervene over two-years out-of-time must be denied.**

Rule 214 of FERC's Rules of Practice and Procedure provides specific standards for late intervention, which Calpine has failed to meet. A person seeking to intervene out-of-time under Rule 214 must meet a stringent test. Under Rule 214(b)(1), a movant must demonstrate that (i) it has a right to participate which is expressly conferred by statute or by Commission rule, order, or other action; (ii) it has or represents an interest which may be directly affected by the outcome of the proceeding, including any interest as a: (a) consumer, (b) customer, (c) competitor, or (d) security holder of a party; or (iii) its participation is in the public interest.

In addition, for late motions to intervene pursuant to Rule 214(d), the decisional authority may consider whether: (i) the movant had good cause for failing to file the motion within the time prescribed; (ii) any disruption of the proceeding might result from permitting intervention; (iii) the movant's interest is not adequately represented by other parties in the proceeding; and (iv) any prejudice to, or additional burdens upon, the existing parties might result from permitting the intervention.

Under Rule 214(d), parties must "intervene in a timely manner based on the reasonably foreseeable issues arising from the applicant's filings and the Commission's notice of

proceedings.”<sup>4</sup> Interventions under Rule 214 are not entertained at any point of a movant’s choosing.<sup>5</sup> FERC recently addressed what it termed a growing problem with late interventions:

Nonetheless, we take this opportunity to express our concern with the increasing degree to which participants in natural gas certificate proceedings have come to file late motions to intervene without adequately addressing the factors set forth in our regulations ... In light of the pattern noted here of failures to address our Regulations’ requirements for late interventions, going forward we will be less lenient in the grant of late interventions. Persons desiring to become a party to a certificate proceeding are to intervene in a timely manner. If seeking to intervene out-of-time, the movant is required to show “good cause why the time limitation should be waived,” and should provide justification by reference to the factors set forth in Rule 214(d) of the Commission’s Rules and Regulations.<sup>6</sup>

**1. Calpine does not have a direct interest in the Presidential Permit.**

Calpine does not claim a statutory or regulatory right to intervene. More important, contrary to its unsupported claim, Calpine does not have an interest that would be directly affected by the outcome of this proceeding. It merely states in a conclusory manner that it has a “direct and substantial interest” without further discussion or support demonstrating such an interest. In fact, Calpine is not a consumer, customer, competitor, or security holder of a party; nor does it lay claim to any of these categories in its motion. It is neither a consumer nor a customer of the NECEC - Calpine generates power which it delivers into the power grid managed by the ISO-New England. That does not constitute a direct interest in the Presidential Permit. Calpine is not a competitor of CMP’s or the NECEC Project. It may be considered a competitor of a shipper of power on the NECEC, but that is not the test under Rule 214. Calpine holds no securities in CMP or NECEC. Further, Calpine offers no basis to support a finding that its participation would be in the public interest. Accordingly, Calpine does not have the required

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<sup>4</sup> *Pacific Gas & Electric Co.*, 127 FERC ¶ 61,264 at p. 62,155 (2009) (quoting *California Water Resources Department and the City of Los Angeles*, 120 FERC ¶ 61,057 at P 9 (2007)).

<sup>5</sup> *Id.*

<sup>6</sup> *Tennessee Gas Pipeline Co. L.L.C.*, 162 FERC ¶ 61,167 at PP 49-50 (2018).

direct interest in this proceeding and it fails to meet the test even of a timely intervention under Rule 214 (b).

**2. Calpine does not meet the tests for late intervention in Rule 214(d).**

**a. Calpine had actual and constructive knowledge of the Presidential Permit Application as early as March 15, 2018.**

Assuming for purposes of argument that Calpine meets the general intervention requirements above, it still fails to meet any of the essential tests for late intervention, particularly for a request made over two-years late. Calpine is a sophisticated entity that routinely participates in numerous regulatory proceedings at the state and federal level.<sup>7</sup> Calpine has a Washington, DC office and legions of outside counsel that follow the Federal Register and it had actual and constructive notice<sup>8</sup> of CMP's Presidential Permit Application since at least its March 15, 2018 late-filed intervention in CMP's MPUC certificate proceeding for the NECEC Project, which specifically references the Presidential Permit. *See* Late Filed Petition to Intervene of Calpine Corporation, *et al.*, filed March 15, 2018 in MPUC Docket No. 2017-00232 at p. 10, paragraph 14 (attached hereto as Attachment A). Calpine could have moved to intervene in this matter at that time, but it affirmatively and intentionally elected not to do so, instead waiting another 22 months.<sup>9</sup>

Calpine does not allege that it was unaware of the filing or the Federal Register notice, or that the DOE's public notice was insufficient to put Calpine on notice regarding its interests. FERC has ruled that, "a movant fails to establish sufficient good cause to intervene out-of-time when

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<sup>7</sup> At FERC alone, in 2019 Calpine and its affiliates filed 123 motions to intervene under Rule 214.

<sup>8</sup> *U-T Offshore System*, FERC Docket No. RP94-161-000, Order Denying Motion for Leave to Intervene Out of Time, unreported slip op. (Nov. 25, 1994).

<sup>9</sup> *El Paso Natural Gas Co.*, 61 FERC ¶ 61,087 at p. 61,348 (1992) (denying late intervention for failure to intervene at any of several provided opportunities known to the movant).

the movant fails to plead that it lacks notice of the proceeding.”<sup>10</sup> Calpine cannot credibly do so. Calpine was an active participant in that MPUC proceeding, sponsoring witnesses, cross-examining CMP’s witnesses, and filing briefs and pleadings. As will be detailed below, Calpine’s comments here repeat its arguments before the MPUC, which it lost. Nevertheless, despite its documented direct knowledge of the Presidential Permit filing deadline as of at least March 15, 2018, and its high level of activity in permitting for the NECEC Project, Calpine provides no reasonable explanation of its failure to intervene in this proceeding either in a timely manner or at the same time it intervened late at the MPUC in March, 2018, or why good cause exists to excuse its delay.<sup>11</sup>

Instead it seeks to twist its own inexplicable tardiness to cast blame on CMP’s Presidential Permit Application by claiming the Application is somehow deficient or prematurely filed. CMP’s filing described a real project, the application was complete and it meets every single element required by the DOE’s regulations. DOE Staff has not advised CMP or NECEC of any deficiency in the Application or tendered any data requests. The Application is no different from any other similar application for permission to construct facilities to transmit power across the border. This argument begs the question of good cause to intervene out-of-time and does not justify Calpine’s late intervention.

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<sup>10</sup> *PJM Interconnection, L.L.C.*, 167 FERC ¶ 61,209 at P 24 (2019) (denying movants' intervention because movants "do not claim they did not have notice of the proceeding. Rather, they claim they were not aware of how a [dispositive Commission order] would impact them").

<sup>11</sup> *See City and County of Denver, Colo.*, Project No. 2035-099, Notice Denying Intervention (Aug. 1, 2018) (movant “has been an active and consistent participant with respect to the environmental issues, including the Army Corps’ environmental review process; however, the movant provides no explanation as to why it was unable to intervene in a timely manner or why good cause exists to waive the time limit now.”)

Most important, DOE accepted the Application and issued the Federal Register notice with a reasonable and specific deadline for interventions or comments. DOE is actively processing the Application. That deadline needs to have meaning. The bottom line is, Calpine failed to intervene in a timely manner and is now struggling to concoct a valid reason to justify an exception to the rule. The allegations of an incomplete application and remaining permitting in Maine fail to do so. Calpine cannot be permitted to sit on its unclean hands for over two years only to argue like a schoolyard bully that its delay should be excused because of the actions of others.<sup>12</sup> FERC has explained that an entity cannot “sleep on its rights” under Rule 214 and then seek untimely intervention.<sup>13</sup> That is exactly what Calpine has done. DOE has denied late intervention in a Presidential Permit docket under similar circumstances.<sup>14</sup>

Calpine’s argument in support of its delay is unconvincing and does not constitute good cause to grant late intervention. When DOE issues a notice of an application for Presidential Permit, as FERC has observed, “it is up to interested entities to decide whether the application presents issues of sufficient concern to warrant intervening in the proceeding. It is the nature of the proposal, not the procedures that” DOE “follows to review it, on which an entity must base its decision whether to intervene.”<sup>15</sup> Calpine challenges the filing and notice procedures and offers no legitimate reason for failing to intervene or comment on a timely basis.

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<sup>12</sup> See *MoGas Pipeline LLC*, 164 FERC ¶ 63,018 (2018) (C.J. Cintron) (movant fails to explain or adequately substantiate how it meets certain elements of Rule 214(d)’s governing criteria; movant fails to assert any contention as to why it has “good cause for failing to file the motion within the time prescribed.”).

<sup>13</sup> See *California Department of Water Resources and the City of Los Angeles*, 120 FERC ¶ 61,057, at P 14 (2007) (footnote omitted), *reh’g denied*, 120 FERC ¶ 61,248, *aff’d sub nom. California Trout and Friends of the River v. FERC*, 572 F.3d 1003 (9th Cir. 2009).

<sup>14</sup> *TDI-New England*, PP-400 at 3 (Dec. 5, 2016) (denying a motion to intervene out-of-time that was filed nearly two years after the close of the comment period and without explanation for its untimely filing).

<sup>15</sup> *City and County of Denver, Colo.*, 165 FERC ¶ 61,120 at P 18 (2018) (denying late intervention).

- b. Having failed to demonstrate good cause to intervene out-of-time, DOE need not consider allegations of no disruption, the interests of other parties, and no burdens on or prejudice to existing parties.**

Calpine's failure to show good cause for its late intervention under Rule 214(d) should end the inquiry. Absent good cause to intervene out-of-time, there is no need for DOE to consider whether Calpine's late intervention would disrupt the proceeding; whether Calpine's interest is not adequately represented by other parties; and any prejudice to, or additional burdens upon, the existing parties. These are elements DOE *may* consider under Rule 214(d). A showing of good cause is preeminent.<sup>16</sup> Nevertheless, Calpine would disrupt this proceeding as it has shown in Maine. It will do anything possible to slow the permitting process and having lost in Maine, it now seeks another bite at the apple in this matter. Calpine waited until after the MPUC issued the Project a Certificate of Public Convenience and Necessity, until the eve of a decision by the Maine Department of Environmental Protection, and as the Army Corps of Engineers is in the final stages of considering its permit. Granting Calpine party status under these circumstances by granting its untimely intervention will prejudice and create additional burdens for CMP and NECEC as we will be required to expend legal resources to address every roadblock Calpine attempts to raise.<sup>17</sup>

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<sup>16</sup> *Tennessee Gas Pipeline Co. L.L.C.*, 162 FERC ¶ 61,167 at P 50 (2018); see also *Alaska Power & Tel. Co.*, 98 FERC ¶ 61,092, 61,278 (2002) ("In short, there is no right to late intervention in Commission proceedings under Rule 214. Rather, the rule affords the Commission the discretion to grant late intervention based on a showing of good cause, as well as consideration of other relevant factors.")

<sup>17</sup> FERC's Chief Administrative Law Judge has observed that "Rules 214(d)(1)(ii) and (iv) provide that 'the decisional authority may consider whether ... [a]ny disruption of the proceeding *might result* from permitting intervention' (emphasis added) and whether '[a]ny prejudice to, or additional burdens upon, the existing parties *might result* from permitting the intervention ...' (emphasis added). This is a low standard, given that the decisional authority need only consider whether something 'might' occur, not that it 'will' occur, is 'likely' to occur, or even 'is more likely than not' to occur." *PJM Interconnection, L.L.C. and Appalachian Power Co.*, 169 FERC ¶ 63,031 at P 15 (2019)(Cintron, C.J.). Calpine does not meet even this very low standard with regard to prejudice or burdens.



Finally, Calpine cannot bootstrap good cause or the other requirements for late intervention merely through allegations of no disruption, prejudice, or burden, or because there are no other intervenors. DOE must deny Calpine's late intervention. Alternatively, DOE can deny Calpine's late intervention, but can still consider Calpine's comments those of a non-party; Calpine simply will not have standing to seek rehearing of a Presidential Permit order or to seek judicial review. Given the timing of its late motion to intervene, this would be an appropriate treatment.

Calpine should be judged under the FERC standards and its request to intervene over two years out-of-time must be denied. It does not deserve lenience.

**B. Contrary to Calpine's claims, the NECEC is in the Public Interest as Found by both the Massachusetts Department of Public Utilities and the Maine Public Utilities Commission.**

In its comments, Calpine asserts that the NECEC is not in the public interest. Both the Massachusetts Department of Public Utilities on behalf of the Massachusetts ratepayers who will ultimately pay for the project and most of the clean hydropower it will deliver and the Maine Public Utilities Commission on behalf of ratepayers and the residents of the state in which the Project will be constructed have specifically found that the project and the resulting energy deliveries are in the public interest. The DOE accordingly should give Calpine's assertion to the contrary no weight in its granting the Presidential Permit for the NECEC.

**1. The Massachusetts Department of Public Utilities found that the NECEC PPAs are in the public interest.**

On June 25, 2019, the Massachusetts Department of Public Utilities issued an order approving the power purchase agreements ("PPAs") between the Massachusetts Electric

Distribution Companies (“MA EDCs”)<sup>18</sup> and H.Q. Energy Services (U.S.), Inc. (“HQUS”) for the clean hydroelectric energy to be delivered by the NECEC transmission line.<sup>19</sup> As part of its determination, the MA DPU considered whether the PPAs were in the public interest by evaluating: (1) whether the pricing terms in the contracts are reasonable for clean energy generation resources; (2) whether other, lower cost Section 83D-eligible resources were available to the Companies and, if so, whether the benefits of the proposed contracts justify any higher costs; (3) the reasonableness of the MA EDC’s decision to enter into contracts of the given size; and (4) whether the billing impacts of the contracts are reasonable in light of the benefits of the contracts.<sup>20</sup>

After considering these factors, the MA DPU concluded on behalf of the Massachusetts ratepayers who will ultimately pay for the Project and most of the clean hydropower it will deliver, that the NECEC PPAs are in the public interest.<sup>21</sup> The MA DPU’s conclusion was based upon its findings that:

- The pricing terms in the PPAs are reasonable for clean energy generation resources because the MA EDCs conducted an open, fair, and transparent competitive solicitation consistent with applicable law and the MA EDCs entered into contracts with the NECEC

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<sup>18</sup> The MA EDCs are Massachusetts Electric Company and Nantucket Electric Company d/b/a National Grid, NStar Electric Company d/b/a Eversource Energy, and Fitchburg Gas and Electric Light Company d/b/a Unitil.

<sup>19</sup> *Petition of NSTAR Electric Company d/b/a Eversource Energy for approval by the Department of Public Utilities of a long-term contract for procurement of clean energy generation, pursuant to Section 83D of An Act Relative to Green Communities, St. 2008, c. 169, as amended by St. 2016, c. 188, § 12*, MA DPU Docket Nos. 18-64, 18-65, 18-66, Order at 151-152 (“MA DPU Order”), attached hereto as **Attachment B**.

<sup>20</sup> MA DPU Order at 115.

<sup>21</sup> MA DPU Order at 118. Pursuant to Massachusetts G.L. c. 164, § 94A (“Section 94A”), an electric or gas distribution company must obtain MA DPU approval to enter into a contract for the purchase of electricity or gas covering a period in excess of one year. The MA DPU has construed the Section 94A approval to require a determination that the contract is consistent with the public interest. See, e.g., NSTAR Electric Company, D.P.U. 07-64-A at 58 (2008); New England Electric System/Nantucket Electric Company, D.P.U. 95-67, at 21-22 (1995), citing New England Power Co., D.P.U. 1204 (1982). MA DPU Order at 10, fn. 18.

proposal that received the highest score and rank among all proposals evaluated in the solicitation process.<sup>22</sup>

- The NECEC transmitted hydro is a low-cost clean energy generation resource and that there were no lower cost Section 83D-eligible resources available to the MA EDCs.<sup>23</sup>
- It was reasonable for the MA EDCs to contract for 9,554,940 MWh of clean energy generation annually based on the competitiveness of the NECEC transmitted hydro bid and the level of economic net benefits to ratepayers.<sup>24</sup>
- The bill impacts of the contracts are reasonable in light of the benefits of the contracts in light of the fact that the PPAs are projected to result in overall net bill savings for ratepayers based on the current market environment.<sup>25</sup>

Based on these findings, the MA DPU concluded that the PPAs are in the public interest, stating:

Through the use of a fair, open, and transparent competitive solicitation process, the Companies have demonstrated that (1) the pricing terms in the contracts are reasonable for clean energy generation resources and (2) the contracts are low-cost and there were no other lower-cost Section 83D-eligible resources available to the Companies. In addition, the Department finds that it was reasonable for the Companies to contract for 9,554,940 MWh of clean energy generation based on the competitiveness of the bid and the level of economic net benefit to ratepayers. Finally, the Department finds that the estimated bill impacts of the contracts are reasonable in light of the benefits of the contracts. For these reasons, the Department finds that the contracts are in the public interest.<sup>26</sup>

Additionally, the MA DPU found that the PPAs are cost-effective, stating:

[T]he Department finds that the Companies have demonstrated there are significant net benefits to ratepayers associated with the instant contracts (i.e., the Companies have shown that NECEC Hydro will produce benefits to ratepayers that will exceed the costs of the contracts) (Exh. JU-1, at 41). In particular, the Companies have shown that the aggregate delivered cost for energy and environmental attributes under the contracts are less than the forecasted market prices for delivered energy and CECs<sup>27</sup> by \$3.962 billion (nominal) over the life of

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<sup>22</sup> MA DPU Order at 116.

<sup>23</sup> MA DPU Order at 116.

<sup>24</sup> MA DPU Order at 117.

<sup>25</sup> MA DPU Order at 117-118.

<sup>26</sup> MA DPU Order at 118.

<sup>27</sup> CECs are Clean Energy Certificates used by competitive electricity suppliers for compliance with regulatory requirements. MA DPU Order at 16.

the contracts (Exh. JU-1, at 41). The Department further finds that significant qualitative benefits will flow to ratepayers under the contracts in the areas of reliability, mitigated environmental impacts, and economic development (Exh. JU-1, at 29-30, 40-44). Accordingly, after taking into consideration both the potential costs and benefits of the PPAs and TSAs, the Department finds that the contracts are a cost-effective mechanism for procuring low cost renewable energy on a long-term basis. Section 83D; 220 CMR 24.05(1).<sup>28</sup>

**2. The Maine Public Utilities Commission found that the NECEC is in the public interest.**

Similarly, the MPUC evaluated the NECEC on behalf of ratepayers and the residents of the state in which the Project will be constructed. After a comprehensive review taking over 19 months, with a docket of over 600 entries and submission of many thousands of pages of testimony and supporting materials, the MPUC issued a 100-page Order on May 3, 2019 finding that the NECEC is in the public interest and granting a certificate of public convenience and necessity (“CPCN”) for the NECEC.<sup>29</sup>

Based on the totality of the evidence, the MPUC found that NECEC and the clean energy deliveries enabled by NECEC will, at no cost to Maine ratepayers:

- Significantly reduce electricity supply prices in Maine and across New England through lower energy market prices, resulting in savings of \$14 million to \$44 million to Maine customers each year, with estimated benefits of \$122 million to \$384 million on a net present value basis for the first 15 years of the project;<sup>30</sup>
- Likely further significantly reduce electricity supply prices in Maine and across New England through lower capacity market prices, resulting in savings of \$19 million to Maine customers each year, with additional estimated benefits of \$101 million on a net present value basis for the first 10 years of the project;<sup>31</sup>

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<sup>28</sup> MA DPU Order at 110-111.

<sup>29</sup> 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, Order Granting Certificate of Public Convenience and Necessity and Approving Stipulation at 6 (May 3, 2019) (“MPUC Order”).

<sup>30</sup> MPUC Order at 7, 30.

<sup>31</sup> MPUC Order at 7, 37.

- Upgrade the existing transmission system, providing extra redundancy and reliability to the Maine system;<sup>32</sup>
- Reduce New England’s demand for and reliance on natural gas for the electricity generation and significantly mitigate fuel security issues that ISO New England (“ISO-NE”) has identified for the region, including Maine;<sup>33</sup>
- Combat climate change through greater reliance on clean hydropower and reduce carbon emissions from fossil-fuel fired generation across the region by approximately 3.0 to 3.6 million metric tons per year, the equivalent to removing approximately 700,000 passenger vehicles from the road annually;<sup>34</sup> and
- Support more than 1,600 jobs in Maine during NECEC construction phase and contribute millions of dollars to the Maine economy through project expenditures and the property taxes paid on the project facilities over their useful life.<sup>35</sup>

Separate and apart from the MPUC’s grant of the CPCN, the MPUC also approved the NECEC Stipulation finding that the provisions of the Stipulation augmented the benefits that will be realized by Maine ratepayers, communities and the environment by funding mechanisms and programs to provide rate relief to Maine ratepayers, benefits for low- income customers, and support for a variety of other programs intended to benefit Maine communities and the environment.<sup>36</sup>

Specifically, the MPUC found that, under the terms of the approved Stipulation, the NECEC will result in the following additional benefits for Maine, again at no cost to Maine ratepayers:

- a \$140 million fund will provide rate relief for retail electricity customers within CMP’s service territory;<sup>37</sup>

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<sup>32</sup> MPUC Order at 39.

<sup>33</sup> MPUC Order at 39-41.

<sup>34</sup> MPUC Order at 7, 71-72.

<sup>35</sup> MPUC Order at 6-7.

<sup>36</sup> MPUC Order at 6.

<sup>37</sup> MPUC Order at 95, 98.

- a \$50 million fund will benefit low-income energy customers in Maine;<sup>38</sup>
- installation of fiber optic facilities and equipment on the NECEC transmission line, with an estimated value of \$5 million, and a \$10 million broadband fund will support high speed broadband infrastructure to host communities;<sup>39</sup>
- a \$15 million fund will support installation of heat pumps or other future efficient heating technologies;<sup>40</sup>
- a \$5 million fund will provide consumer rebates for the purchase of qualifying EVs by Maine residents and rebates to defray the cost of public EV charging installations;<sup>41</sup>
- a \$10 million fund will deploy a state-wide fast and ultra-fast public charging network for EVs in Maine;<sup>42</sup>
- a \$5 million fund will benefit communities in Franklin County to support the economic and community development efforts of the Greater Franklin Development Council;<sup>43</sup>
- a \$1 million grant will benefit the University of Maine for research and development associated with marine wind generation technology;<sup>44</sup>
- a \$5 million fund will provide programs and scholarships for needy Maine students to attend the University of Maine at Farmington and vocational and training programs and scholarships in the math, science, and technology fields in Franklin and Somerset Counties;<sup>45</sup>
- a commitment of up to \$500,000 for decarbonization studies will benefit Maine and regional efforts to combat climate change;<sup>46</sup> and

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<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> MPUC Order at 96, 98.

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

- a \$1 million commitment will underwrite fees and other costs associated with identifying ways to securitize and accelerate the benefits associated with the rate relief funds.<sup>47</sup>

Of the 31 parties in the MPUC proceeding, only one party, NextEra Energy Resources, LLC (“NextEra”), appealed the MPUC’s Order to the Maine Law Court.<sup>48</sup> Notably, despite its active opposition to the NECEC in the underlying MPUC proceeding, Calpine, a member of the Generator Intervenors (“GINT”),<sup>49</sup> did not appeal the MPUC’s Order, or the findings therein.

**3. The MA DPU and the MPUC found that the NECEC will improve reliability and enhance fuel security in ISO-NE.**

Calpine’s assertion that NECEC will adversely affect the grid and electric markets in Maine and elsewhere is contrary to the MA DPU and the MPUC’s finding that the NECEC will improve the reliability of the transmission system in Maine and New England and enhance the fuel security for the ISO-NE region.

The MA DPU found that the hydroelectricity delivered via the NECEC Project will provide enhanced electricity reliability within the Commonwealth, stating:

The Department relies on the Northeast Power Coordinating Council/North American Electric Reliability Council definition of reliability and has defined “reliability” as the ability to contribute to system resource adequacy and system security. D.P.U. 18-76 through D.P.U. 18-78, at 29; D.P.U. 17-117 through D.P.U. 17-120, at 32; D.P.U. 13-146 through D.P.U. 13-149, at 34; D.P.U. 11-05 through D.P.U. 11-07, at 21; D.P.U. 10-54, at 181. NECEC will deliver hydroelectric generation over firm transmission service into the New England transmission system at the Larrabee Road substation in Lewiston, Maine (Exhs. JU-4-A at 67; JU-4-B at 67; JU-4-C at 67). In addition, NECEC will interconnect under the Capacity Capability Interconnection Standard and provide transmission system upgrades to allow for firm deliveries into New England at that location (Exhs. JU-1, at 40; EDC-RB-1, at 41-42, 46-48). The Department has found that, because Massachusetts is

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<sup>47</sup> MPUC Order at 97-98.

<sup>48</sup> Briefing in the Law Court Appeal concluded on October 15, 2019 and the Law Court heard oral arguments on December 6, 2019. *NextEra Energy Resources, LLC v. Maine Public Utilities Commission, et al.*, Law Court Docket No. PUC-19-182. No decision has been issued by the Law Court to-date.

<sup>49</sup> The Generator Intervenors are Calpine Corporation, Vistra Energy Corporation, and Bucksport Energy LLC.

part [of] the ISO-NE regional electric system, an improvement in reliability in one area of the regional system will help to bolster the reliability of the system as a whole and this will provide enhanced electricity reliability in Massachusetts. D.P.U. 18-76 through D.P.U. 18-78, at 31; D.P.U. 17-117 through D.P.U. 17-120, at 33-34; D.P.U. 13-146 through D.P.U. 13-149, at 34-35. Here, because Maine is part of the New England regional interconnected electric system, the Department finds that an improvement in reliability in this area of the system will support the reliability of the system as a whole and, thereby, contribute to system resource adequacy and system security support in Massachusetts (Exh. JU-1, at 40). In addition, the Department has found that resources that contribute to fuel diversity in the region also serve to enhance electricity reliability in Massachusetts. D.P.U. 18-76 through D.P.U. 18-78, at 30-31; D.P.U. 17-117 through D.P.U. 17-120, at 4; D.P.U. 13-146 through D.P.U. 13-149, at 34-35. As a provider of hydroelectric generation, the Department finds that NECEC Hydro will contribute to fuel diversity in New England, thereby enhancing resource adequacy and system security in the region as well as Massachusetts (Exh. EDC-RB-1, at 38).<sup>50</sup>

The MPUC similarly found that the NECEC will increase the reliability of the transmission system and the fuel security of the ISO-NE region. Specifically, the MPUC stated in its Order:

The Commission finds that the NECEC and associated upgrades will increase the reliability of the Maine transmission system. As noted above, because of the requirement that the Project meet the CCIS,<sup>51</sup> the overlapping impact test requires that the NECEC must not erode the capacity deliverability of other resources in the Maine Zone. Because the overlapping impact test requires all of the generators with a CSO in the same zone to be “turned on” at their full output before the impact of the NECEC is modeled, any system upgrades necessary to ensure that the NECEC, as well as all of the other resources with CSOs in Maine, can operate at full output without being curtailed are the responsibility of the NECEC. Because, in reality, the system rarely operates this way, the system upgrades required by (and provided by) the NECEC will provide extra redundancy and reliability to the Maine system during normal operations modes.

The Commission finds that NextEra’s assertions about the potential adverse impacts of the NECEC 5-10 years in the future is not persuasive. As noted above, NextEra’s position reflects its assumed retirement of one or more Maine generators, the retirement of which is not indicated by the modeling done by LEI

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<sup>50</sup> MA DPU Order at 89-91.

<sup>51</sup> The “CCIS” is the Capacity Capability Interconnection Standard requiring that the capacity from an elective transmission upgrade can be delivered into the relevant zone without relying on the system delivery capability being used by other resources in the zone that already have a capacity supply obligation (“CSO”). MPUC Order at 31.



or Daymark.<sup>52</sup> Moreover, the Commission notes that the NextEra witnesses admitted that NECEC system upgrades would resolve the N-1 reliability problems their study revealed. Hearing Tr. at 71-74 (Oct. 22, 2018).

The Commission notes, further, that seven Maine generation facilities totaling 1,370 MW in capacity, including those cited by GINT and NextEra as “at risk” due to the NECEC, had already submitted de-list bids in FCA 13 that were accepted by the ISO-NE.<sup>22</sup> Had the de-listing of any of these facilities created the type of reliability problem that is here asserted by NextEra, these de-list bids would never have been accepted by the ISO-NE.<sup>53</sup>

The MPUC further observed that the NECEC has significant reliability benefits in the form of fuel security, stating:

With respect to “fuel security,” the Commission concludes that the addition of this interconnection to Québec, and the substantial amounts of baseload hydroelectric energy it will enable, will enhance supply reliability and supply diversity in Maine and the region. The Commission notes that there are significant challenges to siting new energy infrastructure in the region, as is evidenced by local opposition to natural gas pipeline and electric transmission projects. At the same time, natural gas supplies from remaining gas fields offshore of Nova Scotia have diminished, and most of the supply from that region is expected to be gone by 2020. CMP Ex. NECEC 45 at 23.<sup>54</sup>

Finally, as noted above, fuel security has been a growing issue in the ISO-NE region such that it has become a subset of system reliability as viewed by ISO-NE and the FERC. The Commission points to the Operational Fuel Security Analysis provided by ISO-NE in January 2018. This analysis was later adopted by FERC in its fuel security order. *Order Denying Waiver Request*, FERC Dockets ER18-1509-000, EL18-182-000 (July 2, 2018). The study conclusions state: “The study indicates that over the next several decades, New England’s power system will largely depend on the availability of two key elements, sufficient injections of LNG and electricity imports from neighboring regions.” The Commission recognizes that there may be challenges associated with depending on imports, but given the difficulty that the region faces in terms of siting any energy infrastructure, the ISO-NE’s conclusions regarding the future are compelling. Thus, in this case, the Commission is presented with a transmission line that will provide a pathway to import up to 1,200 MW at no cost to Maine and will provide significant mitigation for the issues identified in Operational Fuel Security Analysis. Because fuel

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<sup>52</sup> LEI is the MPUC’s independent expert, London Economics International, LLC (“LEI”). Daymark is CMP’s expert, Daymark Energy Advisors (“Daymark”).

<sup>53</sup> MPUC Order at 39.

<sup>54</sup> MPUC Order at 39-40.

security, through FERC jurisdiction and its ruling on the Mystic Units, has been determined to be a regional issue and, thus, the costs to address it are socialized across the region, if a significant import line is not built now, it will likely be built later, the costs for which are likely to be treated in a way that is much less favorable to Maine than the NECEC.<sup>55</sup>

In coming to its decision, the MPUC considered substantial evidence in the record and extensive expert witness testimony addressing the impacts of the NECEC on the reliability of the transmission system and fuel security.

Specifically, the MPUC considered two transmission studies submitted by CMP which identified the system upgrades needed for the NECEC that were proposed as part of the Project.<sup>56</sup> These studies were accompanied by expert witness testimony establishing that the NECEC would provide transmission reliability benefits to Maine and the region by providing important redundancy between the Québec and New England systems, which will better protect the region in the event of the loss of the existing Phase II intertie, one of the largest possible losses of supply in New England.<sup>57</sup> These studies were included as Exhibit K to CMP's Presidential Permit application.

CMP also submitted evidence that the AC upgrades required by the NECEC will increase the transfer limits at the Surowiec-South interface from 1,600 MW to 2,600 MW, the new 345 kV line between the Coopers Mills Road substation and the Maine Yankee substation (Section 3027)

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<sup>55</sup> MPUC Order at 41.

<sup>56</sup> CMP submitted two transmission studies in the MPUC proceeding: The "New England Clean Energy Connect (NECEC) Project Analysis and Technical Report," and the "New England Clean Energy Connect Surowiec-South Interface Limits and Overlapping Impacts Study." As the MPUC described in its Order, "the Project Analysis and Technical Report was conducted pursuant to the ISO-NE I.3.9 process. The I.3.9 process ensures that any changes to the system, such as generator additions, do not have an adverse impact on the system. The Overlapping Impacts Study examines the NECEC to ensure that, along with identified upgrades, it would meet the CCIS. These studies identify the system upgrades needed for the NECEC." MPUC Order at 37. See Application for Presidential Permit, Exhibit K.

<sup>57</sup> July 13, 2018 CMP Rebuttal Testimony of Christopher Malone, Scott Hodgdon and Justin Tribbet at 15 ("Malone, Hodgdon and Tribbet Rebuttal"), MPUC Docket No. 2017-00232 Case Management System ("CMS") Item No. 210.

and the rebuilding of the 115 kV lines (Sections 62 and 64) out of Larrabee Road will add redundancy and additional transmission capacity to the transmission system across central Maine, and the additional transformer at Raven Farm will improve reliability in the greater Portland area.<sup>58</sup> In fact, even opponent NextEra's expert witness, Stephen Whitley, acknowledged the reliability benefits of the additional intertie with Québec and the addition of the Raven Farm Autotransformer.<sup>59</sup>

CMP also submitted evidence that the NECEC will provide significant fuel security benefits by delivering clean baseload hydropower to replace retiring resources in the region and by reducing the region's dependence on natural gas fired generation.<sup>60</sup> CMP also provided evidence that this supply of hydropower will help mitigate the cost of any new fuel security market mechanism adopted by ISO-NE by increasing the supply of fuel-secure, non-natural gas fired energy in New England.<sup>61</sup> In fact, in accordance with Attachment K of ISO-NE's Open Access Transmission Tariff ("OATT"),<sup>62</sup> ISO-NE is now including the NECEC transmission facilities and 1,090 MW of energy deliveries over the line in the transmission planning base cases it is using to identify future system reliability needs in New England and to assess the reliability impacts of proposed generation retirements.<sup>63</sup> As such, ISO-NE is relying on the NECEC to go into service to improve and maintain the reliability of the New England Transmission system under the

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<sup>58</sup> September 27, 2017 CMP Petition for a Certificate of Public Convenience and Necessity for the New England Clean Energy Connect Transmission Project, Volume I ("CMP Petition") at 65-66, CMS Item No. 8.

<sup>59</sup> June 14, 2018 MPUC Technical Conference Transcript at 150:8-20 (intertie) and October 22, 2018 MPUC Hearing Transcript at 73:3-15.

<sup>60</sup> February 1, 2019 CMP Post-Hearing Brief at 83-93.

<sup>61</sup> January 10, 2019 MPUC Hearing Transcript at 141:15-142:23 (Hearing Testimony of Daniel Peaco, Daymark Energy Advisors), CMS Item No. 535.

<sup>62</sup> ISO-NE OATT, Attachment K, §4.1(f), provided as Attachment C.

<sup>63</sup> See, e.g., ISO Transmission Planning, Memorandum to ISO-NE Planning Advisory Committee re Update to the Upper Maine (ME) 2029 Needs Assessment Assumption and Study Files (Sep. 24, 2019), provided as Attachment D.

applicable planning criteria of the North American Electric Reliability Corporation (“NERC”), the Northeast Power Coordinating Council (“NPCC”) and ISO-NE itself.

Calpine asserts in its comments that the NECEC does not provide reliability benefits because it is an Elective Transmission Upgrade (“ETU”) rather than a reliability project. As discussed above, the NECEC will enable significant reliability benefits for the transmission system regardless of the NECEC’s classification as an ETU. Moreover, the NECEC’s ETU status provides an even greater benefit to the region because the reliability benefits and other Project benefits will be paid for entirely by the Massachusetts electric distribution customers that seek to purchase the NECEC-enabled clean hydroelectricity and the Project developers, rather than socializing the cost of the Project among all of the New England states as is done for a reliability project.

**4. The MPUC found that the NECEC will not materially increase congestion.**

Calpine’s assertion that the NECEC will increase materially congestion is not a new argument and has been rejected by the MPUC. During the MPUC proceeding, the NextEra and the GINT, including Calpine, claimed that the NECEC will increase congestion in Maine, which they asserted would further lower energy prices and adversely impact both existing generation and new generation in the state.

Calpine neglects to mention in its comments, however, that the MPUC, after weighing the evidence and the testimony on this point, rejected this argument, stating:

With respect to the congestion issues raised by GINT and NextEra, the Commission finds that the record does not support a finding that the NECEC will result in a material increase in congestion in Maine. The analyses of both Daymark and LEI indicate only small increases in the number of hours that either the Surowiec-South or Maine-New Hampshire interface would be congested. Daymark Report

at 25;<sup>64</sup> LEI Report at 25.<sup>65</sup> In addition, the GINT modeling indicated no congestion at the Surowiec- South interface and only modest congestion at the Maine-New Hampshire interface. Hearing Tr. at 127 (Jan. 8, 2019); Daymark Reb. Test. at 19. NextEra, based on its initial modeling, asserted that the NECEC would result in significant congestion. However, NextEra subsequently acknowledged errors in its modeling that render their results unreliable. Hearing Tr. at 7-55 (Oct. 22, 2018). Finally, the Commission notes that, to the extent the NECEC did result in increased congestion and/or losses in Maine, this would result in lower wholesale energy prices in the Maine Zone.<sup>66</sup>

The MPUC's finding is substantially supported by the record evidence in the proceeding, which demonstrated that the NECEC will not create any material congestion in the wholesale energy market and impact on LMPs of what little congestion is caused by the NECEC will be modest.<sup>67</sup>

Using both zonal and nodal analyses, Daymark, evaluated the impact of the NECEC on congestion on the primary interfaces between the point of interconnection of the project in Maine and Massachusetts: Surowiec-South, Maine-New Hampshire, NNE-Scobie+394, and New England North-South.<sup>68</sup> Daymark's analysis found that the interfaces were uncongested in at least 99% of all hours studied, and that the energy from the NECEC could freely flow to load centers in southern New England.<sup>69</sup>

The congestion modeling conducted by the MPUC's expert, LEI, similarly found that there would be no congestion at the Surowiec-South interface after the NECEC generation and

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<sup>64</sup> Exhibit NECEC-5, September 27, 2017 Daymark Energy Advisors Report "NECEC Transmission Project: Benefits to Maine Ratepayers" ("Daymark Report"), attached hereto as **Attachment E**.

<sup>65</sup> London Economics International LLC Independent Analysis of Electricity Market and Macroeconomic Benefits of the New England Clean Energy Connect Project at 35 and 63, fn. 70, (May 21, 2018) ("LEI Report"), attached hereto as **Attachment F**.

<sup>66</sup> MPUC Order at 30.

<sup>67</sup> Rebuttal Testimony of Daymark Energy Advisors, PUC Docket No. 2017-00232, at 4 (Jul. 13, 2018) ("Daymark Rebuttal") at 15:7-19, attached hereto as **Attachment G**.

<sup>68</sup> Daymark Rebuttal at 16:1-8 (citing the Daymark Report at 31-33 of 98).

<sup>69</sup> Daymark Rebuttal at 16:6-8 (citing the Daymark Report at 31-33 of 98).

transmission upgrades are added to the system.<sup>70</sup> The LEI analysis showed a minimal amount of congestion (average of 4.3 percent of congested hours) at the Maine-New Hampshire interface.<sup>71</sup>

Calpine also cites to the Generator Intervenors' testimony in the MPUC proceeding to support its claim that in addition to the alleged congestion, the NECEC will lower wholesale energy prices in Maine which "could ultimately lead to premature retirements."

CMP does not dispute that the NECEC will lower wholesale electricity prices in Maine. In fact, the wholesale electricity price savings resulting from the NECEC translate into a significant savings to Maine's electricity customers ranging from \$14 million to \$44 million dollars per year in nominal dollars, with an estimated net present value (NPV) of \$122 million to \$384 million (2023\$) in benefits over the first 15 years of NECEC operations.<sup>72</sup> Additionally, the MPUC's expert, LEI, found that the addition of 1,090 MW of price taking energy from the NECEC into the ISO-NE wholesale energy market would result New England-wide wholesale electricity price savings of \$134 million dollars per year in nominal dollars, with an estimated net present value (NPV) of \$1.2 billion (2023\$) in benefits over the first 15 years of NECEC operations.<sup>73</sup> Contrary to Calpine's assertion, lower electricity prices are in the public interest; higher electricity prices benefit incumbent like Calpine.

However, CMP strongly disputes that the NECEC's wholesale electricity market price reduction effects will cause Maine-based generators to prematurely retire. In fact, the Generator

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<sup>70</sup> October 19, 2018 MPUC Hearing Transcript at 44:1–8 & 49:24–50:6, CMS Item No. 425.

<sup>71</sup> LEI Report at 24-25.

<sup>72</sup> MPUC Order at 25.

<sup>73</sup> LEI Report at 10-11.

Intervenors submitted testimony to this effect in the MPUC proceeding that was subsequently rejected by the MPUC.

Specifically, the Generator Intervenors submitted testimony from Tanya Bodell, who identified a number of existing Maine generators that she believes are “at risk” of retirement due to the NECEC, with the NextEra Wyman oil-fired units in Yarmouth, Maine as the “most likely” candidate to retire.<sup>74</sup> Ms. Bodell did not offer any quantitative analysis or modeling to support these claims,<sup>75</sup> and she later acknowledged that each of the identified generators have low capacity factors, are already economically challenged and are at risk of retirement today for reasons unrelated to the NECEC.<sup>76</sup>

Moreover, both CMP’s expert and the MPUC’s independent expert, LEI, submitted substantial evidence that the NECEC will not cause the premature retirement of any generators in Maine. This evidence was based upon thorough quantitative modeling of the NECEC’s impacts in the ISO-NE energy and capacity markets on existing generators, including those in Maine.

For its analysis, LEI used its proprietary energy and capacity models, which work together to produce results consistent with the inputs and results of both models, to assess retirements of existing generators across New England. The LEI study assumed that the NECEC-enabled capacity clears in the primary FCA and examined the impact of the NECEC on the energy market and capacity market revenues for Maine generators. Based upon this modeling, LEI concluded that the NECEC is not expected to drive the premature retirement of any Maine generator.<sup>77</sup>

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<sup>74</sup> April 30, 2017 Generator Intervenors Direct Testimony of Tanya Bodell, Energyzt, at 27-28 (“Bodell Direct”).

<sup>75</sup> Daymark Rebuttal at 33:9–12.

<sup>76</sup> August 17, 2019 Generator Intervenors Surrebuttal Testimony of Tanya Bodell, Energyzt at 12:9–10 (“Bodell Surrebuttal”).

<sup>77</sup> LEI Report at 35 of 85 (Stating that “[t]he generation units that are expected to retire early as a result of the NECEC participating in the FCM are located in Connecticut.”).

Daymark likewise analyzed whether the NECEC would cause existing generators to retire due to the price suppression impacts the NECEC is expected to have in the ISO-NE energy and capacity markets and concluded that the NECEC will not force any existing Maine generators to retire early.<sup>78</sup> Daymark similarly testified in its Rebuttal Testimony that the results of its energy and capacity market modeling showed no retirements of Maine generators caused by the inclusion of the NECEC throughout the twenty-year study period.<sup>79</sup>

After weighing all of the evidence and testimony, the MPUC rejected the Generator Intervenors' claims and concluded that the NECEC will not cause existing generators in Maine to prematurely retire. Specifically, the MPUC found that:

Based on the record in this proceeding, the Commission does not find that the NECEC will result in the adverse effects on Maine generators as alleged by GINT and NextEra. With respect to the effects the NECEC will have on energy market prices, the Commission finds that, because of the already low capacity factors and energy revenues of these facilities, reductions in energy market prices are unlikely to be material for them. The Commission notes, further, that other factors, including the ISO- NE Pay for Performance rules, create far greater risks for these generators than the NECEC. It may be, at least in part, that because of these risks, most GINT and NextEra generators submitted de-list bids in FCA 13.<sup>2580</sup>

Calpine's claim that the NECEC will deter new development of generation in Maine was similarly rejected by the MPUC based upon the record evidence. Specifically, the MPUC found:

The Commission also finds little merit to the concerns regarding the extent to which the NECEC may frustrate Maine-based renewables development by absorbing "headroom" on the transmission system. First, as noted above, there is more than 750 MW of new, renewable capacity in Maine ahead of the NECEC in ISO-NE's interconnection queue. Second, as also noted above, the Surowiec-South interface must be upgraded to accommodate 1,200 MW of capacity in order for the NECEC to meet the CCIS. If, as some parties argue, the level of NECEC-enabled capacity will be less than 1,200 MW, the available headroom at the interface may

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<sup>78</sup> Daymark Rebuttal at 4:6–10.

<sup>79</sup> Daymark Rebuttal at 31:8–13.

<sup>80</sup> MPUC Order at 43.



be substantially greater than the 200 MW that currently exists. Moreover, for the reasons expressed by CMP and the IECG, the Commission finds that “preserving” headroom for potential future competing projects at the expense of a project in development is poor public policy, as well as being wholly inconsistent with the ISO-NE interconnection rules and processes.<sup>81</sup>

CMP also submitted evidence that the construction of certain transmission system upgrades as part of the NECEC Project will benefit the development of new renewable generation in Maine because the construction of a parallel 345 kV line between the Coopers Mills Road Substation and the Maine Yankee Substation (Section 3027) as part of the NECEC project<sup>82</sup> are some of the same upgrades that ISO-NE has identified as necessary to the interconnection of new renewable generation in western and northern Maine.<sup>83</sup> Since CMP will construct the new parallel line as part of the NECEC, future renewable developers will be spared the cost of these upgrades.<sup>84</sup>

**5. Calpine’s diversion arguments were considered and rejected by the MPUC and are inconsistent with Hydro-Québec’s statements and rational economic decision-making.**

Calpine’s claim that the NECEC will not have a positive impact on climate change because the Hydro-Québec will divert existing hydroelectric imports into New England over the NECEC is controverted by substantial evidence in the MPUC proceeding, was rejected by the MPUC, and runs contrary to rational economic decision-making.

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<sup>81</sup> MPUC Order at 43-44.

<sup>82</sup> CMP Petition at 65:16-66:2.

<sup>83</sup> CMP-010-006 Attachment 1 (2016/2017 ISO-NE Maine Resource Integration Study) at 3 (identifying a “second 345 kV Coopers Mill – Maine Yankee 302 line” as a shared requirements for interconnection of both the northern and western Maine clusters).

<sup>84</sup> CMP Reply Br. at 53.

Over the 19-month proceeding before the MPUC, three different experts, including CMP's expert Daymark, the Generator Intervenors' expert, Energyzt, and the MPUC's expert, LEI, presented reports that modeled the NECEC's regional GHG emissions impacts.<sup>85</sup>

Additionally, the Natural Resources Council of Maine ("NRCM"), along with the Maine Renewable Energy Association ("MREA"), and the Sierra Club, retained the Generator Intervenors' expert, Energyzt, to produce an additional study of the NECEC's GHG impacts.<sup>86</sup>

After considering all of the evidence submitted in the MPUC proceeding and the arguments presented in testimony and in the briefs, the MPUC found that the NECEC "will result in significant incremental hydroelectric generation from existing and new resources in Québec and, therefore, will result in reductions in overall GHG emissions through corresponding reductions of fossil fuel generation (primarily natural gas) in the region."<sup>87</sup> The MPUC further concluded that because it found that the NECEC will result in incremental hydroelectric generation, it follows that the Project will also provide GHG emissions reduction benefits in the range of approximately 3.0 to 3.6 million metric tons per year.<sup>88</sup>

Calpine's argument that the NECEC will not result in overall reductions of GHG emissions is premised on the unsupported assertion that in order to supply the energy to Massachusetts via the NECEC, Hydro-Québec will divert energy exports from existing markets to satisfy its NECEC obligations under the power purchase agreements ("PPA"). These are not new arguments. In

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<sup>85</sup> MPUC Order at 70.

<sup>86</sup> January 8, 2019 MPUC Hearing Transcript at 6:11-7:2 (Hearing Testimony of Generator Intervenor Witnesses Tanya Bodell and James Speyer acknowledging that they also worked on and produced the October 2018 GHG Report for NRCM, MREA and the Sierra Club). See the October 2018 Energyzt Report, "Greenwashing and Carbon Emissions: Understanding the True Impacts of New England Clean Energy Connect," produced for NRCM, MREA and the Sierra Club, available in the MPUC CMS under Docket No. 2017-00232 at CMS entry 429.

<sup>87</sup> MPUC Order at 71.

<sup>88</sup> MPUC Order at 7 (Figure I.1), 71-72.

fact, the NECEC Project opponents filed testimony and briefs asserting this diversion argument in the MPUC proceeding.<sup>89</sup> In the MPUC’s final Order, however, the MPUC declined to credit this argument and instead found the following:

*The Commission concludes that the NECEC will result in significant incremental hydroelectric generation from existing and new resources in Québec and, therefore, will result in reductions in overall GHG emissions through corresponding reductions of fossil fuel generation (primarily natural gas) in the region. In making this decision, the Commission recognizes the inherent uncertainty in determining how HQ Production will develop and operate hydroelectric facilities over the next 20 years and beyond; thus, the levels of incremental hydroelectric generation and GHG reductions resulting from the NECEC cannot be precisely determined.*

In support of this conclusion, the Commission observes the representations made by Hydro-Québec in Kelly-004-001 that it was a lack of transmission that resulted in the spilling of a substantial amount TWh in 2017 and 2018 (4.5 TWh worth of energy in 2017 and 10.4 TWh worth of energy in 2018).<sup>90</sup> Hydro-Québec represented, further, that, “without additional transmission export capability,” a comparable amount of water will be spilled in future years. *Id.* This conclusion is supported by both the Daymark and LEI analyses, as well as through LEI’s testimony stating that HQ Production has surplus capacity and the NECEC will provide a means to sell that surplus capacity into New England. CMP Exh. NECEC-5 at 4; LEI Report at 12; Hearing Tr. at 127-128 (October 19, 2018). The Daymark and LEI testimony, thus, corroborate the Hydro-Québec statements in this regard.

Furthermore, HQ Production, as a rational economic actor, will seek to maximize profits, and therefore will use whatever water it has available to generate energy for the NECEC rather than using the NECEC to divert energy from existing markets into New England. In addition, the Commission agrees with CMP that HQ

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<sup>89</sup> See MPUC Order at 71 summarizing diversion arguments and testimony from intervenors (“GINT, NextEra, NRCM, and Ms. Kelly argue that the NECEC would not have any meaningful GHG reductions benefits, and, in fact, would increase GHG emissions because HQ Production would divert energy from other regions to serve its obligations under the NECEC. GINT Initial Br. at 71-73; NextEra Initial Br. at 15-19; NRCM Initial Br. at 14-16; Kelly Initial Br. at 9-11. GINT and NextEra support this position by asserting that the PPAs with the MA EDCs do not actually require HQ Production to fulfill its obligations with incremental hydroelectric generation. GINT argues that HQ Production spilled water for reasons other than those stated by Hydro-Québec, arguing that Hydro-Québec has more than enough physical transmission available to export that energy to market. GINT Initial Br. at 70-73. GINT asserts, based on the testimony of Ms. Bodell and Mr. Fowler, that because Hydro-Québec did not do so, that there were other non-transmission constraints that led to the spillage (e.g., reservoir management, multi-year smoothing, opportunity cost). *Id.*”).

<sup>90</sup> December 14, 2018 Hydro-Quebec Letter, submitted in the MPUC Proceeding as Kelly-004-001 Att. 1, and attached hereto as **Attachment H**.

Production has systematically increased capacity and storage capability over time in response to market signals for more clean energy. Dickinson, Stinneford, and Escudero Reb. Test. at 30-35 and Figures 4 and 5; CMP Initial Br. at 107. *Thus, the Commission finds that the generation imported into New England over the NECEC is likely to be incremental at least to a large degree, and not, in any significant way, be simply diverted from other markets.*

...

*Therefore, because the Commission finds that the NECEC will result in incremental hydroelectric generation, it follows that the Project will also provide GHG emissions reduction benefits in the region.* As noted above, the expert analyses provided in the record in this proceeding indicates that the GHG emission reductions in the region resulting from the NECEC would be in the range of approximately 3.0 to 3.6 million metric tons per year, which as noted above, is equivalent to removing approximately 700,000 passenger vehicles from the road.<sup>91</sup>

In Calpine’s comments, Calpine alleges that because the NECEC will be supplied by existing resources, the operation of the NECEC will cause Hydro-Québec to deliver less exports to existing markets.<sup>92</sup> CMP agrees that the NECEC will be served by existing Hydro-Québec resources.<sup>93</sup> However, this does not lead to the conclusion that Hydro-Québec’s exports to other markets will be reduced.

As the MPUC observed in its Order, there is credible evidence that Hydro-Québec is currently spilling significant quantities (e.g., 10.4 TWh in 2018) of water from existing resources due to lack of economic transmission, and Hydro-Québec has stated that, “without additional

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<sup>91</sup> MPUC Order at 71-72 (emphasis in italics added).

<sup>92</sup> Calpine Comments at 14-15.

<sup>93</sup> See Section 4.1. of the PPA stating that “all Deliveries of Energy and associated Environmental Attributes must be produced by the Hydro-Québec Power Resources that are specified in Exhibit A and Delivered in accordance with this Agreement.” MPUC Exhibit NECEC-16 at § 4.1 and Exhibit A (Power Purchase Agreement for Firm Qualified Clean Energy from Hydroelectric Generation Between Massachusetts Electric Company and Nantucket Electric Company d/b/a National Grid and H.Q. Energy Services (U.S.) Inc. (Jun. 13, 2018)).

transmission export capability,” a comparable amount of water will be spilled in future years.<sup>94</sup> Thus, this evidence shows that if Hydro-Québec ceases to spill that water and feeds it through the turbines, Hydro-Québec’s existing resources have additional generation capacity to supply the NECEC without diverting exports from other markets.<sup>95</sup>

Furthermore, it was undisputed in the MPUC proceeding that Hydro-Québec is adding 500 MW of capacity upgrades at existing hydro facilities (such as the replacement of aging turbines with more efficient, new equipment) that are expected to be in service by 2025.<sup>96</sup> These existing resources can be used to supply the NECEC and to maintain and grow Hydro-Québec’s exports to other markets. Hydro-Québec is also constructing a new 245 MW hydropower generation facility, the Romaine-4 unit, which is expected to be in service in 2020.<sup>97</sup> Although Romaine-4 is a new unit that is not included in the list of existing resources that will supply the NECEC, the additional energy generation that will be available once the Romaine-4 unit is in service can be exported to other markets, freeing up additional hydroelectric generation from

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<sup>94</sup> MPUC Order at 71.

<sup>95</sup> Additionally, CMP submitted testimony in the MPUC proceeding that publicly available information shows that HQ Production currently has excess energy available to supply the NECEC without diverting energy from other markets into New England. CMP Rebuttal Testimony of Thorn Dickinson, Eric Stinneford and Bernardo Escudero at 25-35 (Jul. 13, 2018) (“Dickinson, Stinneford and Escudero Rebuttal”), CMS Item No. 205.

<sup>96</sup> MPUC Order at 72 (“In addition, the Commission agrees with CMP that HQ Production has systematically increased capacity and storage capability over time in response to market signals for more clean energy. Dickinson, Stinneford, and Escudero Reb. Test. at 30-35 and Figures 4 and 5; CMP Initial Br. at 107. Thus, the Commission finds that the generation imported into New England over the NECEC is likely to be incremental at least to a large degree, and not, in any significant way, be simply diverted from other markets.”). *See also*, Exhibit CLF-14, MPUC Docket No. 2017-00232 (Hydro-Québec listing of pending projects to create additional generation capacity resulting from upgrades to the existing hydroelectric generation facilities); Dickinson, Stinneford and Escudero Rebuttal at 30-31; *see also* Corrected Supplemental Testimony of William S. Fowler and Tanya L. Bodell, PUC Docket No. 2017-00232 (Dec. 10, 2018) (Fowler and Bodell Supplemental) at 27:1-9 (referencing Romaine-4 coming online in 2020 and Hydro-Québec Production’s anticipated upgrades of 500 MW in 2025); Speyer Direct Testimony, Exhibit JMS-3 (Technical Report, Hydro-Québec Exports) at 10, Figure 8 (“Romaine-4 would add another 245 MW of capacity and 1.3 TWh of energy.”) (Apr. 2018).

<sup>97</sup> MPUC Order at 72.

existing Hydro-Québec resources to supply the NECEC without reducing the overall level of exports to those other markets.

Accordingly, the MPUC correctly found that the evidence demonstrated that the generation imported into New England over the NECEC was likely to be incremental at least to a large degree, and not in any significant way simply diverted from other markets.<sup>98</sup> In coming to this conclusion, the MPUC acknowledged that Hydro-Québec Production, as a rational economic actor, will seek to maximize profits, and therefore will use whatever water it has available to generate energy for the NECEC rather than using the NECEC to divert energy from existing markets into New England.<sup>99</sup>

The MPUC's conclusion that the energy supplied to the NECEC will be incremental is further supported by Hydro-Québec's recent statements and its own strategic plan. In a May 20, 2019 letter to Governor of Maine, Janet Mills, and the Leadership of the Maine Legislature,<sup>100</sup> Hydro-Québec's President and Chief Executive Officer, Éric Martel, provided additional information regarding Hydro-Québec's available and projected energy supply. Mr. Martel indicated that over the past 15 years, Hydro-Québec has been substantially expanding its generation capacity by adding approximately 5,000 MW of new hydropower "to be prepared to contribute to the clean energy transition that is now underway in the Northeast."<sup>101</sup> As a result, Mr. Martel stated that:

We are now in a position to appropriately respond to solicitations such as those initiated in New England in recent years. Our projections show that we have

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<sup>98</sup> *Id.* at 72.

<sup>99</sup> *Id.*

<sup>100</sup> Éric Martel Letter to Governor Mills, Senate President Jackson, House Speaker Gideon, Senate Minority Leader Dow, and House Minority Leader Dillingham at 2 (May 20, 2019), attached hereto as **Attachment I**.

<sup>101</sup> *Id.* at 2.

sufficient energy to maintain existing export levels, serve all of the commitments of the Massachusetts contracts – and do more.<sup>102</sup>

Furthermore, Mr. Martel stated that growth is a key component of Hydro-Québec's strategic plan, which includes increasing electricity exports to all of its markets. Mr. Martel indicated that he expects Hydro-Québec's hydropower development and enhancement cycle to continue if its hydropower is valued by external markets, and that Hydro-Québec currently has over 950 MW of projects within existing facilities in its scheduling queue that would increase Hydro-Québec's generation capacity, particularly during the coldest winter months, and give Hydro-Québec more flexibility throughout the year.<sup>103</sup> Mr. Martel stated that Hydro-Québec is also considering the addition of new clean energy generation projects in Québec, including wind farms and another hydropower facility.<sup>104</sup> And, finally, Mr. Martel indicated that the efficiency and demand-side measures that Hydro-Québec's distribution division has implemented in recent years have "freed up close to 9 terawatt hours of energy, and there is much more potential for energy savings in the future."<sup>105</sup> Accordingly, there is strong evidence upon which to conclude that Hydro-Québec will have sufficient energy to supply the NECEC Project without diverting exports from existing markets.<sup>106</sup>

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<sup>102</sup> *Id.*

<sup>103</sup> *Id.*

<sup>104</sup> *Id.*

<sup>105</sup> *Id.*

<sup>106</sup> This is also supported by other statements Hydro-Québec has made. For example, in a recent newspaper article in the Bangor Daily News addressing the diversion claim, Hydro-Québec stated that "It would be illogical for Hydro-Québec not to maximize its exports . . . . Through our strategic plans over the past 20 years, we have clearly demonstrated our objective of increasing our exports." *No Guarantee \$1 Billion CMP Line will Deliver New Energy, Massachusetts AG Warns*, Bangor Daily News (May 16, 2019) (quote from Hydro-Québec Spokesperson Lynn St. Laurent), available at <https://bangordailynews.com/2019/05/16/mainefocus/no-guarantee-1-billion-cmp-line-will-deliver-new-energy-massachusetts-ag-warns/>.

Finally, Calpine’s allegation that Hydro-Québec will divert exports from existing markets to supply the NECEC is inconsistent with rational economic decision-making. The MA EDCs addressed Hydro-Québec’s economic market incentives in their reply brief to the MA DPU, stating:

It would make little sense from HQUS’s point of view to spend large amounts of time and energy to bid for and negotiate the PPA, only to offset profits from sales over NECEC by reducing profits from its baseline sales. It would make even less sense for HQUS to spend significant amounts of its own money building the Canada portion of the transmission line if it merely intended to offset its profits in this way.<sup>107</sup>

There is no dispute that Hydro-Québec is a rational economic actor that has the incentive to get the highest price for the largest volume of energy it can sell.<sup>108</sup> It would not be economically rational for Hydro-Québec to spend \$475 million to construct the transmission lines for the NECEC Project on the Québec side of the border,<sup>109</sup> and to pay for the transmission service

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<sup>107</sup> MA DPU Docket Nos. 18-64, 18-65, 18-66, Joint Reply Brief on Behalf of Massachusetts Electric Company and Nantucket Electric Company d/b/a National Grid, NStar Electric Company d/b/a Eversource Energy, and Fitchburg Gas and Electric Light Company d/b/a Unitil at 10 (Apr. 3, 2019).

<sup>108</sup> MPUC Order at 72 (“Furthermore, HQ Production, as a rational economic actor, will seek to maximize profits, and therefore will use whatever water it has available to generate energy for the NECEC rather than using the NECEC to divert energy from existing markets into New England.”); MPUC Docket No. 2017-00232 September 19, 2018 Technical Conference Transcript at 62:21-63:7 (“MS. FRAYER [LEI]: . . . So to the extent that there is available energy that doesn't make sense economically to store, Hydro-Québec Production would be selling it in another export market if NECEC wasn't available. MS. BODELL [Generator Intervenor Witness conducting questioning]: Thank you. And that's because Hydro-Québec's motivated to sell whatever energy it can into other markets. Correct? MS. FRAYER: I wouldn't argue with it. I guess the question is what we each mean in our own vocabulary by motivated. I would say if Hydro-Québec Production has surplus generation that it can monetize value of, it would be rationally motivated to sell that energy.”); MPUC Docket No. 2017-00232 June 28, 2018 Technical Conference Transcript at 27:11-32:2 (Generator Intervenor witness Mr. Speyer stating that Hydro-Québec, “as a rational actor, they do try to maximize energy . . . .”). MPUC Docket No. 2017-00232 January 11, 2019 Hearing Transcript 46:5-47:2 (NextEra witness Christopher Russo stating that Hydro-Québec is “a crown corporation with their own economic interest.”); MPUC Docket No. 2017-00232 NextEra Witness Robert Stoddard Surrebuttal Testimony at 12:21-13:2 (Sept. 15, 2018) (“HQ is an active participant in the regional energy markets . . . [and has] historically been able to make substantial spot or short-term sales to maximize the value of its energy export.”).

<sup>109</sup> See MPUC Docket No. 2017-00232, CMP Response to ODR-013-001 Attachment 1 (estimating the cost of the Québec line investment at \$475 million) (Aug. 13, 2018); Surrebuttal Testimony of Robert B. Stoddard at Page 12 of 17: 7 – 8 (“Taken on balance, I estimate that the Canadian transmission facilities will cost about half of the U.S. facilities.”) (Aug. 15, 2018).



over the NECEC for 110 MW in years 1-20 and to pay for the transmission service over the NECEC for 1200 MW in years 21-40, if all Hydro-Québec intends to do is export the same amount of energy that it currently exports, or even more illogically, sell the same amount of energy to Massachusetts that it currently sells in the ISO-NE wholesale energy market.

In light of the MPUC's finding that the energy Hydro-Québec will export to New England via the NECEC will be additional incremental energy and not just exports that are diverted from other markets, the evidence in the record of the MPUC proceeding demonstrates that the power transmitted by NECEC will result in GHG reductions not only in New England, but also in export markets in the Northeast and in Canada.<sup>110</sup> As Daymark explained in their July 2018 Rebuttal Testimony in the MPUC proceeding, the work papers of the Generator Intervenors' own Energyzt analysis that were submitted during discovery in the MPUC proceeding demonstrate that, if you assume that the NECEC energy is incremental, the NECEC will result in GHG reductions not only in New England, but also in other markets such as the New York ISO, PJM, and Ontario.<sup>111</sup>

**6. The NECEC will result in significant economic benefits to Maine, Massachusetts, and New England.**

Contrary to Calpine's assertion that CMP has failed to demonstrate that the NECEC will provide economic benefits or other benefits to consumers, both the MA DPU and the MPUC found, on behalf of electricity customers and the residents of the States most impacted by the NECEC, that the NECEC will result in significant economic benefits for Massachusetts and Maine.

In its June 25, 2019 Order approving the NECEC PPAs with the MA EDCs, the MA DPU stated:

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<sup>110</sup> Daymark Rebuttal at 42-43.

<sup>111</sup> *Id.* at 42-43.

HQUS argues that the PPAs will foster employment and economic development in Massachusetts (HQUS Brief at 11). In particular, HQUS asserts that the estimated employment impacts for Massachusetts are, on average, 1,949 jobs per year over the 20-year contract period (HQUS Brief at 11, citing Exhs. EDC-RB-1, at 57; DPU 1-22). HQUS maintains that these employment impacts are a result of the market effects of the PPAs, including lower wholesale electricity prices due to lower LMPs in New England (HQUS Brief at 11-12, citing RR-DPU-1, Att.).

The Companies estimate that NECEC will create or support 10,147 jobs in Massachusetts and New England during development and construction (Companies Brief at 28, citing Exhs. JU-1, at 43; DPU 1-22). The Companies contend that the post-construction estimated employment impacts for Massachusetts are an average of 1,949 jobs per year over the contract term (i.e., 2023 through 2043) (Companies Brief at 28, citing Exh. DPU 1-22; RR-DPU-1). The Companies assert that this number includes full-time and part-time direct and indirect jobs (Companies Brief at 28, citing RR-DPU-1, Att.).

The Department has recognized that estimates of employment potential contain uncertainties and actual benefits could be different from projections. D.P.U. 18-76 through D.P.U. 18-78, at 42; D.P.U. 17-117 through D.P.U. 17-120, at 35. Nevertheless, there is no dispute that the construction and operational phases of NECEC will result in additional employment in New England (Exhs. JU-1, at 43; DPU 1-22; RR-DPU-1; RR-DPU-1, Att.). In addition, it is estimated that the project will create additional \$213 million in income in Massachusetts (RR-DPU-1; RR-DPU-1, Att.).

As with additional employment, any measures of financial benefit to the economy are only estimates. D.P.U. 18-76 through D.P.U. 18-78, at 42; D.P.U. 17-117 through D.P.U. 17-120, at 35. The construction of NECEC and the long-term PPAs will, however, result in economic benefit for the region totaling an estimated \$406.4 million increase in gross domestic product (Exhs. JU-1, at 43; DPU 1-22; RR-DPU-1; RR-DPU-1, Att.). Accordingly, consistent with Section 83D(d) and 220 CMR 24.05(1)(a)(8), the Department finds that NECEC will create and foster employment and economic development in the regional economy.<sup>112</sup>

The MPUC found that the NECEC will also result in significant tangible economic benefits to Maine and New England over the life of the Project. Specifically, the MPUC summarized the record evidence regarding the NECEC's economic benefits, stating:

In its Petition, CMP presented a study conducted by Ryan Wallace, Director of the Maine Center for Business and Economic Research (MCBER) of the University of

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<sup>112</sup> MA DPU Order at 102-103.

Southern Maine (USM) that assessed the macroeconomic effects of the NECEC in Maine and New England using economic models developed by the Regional Economic Models Inc. (REMI). (USM Study). The USM Study grouped the effects into three broad areas or time periods: development/construction related; post-construction, or operations, phase; and market price reduction related. The USM Study indicates that NECEC transmission infrastructure investments are expected to support a \$573 million (2009\$) addition to Maine GDP and over \$440 million (2009\$) in total worker compensation during the 6-year development and construction period (2017-2022). CMP Initial Br. at 70. In addition, the USM Study indicates that the NECEC would support over 1,740 direct, indirect, and induced jobs per year in Maine during that same period. *Id.* According to Mr. Wallace, these construction-period benefits would be realized throughout the State. *Id.* at 71. During the NECEC post-construction, or operations, period, the USM Study indicates that the NECEC would support a total of 37 jobs, 21 of which would be to maintain and operate the NECEC and the remaining 16 from indirect and induced spending. *Id.* at 72. Finally, the Study indicates that the NECEC's energy market price suppression effects will result in over 260 jobs in Maine, on average, and more than \$23 million in GDP and \$17 million in total compensation each year over the 20-year term of the PPAs. *Id.* at 73.

The LEI Study included a review of the USM Study and an independent analysis of the macroeconomic benefits resulting from the NECEC. In conducting its analysis, LEI used the same REMI PI+ software as USM. LEI Report at 32. As was done in the USM Study, LEI analyzed the macroeconomic effects during (1) the development/construction period and (2) the operations period. LEI's analysis reflected its projected energy market prices (rather than Daymark's), and included certain factors that were omitted in the USM analysis, most notably, NECEC capacity market price impacts, contract costs borne by Massachusetts ratepayers, and early retirement and deferred investment in generation capacity triggered by the NECEC. *Id.* at 54. LEI also provided its independent analysis of tax revenue from the NECEC by municipality. *Id.* at 37.

A comparison of the LEI and USM macroeconomic benefits is shown in Figure V.1 below.<sup>113</sup>

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<sup>113</sup> CMP provided an update to the information in its Petition in which it estimated the number of direct, indirect and induced jobs would be 1,742 on an annual average basis based on updated projected NECEC costs. ODR-003-011, Highly Confidential Attachment 2.

**Figure V.1**

Figure 5. Comparison of LEI's analysis and USM's analysis				
Benefit categories	LEI Analysis		USM Analysis	
	Maine	New England	Maine	New England
<b>Jobs - development and construction period (Annual average for 2017-2022)</b>				
Direct	856	N/A	868	N/A
Indirect and Induced	775	N/A	824	N/A
<b>Total</b>	<b>1,631</b>	<b>N/A</b>	<b>1,691</b>	<b>N/A</b>
<b>Jobs - operations period (Annual average for 2023-2037)</b>				
<b>Total</b>	<b>291</b>	<b>1,826</b>	<b>329</b>	<b>3,735</b>
<b>GDP - development and construction period (Annual average for 2017-2022), fixed 2009\$ million</b>				
	\$98.2	N/A	\$94.1	N/A
<b>GDP - operations period (Annual average for 2023-2037), fixed 2009\$ million</b>				
	\$29.1	\$205.3	\$25.8	\$406.2
Note:				
1. Economic impacts in terms of incremental jobs and GDP presented in the table are the annual average of the modeling periods in LEI's study, namely 2017-2022 for the construction period and 2023-2037 for the operations period.				
2. The incremental jobs and GDP in New England do not include those created by O&M activities of the NECEC project (indicated in the table as "N/A"), since the macroeconomic impacts of O&M spending is modeled within Maine, to be consistent with USM's approach.				

LEI Report at 15.

As shown in Figure V.1, LEI's analysis reflects employment and GDP benefits in Maine that are generally consistent with those reflected in the USM Study. With respect to the broader New England region, LEI's analysis reflects benefits that are significantly less than those in the USM Study due to LEI's inclusion of the contract costs borne by ratepayers in Massachusetts, as well as early retirement of generators in Connecticut.

*Id.* at 16.

Both LEI and the USM Study estimate approximately \$18 million annual incremental municipal tax revenue received from the NECEC based on the Project's taxable value and the municipal mill rates in effect in 2016. LEI Report at 64; USM Study, Section 6. As noted by LEI, the actual tax payments from the Project will depend on a number of factors, including the taxable valuation in each municipality, the budget plan and mill rates in each municipality, and the change in valuation of other properties. LEI Report at 64-65. Additionally, tax payments from the NECEC are expected to decline as the taxable value of the project depreciates. *Id.* at 65.<sup>114</sup>

<sup>114</sup> MPUC Order at 44-46.

As shown above, the LEI Study shows that the NECEC's energy market price suppression effects will result in over 1,826 jobs in New England, on average, and more than \$205 million in GDP each year in New England over the term of the PPAs.<sup>115</sup> Based upon this evidence, the MPUC concluded that the NECEC will provide economic benefits for Maine. Specifically, the MPUC found:

The Commission finds both the USM and LEI Studies to be supportive of the fact that positive and substantial direct, indirect, and induced macroeconomic benefits will accrue to Maine from the development, construction, and operation of the NECEC. Although the numbers of jobs and dollar increases in GDP cannot be precisely quantified, the Commission finds that the range reflected by the USM and LEI Studies provides a reasonable estimate. Moreover, the Commission agrees with the observation of CMP that a \$1 billion investment in a project located entirely in Maine, with the resulting employment and taxes it will produce, would result in substantial macroeconomic benefits to the State. CMP Initial Br. at 32. With respect to offsetting negative impacts due to premature shutdowns or cutbacks of Maine generators, for the reasons discussed in Section V(A)(5) above, the Commission finds that such shutdowns or cutbacks, if they occur, are not attributable to the NECEC.<sup>116</sup>

Accordingly, Calpine's claims that the Project will not result in economic benefits to the region are in direct conflict with the express findings of the MA DPU and the MPUC.

### **III.** **CONCLUSION**

CMP and NECEC LLC submit that Calpine has not demonstrated good cause to justify granting a motion to intervene filed over two years out-of-time and almost two years since Calpine moved to intervene out-of-time at the MPUC and recognized in that pleading that CMP had filed for a Presidential Permit. According to longstanding precedent applying FERC Rule 214, DOE must deny Calpine's untimely intervention and not grant it party status. Further, DOE should

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<sup>115</sup> MPUC Order at 45, Figure V.1.

<sup>116</sup> MPUC Order at 46-47.

not permit Calpine to re-litigate the MPUC proceeding (the outcome of which it has accepted by not seeking judicial review in Maine) in this Presidential Permit docket and must find that each argument Calpine submits here has been rejected by the MPUC and in many cases by the MDPU as well.

Alternatively, DOE can accept Calpine's comments as part of the record without granting the late intervenor party status in this matter. Such status would prevent Calpine from bootstrapping rehearing or judicial review of the Presidential Permit to the prejudice of CMP and NECEC, as well as to numerous supporters of the NECEC Project including especially the Massachusetts EDCs and the Massachusetts Department of Energy Resources that selected the NECEC to deliver the clean hydropower to be sold by HQUS to meet Massachusetts' clean energy public policy needs. Allowing Calpine to become a party at this late date, after it knew or should have known of the deadline for timely or much earlier intervention, would set a poor administrative precedent for future Presidential Permit applications. DOE's published deadlines should have meaning. If DOE accepts Calpine's comments into the record, it also must recognize and consider this answer, which meticulously illustrates that the MA DPU's and the MPUC's findings contradict Calpine's claims.

WHEREFORE, DOE should deny Calpine's late motion to intervene and reject its comments. In the alternative, it should deny intervention and party status and allow Calpine's comments into the record as those of a non-party, also allowing this answer.

Respectfully Submitted,



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**Attorneys For  
CENTRAL MAINE POWER COMPANY AND  
NECEC TRANSMISSION LLC**

February 14, 2020

## ATTACHMENTS

- A. Late Filed Petition to Intervene of Calpine Corporation, *et al.*, filed March 15, 2018 in MPUC Docket No. 2017-00232.
- B. *Order on Petition of NSTAR Electric Company d/b/a Eversource Energy for approval by the Department of Public Utilities of a long-term contract for procurement of clean energy generation, pursuant to Section 83D of An Act Relative to Green Communities, St. 2008, c. 169, as amended by St. 2016, c. 188, § 12, MA DPU Docket Nos. 18-64, 18-65, 18-66.*
- C. ISO-NE OATT, Attachment K, §4.1(f).
- D. ISO Transmission Planning, Memorandum to ISO-NE Planning Advisory Committee re Update to the Upper Maine (ME) 2029 Needs Assessment Assumption and Study Files (Sep. 24, 2019).
- E. Exhibit NECEC-5, September 27, 2017 Daymark Energy Advisors Report “NECEC Transmission Project: Benefits to Maine Ratepayers”.
- F. London Economics International LLC Independent Analysis of Electricity Market and Macroeconomic Benefits of the New England Clean Energy Connect Project (May 21, 2018).
- G. Rebuttal Testimony of Daymark Energy Advisors, MPUC Docket No. 2017-00232 (Jul. 13, 2018).
- H. December 14, 2018 Hydro-Quebec Letter, MPUC Docket No. 2017-00232 (Kelly-004-001 Att. 1).
- I. Éric Martel Letter to Governor Mills, Senate President Jackson, House Speaker Gideon, Senate Minority Leader Dow, and House Minority Leader Dillingham (May 20, 2019).



## CERTIFICATE OF SERVICE

The undersigned hereby certifies that I have served a copy of the foregoing on all parties to this proceeding and on the representatives of Calpine Corporation, which is seeing to intervene out-of-time in this matter.

Dated at Washington, DC this 14<sup>th</sup> day of February 2020.

A handwritten signature in black ink, appearing to read "Randall S. Rich". The signature is written in a cursive style with a horizontal line extending from the end.

Randall S. Rich

# **ATTACHMENT A**

# **ATTACHMENT B**

# ATTACHMENT C

# **ATTACHMENT D**

# **ATTACHMENT E**

# **ATTACHMENT F**

# **ATTACHMENT G**



# **ATTACHMENT H**

# ATTACHMENT I