

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2011-00138

June 23, 2022

CENTRAL MAINE POWER COMPANY
Request for Approval of Non-Transmission
Alternative (NTA) Pilot Projects for the
Mid-Coast and Portland Areas

ORDER

PUBLIC AND REDACTED

BARTLETT, Chairman; DAVIS and SCULLY, Commissioners

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I. SUMMARY

Through this Order, the Commission grants Central Maine Power Company's (CMP) petition for a Certificate of Public Convenience and Necessity (CPCN) to rebuild Section 80. Section 80 is a 22.9 mile¹ 115 kilovolt (kV) transmission line that runs from Coopers Mills Substation in Windsor to Highland Substation, in Warren. Based on the extensive record in this proceeding, the Commission concludes that the Section 80 rebuild is necessary to resolve identified reliability standard violations. This rebuild is necessary regardless of whether any new significant customer load is added to the system.

In making this determination, the Commission finds that the proposed nonwires alternative (NWA) does not provide a reliable or cost-effective alternative to the rebuild of Section 80.

II. BACKGROUND

A. Section 80

CMP's Midcoast area is mainly served via three 115 kV transmission lines, including Section 80, and two underlying 34.5 kV sub-transmission lines into the hub at Highland Substation. An underlying 34.5 kV transmission system provides supply for distribution throughout the Midcoast area.

Section 80 is a Pool Transmission Facility (PTF), a high voltage transmission line that serves as the backbone of the New England system. While the Commission has responsibility to ensure that Maine's electric utilities deliver safe, adequate, and reasonable electric service in Maine,² ISO-New England, Inc. (ISO-NE) has regional transmission planning responsibility.³ One of ISO-NE's central missions is ensuring that the regional transmission system can reliably deliver power to consumers under a wide range of future system conditions. Among ISO-NE's responsibilities is ensuring that the power system continues to operate reliably as conditions on the grid change and that PTF facilities meet certain regional transmission planning criteria.

The estimated total cost of the rebuild is approximately \$63.6 million. Because Section 80 is a PTF, this cost would be recovered through regional transmission rates. Maine's share of which is currently approximately 8%-9% of the total cost.

¹ CMP proposes to rebuild 21.7 miles of Section 80.

² 35-A M.R.S. § 101.

³ ISO-NE is the independent, not-for-profit corporation responsible for the reliable operation of New England's electric power generation and transmission system, overseeing and ensuring the fair administration of the region's wholesale electricity markets, and managing comprehensive regional electric system planning.

B. ISO-NE Transmission Planning Process

Section II of the ISO-NE Transmission, Markets, and Services Tariff (ISO Tariff) is known as the ISO New England Open Access Transmission Tariff (OATT). Attachment K to the OATT addresses the processes for the development of the Regional System Plan, the identification of system needs, and the development of transmission solutions to address those needs. Section 2 of Attachment K establishes the Planning Advisory Committee (PAC), an open advisory stakeholder group to ISO-NE's transmission planning process. Section 4 of Attachment K: "Procedures for the Conduct of Needs Assessments, Treatment of Market Responses and Evaluation of Regulated Transmission Solutions" describes the ISO-NE planning process from the development of Needs Assessments through the development of Solutions. Attachment K and ISO-NE's "Transmission Planning Process Guide"⁴ require a high degree of transparency and provide multiple opportunities for input from the PAC with respect to both the findings of need and development of solutions.

Regarding the Needs Assessment, ISO-NE announces its initiation and provides a draft scope of work for review and comment. ISO-NE addresses comments on the draft scope of work and conducts the Assessment. ISO-NE provides the draft Assessment results to the PAC for review and comment. ISO-NE then addresses any comments and publishes the final Needs Assessment.

Regarding the Solutions Study, ISO-NE announces the need for a Solutions Study and presents study scope information to the PAC for review and comment. ISO-NE addresses the comments, conducts the study, and provides preliminary preferred solutions for review and comment to the PAC. ISO-NE addresses comments and identifies the final preferred solution/s. The solution/s are published in a Solutions Study report.

Solutions proposed by ISO-NE, and vetted by the PAC, become part of the Regional System Plan, which is then approved by the ISO-NE Board of Directors and projects in the approved plan are listed on the Regional System Project list.⁵

Under Section 8 of Attachment K: "Obligations of Pool Transmission Owners to Build; PTOs' Obligations, Conditions and Rights," transmission owners are obligated to construct, own or finance Transmission Upgrades included in the Regional System Plan.

⁴ https://www.iso-ne.com/static-assets/documents/2022/02/transmission_planning_process_guide.pdf.

⁵ The Section 80 rebuild is on the Regional System Plan list. See October 2021 RSP update presentation. https://www.iso-ne.com/static-assets/documents/2021/11/final_project_list_presentation_oct_2021.pdf.

III. PROCEDURAL HISTORY

CMP originally proposed the rebuild of Section 80 approximately fourteen years ago as part of its Maine Power Reliability Program (MPRP) (Docket No. 2008-00255). However, consideration of the need for certain projects in the Midcoast and Portland areas, including Section 80, was deferred as a result of an Order Approving Stipulation in the MPRP case.⁶ As part of the “MPRP Order,” the Commission required CMP and GridSolar, LLC (GridSolar) to file nontransmission alternative pilot projects for the Midcoast and Portland areas as a means of addressing reliability needs in such areas. As further agreed upon by the parties, the Order directed CMP and GridSolar to file a detailed description of the pilot projects, and that upon such filing the Commission would open an adjudicatory proceeding. *Id.* at 11. Certain pilot projects have been considered under the current docket. Rebuilding Section 80 was among several reliability projects in the Midcoast area for which possible nontransmission alternatives together with transmission projects were discussed by the parties.

By Procedural Order dated October 10, 2018, the Hearing Examiners stayed all aspects of this proceeding. This stay was based on uncertainty regarding: (1) the status or the results of the anticipated ISO-NE Maine Needs Assessment and (2) the issue of whether the Commission intended to reopen the local transmission standards proceeding in Docket No. 2011-00494.⁷ Subsequently, the Commission issued an Order Approving Stipulation in Docket No. 2011-00494 in which revised local transmission planning standards were adopted. Following the Commission’s resolution of the applicable local transmission planning standards, ISO-NE issued its *Final Upper Maine (ME) 2029 Needs Assessment*.

A. January 2020 – May 2020: CMP Request and Initial Filing; Notice of Initial Filing; Discovery

On January 21, 2020, CMP filed a letter asking the Hearing Examiners to schedule a case conference for parties to discuss the need to rebuild Section 80, as well as the overall approach to addressing the reliability needs in the Midcoast area. CMP stated that it could no longer defer the rebuild of Section 80 because a new customer, Nordic Aquafarms, had requested to interconnect to CMP’s system, and the rebuild would be needed to accommodate this customer’s interconnection.⁸ CMP stated

⁶ *Central Maine Power Company and Public Service of New Hampshire Request for Certificate of Public Convenience and Necessity for the Maine Power Reliability Program Consisting of the Construction of Approximately 350 Miles of 345 kV and 115 kV Transmission Lines (“MPRP”)*, Docket No. 2008-00255, Order Approving Stipulation (June 10, 2010) (MPRP Order).

⁷ *MPUC Investigation into Maine Electric Utilities Transmission Planning Standards and Criteria*, Docket No. 2011-00494, Order Approving Stipulation (Feb. 25, 2020).

⁸ Nordic Aquafarms plans to construct and operate a new aquaculture facility, a salmon farm, to be located in Belfast, Maine.

that the interconnection of this customer would require the rebuild of Section 80 to meet certain contingencies at peak load level conditions.

A case conference was held on February 12, 2020.⁹ On February 18, 2020, the Hearing Examiners issued a Report of Conference and Procedural Order, Scheduling (Procedural Order) directing CMP to make an initial filing regarding the requested rebuild of Section 80, which CMP made on April 3, 2020.¹⁰ The proposed rebuild would replace the conductor size with a higher capacity conductor and increase pole height within the existing right-of-way.

On April 14, 2020, the Commission issued a Notice of Initial Filing for the Proposed Rebuild of Section 80 (Notice), initiating the Commission's CPCN review. The Notice set an initial schedule in this case. This consisted of intervention deadlines, initial discovery on CMP's filing, a deadline of June 5, 2020 for the Nonwires Alternatives Coordinator¹¹ Report (NWA Report) and a case/technical conference on June 24, 2020. The Notice, which included an opportunity to intervene as a party in the proceeding, was sent to municipalities in which the transmission line is located and to landowners adjacent to Section 80 corridor.¹²

⁹ CMP initially requested that its petition for transmission upgrades in the Midcoast area be bifurcated so that review of the Section 80 rebuild could be considered initially and the other proposed upgrades for the Midcoast area be considered on a slower track. CMP ultimately decided not to pursue this request and as a result there was no ruling on this matter.

¹⁰ CMP's petition included ISO-NE's *Final Upper Maine (ME) 2029 Needs Assessment*, dated March 2020.

¹¹ The Public Advocate is directed to contract with a person or entity referred to as the Nonwires Alternatives Coordinator (NWA Coordinator) to, among other things, investigate and make recommendations regarding NWA to proposed capital investment in the transmission and distribution system pursuant to 35-A M.R.S. § 3132, which governs large transmission lines operating at 69 kV or above. 35-A M.R.S. § 1701(2-A).

¹² The Notice directed CMP to send a copy of the Notice to the municipal officers of municipalities in which the transmission line will be located and to the landowners along the proposed transmission line route. CMP was further directed to send a letter, on or before April 10, 2020 to all known abutters to Section 80 with specific information about the proposed rebuild (including the location of the line and the cost) and how to participate in the proceeding. The letter also included the following information about the proposed rebuild: the proposed rebuild would be rebuilt on an offset from the existing line and be monopole construction using light duty steel. The rebuilt line will be 80 feet high, an increase of approximately 32 feet and although there will be no right of way expansion needed to construct the new line, the rebuilt line will be 45 feet from the southwest side of the right of way, a decrease of 30 feet. On the other side of the right

Numerous parties intervened in the earlier stages of this case.¹³ The Commission received no new requests to intervene in this docket in response to the Notice. Procedural Order (Nov. 30, 2020).¹⁴

On May 29, 2020, GridSolar filed a study it had done of the Portland area requesting that it be considered in this docket. GridSolar noted that its report was not a transmission solution, a NWA or a hybrid solution to the reliability needs CMP had identified but rather a different approach to transmission and distribution planning. The Hearing Examiners denied the request explaining that the issues presented by the report implicated broad policy issues more appropriately considered in the context of Legislatively-initiated processes, such as the work of the Maine Climate Council, or in the context of a broader Commission proceeding to examine the relevant policy issues and their implications for the electric grid.¹⁵

B. June 2020-December 2020: Initial NWA Report; Case/Technical Conference; NWA Investigation Update; Supplemental NWA Report; Case/Technical Conference

The NWA Coordinator, DNV, filed its report on June 5, 2020. The NWA Report stated, in part, that the NWA Coordinator had identified the potential for two hybrid NWA options that could serve as a viable alternative to the Section 80 rebuild. However, the NWA Coordinator further explained that it would determine the appropriateness of these options, including their feasibility and cost effectiveness, upon receiving additional information and clarification from CMP. Further, it would assess whether any additional

of way, the distance from the proposed rebuilt line to the edge of the right of way will increase from 75 feet to 105 feet.

¹³ Office of the Public Advocate (OPA); Efficiency Maine Trust; ISO-NE; Warren Meadow Solar Station LLC; Competitive Energy Services, LLC; GridSolar; Industrial Energy Consumer Group; Acadia Center F/K/A Environment Northeast; Conservation Law Foundation; Maine Renewable Energy Association (MREA); Natural Resources Council of Maine; Renewable Energy Storage Association of Maine, LLC D/B/A-Thermal Energy Storage of Maine; The Sierra Club; Fred Bopp III; John Chandler; Kathryn Colby; Joel Fuller; Stephen Keeley; Dot Kelly; Walter Kiesow, Jr.; Bharat Moorthy; Alvas & Denise Rand; James Read; Carolyn Read-Sweeney; Harold & Anne Stoddard; Shirley Storey-King; Jeffrey Thomas; Municipal Street Lighting Group (City of Rockland, City of South Portland; Town of Falmouth); City of Portland; City of South Portland; Town of Cumberland; Town of Falmouth.

¹⁴ On November 19, 2020, the Commission was notified by Mr. Alvas Rand that he and his wife Denise Rand no longer wished to be active parties in this docket or on the notification list. On November 20, 2020, the Hearing Examiners were notified that neither the MREA, nor its counsel, Bernstein Shur, wanted to be on the active party list. Procedural Order (Dec. 16, 2020).

¹⁵ The Portland area phase of this docket has been on hold since October 2018.

information or clarification was needed before conducting the feasibility and benefit-cost analyses. The NWA Coordinator expected that it would update its NWA Report.

A June 24, 2020 case/technical conference was held for the purposes of addressing, among other things, the next steps in this case. The Office of the Public Advocate (OPA) and CMP explained that they planned to further discuss certain information requests from the NWA Coordinator and the anticipated filing date for the supplemental NWA Report.

The Commission subsequently sought an update from CMP and the OPA regarding these discussions. The OPA and CMP jointly filed a letter on July 24, 2020, stating in part that the NWA Coordinator and CMP had exchanged more information and that once the NWA Coordinator had reviewed this information it would draft a supplemental report, collaborate with CMP to reach a negotiated solution, and present that to the Commission. Finally, the letter stated that if there was no agreement, the parties would present alternatives for Commission resolution.

On September 21, 2020, the OPA filed its supplemental NWA Report (Supplemental NWA Report). The Supplemental NWA Report stated, in part, that the two options identified in the June 5 NWA Report were not viable because the estimated cost of each of the solutions exceeded the cost of the proposed rebuild. It also described a third option, which the NWA Coordinator proposed “as an interim solution while the Midcoast area [was] analyzed and Nordic comes online and more is known about [its] load requirements.” Supplemental NWA Report at 15. The OPA further stated that it had provided the Supplemental NWA Report to CMP on September 11, 2020, for CMP’s initial review and that the parties would continue to discuss options for reaching consensus.

A case/technical conference was scheduled for November 20, 2020, the purpose of which, among other things, was for the OPA, NWA Coordinator, and the Efficiency Maine Trust (Trust) to provide an overview of the June 5 NWA Report and the Supplemental NWA Report, to discuss the next steps in the ISO-NE Needs Assessment/Solutions Study process, and how the Commission’s review of any proposed NWA or hybrid solutions interacts with the ISO-NE’s process and regional system planning responsibilities.

On November 17, 2020, the OPA and CMP filed a request to reschedule the case/technical conference because they intended to participate in a joint review of CMP’s Midcoast infrastructure and technological capabilities on November 19th. With this information, the parties anticipated narrowing the scope of the technical conference.

The Hearing Examiners granted the request and rescheduled the conference for Friday, December 4, 2020. The Examiners also requested that the OPA and CMP file by November 23, 2020, an update describing the results of the November 19, 2020 meeting. The OPA filed its update on November 23, 2020.

The case/technical conference was held on December 4, 2020. The Hearing Examiners discussed establishing a further schedule with the parties. The OPA reported that it, the NWA Coordinator, and CMP had scheduled a number of meetings in December to exchange additional information and have further discussions related to the NWA investigation; that the OPA and NWA Coordinator would analyze that information after the holidays; and that they expected to file another status update with the Commission in January 2021. The OPA requested that no further schedule be established at that time, given that ongoing work would narrow the issues presented to the Commission, and that more would be known in January with respect to a negotiated outcome. A subsequent Procedural Order provided that further process would be established following the January 2021 status update filing. Procedural Order (Dec. 16, 2020).

C. January 2021-December 2021: NWA Investigation Update; Late-filed Petitions to Intervene; Case Conference; Scheduling; Final NWA Report; Discovery; Technical Conference

The OPA and CMP provided an update on January 20, 2021. The update discussed their ongoing NWA discussions and meetings that had occurred in December 2020 and January 2021, but the parties apparently had not reached a mutually acceptable solution to the need.

On February 18, 2021, a petition to intervene by the City of Portland was granted. Procedural Order (Feb. 18, 2021).

The OPA and CMP's NWA discussions continued through the spring, and they filed another update on May 10, 2021. Again, the parties had not reached a mutually acceptable solution.

Pursuant to the August 20, 2021 Procedural Order, the Hearing Examiners explained that, while they appreciated the work that has been done by the OPA and CMP to date, they had concerns about the open-ended nature of the NWA discussions and the lack of a final recommendation from the OPA, noting it had been fourteen months since the initial deadline for the NWA Report. The Hearing Examiners scheduled a case conference for September 2, 2021, to discuss next steps in the docket. The Examiners also noted that they were aware that ISO-NE had released its Final Upper Maine (UME) 2029 Solutions Study (June 2021) and directed CMP to file the Solutions Study in the docket. CMP filed it on August 25, 2021.

On September 1, 2021, the Hearing Examiners granted a petition to intervene filed by Warren Meadow Solar (Warren Solar). Procedural Order (Sept. 1, 2021).

At the September 2, 2021 case conference, the OPA represented that it expected to be able to file its final NWA report at the end of October 2021. The September 8, 2021 Procedural Order set the schedule for further processing of the

On December 21, 2021, the Hearing Examiners granted a limited intervention to ISO-NE for the purpose of receiving and reviewing the confidential version of the Final NWA Report. Procedural Order (Dec. 21, 2021).

D. January 2022-April 2022: Parties' Responses to Final NWA Report; OPA's Request for Schedule Suspension; Briefs, Reply Briefs, Public Comments; Examiners' Report and Exceptions

On January 18, 19 and 21, 2022, Warren Solar, GridSolar and CMP filed written responses to the Final NWA Report. CMP concluded that the proposed NWA solution was deficient from a reliability perspective. Thus, it continued to seek approval of the rebuild.

Further, on January 19, 2022, the OPA filed a letter requesting that the Commission suspend the briefing schedule until ISO-NE completed a reevaluation of the continued need for the Section 80 rebuild to resolve reliability needs identified in the ISO-NE planning process. The OPA explained that after conducting an initial review of the NWA Report, ISO-NE determined that it may need to provide an update on the continued need for the Section 80 rebuild.

The Hearing Examiners held a conference of counsel on February 9, 2022, to obtain more information regarding the duration of the OPA's proposed suspension, the timeframe for any ISO-NE reevaluation of the continued need for the Section 80 rebuild, and other parties' positions on the suspension request. The OPA suggested at least a six-month delay so ISO-NE could update its analysis. However, ISO-NE attended the conference and represented that it had already performed an analysis that updated certain assumptions to reflect more recent system conditions. According to ISO-NE, this analysis confirmed ISO-NE's earlier determination of the need for the Section 80 rebuild. ISO-NE concluded that it did not intend to perform additional analysis to further confirm the need for the rebuild.

CMP explained that it had not been party to the discussions leading up to OPA's request for the suspension. However, it had subsequently followed up with ISO-NE and the OPA to determine whether there was any new information related to the issues that parties had already discussed at length during their collaboration over the past eighteen months. CMP stated that no new information changed its conclusion that the proposed NWA is deficient and recommended that the Commission move forward with consideration of its CPCN request.

Warren Solar urged the Commission to move forward with the case sooner rather than later. Dot Kelly stated she was pleased ISO-NE had taken another look at the need. The Trust supported the OPA's suspension request and suggested more process on ISO-NE's need analysis. ISO-NE noted that its planning processes are federally regulated and that questions about its planning assumptions occur in the ISO-NE stakeholder process, which had passed some time ago.

Pursuant to the February 11, 2022 Procedural Order, the Hearing Examiners noted that they had already accommodated a number of delays in the schedule in this case as the OPA and its NWA Coordinator conducted its NWA investigation and that ISO-NE had not modified its view of the need for the Section 80 rebuild. Consequently, the Hearing Examiners denied the OPA's suspension request.

Briefs and Reply Briefs were filed by the OPA and the Trust jointly and by CMP on February 18, and 22, 2022.

In addition to the parties' arguments presented in the briefs, the Commission received approximately 346 public comments in March, April, and May 2022, generally opposing the Section 80 rebuild.

On April 6, 2022, the Staff issued an Examiners' Report recommending that the Commission grant CMP's request for a CPCN for the rebuild of Section 80.

On April 15, 2022, the OPA/Trust filed Exceptions urging the Commission to reject the recommendation of the Examiners' Report and therefore deny CMP's request for a CPCN at this time. CMP filed a letter stating that it took no exception to the Examiners' Report and urging the Commission to accept it as written.

IV. LEGAL STANDARD

With respect to transmission lines that are capable of operating at 69 kV or more, 35-A M.R.S. § 3132 generally requires a CPCN for the construction of a line or, as may be investigated by the Commission, the rebuild or relocation of an existing line. As part of its analysis, the Commission must "make specific findings with regard to the public need for the proposed transmission line." *Id.* § 3132(6). Further, "[i]f the commission finds that a public need exists, after considering whether the need can be reliably and more cost-effectively met using nontransmission alternatives,"¹⁷ it shall issue a CPCN for the transmission line. With respect to the public need, at a minimum the Commission must:

take into account economics, reliability, public health and safety, scenic, historic and recreational values, state renewable energy generation goals, the proximity of the proposed transmission line to inhabited dwellings and nontransmission alternatives to construction of the transmission line, including energy conservation, distributed generation or load management.

Id.

¹⁷ Nontransmission alternative is defined as "any of the following methods used individually or combined to reduce the need for construction of [the transmission line or project]: energy efficiency and conservation, load management, demand response or distributed generation." 35-A M.R.S. § 3131(4-B).

Chapter 330 of the Commission's Rules further specifies that a "public need" is established upon a determination that "ratepayers will benefit by the proposed transmission line." Ch. 330 § 9(B). Benefits are determined based upon the electrical need for the line, taking into account the statutory criteria cited above.¹⁸ Conversely, the Commission may deny a CPCN for a transmission line if it finds that the transmission line is reasonably likely to adversely affect any transmission and distribution utility or its customers. 35-A M.R.S. § 3132(6).

Finally, as an overarching consideration, in executing its duties, powers and regulatory functions, the Commission, while ensuring system reliability and resource adequacy, must facilitate Maine's achievement of the greenhouse gas emissions reduction levels set forth in 38 M.R.S. § 576-A. *Id.* § 103-A.

In considering whether to approve or disapprove all or portions of a proposed transmission line and associated infrastructure, the Commission must consider the results and recommendations of the NWA Coordinator's investigation. *Id.* § 3132(2-D). As part of its investigation, the NWA Coordinator must conduct benefit-cost analyses (BCA) to evaluate the cost-effectiveness of NWAs,¹⁹ make recommendations regarding NWAs, including the procurement of recommended NWAs in accordance with sections 3132-C, which governs the NWA investigation and recommendations, and 3132-D, which governs NWA procurement. *Id.* § 3132-C.²⁰ The NWA Coordinator must collaborate with the Trust, transmission and distribution utilities, and interested parties in performing these services. *Id.* § 1701(2-A). The utility must provide data requested by the OPA or the Trust to allow the NWA Coordinator, in conjunction with the Trust, to carry out its investigation and analysis. *Id.* § 3132-C(3).

¹⁸ Section 9(B) also explains that "[c]ost is an important consideration, but public need can be established for a proposed transmission line that is not the least cost alternative because aesthetic, environmental or other factors justify a reasonable cost increase."

¹⁹ NWA is defined as "a nontransmission alternative or an infrastructure, technology or application that defers or reduces the need for capital investment in the transmission and distribution system and addresses system reliability needs proposed to be met by the transmission or distribution system investment." 35-A M.R.S. § 3131(4-C).

²⁰ More specifically:

4. Recommendations. On the basis of the investigation under subsection 1, the nonwires alternative coordinator shall develop and provide to the commission or to an investor-owned transmission and distribution utility, as appropriate, recommendations regarding cost-effective nonwires alternatives to the wires project, including a proposed plan for procurement of the recommended nonwires alternatives. The proposed procurement plan must be consistent with the provisions of section 3132-D.

Id. § 3132-C(4).

Ultimately, the Commission must make specific findings “with regard to the likelihood that nontransmission alternatives can sufficiently address the identified public need over the effective life of the transmission line more cost-effectively.” *Id.* § 3132(6). In this context, cost-effective means that “benefits exceed costs, as determined by [the] benefit-cost analysis conducted pursuant to section 3132-C, subsection 2.” *Id.* § 3131(8).²¹ The Commission must give preference to nontransmission alternatives that are more cost effective than the proposed transmission project. *Id.* § 3132(5).²²

V. POSITION OF THE PARTIES AND PUBLIC COMMENTS

A. Public Need

1. CMP's Position

CMP states that, in April 2020, it issued a planning assessment report identifying thermal overload violations on Section 80 under contingency conditions in the Midcoast

²¹ More specifically:

An investigation under subsection 1 must set forth the total projected costs and annual carrying costs of the wires project and the nonwires alternatives over the effective life of the wires project. The investigation must include a benefit-cost analysis that evaluates the cost-effectiveness of nonwires alternatives as compared to the wires project, under which:

- A. Benefits and costs are measured in net present value;
- B. Benefits reflect total, quantifiable avoided costs and are calculated from the perspective of the investor-owned transmission and distribution utility and ratepayers, including any deferral value; and
- C. Costs are calculated from the perspective of the investor-owned transmission and distribution utility. For a nonwires alternative, costs include the utility's cost of any contracts required to deliver the nonwires alternative but do not include any ratepayer contributions to the cost of the nonwires alternative.

Id. § 3132-C(2).

²² Further,

When the cost-effectiveness of the identified nontransmission alternatives are reasonably equal, the commission shall give preference to the alternatives that produce the lowest amount of local air emissions, including greenhouse gas emissions.

Id. § 3132(5).

area and that ISO-NE found similar reliability deficiencies in both its 2020 *Final Upper Maine (ME) 2029 Needs Assessment* and its 2021 *Upper Maine (UME) 2029 Solutions Study-Final* and that ISO-NE agreed with CMP's recommendation to upgrade Section 80, as the recommended solution, to mitigate the identified overload condition. CMP Br. at 4.

In its April 2020 filing for a CPCN, CMP explained that ISO-NE's *Final Upper Maine (ME) 2029 Needs Assessment* (dated March 2020), identified thermal and voltage violations for peak load conditions in CMP's Midcoast area under N-1 (single element outage) and N-1-1 (two elements out) conditions and that several contingency scenarios resulted in an overloading of 115 kV line Section 80, as well as low voltage violations. CMP Public Summary of its Apr. 3, 2020 Initial Filing, Midcoast Section 80 Review Report at 4 (Apr. 21, 2020). CMP stated that at peak load, following a loss of two of the major 115 kV lines, Section 80 is overloaded well above its long-term emergency (LTE) rating and that a rebuild of Section 80 would eliminate this potential overload condition as well as provide some additional voltage support in the Midcoast area. *Id.* at 11. CMP noted that ISO-NE determined that the thermal overload represented a regional time-sensitive need. Thus, ISO-NE determined that the costs of the Section 80 rebuild would qualify for regional cost allocation. *Id.*

CMP's filing also states that the need to rebuild Section 80 was identified well before Nordic Aquafarms expressed an interest in interconnecting with CMP's system, noting that this need was identified during the MPRP proceeding and all supplemental Midcoast analyses conducted in this docket. Initial Filing of Information by Central Maine Power Regarding Section 80 Rebuild at 4 (Apr. 3, 2020).

Additionally, CMP states that ISO-NE's Transmission Planning for The Clean Energy Future study, shared with the PAC in August 2021, also concluded that the upgrade to Section 80 was required. CMP R. Br. at 3.

CMP argues that it has demonstrated the need to rebuild Section 80 and that the reliability criteria violations on Section 80 have been well documented over the course of many years. *Id.* at 2. CMP asserts that collectively these reliability studies demonstrate the need for a solution to the overloading of Section 80 under multiple contingency scenarios and that the need exists today. CMP explains that this is true with or without the addition of new Nordic Aquafarms' load. *Id.* at 2, 5. See also CMP Initial Filing, Attachment 1, CMP Midcoast Section 80 Review Report Revision 1 Redacted at 18 (Apr. 16, 2020).²³

²³ ...With or without the 21.3 [megawatt] MW "New Load" addition, Section 80 was shown overloaded for combinations of Voltage violations also were observed. The rebuilding of Section 80 not only eliminated the overload of Section 80, but also made significant improvements to the low voltage violations reported in the cases with existing Section 80 modeling....

Finally, CMP argues that these reliability studies also demonstrate that a rebuild of Section 80 mitigates the overload and causes no significant adverse condition to the underlying sub-transmission system. CMP R. Br. at 5.

As noted above, CMP's Exceptions supported the Examiners' Report as written.

2. OPA/Trust's Position

The OPA/Trust argue that the Commission should reject CMP's request for a CPCN for the Section 80 rebuild because the request is premature and fails to adequately demonstrate the need for the line. OPA/Trust Br. at 1; see *also* OPA/Trust Exceptions at 1. Instead, they urge the Commission to direct CMP to implement the proposed NWA. OPA/Trust R. Br. at 1.

The OPA/Trust argue that CMP's initial petition asserted that the rebuild was a necessary reliability upgrade because of voltage concerns during summer peak conditions due to the interconnection request of Nordic Aquafarms and that the proposed NWA meets this identified reliability need. *Id.* at 1-3; see *also* OPA/Trust Exceptions at 11. They further assert that if CMP now wishes to justify the need for the rebuild based on sub-transmission contingencies and winter peak loading conditions, CMP must present updated analyses demonstrating that reliability need. OPA/Trust R. Br. at 2.

The OPA/Trust state that the NWA Coordinator recommends the proposed NWA as an interim, flexible solution that meets near term reliability needs, including needs associated with Nordic Aquafarms' load as it comes online.²⁴ OPA/Trust Br. at 5. They assert that the influx of distributed energy resources (DERs) anticipated to come online is projected to alleviate the future need for additional investment to meet updated new load requirements. *Id.* at 5-6. They further assert that if it is later determined that Section 80 needs to be rebuilt as a long-term solution, the equipment purchased for the NWA can be redeployed elsewhere to avoid underutilization of this equipment. *Id.* at 6.

The OPA/Trust also argue that CMP has not demonstrated an immediate need for the Section 80 Rebuild asserting that:

The most recent Maine Needs Assessment analyses relies on data from ISO-NE's draft 2019 Capacity, Energy, Loads and Transmission (CELT) Report. Since ISO-NE issued its draft 2019 CELT Report, there have been changes in conditions, subject to further review, which may warrant an update to the identified system needs that the Section 80 Rebuild Project addresses. These conditions include:

²⁴ Nordic Aquafarms is expected to come online in two phases.

- 1) Rapid increases in Midcoast area Distributed Energy Resources (DER), including the Commission awarded contracts for a combined 106 MW of new capacity;
- 2) Changing summer peak data due to greater photovoltaic (PV) adoption;
- 3) A new annual CELT Report incorporating updated forecasts.

Taken together, along with the litigation delay to the construction of the [Nordic Aquafarms] facility, these show that better data will be available to assure there is actual need for the Section 80 Rebuild before new load materializes.

Id. at 13-14 (*internal footnote omitted*); see also OPA/Trust Exceptions at 8-9.

In their Exceptions, the OPA/Trust assert that the factual record could be updated by a Commission request to ISO-NE to complete a thorough analysis of updated Midcoast area information. OPA/Trust Exceptions at 9. The OPA/Trust also state:

It is not clear whether CMP assessed replacing individual components versus a rebuild of the entire line when initially proposing the Section 80 Rebuild Project or whether a complete rebuild was ever needed to support load growth. Should the new industrial load not materialize as projected, the justification for the rebuild will have disappeared.

OPA/Trust Br. at 14.

3. GridSolar's Position

GridSolar argues that grid planning and facility upgrades to address grid reliability issues are often analyzed in the context of uncertainty but asserts that the uncertainties impacting grid reliability in this area regarding potential new industrial load, interconnecting solar projects, beneficial electrification, and the development of offshore wind are more significant than perhaps have been in the past and support the deferral of major transmission investment at this time. GridSolar Response to Final NWA Report at 4-6. GridSolar notes studies that ISO-NE is undertaking related to the region's future grid that incorporate major increases in loads by 2040 and asserts that these studies will likely highlight major grid reliability issues through the region at these higher load levels. *Id.* at 5. GridSolar believes it would be prudent to delay any final decision in this case until the initial results of these studies are complete, which according to GridSolar should be in the next year or two. *Id.*

4. Public Comments

The vast majority of commentors expressed opposition to Nordic Aquafarms itself and opposed the Section 80 rebuild based upon the belief that the purpose of the rebuild is to enable Nordic Aquafarms to take electric service. Commentors generally opposed Nordic Aquafarms due to its environmental and scenic impacts. In addition, commentors expressed serious concerns regarding the \$63 million cost of the proposed rebuild that would be paid for by ratepayers, viewing such cost recovery from ratepayers as a subsidy to a private corporation.

B. Proposed Reliability Solutions

1. CMP's Position

CMP contends that a rebuild of Section 80 will satisfy all reliability criteria. However, with respect to the proposed NWA, CMP argues that it does not meet minimum reliability standards. Thus, it is not a viable alternative and the required system reinforcements needed to make it viable would increase the price of the NWA to the point where it is not cost effective compared to the rebuild. CMP identifies its specific concerns as omissions of: (i) a study of the impact of the proposed NWA on the underlying sub-transmission, or 34.5 kV, system, (ii) a study of winter peak loading conditions (without solar), and (iii) generation unavailability scenarios. CMP Br. at 5. CMP states that it communicated these concerns and discussed them with the OPA and NWA Coordinator on multiple occasions; however, consensus about their inclusion could not be reached. *Id.* CMP urges the Commission to find that the regionally funded Section 80 rebuild is the most cost-effective solution to mitigate reliability needs in the area and grant a CPCN for the rebuild. CMP R. Br. at 11.

a. Impact on Sub-transmission System

CMP states that it first reviewed the criteria used to identify the overload on Section 80 with the OPA and the NWA Coordinator and that once the NWA Coordinator proposed a NWA that relied on significant modifications to the underlying 34.5 kV system, CMP stressed the need to assess the impact on the sub-transmission system against local transmission planning criteria to determine if there would be any inadvertent adverse impacts on the system caused by the NWA. CMP Response to Final NWA Report at 9.

CMP argues that while regional criteria drove the initial reliability need, any proposed solution must also include a comprehensive analysis that assures that the solution does not otherwise adversely impact either the surrounding local or regional power system. CMP Br. at 6. Therefore, CMP asserts, any proposed solution that is not a direct in-kind replacement, such as the proposed NWA, must consider both regional and local criteria. *Id.* CMP found that the proposed NWA significantly and adversely

impacted the reliability of the underlying sub-transmission system. Specifically, certain contingency scenarios resulted in both thermal overloads and voltage collapse, having the potential to cause not only damage to equipment, but loss of customer load for sustained periods of time. *Id.*

CMP asserts that the testing of alternatives to determine if there are any adverse impacts to the rest of the system is consistent with ISO-NE and CMP requirements and is fundamentally a required utility practice. CMP R. Br. at 8. CMP notes that ISO-NE requires Proposed Plan Application (PPA) studies, which must accompany all proposed transmission projects identified as necessary to address a reliability need, to determine if any addition or change to the New England transmission system has a significant adverse effect on stability, reliability, or operating characteristics of the PTF or non-PTF transmission system. *Id.* (citing Section I.3.9 of the OATT).

b. Winter Peak

CMP also argues that any alternative to rebuilding Section 80 should be tested to ensure that it remains a viable alternative during winter peak load conditions (i.e., without the benefit of solar to offset system load.). CMP Response to Final NWA Report at 17. CMP states that ISO-NE was able to identify needs and solutions with the summer peak cases, but when a sub-transmission based solution, such as the proposed NWA, includes future solar DER, CMP must consider the reliability needs and impacts on the local system because that would not be covered by a higher-level regional assessment. *Id.* at 17-18.

CMP concludes that testing alternatives on a winter peak case when a solution relies heavily on solar generation is consistent with the North American Electric Reliability Corporation (NERC) standards that do not specify winter or summer, but simply “peak.” CMP R. Br. at 6. As further support, CMP points out that ISO-NE’s Technical Planning Guide states that “[during Winter season, peak conditions are expected after sunset, and hence no solar PV [. . .] will be modeled for Winter Peak Load cases.” CMP Response to Final NWA Report at 8, 17; CMP R. Br. at 6.

ISO-NE’s Technical Planning Guide further states that for transmission Needs Assessments, Solutions Studies, and Competitive Transmission Request for Proposals (RFPs), all solar PV will be modeled for the highest net load of three evening scenarios. *Id.* at 6-7. CMP states that the Technical Planning Guide, revised to incorporate summer evening peak study requirements in September 2021 and shared with the OPA and the NWA Coordinator at that time, further explains the need to perform multiple sensitivities when considering the impacts of solar penetration:

By choosing the highest of the three net loads, studies will examine the most severe condition while accommodating variations in PV penetration. In study areas with uneven levels of PV penetration, more than one of these combinations may be used to fully evaluate the worst-case conditions for each portion of the study area. In addition, in study areas or

portions of study areas with significant amounts of market-facing PV connected directly to the transmission system, the most severe conditions may be driven by low levels of transmission-connected PV rather than only distribution-connected and behind-the-meter PV. These situations will be evaluated on a case-by-case basis, and the transmission-connected PV may be included in the total PV in the study area when choosing one of these three Summer Evening Peak Load conditions.

Id. at 7 (*internal footnote omitted*).

CMP stresses that the winter peak demand in the Midcoast area is becoming one of the primary drivers of reliability needs, as a result of winter loading and the limited benefit of solar DER. CMP Response to Final NWA Report at 7, CMP Br. at 7. CMP confirmed that Section 80 would overload during winter peak under specific contingency conditions and therefore, additional solar generation would not eliminate the need to rebuild the line. *Id.* at 7-8.

CMP further asserts that based on Warren Meadow Solar's Comments, it is reasonable to conclude that the solar energy needed to meet system peaks in the Midcoast area would be unavailable during certain hours of the evening, which further supports the recent revisions to the ISO-NE Technical Planning Guide that incorporate summer evening peak analyses and multiple solar output assumptions. CMP R. Br. at 7.

c. Generator Unavailability

Moreover, CMP argues that the proposed NWA relies on the availability of specific existing and future generation, future diesel mobile generators, and future solar facilities, without appropriate analyses to support these assumptions (i.e., in accordance with planning criteria and evidenced by study results). CMP Br. at 8. CMP argues:

NWA Option 3 models the largest area generator in-service in all cases, which is inappropriate as it causes the Mid-coast Area to be dependent on a single generator that may be unavailable when needed. This further has the potential to elevate a specific unit to a must-run status. DNV explained that it expected the supporting unit to be operational during contingencies, due to past performance. This is problematic because it is not consistent with Transmission Planning criteria. Simply because a large or critical area generator is expected to be operational does not justify an assumption that it will be available when needed under critical system condition scenarios.

Id. (*internal footnotes omitted*).

According to CMP, planning criteria requires that single transmission elements such as a line, transformer, or generator be removed from service during an

assessment via the contingency analysis, and scenarios are run whereby an area unit is modeled offline in a base case to appropriately stress the system and to avoid “reliability-must-run” requirements and associated costs. CMP Response to Final NWA Report at 18.

Testing alternatives to ensure that there is no undue reliance on a single generator is consistent with CMP’s Planning Criteria, which states that “[t]o qualify a need under the ISO-NE ‘Needs Assessment’ and ‘Solution Study,’ a probabilistic method is used to determine if any generation should be modeled offline or output reduced. *Id.* For CMP’s local transmission system analysis, per its Commission approved “safe harbor” planning standards, only one unit may be modeled offline to show the need for system improvements. *Id.* See also CMP R. Br. at 7-8.

CMP also asserts that its criteria is consistent with ISO-NE’s Technical Planning Guide, which states:

[w]hen considering generation unavailable in the study base cases, the transmission planner will identify non-renewable generators that will be considered unavailable in the study area, study area & adjacent area, and receiving end of the system stress, while honoring the [MW unavailable threshold] MWUT for each of the groups. Planners will also consider all single generator unavailable dispatches to be acceptable.

Id. at 8. (*internal footnote omitted*).

2. Warren Solar’s Position

Warren Solar explains that solar energy facilities interconnected with transmission facilities in the Midcoast area may be insufficient to meet the peak load of electricity consumers served by the Section 80 transmission line. Warren Solar Response to Final NWA Report at 1. Warren Solar provided an Energy Yield Assessment that includes hourly generation based on a Typical Metrological Year (TMY). Warren Solar notes that Maine’s historic peak load of 1,942 MW occurred in 2020. *Id.* However, data published in January 2022 by ISO-NE shows that the historical peak load was exceeded 11 times in the summer of 2021. *Id.* at 1-2. Warren Solar explains that unlike the rest of New England, which reached its historic peak load in 2010-11, Maine continues to record higher peak loads. *Id.* at 3.

Warren Solar compares its Energy Yield Assessment data to the 2021 historic peak load for Maine. It concludes that while solar energy will lower demand/peak load to some extent, there will be hours in the late afternoon and evening that will receive limited benefit. Warren Solar cautions that to rely on solar generation to serve peak-demand, the Commission should consider to what extent it meets evening peak demands in the later part of the New England summer period, which is generally defined as June, July, August and September. *Id.* at 6.

3. GridSolar's Position

GridSolar raises both specific critiques of the Final NWA Report as well as general considerations regarding the risks of addressing this specific reliability concern given the high level of uncertainty in the region related to: potential new industrial load, interconnecting solar projects, beneficial electrification, and the development of offshore wind. GridSolar Response to Final NWA Report at 4-6.

GridSolar identifies four specific concerns. First, it notes that under the N-1-1 contingency condition, it does not seem possible for solar facilities upstream of the Highland Substation to provide any load relief. *Id.* at 2-3. Second, GridSolar notes that the Final NWA Report insufficiently addresses the Highland Substation Bus Fault contingency. *Id.* at 3. Third, GridSolar raises concerns about the lack of details concerning grid operations of the nonwires solution, specifically how the proposed NWA would be implemented because the Final NWA Report did not include a procurement of these resources. *Id.* at 3-4.²⁵ Lacking from the operational detail, GridSolar argues, is a definition of how the NWA Coordinator will monitor real-time loads on Section 80 so that as loads approach the Critical Load Level, active NWA resources are dispatched according to an algorithm to ensure that Section 80 does not become overloaded in the event of a second contingency. *Id.* at 4.

GridSolar also asserts that the NWA Report fails to include any Critical Load Levels for any transmission system component that fails to meet reliability conditions under N-1-1 conditions. *Id.* Finally, GridSolar notes that the NWA Report did not analyze whether the new 115/34.5 kV transformer could be avoided through additional NWA capacity. *Id.* Even though GridSolar takes issue with the proposed NWA, GridSolar concludes that any decision regarding the Midcoast area be deferred until a full analysis can be done to model the future, more modernized, grid. *Id.* at 6.

4. OPA/Trust's Position

The OPA/Trust do not disagree that a rebuild of Section 80 would solve the reliability need. However, the OPA/Trust argue that the Commission should deny CMP's CPCN request, and direct CMP to implement the proposed NWA. OPA/Trust R. Br. at 1, *see also* OPA/Trust Exceptions at 1 (urging the Commission to deny the CPCN request at this time). The OPA/Trust assert that CMP identified the need for the rebuild as a reliability upgrade due to voltage concerns during summer peak conditions and that the proposed NWA meets this identified reliability need. OPA/Trust R. Br. at 3, *see also* OPA/Trust Exceptions at 11. The OPA/Trust also argue that CMP did not base its analysis of the need for Section 80 on conditions related to impacts on the underlying system, winter peak load and generator unavailability and that CMP inappropriately

²⁵ As noted above, Section 3132-C provides that the NWA Coordinator shall provide to the Commission recommendations regarding cost-effective NWA to the wires project, including a proposed plan for the procurement of its recommended NWA.

attempts to shift the burden to address such needs onto the NWA Coordinator. OPA/Trust R. Br. at 3-4.

a. Impact on Sub-Transmission System

The OPA/Trust state that CMP's April 2020 analysis supporting the need for the Section 80 Rebuild included only regional planning criteria and that CMP must provide to OPA/Trust the appropriate standards, cases, and scenarios in the event that CMP maintains that the NWA analysis should expand to include local planning criteria and contingencies outside the bulk transmission system. *Id.* at 4. The OPA/Trust also argue that this is particularly necessary where the NWA Section 80 Report points out that there is uncertainty as to whether sub-transmission concerns are actual or the result of inaccurate modeling. *Id.* The OPA/Trust assert that there is a built-in bias by utilities toward transmission investment, due to higher authorized earnings on transmission, which constitute a pass-through in retail rates. They argue that if sub-transmission systems do not receive adequate investment, the solution is to increase sub-transmission system investment, not to overinvest in transmission solutions to solve sub-transmission problems. *Id.*

They also argue that they did review the potential for sub-transmission impacts in the Final NWA Report. They state that the NWA Coordinator found that to avoid upgrading sub-transmission lines to accommodate the proposed NWA, an additional 8 megawatts (MW) of resources would be required to mitigate the impacts to these sections.²⁶ OPA/Trust Br. at 12; see also OPA/Trust Exceptions at 7-8. The OPA/Trust assert that the additional 200 MWs of DERs currently identified in ISO-NE's and CMP's interconnection queues as pursuing interconnection will eliminate the need to procure additional NWA resources under known circumstances. *Id.*

b. Winter Peak

With respect to winter peaking, the OPA/Trust assert that NWAs do consider uncertainties in load growth and resource availability and that the proposed NWA incorporates more resources than necessary to provide additional capacity in case load grows faster than expected. OPA/Trust R. Br. at 5. The OPA/Trust maintain that for resource availability, it is reasonable to procure additional resources for an NWA when its operations and availability are uncertain and a reasonable amount of margin for unanticipated growth is already included in the NWA. *Id.* The OPA/Trust argue that CMP has failed to document the need for resources beyond the incorporated margins. *Id.*

²⁶ CMP does not support the NWA Coordinator's conclusion on this point and argues that the NWA Coordinator tested the NWA against an incomplete subset of contingencies that were the drivers for the Section 80 need. See CMP Response to Final NWA Report at 17.

The OPA/Trust further assert that the NWA Coordinator incorporated ISO-NE winter solar standards into the analysis and that additional impacts from potential winter peaking remain unquantified. *Id.* The OPA/Trust also contend that it is not known if CMP used the full contracted summer load profile of industrial customers in its winter peaking projections or if CMP used summer line ratings in its analysis of winter peaking scenarios; both of which can affect modeling results, creating the appearance of a winter system need where none may, in fact, exist. *Id.* at 5-6. These factual discrepancies, the OPA/Trust argue, should be resolved before being relied upon in support of the Section 80 rebuild. *Id.* at 6.

In their Exceptions, the OPA/Trust agreed that it is sensible and consistent with NERC planning criteria to perform a winter peak assessment to thoroughly test the viability of a potential solution. OPA/Trust Exceptions at 6. They elaborate:

However, the record is clear, and the Examiners' Report confirms, that neither CMP's April 2020 Section 80 Review nor the ISO-NE's UME 2029 Needs Assessment included any analyses under winter peak conditions. Therefore, no winter peak system need for the Section 80 Rebuild has been demonstrated. It is not possible for an NWA to meet an unidentified and unquantified "concern" regarding a winter peak. The performance that would be required of an NWA under winter peak conditions, *if any*, is unknown. It is not known if the Section 80 Rebuild will meet this concern either, as the concern remains unquantified. Therefore, to shift the burden of proof onto the NWA Option to meet a "concern" that has not identified reliability standard, no known length of time and no quantified reliability impact is unreasonable.

Id.

c. Generator Unavailability

The OPA/Trust also argue that regional transmission planning studies apply the contingencies of the loss of a Bulk Energy Supply (BES) element, N-1, followed by a loss of a second BES element, N-1-1 and there is no additional (3rd) contingency of the loss of a local generator. OPA/Trust R. Br. at 6. The OPA/Trust assert that the proposed NWA resolves the N-1-1 contingencies at summer peak with a known generator purchase power agreement and that use of mobile units occurs on an as-needed basis as one of the NWA resources to support the system during an N-1-1 contingency. *Id.* The OPA/Trust maintain that CMP would have control of the mobile units' operation, would be able to manage their deployment, and that if CMP's local planning standards incorporate additional criteria or any different assumptions for generator availability, CMP must document and provide support for incorporating these considerations into its modeling assumptions. *Id.* OPA/Trust further assert that CMP must identify which generator it assumes is unavailable and why that generator is the appropriate choice. Because CMP did not do so in its justification of the need for Section 80 it is inappropriate to impose this burden on the NWA Coordinator. *Id.*

C. Benefit-Cost Analysis

1. OPA/Trust's Position

The OPA/Trust assert that the NWA Coordinator followed standard industry practice in identifying the costs and quantifying the benefits of an NWA, stating that to be consistent with similar analysis in Maine, the NWA BCA incorporates the Trust's methodologies and assumptions used in its Triennial Plan including use of the utility's post-tax weighted average cost of capital (WACC) for transmission or distribution infrastructure and the Trust's discount rate. OPA/Trust Br. at 7.

The OPA/Trust state that the costs of the Section 80 NWA include the equipment and construction costs of infrastructure components identified in the Final NWA Report, new operations technology; costs for demand reduction; and rental costs for standby mobile diesel generators used as a backup, if needed. *Id.* at 7-8. They further state that the benefits of the NWA include avoided transmission and distribution capacity infrastructure costs for the proposed rebuild (based on a full rebuild). *Id.* at 8. They also note that, as required by statute, all benefits and costs are measured in Net Present Values (NPV) to calculate the benefit cost ratio. *Id.* The BCA considers the total revenue requirement of each in front of the meter project component based on the component's in-service date, asset class, and utility-specific financial and accounting assumptions. *Id.* The BCA tool calculates the annual revenue requirements over the lifetime of the project for each component (benefit and cost) prior to calculating the NPV of benefits and costs. *Id.*

The OPA/Trust further state that the BCA is based on replacing a complete rebuild of Section 80 as proposed by CMP. The BCA assumes maintenance of Section 80 is built into the avoided operation expenditures of the proposed rebuild. *Id.* The BCA assumes an entire rebuild, not any partial rebuild/maintenance scenario.

The OPA/Trust state that the BCA is based on avoiding a complete rebuild of Section 80, and because the rebuild is avoided, the associated deferral value is equivalent to the avoided cost of transmission and distribution infrastructure (Maine's share of the cost the Section 80 rebuild). *Id.* at 8-9. OPA/Trust also state that benefits and costs are calculated for the assumed useful life of the Section 80 wires option, which the NWA Coordinator assumed to be 36 years. *Id.* at 10. They further stated that the Section 80 rebuild avoided costs were updated to reflect CMP's 8-9% load share of regional costs and that the total NPV benefit of the NWA is \$7,162,402; the total lifetime cost (Maine ratepayer contribution) is \$7,090,534. Thus, the Benefit-Cost Ratio is 1.01, and provides positive benefits. *Id.*

The OPA/Trust also note that CMP raised a concern that the asset condition of Section 80 required a rebuild and argue that CMP has not filed an asset condition report in the docket. *Id.* at 3.

2. CMP's Position

CMP argues that the BCA does not consider the complete impact of the proposed NWA and if the appropriate corrections were made, the BCA result would be far below 1.0. CMP R. Br. at 9. CMP asserts that there are critical flaws in the OPA's BCA. CMP Br. at 9. In summary, points of disagreement regarding the BCA include:

- Discount Rate –Use pre-tax WACC / both on the benefits and costs side of the ledger for multiple items.
- Deferral Value: Section 80 rebuild could potentially be deferred for up to twenty (20) years.
- Property Tax Savings: Property tax expenses are already included in the calculations of the avoided cost of the Section 80 rebuild, item one (1) in DNV's listed benefits, and should not have its own line item.
- Rebuild of Section 4 and Section 24 –Not all costs have been included in the NWA.
- Operation and Maintenance (O&M) of the Section 80 Line: These costs should be included as costs for the NWA as continued operation of Section 80 is required.
- Asset Condition Considerations of Section 80: Keeping the 70-year-old Section 80 in service as is, the likely increasing repair costs should be considered in the BCA.
- Costs Associated with closing normally open switch at Unity S/S –Some amount of cost for the required modification to the line sections' system protection should be included in the NWA.

CMP Response to Final NWA Report at 20-24.

CMP emphasizes two points that have the largest impact on the BCA. First, CMP argues that the *total costs* of the projects compared must be included in the BCA. CMP R. Br. at 9. CMP argues that any upgrade costs that are required to make the NWA viable, which would not otherwise be needed, must be included in the BCA as a cost component to the NWA. *Id.* at 9-10. CMP asserts that significant additional upgrades would be needed to make the proposed NWA viable, and that these upgrades were not included in the BCA. CMP explains that:

as discussed in CMP's filed response to the OPA's Section 80 NWA report on page 22, CMP identified that under contingency conditions, there would be serious reliability concerns that, at a minimum, would require a full rebuild of both Section 4 and Section 24, at an approximate cost of \$12.7M and \$62.8M, respectively (+200/-50% accuracy). Since the overload condition leading to requiring upgrades to Sections 4 and 24

would not exist absent consideration of NWA Option 3, a BCA that does not include these costs is incomplete and misleading.

Id. at 10. Thus, CMP cautions against reliance on the BCA as it could lead to a decision that would trigger millions of dollars of additional required upgrade costs. *Id.*

Second, CMP also argues that the BCA mischaracterizes the benefit of the NWA by suggesting a full avoidance of the Section 80 rebuild instead of a deferral of the rebuild for some period of time:

Since the NWA Option 3 includes Section 80 in place and operational, a deferral rather than avoidance is appropriate for a BCA. As noted by CMP on page 21 of CMP's January 21, 2022 Response, based on an initial analysis, CMP recommended assuming a 20-year deferral of the Section 80 rebuild, with a benefit value to the Option 3 BCA of approximately \$4 million rather than the \$5.1 million in DNV's analysis. Also, the significant costs associated with the sub-transmission upgrades that would also be required to make the NWA Option 3 viable (e.g. rebuild of both Section 4 and 24) have been omitted and are estimated to exceed \$70 million. CMP also believes that a comprehensive assessment may find even more upgrades needed. All of these additional costs would need to be included in the BCA in order for it to be considered complete. As explained on page 24 of the CMP January 21st Response, CMP has concluded that the BCA ratio for NWA Option 3 is far below 1.0.

CMP Br. at 9 (*internal footnotes omitted*).

CMP argues that the proposed NWA relies on Section 80 remaining in service at its current rating as a component of the proposed NWA and therefore while the NWA may avoid the immediate rebuild of Section 80, it does not avoid the eventual rebuild of the line which will be required at some point in the future as the asset approaches its end of life. CMP R. Br. at 10. CMP further asserts that the standard industry practice for accounting for the benefit in the case where a rebuild is deferred rather than avoided is to use a deferral value. *Id.* at 10-11.

Other parties did not comment on the BCA.

VI. DISCUSSION AND DECISION

A. Public Need for the Section 80 Rebuild

The Commission's determination of the public need for Section 80 is informed by the ISO-NE processes and needs assessments. There is no dispute that reliability criteria violations exist on Section 80.

The OPA/Trust's Final NWA Report repeatedly states that the main driver for the rebuild is to avoid reliability violations under contingency conditions. Final NWA Report at 1, 2, 4, 11 and 20. In its report, the NWA Coordinator states that the NWA is proposed to tackle the reliability violations under selected contingency conditions and that the NWA meets the need during contingency conditions occurring in Phase 1 of Nordic Aquafarms' operation and includes support from additional capacity and/or DERs in the ISO-NE and CMP interconnection queues to meet the needs during Phase 2. *Id.* at 11-12. The report further states that the proposed NWA is an interim solution, which meets near term reliability needs and that the influx of DERs anticipated to come online will likely alleviate the future need for additional investment to meet updated Nordic Aquafarms' requirements. *Id.* at 20. In addition, as noted above, the OPA/Trust assert that the proposed NWA meets the identified reliability need. In their briefs, however, the OPA/Trust argue that the rebuild request is premature and fails to adequately demonstrate the need for the line.

The Commission disagrees. As noted above, numerous reliability studies conducted over several years demonstrate the reliability criteria violations on Section 80 for various contingency combinations, including CMP's April 2020 planning assessment, ISO-NE's *Final Upper Maine (ME) 2029 Needs Assessment*, dated March 2020, and its *Upper Maine (UME) 2029 Solutions Study – Final*, dated June 2021.

Further, ISO-NE has confirmed the need again more recently. In light of the OPA's and Trust's requests to suspend the case schedule so that ISO-NE could confirm the need in light of recent changes in system conditions, ISO-NE recently confirmed the need for the Section 80 rebuild.

the way the process works is we are quite often going back and looking at changes in assumptions in area and doing our own internal analysis to see if there -- it would matter. In this case, we actually have done that and still see continued issues even with updated assumptions in this area. So, you know, typically we would not go back and run a full needs assessment when we can do a quick update and see that, you know, an issue still persists...let me wrap some words around that. So we -- if we were to go back through the formal needs assessment process, we're looking at probably not finishing that till -- to make up a date, let me say a year from now. Okay? So what we've done is we have gone through and taken our models updated to the new assumptions that we'll be applying to needs assessments going forward, and we still see the continued need to upgrade Section 80 with that updated assessment.

Tr. at 7-8 (Feb. 9, 2022 Conference of Counsel). ISO-NE further stated that it did not intend to perform additional analysis beyond this confirmation of the need. *Id.* at 8-10.²⁷

²⁷ In their Exceptions, the OPA/Trust state that ISO-NE offered to do a complete analysis upon request. OPA/Trust Exceptions at 10 (citing Tr. at 9-10 (Feb. 9, 2022 Conference of Counsel which states: MS. CHAMBERLIN [OPA]: My understanding was

The OPA/Trust take issue with ISO-NE's statements confirming the continued need for the rebuild and argue that:

ISO-NE based this speedy assessment on the same inaccurate and faulty CMP data at issue in this docket. Until this chain of incomplete data and investment bias is broken, ratepayers will continue to pay for transmission line overbuilds.

OPA/Trust Br. at 2.

The Commission understands the OPA's and the Trust's position that the proposed NWA will serve to, at least, defer the Section 80 rebuild. The Commission also notes the comments of GridSolar regarding uncertainties that may potentially impact grid reliability in this area. However, system conditions continually change. Thus, the data relied upon to identify system needs is continually at risk of becoming stale and outdated. At some point, however, the needs assessment process must conclude so that solutions can be identified and implemented. Here, ISO-NE has, as recently as February 2022, confirmed the need. The Commission also notes that neither the OPA nor its NWA Coordinator participated or offered comment in the ISO-NE Needs Assessment/Solutions Study process as it relates to Section 80.²⁸

The OPA/Trust argue more specifically that, should the new Nordic Aquafarms' load not materialize, Section 80 will not need to be rebuilt. The majority of commentors that recently filed public comments share this view and oppose the rebuild because the commentors are against the development of the Nordic Aquafarms project based on the belief that the rebuild is proposed to accommodate the electricity needs of Nordic Aquafarms. However, as discussed above, the need to resolve the reliability criteria violations on Section 80 was identified by both ISO-NE and CMP under an N-1-1 contingency. Under such a contingency scenario, the violations exist today regardless of the potential Nordic Aquafarms' load and therefore must be resolved.

Finally, CMP has not changed its rationale for the need for the upgrade. That need has been, and continues to be, based on the overload conditions, which have been well documented.²⁹ The OPA/Trust appear to conflate some of CMP's arguments.

that the ISO was going to leave the current configuration of Section 80 in place for the next round of the needs assessment to accurately determine whether it's truly needed...MR. OBERLIN [ISO-NE]: I would say that we would go through the full needs assessment process if we need to. Typically considering the order of magnitude of the overloads we're seeing, we would not be doing that. But if that's something that we need to do to support this process going forward, we will.").

²⁸ Tr. at 15-17 (Sept. 2, 2021 Case Conference).

²⁹ In their Exceptions the OPA/Trust state that CMP references in its Reply Brief 2013-2014 and 2015 studies to document the need for the Section 80 rebuild and that by stating that CMP has not changed its rationale regarding the need for the rebuild, the

CMP has not stated that the need for the rebuild is now based on impacts on the lower voltage system or winter peak issues. These issues arise because of the specific nature of the NWA proposed by the OPA.

For the reasons outlined above, the Commission finds, based on the record in this case, that there is a public need to address the reliability violations presented by Section 80.

B. Reliability Solutions

Having determined that a reliability need exists, the Commission must address how to resolve the need, including whether the need can be reliably and more cost-effectively met using an NWA. 35-A M.R.S. § 3132(6). If an NWA can resolve the need and is found to be more cost-effective, the Commission must give the NWA preference. Stated another way, first the Commission must find that the NWA would address the reliability need. Second, if it is a reliable solution, to approve the NWA, the Commission must find that the NWA is more cost-effective than the wires solution.

The Commission finds that the proposed rebuild of Section 80 did not trigger the need to perform an assessment of the lower voltage or underlying 34.5 kV sub-transmission system as the load flow of the proposed upgrade would remain on the Bulk Electric System and would not increase the load flow on the underlying system. In contrast, the proposed NWA relies on modifications to the underlying 34.5 kV system. As a result, when two of the three 115 kV lines are out, the energy is carried across the sub-transmission system to avoid the overload on Section 80. For this reason, it was appropriate for CMP to repeatedly stress the need to look at whether the proposed NWA would cause any adverse impacts on the lower voltage system.

That analysis revealed that certain contingency scenarios resulted in both thermal overloads and unresolved voltage cases, which could signal voltage collapse in the area. Specifically, CMP's N-1-1 analysis of the proposed NWA demonstrated the need to rebuild Sections 4 and 24, both 34.5 kV lines, to support the NWA although the OPA asserts that it did not find the need to rebuild both 34.5 kV lines. In addition, CMP's analysis found that rebuilding those lines alone would not address the unresolved voltage issue and that further analysis was necessary to determine the full scope of work needed to reliably close the 34.5 kV switch at Unity. CMP Report on Final NWA

Examiners' Report accepts this outdated rationale, ignoring the reality that the system has changed since these 2013-2015 studies took place. OPA/Trust Exceptions at 4. The Commission notes that these were referenced to provide some history of the thermal overload violations on Section 80 that have existed for many years and that the OPA/Trust did not cite to the subsequent studies relied on in the Examiners' Report: CMP's April 2020 planning assessment, ISO-NE's *Final Upper Maine (ME) 2029 Needs Assessment*, dated March 2020, and ISO-NE's *Upper Maine (UME) 2029 Solutions Study – Final*, dated June 2021.

Report at 15. GridSolar also argued that a multiple element contingency identified in the Final NWA Report had not been addressed by the NWA Coordinator.³⁰

It is incumbent upon the OPA (and in turn its NWA Coordinator) to ensure that its proposed NWA solution not only solves the need, but in doing so also meets the applicable transmission planning standards. Even if CMP did not identify for the OPA the specific scenarios to model to determine whether the NWA had any adverse impacts, the OPA and the NWA Coordinator had access to the relevant system data and have the expertise to model its preferred solution. The NWA Coordinator should have more completely studied the impact of its proposed NWA on the lower voltage system. Without this analysis, to potentially refute CMP's analysis on this point, the Commission cannot conclude that the proposed NWA satisfies all applicable reliability criteria and can meet the identified reliability need.

With respect to the winter peak issue, CMP maintains it is necessary to perform a winter peak case assessment on the proposed NWA, since the Midcoast Area's winter peak load has exceeded its summer peak load and solar PV generation will not be available and that this is consistent with NERC criteria, which require peak loading scenarios be considered regardless of which season(s) they occur. Both GridSolar and Warren Solar question the reliability benefit that the interconnecting solar will have on the Section 80 overload and GridSolar cautions that beneficial electrification, such as heat pumps and electric vehicle (EV) charging, will change historic load profiles in the area. The OPA/Trust counter that they cannot verify the values that CMP used in its analysis and the identified violations may not exist if modeled correctly.

It is sensible and consistent with NERC planning criteria to perform a winter peak assessment to thoroughly test the viability of a potential solution. The OPA/Trust agreed in their Exceptions and stated that the performance that would be required of an NWA under winter peak conditions based on this record is unknown. There is also significant evidence in the record that questions the adequacy of relying on DERs as proposed in the proposed NWA. Modeling winter loading likely will become more important given potential electric heating loads and when a proposed solution relies so heavily on solar generation for reliability as this proposed NWA does. With respect to the OPA/Trust's comment in their Exceptions that that no winter peak system need for the rebuild has been demonstrated, the OPA/Trust again appear to be conflating issues. The Examiners' Report found that it could not find that the NWA will be reliable at winter peak. The assertion that no winter peak need for the Section 80 rebuild has not been demonstrated is not relevant to the need for the rebuild, which is the summer peak N-1-1 thermal overload and any solution to resolve the N-1-1 thermal overload must also be able to meet all applicable reliability criteria.

³⁰ In their Exceptions, the OPA/Trust state that it is important to note that GridSolar does not have access to the confidential models used to analyze the contingency events and that the Final NWA Report does analyze N-1-1 contingencies. OPA/Trust Exceptions at 14.

In this case, there is significant disagreement regarding not only what cases should be modeled but also what values were used in the results. Given the level of disagreement and the uncertainty that has been raised by the parties, it is not possible to conclude that the proposed NWA affirmatively resolves the winter peak reliability concern.

Turning to the issue of generator unavailability, as CMP notes, certain criteria must be met when modeling a transmission solution. It is necessary to test the system under a series of cases to ensure the solution will be sufficient. Under the transmission planning standards, a probabilistic approach is used to determine the *amount* of generation that is available, and not necessarily whether specific generators are available. This sets the base case. Then, the utility performs contingency modeling to identify violations. Often, the utility will take the largest generator in the region out of service in the base case, which is consistent with the probabilistic approach so long as a certain amount of generation is available.

During the December 15, 2021 Technical Conference, the NWA Coordinator and the Trust confirmed that no scenarios were assessed that modeled the largest generator affecting the area out of service. Here, CMP found that taking a specific “critical” generator out of service may cause violations. The Commission finds that CMP’s methodology regarding generator unavailability is consistent with ISO-NE’s standards and CMP’s local planning standards. The NWA Coordinator acknowledged that it did not perform any analysis assuming that this critical generator is out of service. Complete reliance on the continued operation of a single generation unit introduces a significant level of risk. One way to mitigate this risk is via a contractual arrangement, such as a “reliability-must-run” contract. However, the NWA Coordinator did not consider this option. The Commission finds that the NWA analysis did not appropriately consider the possibility of a critical generation unit being out of service. Without this analysis, the Commission cannot determine that the proposed NWA satisfies all applicable reliability criteria.

There are significant areas of disagreement between CMP and the OPA/Trust regarding the proper criteria and data that should be used in developing a reliable solution to the identified need. During the December 15, 2021 Technical Conference, the OPA conceded that the two parties had “a difference of opinion about which standards apply”³¹ and the parties seem to be talking past each other in their Briefs and Exceptions with respect to the import or need of certain studies or analysis. The Section 80 rebuild has been vetted by the NWA Coordinator, the Commission Staff, and ISO-NE, with all parties concluding that the upgrade would resolve the identified reliability violations.³² Conversely, CMP, GridSolar, and Warren Solar have raised concerns that

³¹ Tr. at 24 (Dec 15, 2021 Technical Conference).

³² MS. DESAI [NWA Coordinator]: ...The proposed CMP solution does not result in voltage violations and contingency divergence issues with the Section 80 directly connected substations. CMP’s proposed solution does not result in reliability and

the nonwires analysis supporting the proposed NWA is insufficient to adequately ensure the solution would resolve the reliability violations.

Based on the record in this proceeding and for the reasons stated above, the Commission cannot find that the evidence supports a conclusion that the proposed NWA meets the applicable reliability criteria and can reliably meet the identified need. Therefore, the Commission concludes the rebuild of Section 80 is the appropriate solution.

C. Benefit-Cost Analysis

Having found that the rebuild of Section 80, rather than the proposed NWA provides the reliable solution to the need, the Commission could end its analysis here and not address the BCA. However, given the significance of this case and the fact that it is one of the early cases in which the Commission addresses the NWA process with the NWA Coordinator created in the OPA, the Commission does address the BCA at a high level.

With a benefit cost ratio of 1.01 as calculated by the OPA/Trust, the benefits only very slightly outweigh the costs, and would be roughly the same as Maine's share of the Section 80 rebuild. The rebuild qualifies for regional cost allocation. The NWA costs would not be allocated among the region. Thus, Maine ratepayers would bear the revenue requirements associated with the entire \$7.1 million lifetime cost.

Costs of the NWA reflected in the BCA include: **BEGIN CONFIDENTIAL PO 1.**

- [REDACTED]
 - [REDACTED]
 - [REDACTED]
- END CONFIDENTIAL.**

- Rental costs for standby mobile diesel generators used as a backup during contingency events for years 2024-2027, determined by the calculated NWA MW need in each year.

Benefits of the NWA reflected in the BCA include:

voltage violations and contingency divergence issues within the larger Midcoast area. Tr. at 12 (Dec. 4, 2020 Technical Conference).

- Avoided transmission and distribution capacity infrastructure for the proposed Section 80 Rebuild Project, provided by CMP based on a full rebuild in service by 2022.
- Avoided costs associated with reduced O&M and property taxes from Section 80 decommissioning.
- Avoided future decommissioning costs for Section 80.

Final NWA Report 17-18.

The Commission concludes that additional investments would likely be needed to address the remaining violations on the local system described in Section V(B). In this instance, the difference in the net present value of the rebuild versus the NWA is so slight that virtually any additional cost assigned to the NWA would make the rebuild of Section 80 the more cost-effective solution.

Additionally, the BCA includes the full avoided cost of a Section 80 rebuild and the OPA states that CMP did not provide the asset condition report to support the future need to replace it based on age or condition. However, the proposed NWA relies on the continued operation of Section 80. Thus, the analysis should have treated Section 80 as a deferral with some amount of cost for a future rebuild at its existing capacity at some point during the study period.³³ In addition, the age and condition of Section 80 is not driving the need to upgrade Section 80. CMP simply states that Section 80 has been operational for decades and, for it to continue to provide safe and reliable service, the line will need to be rebuilt at some point within the benefit-cost study period.

Given the significance of the issues described above, there is no need to address the other issues related to the BCA. Based on the record in this case, and for the reasons outlined above, the Commission cannot find that the proposed NWA will more cost-effectively meet the identified reliability need.

VII. OTHER ISSUES RAISED IN PUBLIC COMMENTS

As discussed above, nearly all of the public comments filed recently oppose the rebuild because the commentors oppose the Nordic Aquafarms project and appear to believe that the rebuild is proposed solely to accommodate Nordic Aquafarms. However, the need to resolve the reliability criteria violations on Section 80 have been identified by both ISO-NE and CMP under an N-1-1 contingency. Under such a

³³ The Commission notes that the BCA's full avoided cost treatment of the rebuild appears inconsistent with how the NWA Coordinator expected this would be treated during one of the technical conferences. The NWA Coordinator indicated that the BCA framework they had been looking at included a deferral value noting that if the rebuild of Section 80 was going to be deferred a couple years that would be taken into consideration and they wouldn't necessarily be comparing the cost of the NWA to the full cost of the wires solution. Tr. at 23-24 (Dec. 4, 2020 Case/Technical Conference).

contingency scenario, the violations exist today regardless of the potential Nordic Aquafarms' load and therefore must be resolved.

Many of the commentors also suggest that CMP ratepayers should not pay to connect Nordic Aquafarms to CMP's system. For clarity, interconnecting customers are responsible for paying for the costs of connecting to the utility's system (e.g. customers pay for service drops). That cost is not part of the regionalized cost of rebuilding Section 80. Further, utilities are prohibited from unfairly discriminating between customers, and do not simply pick and choose the customers that they will serve. 35-A M.R.S. § 702. The Commission itself generally has no role in deciding whether a particular customer should be allowed to interconnect to the transmission and distribution system, so long as that customer can be connected safely and reliably. Finally, commentors should understand that both the Section 80 rebuild and the proposed NWA would accommodate the potential load associated with Nordic Aquafarms. The Commission also notes that in their Exceptions, the OPA/Trust acknowledged that much of the relief sought in the public comments is beyond the Commission's jurisdiction in this proceeding. OPA/Trust Exceptions at 3.

VIII. CONCLUSION AND ORDERS

For the reasons discussed above, the Commission finds that the need for CMP's proposed rebuild of Section 80 exists and that it cannot be reliably and more cost-effectively met using the NWA that has been proposed in this proceeding. Therefore, the Commission grants CMP's request for a CPCN to rebuild Section 80. At the same time, the Commission emphasizes the importance of exploring cost-effective alternatives to transmission projects and notes that the new integrated grid planning process for Maine's largest utilities enacted as part of P.L. 2021, ch. 702³⁴ may provide an opportunity to improve or strengthen the NWA investigation process going forward.

³⁴ An Act Regarding Utility Accountability and Grid Planning for Maine's Clean Energy Future was signed by the Governor on May 2, 2022. P.L. 2021, ch. 702.

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S. § 9061 requires the Public Utilities Commission to give each party at the conclusion of an adjudicatory proceeding written notice of the party's rights to seek review of or to appeal the Commission's decision. The methods of review or appeal of Commission decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 11(D) of the Commission's Rules of Practice and Procedure (65-407 C.M.R. ch. 110) within **20** days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought. Any petition not granted within **20** days from the date of filing is denied.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21** days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S. § 1320(5).

Pursuant to 5 M.R.S. § 8058 and 35-A M.R.S. § 1320(6), review of Commission Rules is subject to the jurisdiction of the Superior Court.

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.