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ENERGY, UTILITIES AND TECHNOLOGY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1269, L.D. 1708, “An Act To Create the Pine Tree Power Company, a Nonprofit Utility, To Deliver Lower Rates, Reliability and Local Control for Maine Energy Independence”

Amend the bill by inserting after section 4 the following:

'Sec. 5. 21-A MRSA §1011, first ¶, as amended by PL 2013, c. 334, §2, is further amended to read:

This subchapter applies to candidates for all state and county offices and to campaigns for their nomination and election. Candidates for municipal office as described in Title 30-A, section 2502, subsection 1 and candidates for the Pine Tree Power Company Board as described in Title 35-A, section 4002 are also governed by this subchapter. The commission does not have jurisdiction over financial activities to influence the nomination or election of candidates for federal office.'

Amend the bill in section 5 in §1511-A in the first indented paragraph in the first line (page 1, line 20 in L.D.) by striking out the following: "By" and inserting the following: 'No earlier than'

Amend the bill in section 10 in c. 40 in §4002 in subsection 2 by striking out all of paragraph A (page 3, lines 27 to 38 in L.D.) and inserting the following:

'A. As of the last date for filing a nomination petition under Title 21-A, section 354, each of the 7 elected, voting members must be a legal citizen of the United States for at least 5 years, must be at least 21 years of age, must be a legal Maine resident for at least one year, must be a resident of the area the member represents as provided in this paragraph for at least 3 months and may not hold a state elected office. Each elected, voting member represents 5 of the State's 35 State Senate districts, as set out in Title 21-A, section 1203-B, as follows:

- (1) One member represents State Senate districts 1 to 5;
- (2) One member represents State Senate districts 6 to 10;
- (3) One member represents State Senate districts 11 to 15;

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- 1 (4) One member represents State Senate districts 16 to 20;
2 (5) One member represents State Senate districts 21 to 25;
3 (6) One member represents State Senate districts 26 to 30; and
4 (7) One member represents State Senate districts 31 to 35.

5 If during an elected, voting member's term the member's place of residence as a result
6 of reapportionment is no longer included in the area the member was elected to
7 represent, the member may continue to serve the remainder of the term.'

8 Amend the bill in section 10 in c. 40 in §4002 in subsection 2 by inserting after
9 paragraph C the following:

10 'D. Candidates for election to the board pursuant to paragraph A are subject to the
11 requirements of Title 21-A, chapter 13.

12 E. The nomination of candidates for elected, voting members of the board is governed
13 by Title 21-A, chapter 5, subchapter 2, and the determination of the election is governed
14 by Title 21-A, section 723-A. The Secretary of State may adopt rules governing the
15 election of members of the board and shall consult with the commission in developing
16 the rules. Rules adopted under this paragraph are routine technical rules as defined in
17 Title 5, chapter 375, subchapter 2-A.'

18 Amend the bill in section 10 in c. 40 in §4002 in subsection 2 by striking out all of the
19 2nd blocked paragraph (page 4, lines 17 to 23 in L.D.).

20 Amend the bill in section 10 in c. 40 in §4002 by striking out all of subsection 3 (page
21 4, lines 24 to 39 in L.D.) and inserting the following:

22 '3. **Term of office.** An elected, voting member of the board serves for a term of 6
23 years and an expert advisory member of the board serves for a term of 4 years. An elected,
24 voting member serves from January 1st to December 31st and an expert advisory member
25 serves from March 1st to the end of February. A majority of elected, voting members shall
26 declare a vacancy on the board upon the resignation, death or incapacitation of an elected,
27 voting member, in the event that a member is absent without leave of the chair for at least
28 half of all board meetings held in a 180-day period or in the event of a member's gross and
29 continual neglect of duty. If there is a vacancy on the board of an expert advisory member,
30 it must be filled within 180 days in the same manner as described in subsection 2, paragraph
31 B, and the person selected to fill a vacancy serves for the unexpired term of the member
32 whose vacancy the person is filling. If there is a vacancy on the board of an elected, voting
33 member, the board shall notify the Secretary of State, who shall establish a deadline of no
34 sooner than 60 days after being notified of the vacancy to accept nomination petitions for
35 a special election. A special election must be held within 180 days of notification of the
36 vacancy and declared in the manner prescribed by Title 21-A, section 366. The person
37 elected to fill a vacancy serves for the unexpired term of the member whose vacancy the
38 person is filling. Expert advisory members may be reselected and voting members may be
39 reelected.'

40 Amend the bill in section 10 in c. 40 in §4003 by striking out all of subsection 3 (page
41 5, lines 22 to 31 in L.D.) and inserting the following:

42 '3. **Operations.** The company shall contract by means of a competitive public
43 solicitation the services of a qualified nongovernmental entity, referred to in this chapter as

1 "the operator," or "the operations team," to provide cost-effective, private sector operations,
2 maintenance, customer accounts management and customer service and information and to
3 assist as necessary in regulatory affairs, capital planning and administrative services. The
4 company may contract with separate operators for each of the service territories of the
5 acquired utilities. In requesting and evaluating bids for the provision of these services, the
6 board shall consider anticipated costs; professional, operational and managerial experience;
7 familiarity with the systems to be administered; and ability to improve customer service
8 and employee morale. The company may establish additional criteria for its solicitation
9 and shall determine the period and the specific terms of each operations contract. The
10 commission shall review and approve, reject or approve with conditions any contract
11 between the company and an operator before it takes effect.'

12 Amend the bill in section 10 in c. 40 in §4003 in subsection 5 in paragraph A by
13 inserting at the end a new blocked paragraph to read:

14 'By a vote of at least 5 elected, voting members of the board, the company may delay
15 the purchase of the utility facilities and any other utility property of one of the 2
16 investor-owned transmission and distribution utilities in the State and proceed with the
17 purchase of the utility facilities and any other utility property of the other investor-
18 owned transmission and distribution utility in the State.'

19 Amend the bill in section 10 in c. 40 in §4003 in subsection 5 in paragraph B in the 3rd
20 line (page 6, line 45 in L.D.) by striking out the following: "to the board. If the board" and
21 inserting the following: 'to the company. If the company'

22 Amend the bill in section 10 in c. 40 in §4003 in subsection 5 by inserting after the first
23 blocked paragraph the following:

24 'If at any time during the process prescribed in this subsection the company and either of
25 the investor-owned transmission and distribution utilities reach an agreement on the
26 purchase price of all utility facilities and utility property in the State owned or operated or
27 held for future use by that investor-owned transmission and distribution utility, the sale
28 may be finalized in accordance with that agreement.'

29 Amend the bill in section 10 in c. 40 in §4003 by inserting after subsection 5 the
30 following:

31 '6. Existing obligations. All existing agreements, obligations and contracts, including
32 but not limited to long-term contract obligations and net energy billing agreements of a
33 investor-owned transmission and distribution utility, must be transferred to the company
34 and any counterparty to an agreement, obligation or contract shall accept the assignment of
35 the investor-owned transmission and distribution utility to the company.'

36 Amend the bill in section 10 in c. 40 in §4003 by striking out all of subsection 11 (page
37 8, lines 39 to 44 and page 9, lines 1 to 6 in L.D.) and inserting the following:

38 '11. Board staff; transition. The board may hire a director or manager, support staff
39 and counsel. Assistance and counsel may be provided to the board by the Office of the
40 Treasurer of State, the Office of the Attorney General, the Maine Municipal Bond Bank,
41 the Finance Authority of Maine, the commission, the Office of the Public Advocate and
42 any other state entity. All initial activities and expenditures of the board prior to the final
43 acquisition of utility facilities and utility property must be funded by short-term debt of the
44 company, to be retired in the initial financing and acquisition of the investor-owned

1 transmission and distribution utility facilities and utility property. Notwithstanding any
2 provision of the law to the contrary, debt incurred by the board for its initial activities and
3 expenditures must be considered by the commission to be a just and reasonable expense
4 incurred on behalf of the customers of the investor-owned transmission and distribution
5 utilities and must be fully recoverable through the transmission and distribution rates
6 charged to those customers.'

7 Amend the bill in section 10 in c. 40 in §4003 by renumbering the subsections to read
8 consecutively.

9 Amend the bill in section 10 in c. 40 in §4004 in the first indented paragraph in the 2nd
10 and 3rd lines (page 9, lines 9 and 10 in L.D.) by striking out the following: "No debt or
11 liability of the company is a debt or liability" and inserting the following: 'Debt or liability
12 of the company is not a general obligation or moral obligation'

13 Amend the bill in section 10 in c. 40 in §4005 in subsection 2 in the 3rd line (page 9,
14 line 26 in L.D.) by inserting after the following: "subsection" the following: 'and must also
15 include sufficient amounts to fully replace payments made under any tax increment
16 financing agreement with an acquired utility, subject to all the terms of the agreement and
17 all statutory limitations on a recipient's use of tax increment financing funds'

18 Amend the bill in section 10 in c. 40 in §4006 in the first indented paragraph in the 2nd
19 line (page 9, line 36 in L.D.) by striking out the following: "no debt or liability of the
20 company may be considered a debt or liability" and inserting the following: 'debt or liability
21 of the company is not a general obligation or moral obligation'

22 Amend the bill in section 10 in c. 40 in §4007 in the first indented paragraph in the last
23 line (page 9, line 42 in L.D.) by inserting after the following: "debt" the following: 'and
24 only if any remaining equity of the company is returned in an equitable manner to the
25 ratepayers of the company'

26 Amend the bill by inserting after section 12 the following:

27 '**Sec. 13. Code of ethics; recommendations.** On or before February 15, 2022, the
28 Office of the Attorney General shall submit to the Joint Standing Committee on State and
29 Local Government recommendations regarding the establishment of a code of ethics
30 applicable to the members of the Pine Tree Power Company Board, as established in the
31 Maine Revised Statutes, Title 5, section 12004-G, subsection 36. After receiving the
32 recommendations, the joint standing committee may report out a bill related to those
33 recommendations to the Second Regular Session of the 130th Legislature.'

34 Amend the bill in section 13 in the 6th line (page 12, line 16 in L.D.) by inserting after
35 the following: "voting" the following: ', notwithstanding the Maine Revised Statutes, Title
36 21-A, section 906, subsection 6-A,'

37 Amend the bill by inserting after section 13 the following:

38 '**Sec. 14. Appropriations and allocations.** The following appropriations and
39 allocations are made.

40 **ETHICS AND ELECTION PRACTICES, COMMISSION ON GOVERNMENTAL**
41 **Governmental Ethics and Election Practices - Commission on 0414**

1 Initiative: Provides funding for candidates for the Pine Tree Power Company Board to
 2 participate in the Maine Clean Elections program.

3	OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
4	All Other	\$431,700	\$273,750
5			
6	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$431,700</u>	<u>\$273,750</u>

8	ETHICS AND ELECTION PRACTICES,		
9	COMMISSION ON GOVERNMENTAL		
10	DEPARTMENT TOTALS	2021-22	2022-23

12	OTHER SPECIAL REVENUE FUNDS	\$431,700	\$273,750
13			
14	DEPARTMENT TOTAL - ALL FUNDS	<u>\$431,700</u>	<u>\$273,750</u>

15 **PUBLIC UTILITIES COMMISSION**
 16 **Public Utilities - Administrative Division 0184**

17 Initiative: Provides funding for 3 Staff Attorney positions, 6 Utility Analyst positions and
 18 associated All Other costs.

19	OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
20	POSITIONS - LEGISLATIVE COUNT	9,000	9,000
21	Personal Services	\$418,242	\$1,307,808
22	All Other	\$303,191	\$910,572
23			
24	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$721,433</u>	<u>\$2,218,380</u>

26	PUBLIC UTILITIES COMMISSION		
27	DEPARTMENT TOTALS	2021-22	2022-23

29	OTHER SPECIAL REVENUE FUNDS	\$721,433	\$2,218,380
30			
31	DEPARTMENT TOTAL - ALL FUNDS	<u>\$721,433</u>	<u>\$2,218,380</u>

33	SECTION TOTALS	2021-22	2022-23
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35	OTHER SPECIAL REVENUE FUNDS	\$1,153,133	\$2,492,130
36			
37	SECTION TOTAL - ALL FUNDS	<u>\$1,153,133</u>	<u>\$2,492,130</u>

39 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
 40 number to read consecutively.

COMMITTEE AMENDMENT

SUMMARY

This amendment does the following:

1. It adds provisions to specify that candidates for the Pine Tree Power Company Board are subject to the provisions of the Maine Revised Statutes, Title 21-A, chapter 13, subchapter 2;

2. It specifies that the Public Utilities Commission must make a determination regarding a transmission and distribution utility’s fitness to serve no earlier than January 1, 2024 instead of by January 1, 2024;

3. It specifies a “start” date by which to measure the duration of residence to determine if a candidate for the board meets durational residency requirements;

4. It specifies that an elected, voting member of the board may not also be an elected state official;

5. It specifies that an elected, voting member of the board continues to serve the member’s term even if the member’s place of residence as a result of reapportionment is no longer included in one of the 5 State Senate districts the member was elected to represent;

6. It clarifies the nomination and election process for candidates for the board;

7. It amends the term of office for elected, voting members and expert advisory members of the board;

8. It clarifies the process to be used to fill a vacancy on the board of an elected, voting member;

9. It allows the company to contract with separate operators for each of the service territories of the acquired utilities;

10. It requires the commission to review and approve, reject or approve with conditions any contract between the Pine Tree Power Company and an operator;

11. It allows the company to delay the purchase of one investor-owned transmission and distribution utility and proceed with the acquisition of the other with the vote of at least 5 members of the board;

12. It clarifies that if, at any time during the process described for the acquisition of a transmission and distribution utility, the parties reach an agreement on a purchase price, the sale may be finalized in accordance with that agreement;

13. It requires the company to charge rates in a sufficient amount to replace payments made under any tax increment financing agreement with an acquired utility;

14. It specifies that all existing agreements and obligations of an investor-owned transmission and distribution utility are transferred to the company;

15. It specifies that if the company is dissolved or ceases operation any equity remaining after debts and liabilities are paid must be returned to the ratepayers of the company;

16. It requires the Office of the Attorney General to make recommendation regarding a code of ethics for members of the board;

- 1 17. It fixes technical errors and clarifies language; and
- 2 18. It adds an appropriations and allocations section.

3 **FISCAL NOTE REQUIRED**

4 **(See attached)**