

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

Emera Maine, formerly known as Bangor)	
Hydro-Electric Company, et al.,)	
)	Case No. 15-1139
Petitioners,)	
)	Consolidated with Case
v.)	No. 15-1141
)	
Federal Energy Regulatory Commission)	
Respondent.)	

**Non-Binding Statement of Issues of
the New England States Committee on Electricity, Inc.,
the Connecticut Department of Energy and Environmental Protection,
the Connecticut Public Utilities Regulatory Authority,
the Department of Public Utilities of the Commonwealth of Massachusetts,
the Rhode Island Public Utilities Commission,
the State of New Hampshire Public Utilities Commission, and
the Vermont Public Service Department**

Pursuant to the Court’s May 15, 2015 order in Case No. 15-1141,
Petitioners in Case No. 15-1141, the New England States Committee on
Electricity, Inc., the Commissioner of the Connecticut Department of Energy and
Environmental Protection, the Connecticut Public Utilities Regulatory Authority,
the Department of Public Utilities of the Commonwealth of Massachusetts, the
Rhode Island Public Utilities Commission, the State of New Hampshire Public
Utilities Commission, and the Vermont Public Service Department, hereby submit

the following non-binding statement of issues in the above-captioned case:¹

1. Whether the Federal Energy Regulatory Commission (“FERC”)’s orders are arbitrary and capricious, or not otherwise in accordance with law in that they unlawfully depart from and, without an opportunity for notice and comment, expand the scope of FERC’s Order No. 1000,² by requiring the selection of public policy-driven projects in the region-wide transmission plan, rather than solely the establishment of procedures to consider (*i.e.*, identify and evaluate) transmission projects driven by state and local public policy requirements.
2. Whether FERC acted in an arbitrary and capricious manner under 5 U.S.C. § 706(2)(A) by failing to respond to arguments that the orders unlawfully departed from the Final Rule adopted in Order No. 1000, thus failing to engage in reasoned decision-making.

¹ All petitioners listed above reserve their rights to raise additional issues in their briefs as this case proceeds.

² *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC. Stats. & Regs. ¶ 31,323, *order on reh’g*, Order No. 1000-A, 139 FERC ¶ 61,132 (2012), *order on reh’g and clarification*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff’d sub nom. S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41 (D.C. Cir. 2014).

3. Whether in expanding the requirements of FERC's Final Rule in Order No. 1000 from an obligation to consider public policies in transmission planning to an obligation to select policy-driven projects, the orders exceed the bounds of FERC's jurisdiction under the Federal Power Act, 16 U.S.C. § 791a *et seq.*, as well as constitutional boundaries that unambiguously reserve such authorities to the states by abrogating the role that the New England states have over the execution of their own state statutes and regulations.

Respectfully submitted,

**New England States Committee on
Electricity, Inc.:**

/s/ Phyllis G. Kimmel

John Michael Adragna
Phyllis G. Kimmel
McCarter & English, LLP
1015 Fifteenth Street, N.W.
Twelfth Floor
Washington, DC 20005
(202) 753-3400
jadragna@mccarter.com
pkimmel@mccarter.com

/s/ Jason Marshall

Jason Marshall
General Counsel
New England States Committee
on Electricity, Inc.
655 Longmeadow Street
Longmeadow, MA 01106
(617) 913-0342
jasonmarshall@nescoe.com

Attorneys for the New England States
Committee on Electricity, Inc.

**Connecticut Department of Energy and
Environmental Protection:**

/s/ Robert Snook

Robert Snook, AAG
Office of the Attorney General
Ten Franklin Square
New Britain, CT 06051
(860) 827-2657
Robert.Snook@ct.gov

Attorney for the Connecticut Department of
Energy and Environmental Protection

**Connecticut Public Utilities
Regulatory Authority:**

/s/ Clare Kindall

Clare Kindall, AAG
Department Head – Energy
Office of the Attorney General
Ten Franklin Square
New Britain, CT 06051
(860) 827-2683
Clare.kindall@ct.gov

Attorney for the Connecticut Public Utilities
Regulatory Authority

**Massachusetts Department of Public
Utilities:**

/s/ Jeffrey M. Leupold _____

Cecile M. Fraser, Counsel

Jeffrey M. Leupold, Senior Counsel

Massachusetts Department of Public Utilities

One South Station, Fifth Floor

Boston, MA 02110

(617) 305-3621

Cecile.Fraser@state.ma.us

Jeffrey.Leupold@state.ma.us

Attorneys for the Massachusetts Department of
Public Utilities

**New Hampshire Public Utilities
Commission:**

/s/ F. Anne Ross _____

F. Anne Ross

General Counsel

New Hampshire Public Utilities Commission

21 South Fruit Street, Suite 10

Concord, New Hampshire 03301-2429

(603) 271-2431

f.anne.ross@puc.nh.gov

Attorney for the New Hampshire Public
Utilities Commission

**Rhode Island Public Utilities
Commission:**

/s/ Leo J. Wold

Leo J. Wold
Assistant Attorney General
150 South Main Street
Providence, RI 02903
(401) 274-4400, ext. 2218
lwold@riag.ri.gov

Attorney for the Rhode Island Public
Utilities Commission

Vermont Department of Public Service:

/s/ Edward McNamara

Edward McNamara
Regional Policy Director
Vermont Department of Public Service
112 State Street
Montpelier, VT 05620
(802) 828-4007
ed.mcnamara@state.vt.us

Attorney for the Vermont Department of
Public Service

Dated: June 15, 2015

CERTIFICATE OF SERVICE

In accordance with Fed. R. App. P. 25(d), Circuit Rule 25(c), and the Administrative Order Regarding Electronic Case Filing (May 15, 2009), I certify that on this date the foregoing documents were served on all parties or their counsel of record through the CM/ECF system if they are registered CM/ECF users or, if they are not, by serving a true and correct copy at the addresses listed below:

Contact Info	Case Number	Service
John Michael Adragna I McCarter & English, LLP 1015 15th Street, NW 12th Floor Washington, DC 20005-2605 Email: jadragna@mccarter.com	15-1141	CM/ECF
Michael Ray Engleman Squire Patton Boggs (US) LLP 2550 M Street, NW Washington, DC 20037-1350 Email: michael.Engleman@squirepb.com	15-1139	CM/ECF
Jason J. Fleischer Gibson, Dunn & Crutcher LLP 1050 Connecticut Avenue, NW Washington, DC 20036-5306 Email: jfleischer@gibsondunn.com	15-1139	CM/ECF

<p>Mary Ellen Grover NSTAR Electric & Gas Corporation 800 Boylston Street P1700 Boston, MA 02199-8003 Email: mary.grover@nstar.com</p>	<p>15-1139</p>	<p>CM/ECF</p>
<p>Kenneth G. Jaffe Alston & Bird LLP The Atlantic Building 950 F Street, NW Washington, DC 20004-1404 Email: kenneth.jaffe@alston.com</p>	<p>15-1139</p>	<p>CM/ECF</p>
<p>Jeffrey Martin Jakubiak Gibson, Dunn & Crutcher, LLP 200 Park Avenue New York, NY 10166-0193 Email: jjakubiak@gibsondunn.com</p>	<p>15-1139</p>	<p>CM/ECF</p>
<p>Phyllis G. Kimmel McCarter & English, LLP 1015 15th Street, NW 12th Floor Washington, DC 20005-2605 Email: pkimmel@mccarter.com</p>	<p>15-1141</p>	<p>CM/ECF</p>
<p>Clare E. Kindall Office of the Attorney General, State of Connecticut 10 Franklin Square New Britain, CT 06051 Email: Clare.Kindall@ct.gov</p>	<p>15-1141</p>	<p>CM/ECF</p>

Phyllis E Lemell Eversource Energy 107 Selden Street Berlin, CT 06037-0000 Email: phyllis.lemell@eversource.com	15-1139	CM/ECF
Jeffrey M. Leupold Boston Gas Company One Beacon Street Boston, MA 02108-0000	15-1141	U.S. Mail
Jill Maguire Steptoe & Johnson LLP 1330 Connecticut Avenue, NW Washington, DC 20036-1795 Email: jmaguire@steptoe.com	15-1139	CM/ECF
Jason Richard Marshall New England States Committee on Electricitiy 655 Longmeadow Street Longmeadow, MA 01106 Email: jasonmarshall@nescoe.com	15-1141	CM/ECF
David Russell Poe Bracewell & Giuliani LLP 2000 K Street, NW Suite 500 Washington, DC 20006-1872 Email: david.poe@bgllp.com	15-1139	CM/ECF
David Barry Raskin Steptoe & Johnson LLP 1330 Connecticut Avenue, NW Washington, DC 20036-1795 Email: draskin@steptoe.com	15-1139	CM/ECF

<p>F. Anne Ross New Hampshire Public Utilities Commission Suite 10 21 South Fruit Street Concord, NH 03301-2429 Email: F.Anne.Ross@puc.nh.gov</p>	<p>15-1141</p>	<p>CM/ECF</p>
<p>S. Mark Sciarrotta VT Transco, Vermont Electric Power Company 366 Pinnacle Ridge Road Rutland, VT 05701 Email: msciarrotta@velco.com</p>	<p>15-1139</p>	<p>CM/ECF</p>
<p>Robert D. Snook Office of the Attorney General, State of Connecticut 55 Elm Street PO Box 120 Hartford, CT 06141-0120 Email: Robert.Snook@ct.gov</p>	<p>15-1141</p>	<p>CM/ECF</p>
<p>Stephen Matthew Spina Morgan, Lewis & Bockius LLP 1111 Pennsylvania Avenue, NW Washington, DC 20004-2541 Email: sspina@morganlewis.com</p>	<p>15-1139</p>	<p>CM/ECF</p>

Dated this 15th day of June, 2015, at Washington DC.

/s/ Phyllis G. Kimmel _____

Phyllis G. Kimmel
McCarter & English, LLP
1015 Fifteenth Street, N.W.
Twelfth Floor
Washington, DC 20005
(202) 753-3400

Attorney for the New England States
Committee on Electricity, Inc.