

December 15, 2020

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Transmission Permitting and Technical Assistance Division
Office of Electricity Delivery and Energy Reliability
U.S. Department of Energy
1000 Independence Avenue, S.W.
Washington, DC 20585

RE: Central Maine Power Company,
Docket No. PP-438

Dear Mr. Lawrence:

The purpose of this letter is to confirm: (i) the final border-crossing coordinates for the Project and (ii) that the New England Clean Energy Connect Project ("NECEC" or the "Project") has been structured to provide open access to the transmission facilities across the border in a non-discriminatory manner in accordance with the Federal Power Act and applicable precedent of the Federal Energy Regulatory Commission ("FERC").

Border Crossing Coordinates

For purposes of the Presidential Permit, the final border crossing coordinates for the NECEC are:

Latitude 45-30-56.39 [= 45.515664 degrees]
Longitude 70-43-15.48 [= 70.720964 degrees]

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Under FERC precedent, the NECEC is a participant funded transmission facility, with the allocation of transmission capacity determined by bilateral negotiations.¹ FERC has recognized that participant funding of a

¹ *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323, at P 724 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g and clarification*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff'd sub*

transmission facility with priority rights to use the relevant transmission capacity is consistent with well-established FERC policies and does not constitute undue discrimination or preference.²

Transmission service on the NECEC will be provided to the participating transmission customers (i.e., the three electric distribution companies of Massachusetts (Eversource, National Grid and Unitil), and H.Q. Energy Services (U.S.) Inc.) pursuant to seven Transmission Service Agreements ("TSAs").³ FERC accepted these TSAs by an order dated October 20, 2018.⁴

As discussed in CMP's filing of the TSAs with FERC, the rates, terms, and conditions of these agreements are designed to be consistent with the Commission's open access principles and policies,⁵ and will permit service on the NECEC to be provided in accordance with these principles and policies.⁶

Under the terms of the TSAs and in accordance with FERC policy, operation of the NECEC will be turned over to ISO-NE pursuant to a Transmission Operating Agreement. In addition, unused capacity will be released to third parties on a daily and hourly basis through an open access same-time information system ("OASIS") site maintained by the transmission provider or an affiliate. Article 10 of each TSA specifically provides that, if the transmission capacity made available to the participant pursuant to the TSA exceeds the participant's needs, the participant shall offer to resell such unused capacity in accordance with applicable law, including the terms and

nom. S.C. Pub. Serv. Auth. v. FERC, 762 F.3d 41 (D.C. Cir. 2014) (explaining that the principles in Order No. 1000 "do not in any way foreclose the opportunity for a transmission developer, a group of transmission developers, or one or more individual transmission customers to voluntarily assume the costs of a new transmission facility"); *see also Allocation of Capacity on New Merchant Transmission Projects & New Cost-Based, Participant-Funded Transmission Projects Priority Rights to New Participant-Funded Transmission*, 142 FERC ¶ 61,038, P 42 (2013).

² *See Northeast Utilities Service Co.*, 127 FERC ¶ 61,179, *order on reh'g*, 129 FERC ¶ 61,279 (2009).

³ The party responsible for providing transmission service under the TSAs as originally agreed upon is CMP. As part of the transfer of the Project, the TSAs will be assigned to NECEC Transmission LLC, and it will be the party responsible for providing transmission service going forward. By an Order dated March 13, 2020, FERC has authorized the transfer of the TSAs to NECEC Transmission LLC. *See Central Maine Power Co.*, 170 FERC ¶ 62,145 (2020).

⁴ *See Central Maine Power Co.*, Order Accepting Transmission Service Agreements, 165 FERC ¶ 61,034 (2018).

⁵ *See, e.g., Central Maine Power Co.*, Bilateral Cost-Based Transmission Service Agreements, Docket No. ER18-2256-000, ER18-2257-000, ER18-2258-000, ER18-2259-000, ER18-2260-000, ER18-2261-000, ER18-2262-000 (Aug. 20, 2018).

⁶ *See Northern Pass Transmission LLC*, Presidential Permit No. PP-371, at 5 (Nov. 16, 2017).

conditions of FERC Order No. 890. Each of the TSAs also provides that CMP (ultimately, its successor NECEC Transmission LLC), or one of its affiliates, shall establish and administer an OASIS site in accordance with applicable FERC requirements. The TSA provisions regarding the resale of excess transmission service are consistent with FERC's policy that the creation of a competitive market for secondary transmission capacity would result in existing transmission facilities being used more efficiently⁷ and would "send[] more accurate price signals to identify the appropriate location for construction of new transmission facilities. . . ." ⁸ These provisions are also consistent with the terms of Order No. 890 regarding the oversight and monitoring of the reformed secondary market for transmission capacity, including the requirement that all sales or reassignments of capacity be conducted through, or otherwise posted on, the transmission provider's OASIS, on or before the date reassigned service commences.⁹

Please do not hesitate to contact the undersigned if you have any questions or comments.

Very truly yours,

/s/ *Randall S. Rich*

Randall S. Rich

Attorney for
CENTRAL MAINE POWER COMPANY
NECEC TRANSMISSION LLC

Enclosures

cc: Thorn Dickinson
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Jared S. des Rosiers
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⁷ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241 ("Order No. 890"), *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261, at P 388 (2007) ("Order No. 890-A"), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228, *clarified*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

⁸ Order No. 890 at P 808.

⁹ *Id.* P 815.