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Admitted in: MA, ME, NH

July 2, 2020

Michele Lumbert, Clerk
Kennebec County Superior Court
1 Court Street, Suite 101
Augusta, ME 04330

Susan Furbush, Clerk
Somerset County Superior Court
41 Court Street
Skowhegan, ME 04976

Re: *Nextera Energy Resources, LLC v. Maine Department of Environmental Protection*,
Docket No. KEN-AP-20-27
West Forks Plantation, et al. v. Maine Department of Environmental Protection,
Docket No. SOM-AP-20-04

Dear Ms. Lumbert and Ms. Furbush:

On behalf of Parties-in-Interest Central Maine Power Company ("CMP"), the Industrial Energy Consumer Group ("IECG"), Western Mountains & Rivers Corporation ("WMRC"), the Maine State Chamber of Commerce (the "Maine Chamber"), the City of Lewiston ("Lewiston"), and the Lewiston-Auburn Metropolitan Chamber of Commerce (the "LA Metro Chamber"), enclosed please find an Application for Transfer to Business and Consumer Docket ("BCD"). CMP, IECG, WMRC, the Maine Chamber, Lewiston, and the LA Metro Chamber jointly request transfer of the above captioned matter to the BCD for the following reasons:

1. The claims at issue in these administrative appeals, relating to whether the Commissioner of the Department of Environmental Protection ("DEP") properly issued permits authorizing CMP to construct and operate the New England Clean Energy Connect ("NECEC") transmission line project, directly bear upon the operation of CMP and its NECEC. The BCD was established to hear cases, such as the present one, centered around claims that involve matters of significance to the operations of business entities like CMP. Maine Supreme Judicial Court Administrative Order JB-07-1 (A. 11-08) ("A.O. JB-07-1"), § I(a).
2. This matter consists of two M.R. Civ. P. 80C appeals. In addition, party-in-interest NRCM has appealed the DEP order that is the subject of these appeals to the Maine Board of Environmental Protection ("BEP"). The interplay between an administrative appeal to the BEP of a DEP order and two simultaneous court appeals of the same DEP order will present novel and complex legal issues. The novel and complex nature of these appeals weighs in favor of transfer to the BCD. A.O. JB-07-1, § V(d).

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3. These two cases involve multiple parties raising numerous issues related to an administrative hearing process that lasted more than two and one-half years. As a result, the cases will require "specialized and differentiated judicial management," another hallmark of matters transferred to the BCD. A.O. JB-07-1, § I(b), § V(h).
4. These appeals have only just commenced, so now is an appropriate time for transfer of these matters to the BCD.

With respect to question #3 of the BCD Transfer Application, the following is the contact information for the additional listed party-in-interest defendants:

- IECG: Sigmund D. Schutz, PO Box 9546, Portland, ME 04112-9546, sschutz@preti.com
- WMRC: Benjamin J. Smith, PO Box 5418, Augusta, ME 04332-5418, bsmith@smithlawmaine.com
- Maine Chamber, Lewiston, LA Metro Chamber: Gerald F. Petruccelli, P.O. Box 17555, Portland, ME 04112-8555, gpetruccelli@pmhlegal.com

With respect to question #4 of the BCD Transfer Application, we request that these two cases be consolidated in the BCD.

With respect to questions #5-6 of the BCD Transfer Application, we have contacted all parties to the two appeals, but have received responses only from IECG, WMRC, the Maine Chamber, Lewiston, and the LA Metro Chamber, all of which join in this application. The positions of the other parties with respect to this application are unknown.

Thank you for your attention to this matter.

Sincerely,



Matthew D. Manahan

Enclosure

cc: David Kallin, Esq., Drummond Woodsum (attorney for Party-in-Interest NRCM)
Elizabeth Mooney, Esq., Drummond Woodsum (attorney for Party-in-Interest NRCM)
James Kilbreth, Esq., Drummond Woodsum (attorney for Party-in-Interest NRCM)
Joanna Tourangeau, Esq., Drummond Woodsum (attorney for Petitioner NextEra)
Emily Howe, Esq., Drummond Woodsum (attorney for Petitioner NextEra)
Elizabeth Boepple, Esq. BCM Environmental & Land Law (attorney for Petitioners West Forks Plantation, et al.)
Benjamin Smith, Esq., Smith Legal LLC (attorney for Party-in-Interest Western Mountains & Rivers Corp.)
Gerald Petruccelli, Esq., Petruccelli, Martin and Haddow (attorney for Parties-in-Interest Maine State Chamber of Commerce, et al.)

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Sigmund Schutz, Esq., Preti Flaherty (attorney for Party-in-Interest Industrial Energy Consumer Group)
Anthony Buxton, Esq., Preti Flaherty (attorney for Party-in-Interest Industrial Energy Consumer Group)
Robert Borowski, Esq., Preti Flaherty (attorney for Party-in-Interest Industrial Energy Consumer Group)
Peggy Bensinger, Esq. Assistant Attorney General (attorney for DEP)

STATE OF MAINE

SUPERIOR COURT

Kennebec, ss.

Docket No. KEN-AP-20-27

DISTRICT COURT

Location _____

Docket No. _____

NextEra Energy Resources, LLC

Plaintiff

v.

Maine Department of Environmental Protection

Defendant

APPLICATION FOR TRANSFER TO
BUSINESS AND CONSUMER DOCKET

I/We submit this application for transfer of the above-captioned case to the BCD, based on the following information:

NAME OF EACH PARTY SUBMITTING THIS APPLICATION:	Plaintiff	Defendant
Central Maine Power Company ("CMP")	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Industrial Energy Consumer Group ("IECG")	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Western Mountains & Rivers Corporation ("WMRC")	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Maine State Chamber of Commerce, City of Lewiston, Lewiston-Auburn Metropolitan Chamber of Commerce	<input type="checkbox"/>	<input checked="" type="checkbox"/>

1. Is at least one party a business entity? Yes No

2. List all plaintiffs and their counsel:

PLAINTIFF(S)	COUNSEL (NAME AND ADDRESS)	E-MAIL ADDRESS
NextEra Energy Resources, LLC	Joanna B. Tourangeau, 84 Marginal Way, Suite 600, Portland, ME 04101-2480	jtourangeau@dwmlaw.com
West Forks Plantation, et al.	Elizabeth A. Boepple, 148 Middle Street, Suite 1D, Portland ME 04101	boepple@nhlandlaw.com
Natural Resources Council of Maine	James T. Kilbreth, 84 Marginal Way, Suite 600, Portland, ME 04101-2480	jkilbreth@dwmlaw.com

3. List all defendants and their counsel:

DEFENDANT(S)	COUNSEL (NAME AND ADDRESS)	E-MAIL ADDRESS
Central Maine Power Company	Matthew D. Manahan, 254 Commercial St., Portland, ME 04101	mmanahan@pierceatwood.com
Maine Department of Environmental Protection	Margaret Bensinger, 6 State House Station, Augusta, ME 04333	peggy.bensinger@maine.gov
IECG, WMRC, Maine Chamber, Lewiston, LA Metro Chamber	See accompanying cover letter	See accompanying cover letter

4. List any other cases with which this case is or may need be consolidated or coordinated:

CASE CAPTION	DOCKET NUMBER	CURRENT COURT LOCATION
West Forks Plantation, et al. v. Maine Department of Environmental Protection	SOM-AP-20-04	Somerset County Superior Court

5. Do all of the parties appearing in the case agree to a transfer? YES NO UNKNOWN

6. If no, will a written objection be filed? YES NO UNKNOWN

7. What is the subject matter of the primary cause of action in this case:

- | | |
|---|--|
| <input type="checkbox"/> Breach of Contract | <input type="checkbox"/> Breach of Warranty |
| <input type="checkbox"/> Breach of Fiduciary Duty | <input type="checkbox"/> Class Action |
| <input type="checkbox"/> 80B Appeal involving a business entity | <input checked="" type="checkbox"/> 80C Appeal involving a business entity |
| <input type="checkbox"/> Internal governance of a business entity | <input type="checkbox"/> Securities transactions |
| <input type="checkbox"/> Shareholder derivative action | <input type="checkbox"/> Confidential or trade secret |
| <input type="checkbox"/> Intellectual property | <input type="checkbox"/> Financial transactions |
| <input type="checkbox"/> U.C.C. transactions | <input type="checkbox"/> Unfair trade practices |
| <input type="checkbox"/> Antitrust or other trade regulations | <input type="checkbox"/> Commercial real estate |
| <input type="checkbox"/> Other (describe): _____ | |

8. What is the status of this case:

	YES	NO	NOT YET DETERMINED
a. Has service of the complaint been completed on all parties?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Are the pleadings closed?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Is discovery completed?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Is class action status sought?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. Scheduled for trial? If so, when?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. Pretrial held?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. Case management conference held?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. Jury trial?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
i. Bench trial?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
j. ADR been attempted?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
k. Is file sealed (partial / entire)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
l. Will post-judgment judicial supervision be needed? ...	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

9. What is the estimated length of trial (in days)? NA

10. Identify nature and number of any pending pretrial motions: By letter dated June 25, 2020, West Forks Plantation et al. filed a motion to stay that case, West Forks Plantation, et al. v. Maine Department of Environmental Protection, SOM-AP-20-04; on July 2, 2020 DEP filed motions to remand in both courts.

11. Identify any novel and/or complex legal issues in this case: See accompanying cover letter.

CERTIFICATION OF SERVICE BY ATTORNEY OR PARTY SUBMITTING APPLICATION

I hereby certify that a copy was mailed/delivered to all counsel and pro se parties of record on this date

SIGNED: 

DATE July 2, 2020

ORDER (For BCD Court Use Only)

The above Application having been considered, it is ORDERED as follows:

- The case is ACCEPTED for transfer. The case file shall be transferred forthwith from the court in which the case is now pending to the BCD.
- The case is NOT ACCEPTED for transfer.

SIGNED (BCD Justice/Judge)

DATE

PLEASE NOTE THE FOLLOWING:

- A. Failure to supply complete and accurate information may disqualify a case for consideration for transfer to the BCD.
- B. Information that does not fit on this form should be attached to a separate sheet and numbered to correspond to the inquiries on the form.
- C. This application should be filed with the court in which the case is currently pending.