

BROOKFIELD POWER US HOLDING AMERICA CO. et al.

v.

DEPARTMENT OF MARINE RESOURCES et al.

Argued November 1, 2022
Decided December 6, 2022

Panel: STANFILL, C.J., and MEAD, JABAR, HORTON, CONNORS, and
LAWRENCE, JJ.

MEMORANDUM OF DECISION

Brookfield Power US Holding America Co., the Merimil Limited Partnership, Hydro Kennebec LLC, and Brookfield White Pine Hydro LLC (collectively, Brookfield) appeal from a judgment entered by the Superior Court (Kennebec County, *Stokes, J.*) dismissing Brookfield's complaint against the Department of Marine Resources (DMR) and the Department of Environmental Protection (DEP). Brookfield's complaint sought declaratory and injunctive relief limiting DEP's and DMR's participation in an ongoing Federal Energy Regulatory Commission proceeding regarding relicensing for Brookfield's dam on the lower Kennebec River. Contrary to Brookfield's contentions, the trial court did not err in concluding that Brookfield's claims are not ripe for adjudication because "[a]ddressing the issues raised in Brookfield's complaint would directly entangle the court in the proceedings currently being conducted by federal and state administrative agencies."¹ See *Blanchard v. Town of Bar Harbor*, 2019 ME 168, ¶¶ 17, 20-22, 221 A.3d 554.

¹ We need not and do not reach DEP's and DMR's other arguments in support of the court's ruling.

The entry is:

Judgment affirmed.

Matthew Warner, Esq. (orally), and Jonathan Mermin, Esq., Preti Flaherty Beliveau & Pachios, LLP, Portland, for appellant Brookfield Power US Holding America Co., et al.

Aaron M. Frey, Attorney General, and Katherine Tierney, Asst. Atty. Gen. (orally), Office of the Attorney General, Augusta, for appellees Department of Marine Resources et al.

Kennebec County Superior Court docket number CV-2021-169
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