STATE OF MAINE
BOARD OF ENVIRONMENTAL PROTECTION

Central Maine Power Company	)	
	)	
Site Location of Development Act:	)	**PETITION TO INTERVENE OF INDUSTRIAL ENERGY CONSUMER GROUP**
#L-27625-26-A-N	)	
	)	
Natural Resources Protection Act:	)	
#L-27625-TG-B-N;	)	
#L-27625-2C-C-N;	)	
#L-27625-VP-D-N; and	)	
#L-27625-IW-E-N	)	

Pursuant to the Department's regulations governing the conduct of licensing hearings, DEP Reg. Ch. 3 §11(A), Industrial Energy Consumer Group ("IECG") hereby submits this Petition to Intervene as a party in the above proceeding involving Central Maine Power Company's ("CMP") New England Clean Energy Connect project ("NECEC"), a proposed electric transmission line from the border with Quebec in Beattie Township, Maine to a new converter station in Lewiston, Maine, as well as several proposed upgrades to CMP's transmission network between Lewiston and Pownal, Windsor and Wiscasset, and in Cumberland. CMP has applied to the Department for Site Location of Development Act and Natural Resources Protection Act permits.

This petition demonstrates that IECG and its members: (1) have a direct and substantial interest that may be affected by the proceeding; (2) have reasonably specific contentions regarding the subject matter of the hearing and statutory criteria; and (3) are prepared to and capable of participation to support such contentions, as represented by IECG. DEP Reg. Ch. 3 §11(A)(1). The Department should therefore grant IECG's petition to intervene.

I. Identification of Petitioner IECG

IECG was formed in 1985 as an incorporated association under Maine law to represent Maine industrial energy consumers and consumer-generators before state, federal, and regional regulatory, legislative, and congressional bodies on energy-related issues. Since 1985, IECG has participated in hundreds of regulatory proceedings affecting the price, diversity, origins, reliability, and effects of Maine's energy supplies. The group is a collective voice that actively works to diversify the sources and lower the costs of energy in New England, including electricity, through well designed and monitored competitive energy markets that benefit energy users and the environment. No other similarly experienced or effective consumer energy organization exists in New England. IECG's members have operations in the CMP service territory, many other states, and several nations.

IECG's recent efforts to lower the cost and environmental impacts of energy use include support for natural gas pipeline capacity for both heat and electricity, the conversion from oil to natural gas and renewable biomass for manufacturing processes and electrical generation, the design of and participation in demand response and efficiency programs to reduce consumer electric energy and transmission costs, and assisting the Department to improve the structure and efficiency of the Regional Greenhouse Gas Initiative.

II. The Effect of the NECEC on IECG

IECG has a direct and substantial interest that may be affected by this proceeding because IECG works to diversify regional energy sources and reduce the costs and environmental impacts of electricity production, transportation, and distribution in New England. Reasonably priced and reliable electricity supply is critical to the success of IECG's members. The NECEC, if approved, will diversify New England energy supply; lower energy costs, especially in winter;

enhance reliability (which is costly to attain and even costlier to forego), especially in winter; facilitate the efficient integration of large-scale renewable energy projects into New England's energy supply; and help to fulfill regional environmental policies. For example, CMP predicts NECEC will lower the year-round average locational marginal electricity price of ISO-NE by 3.5 mils/kWh for Maine consumers. For a representative large Maine industrial consumer, such a price reduction amounts to a savings of about $350,000/year. Other Maine consumers would save proportionately to their usage. Such savings on energy costs is both welcome and rare, as Maine consumers pay some of the highest energy costs in the continental United States.

Further, IECG's experience helping to create, participating in, and reforming ISO New England ("ISO NE") energy markets can help elucidate potential project benefits in the context of potential environmental costs in Maine and alternatives to meeting the region's energy needs, particularly during the highly dynamic energy transformation underway. IECG's participation will be particularly useful here, where the NECEC energy and capacity will be purchased in Massachusetts but the infrastructure will be in Maine. IECG understands the benefits of the NECEC to Maine consumers. By aiming to deliver up to 1,200 megawatts of hydropower from Hydro-Quebec into New England's electric grid by 2022, the NECEC comes at a critical inflection point for energy and reliability in New England, when the impacts of a project must be considered in the context of significant ongoing energy market turmoil, recent and proposed reformations, and sweeping state policy changes.

ISO NE describes the regional power system as "undergoing a rapid transformation."[1] A "'hybrid grid' is emerging—the region is changing how it generates, delivers, and uses

[1] ISO New England, "*ISO New England Overview and Regional Update*" to the Massachusetts General Court and Clean Energy Caucus (May 8, 2018), at slide 2.

electricity."[2] Based on its significant experience, IECG believes that states cannot ignore energy costs by considering environmental goals or reliability in isolation. Rather, costs and environmental impacts must be optimally minimized while reasonably priced electricity supply is maintained. The NECEC is a reasonable and well-timed solution to this trilemma during New England's unavoidable and rapid energy transformation.

For years IECG has argued that inadequate gas pipeline capacity for both heating and electricity during winter would increase costs (and decrease reliability). Using the $5.2 billion paid for electricity in 2012 as a baseline, New England has paid an aggregate electricity premium of over $7 billion from 2013 to 2015 due to winter pipeline constraints.[3] This needless premium is deceiving because it also includes historically low energy prices during the summer and shoulder months, when lost-cost Marcellus Shale gas supply to New England is unconstrained. It also does not account for the harsh winter of 2017-18, when the Massachusetts Natural Gas Index price reached $78.35/MMBtu (*c.f.* Marcellus Shale gas at $5.75/MMBtu) and New England electricity prices spiked to $287.85/MWh.[4]

Despite these destructive price impacts, reasonable pipeline solutions have been thwarted. ISO NE was forced to develop an emergency "stop-gap" solution from 2013-14 through 2017-18 called the Winter Reliability Program under which consumers paid roughly $200 million for out-of-market oil to ensure system reliability.[5] The Winter Reliability Program was intended to be a bridge to the Pay-for-Performance ("PFP") market reform. Before PFP could even be phased in on June 1, 2018, however, ISO NE sounded a new alarm with its "Operational Fuel-Security

[2] Id.
[3] See, e.g., ISO New England, *2017 Report of the Consumer Liaison Group* (February 28, 2018), at 27.
[4] ISO New England, Winter 2017/18 recap: Historic cold snap reinforces findings in Operational Fuel-Security Analysis.
[5] http://isonewswire.com/updates/2014/4/4/oil-inventory-was-key-in-maintaining-power-system-reliabilit.html; http://isonewswire.com/updates/2015/4/7/new-england-power-system-performed-well-through-winter-20142.html; https://www.iso-ne.com/markets-operations/markets/winter-program-payment-rate.

Analysis" issued January 17, 2018, warning of brownouts and possible blackouts due to, among other things, retirement of generation capacity with on-site fuel, limited oil storage, and uncertain LNG availability. The announced retirement of Exelon Generation's Mystic Units 8 & 9, with implications for the adjacent LNG import terminal, exacerbated ISO NE's concerns. Thus, ISO NE has sought a "fuel-security" waiver from the Federal Energy Regulatory Commission ("FERC") to sign a two-year reliability contract to keep Mystic Units 8 & 9 operational through 2024. Such an out-of-market contract would likely cost New England consumers at least another $400 million. Though FERC recently rejected the first waiver request, it provided ISO NE the opportunity to remedy its potentially unjust and unreasonable tariff to address demonstrated regional fuel security concerns.[6] IECG expects similar above market price impacts.

Against this price and reliability crisis backdrop, ISO NE plans other major market reforms, including, for example: (1) the so-called Competitive Auctions with Sponsored Policy Resources (CASPR) (designed to accommodate state-subsidized procurements of renewables into capacity markets, while protecting competitive pricing mechanisms that sufficiently attract new and sustain existing power resources); (2) full integration of demand response resources; and (3) a potential "re-calibration" of PFP to correct flawed assumptions about dual-fuel capacity and LNG availability. As these reforms take shape, ISO NE must also account for expanding state policy goals, including (1) the planned procurement by New England states of more than 2,000 MW of offshore wind at likely out-of-market costs; (2) further state subsidization of solar PV and energy efficiency resources; (3) newly proposed emissions and siting limitations for thermal power plants; and (4) proposals to increase Renewable Portfolio Standards or/and RGGI emissions caps.

[6] ISO New England Inc., 64 FERC ¶ 61,003 (July 2, 2018).

This energy market and policy overview demonstrates, summarily, the "transformation" underway and underscores that the NECEC is proposed at a time of great need and confusion in New England. The Department would benefit in this proceeding from IECG's energy perspective as Maine energy consumers, particularly because IECG can elucidate NECEC benefits and costs in light of alternatives and the status quo within New England's evolving energy marketplace. The Department's decision to permit the NECEC or not will have substantial and direct impacts on the region's energy markets and supply and thus Maine's largest energy consumers, IECG's members. Further, IECG can help the Department make a more informed and efficient decision, preventing unreasonable or costly conditions and delay that could lead to a Northern Pass-type situation in Maine and fulfilling Governor LePage's call to "Look North" for economic growth and opportunity.[7]

III. Specific Contentions Regarding the Subject Matter of the Hearing and the Relevant Statutory Criteria

IECG has reviewed the CMP's Site Location of Development Act and Natural ("SLODA") Resources Protection Act ("NRPA") applications for the NECEC. Based upon that review, the IECG's contentions regarding the subject matter of those applications that may be the subject of the hearing include, but are not limited to, the following:

a. The SLODA requires "that the development will not adversely affect existing uses, scenic character, air quality, water quality or other natural resources in the municipality or in neighboring municipalities." 38 M.R.S. §484(3). IECG contends that the potential effects of the NECEC on existing uses, scenic character, air quality, water quality and other natural resources are relatively minor for a project supplying so much power and creating Maine's first electrical interconnection to Hydro Quebec.

[7] "Governor LePage Calls upon Mainers to 'Look North' for Economic Growth and Opportunity" (May 14, 2018), available at https://www.maine.gov/governor/lepage/newsroom/article.html?id=797569.

The negative impacts would be vastly outweighed by the project's benefits to Maine and thus are not adverse on balance. Further, in determining whether the NECEC will have an "unreasonable adverse effect" on scenic character, the Department will consider evidence that the project is designed "to minimize its visual impact to the fullest extent possible." 06-096 Ch. 375 §14. IECG contends that the NECEC's significant co-location within existing transmission corridors meets this requirement and that alternative routes and methods of development may create unreasonable delay and expense.

b. The SLODA requires the Department to "consider whether any proposed alternatives to the proposed location and character of the transmission line or pipeline may lessen its impact on the environment or the risks it would engender to the public health or safety, without unreasonably increasing its cost." 38 M.R.S. §487-A(4). IECG contends that certain alternatives to the proposed location and character of the NECEC may unreasonably increase its cost without significantly lessening, if at all, its impact on the environment. Again, in the current and future contexts of meeting New England's energy needs, NECEC is overwhelmingly beneficial in comparison to the status quo, and to realistic alternatives.

c. Under the NRPA, CMP must demonstrate that "the activity will not unreasonably interfere with existing scenic, aesthetic, recreational or navigational uses." 38 M.R.S. §480-D(1). In its scope of review, the Department will consider, among other things, "the project purpose, and the context of the proposed activity." 06-096 Ch. 315 §4. In making its scenic and aesthetic use impact determination, the Department also considers "practicable alternatives … that will have less visual impact" and may deny

an application for having "an unreasonable impact … even if the activity has no practicable alternative and the applicant has minimized the proposed alteration and its impacts as much as possible through mitigation." 06-096 Ch. 315 §9. IECG contends that, given the NECEC's purpose in the context of the regional energy transformation, as well as its proposed development route and techniques, the project will not unreasonably interfere with any existing uses. The project's substantial benefits in terms of cost reduction, increased reliability, and lower greenhouse gas emissions render interference with existing uses incidental and wholly reasonable. "Existing uses" includes "previous human alterations." 06-096 Ch. 315 §5(D). Since the majority of the development will take place in existing transmission corridors, further human alternations of the same character and in the same location will have minimal impacts.

d. The NRPA also requires that the development "not unreasonably harm" various forms of "significant" habitat (e.g., wildlife, threatened or endangered plant, aquatic or adjacent upland) and other protected natural resources (e.g., travel corridors, freshwater, and fisheries). 38 M.R.S. §480-D (3). Unreasonable harm may be mitigated through "any action taken or not taken to avoid, minimize, rectify, reduce, eliminate or compensate for any actual or potential adverse impact." 38 M.R.S. §480-D(3). With respect to wetlands and waterbodies, an activity will create an "unreasonable impact" if wetland area, functions, or values are lost and "and there is a practicable alternative to the activity that would be less damaging to the environment." 06-096 Ch. 310 §5(A). When the Department considers whether a project is "reasonable in relation to the direct and cumulative impacts" it accounts for

"factors such as … the type and degree of benefit from the activity (public, commercial or personal)." 06-096 Ch. 310 §5(D). Determining whether a "practicable alternative" exists, include potentially using other sites, reducing size or scope, re-configuration, alternative designs, and "demonstrating the need, whether public or private, for the proposed alteration." 06-096 Ch. 310 §9(A). IECG contends that there is no "practicable alternative" to the NECEC given its scale, timing, significant co-location, and the nature of its benefits in the overall context of the region's precarious energy circumstance. "Practicable" means "[a]vailable and feasible considering cost, existing technology and logistics based on the overall purpose of the project." 06-096 CMR § 310(3)(R). No other technology exists today that could create the same public benefits as the NECEC; the energy technologies that do exist to substantially lower greenhouse gas emissions, namely solar PV, wind, and battery storage, require state support under current market constructs, and a transmission interconnection to Hydro-Quebec coupled with firm hydro energy will only serve to help integrate these technologies into ISO NE grid.

e. With respect to significant wildlife habitat under the NRPA, "the activity may not unreasonably degrade the significant wildlife habitat, unreasonably disturb subject wildlife, or unreasonably affect the continued use of the site by the subject wildlife." 06-096 Ch. 335 §3(C)(1). An impact is "unreasonable" "if there is a practicable alternative to the project that would be less damaging to the environment." 06-096 Ch. 335 §3(A). IECG contends that there is no "practicable alternative" to the NECEC given its scale, timing, significant co-location, and the nature of its benefits

in the overall context of the region's precarious energy circumstance. Potential habitat impacts will be minimal and entirely reasonable.

f. IECG further contends that the no-action alternative of not constructing the NECEC would prevent or delay the substantial economic and environmental benefits the project would bring, including the delivery of up to 1,200 MW of hydro power that would: (1) help to displace the most expensive and polluting peak winter energy sources relied upon when natural gas pipelines are constrained, oil, coal, and LNG; (2) help to integrate additional intermittent renewable energy resources into the region by providing firm balancing energy; (3) enhance the New England's transmission interconnection to Hydro-Quebec and thus increase the region's reliability and diversify its energy supply.

g. If a project crosses certain river segments, the NRPA also requires a demonstration that "no reasonable alternative exists which would have less adverse effect upon the natural and recreational features of the river segment." The NECEC is proposed to cross the Kennebec River by overhead span. IECG contends that undergrounding the wire would create unreasonable expense and delay, while potentially disrupting the natural river habitat to a greater degree than is necessary.

IV. IECG Spokesperson

The spokesperson for IECG will be its President, Robert Dorko.

V. IECG's Ability to Participate in the Proceeding

IECG will be represented by experienced legal counsel familiar with these types of proceedings, its General Counsel, Tony Buxton of Preti Flaherty and his law partner, Benjamin Borowski. IECG has actively participated in the development of large infrastructure projects

required to obtain permits using similar impacts analyses. IECG is knowledgeable about and capable of participating in all pre-hearing conferences, will offer pre-filed testimony, and will present witnesses at the hearing to support its contentions. IECG is therefore prepared and capable of participating in these proceedings.

VI. Conclusion

Because IECG and its members have a direct and substantial interest to be affected by the NECEC, and IECG has specific contentions regarding the subject matter of the hearing and is prepared for and capable of participation, IECG has satisfied the requirements for intervention under the Department's regulations for hearings on applications of significant public interest and respectfully requests that IECG be granted Intervenor status.

DATED: July 18, 2018

Respectfully submitted,

INDUSTRIAL ENERGY CONSUMER GROUP

Robert Dorko P.E.

By: Robert Dorko, President
Industrial Energy Consumer Group
P.O. Box 5117
Augusta, Maine 04333

Anthony W. Buxton and Benjamin Borowski,
Counsel to the Industrial Energy Consumer Group
Preti Flaherty Beliveau & Pachios LLP
P.O. Box 1058, 45 Memorial Circle
Augusta, ME 04332
Telephone: 207-623-5300
Fax: 207-623-2914