

Expert Analysis

Reviewing the New England Clean Energy Connect litigation filings

By **Robert McCullough** · [Listen to article](#)

Law360 Canada (September 30, 2026, 9:38 AM EDT) -- On Sept. 8, 2026, the parties to the New England Clean Energy Connect (NECEC) agreements filed federal complaints concerning Hydro-Québec's interruption of deliveries to Massachusetts during the first two months of the 20-year agreement.

The underlying commercial dispute is largely over the treatment of damages and whether amounts owed by Hydro-Québec may be netted against payments due from the Massachusetts buyers. The more consequential issue is whether the agreement can be performed reliably under current conditions: a prolonged drought, low hydroelectric reservoir levels, a tight Hydro-Québec capacity balance, growing Quebec load, and a contract that does not clearly allocate delivery priority when supplies are constrained.



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NECEC entered commercial operation on Jan. 16, 2026. Nine days later, on Jan. 25, Hydro-Québec interrupted deliveries. Flows were interrupted 13 times in January and February. The agreement contemplates 1,090 megawatts per hour — roughly the output of a nuclear plant — for 20 years at a fixed price escalating over time. It identifies 62 Quebec hydroelectric projects, with aggregate nameplate capacity of 38,767 megawatts, as the source of the energy. Most of those resources, however, appear already committed to Quebec customers under the 2000 *Act respecting the Régie de l'énergie* and related provisions.

The most likely explanation for the January-February interruptions is not a transmission failure or a politically motivated export boycott. Rather, Hydro-Québec faced a combination of depleted reservoirs, elevated winter load and extremely limited capacity reserves. The NECEC contract did not adequately specify how deliveries would be handled in those circumstances.

Part I: The dispute and the operating context

1. What the litigation concerns

The NECEC complaints concern Hydro-Québec's curtailment of energy deliveries to Massachusetts shortly after commercial operation began. Although the contract quantity is large, the immediate litigation centres on whether the Massachusetts buyers can offset claimed damages against payments otherwise due to Hydro-Québec.

That accounting dispute should not obscure the larger issue. The contract was placed into service at a time when Hydro-Québec was experiencing conditions materially different from

the premise that Quebec hydroelectricity is effectively unlimited: prolonged drought, unusually low water reserves, rising domestic demand and very little spare capacity during winter peak periods.

2. Reservoir and energy conditions

Hydro-Québec's public sales materials commonly describe hydroelectricity as "inexhaustible" and "in abundance." Those descriptions may be reasonable in normal hydrological conditions, but they are not an adequate description of Hydro-Québec's position in the fourth consecutive year of drought.

Hydro-Québec's first-quarter 2026 financial report directly recognized the operating consequences of the drought. It stated that natural inflows had been below normal for three years because of lower precipitation and reduced spring runoff, producing historically low reservoir levels. The company was a material net importer from neighbouring systems during the period.

3. Capacity conditions

The Northeast Power Coordinating Council's (NPCC) Dec. 1, 2025, Reliability Assessment for Winter 2025-2026 provides the most useful independent account of Hydro-Québec's winter load-resource position. The assessment projected the tightest Quebec net reserve margin during the week of Jan. 18, 2026 — the same period in which NECEC interruptions began.

Hydro-Quebec's projected net reserve margin fell to 1.1 per cent.

The NPCC forecast indicated that Quebec could fail to meet its reserve requirement at loads above 41,520 megawatts during the week of Jan. 18. Hydro-Québec's complaint states that Quebec load reached 40,747 megawatts on Jan. 25. Because a 1,090 megawatt-per-hour NECEC delivery requires roughly 1,090 megawatts of generation capacity at the relevant hour, serving the NECEC commitment from Quebec hydroelectric resources could have driven the actual net capacity margin below zero.

The NPCC assessment explicitly characterized NECEC as an energy-only agreement and did not model it for reliability purposes. Energy-only contracts still require actual generating capacity and energy at the moment of delivery; omitting a contract from a capacity assessment does not make the physical delivery obligation disappear.

4. Likely explanation for the emergency

Hydro-Québec has referred to a force majeure event and to an emergency reliability curtailment. Its complaint emphasizes a seven-day sequence of very high loads. That sequence is relevant less as an isolated capacity event than as a period of sustained drawdown from already depleted reservoirs in midwinter.

An internal Quebec transmission emergency is theoretically possible, but the available record does not support it. The NPCC report states that Hydro-Québec's transmission planning criteria are designed for winter scenarios 4,000 megawatts above the normal-weather peak forecast — equivalent to approximately 110 per cent of normal peak winter demand. The report describes a system designed to carry those transfers while meeting applicable design criteria.

Hydro-Québec has not provided the actual emergency declaration or contemporaneous operating data sufficient to identify the precise cause of the curtailments. It has also not supplied reports to the Régie de l'énergie, NPCC or NERC that would permit independent verification. The available evidence therefore supports a capacity-and-energy explanation, but leaves the specific operational basis for each curtailment unresolved.

This is part one of a four-part series.

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