

Testimony of Jim Mitchell on behalf of Maine Yankee
In Opposition to LD 2027
An Act to Clarify the Property Tax Exemption for Air Pollution Control Facilities
February 6, 2024

Sen. Grohoski, Rep. Perry and Honorable Members of the Joint Standing Committee on Taxation, I am Jim Mitchell; I reside in Waterville and I am here today on behalf of Maine Yankee. Maine Yankee respectfully opposes LD 2027 and asks that the Committee consider the following as you deliberate on this legislation:

1. **This very issue is being litigated in Superior Court.** In November 2022, Maine Yankee filed an application with the Maine Department of Environmental Protection (DEP) seeking a tax exemption related to pollution control equipment at the Independent Spent Fuel Storage Installation (ISFSI) site. The Maine DEP issued its final decision in favor of granting Maine Yankee's pollution control tax exemption on March 31, 2023 and the Town filed a timely notice of appeal. The Town's appeal was heard and denied unanimously by the Board of Environmental Protection (BEP) on October 19, 2023 and the Town has subsequently filed an appeal that is pending before the Maine Superior Court. Protecting the environment from contamination by radionuclides is the purpose of the designated equipment at the site. Importantly, federal and Maine state regulations describe radionuclides as an air pollutant. We respectfully suggest the Legislature defer a decision on this bill until after the court has ruled.

2. **We continue to believe that it is in the best interests of both the Town of Wiscasset and Maine Yankee to reach a settlement on property taxes.** We did exactly that more than 20 years ago and we remain steadfast in our commitment to finding a balanced, reasonable and fair long term agreement. And, we have repeatedly volunteered to engage in mediation to help facilitate a reasonable resolution. Unfortunately, in September 2023 the Town of Wiscasset assessed Maine Yankee at \$1.5 million for the Company's non-exempt property for the 2023/24 tax year. That is nearly twice the amount Maine Yankee paid in the final year of the 20-year property tax agreement with the Town that expired April 1, 2023.

3. **Maine Yankee expects to pay a reasonable amount in property taxes.** But like any taxpayer, we expect to be assessed fairly. Early in 2023, Maine Yankee made a good faith offer of settlement that would have increased the amount of annual taxes that Maine Yankee paid the Town compared to prior years, and the Town rejected that offer with no counteroffer.

4. **If this bill is enacted, the Town will assess Maine Yankee an additional \$1.5 million.** This will be the tax on the ISFSI equipment bringing the total annual tax assessment for the 2023/24 tax year to \$3 million. It is worth noting that the Town of Wiscasset has an approximately \$11 million Capital Reserve account funded in large part by Maine Yankee taxes.

5. The bill before you would benefit only the Town of Wiscasset by allowing additional tax revenue for pollution control equipment purchased with ratepayer money. At the same time, it would further burden electricity consumers in all other Maine communities served by CMP and Versant by requiring increased payments from the ratepayer trust used to fund Maine Yankee's operations.

Further Background Since its permanent shutdown in 1996, Maine Yankee's only purpose has been to safely store and manage the spent nuclear fuel that remains on its site. The federal government is obligated to remove the nuclear waste, but to date has failed to fulfill that contractual and statutory duty. Maine Yankee no longer produces power or earns any revenue or profit. Its operations are paid by a ratepayer trust. The trust was funded from collections from New England electricity customers and one half of the collections are from Maine ratepayers. The funds are managed on those ratepayers' behalf. The money in the trust belongs to ratepayers, and not Maine Yankee. Maine Yankee's use and management of the trust is subject to federal and state oversight, including from the Maine PUC and OPA.

Maine Yankee is in ongoing litigation with the federal government to recover the costs incurred to operate its spent fuel storage facility as a result of the government's breach of its waste disposal obligation. Maine Yankee brings a new lawsuit to recover past costs incurred every few years, and is presently in its fifth round of litigation against the government. In order to recover its costs, Maine Yankee must prove that each cost is foreseeable, caused by the government's breach, and reasonable. To the extent that any cost is found to not meet those requirements, it is unrecoverable in litigation. Although Maine Yankee has historically recovered a significant portion of its incurred costs, **continued recoveries are not guaranteed.**

In the present round of litigation (covering years 2017-21), the government is challenging all of Maine Yankee's incurred costs, **including the property taxes it paid to Wiscasset.** Moreover, even if Maine Yankee were to recover 100% of its incurred costs, it would not make ratepayers whole, as Maine Yankee cannot recover pre-judgment interest against the government.

Accordingly, ratepayers lose the time value of money from the time Maine Yankee pays a cost until it is reimbursed several year later. This lost time value of money has impaired the investment growth in the ratepayer trust by millions of dollars. Further, Maine Yankee cannot recover its litigation expenses, which are significant, even though the Court has ruled that the Government is the party in breach of contract.

If the property tax exemption for Maine Yankee's ISFSI is removed, the company would be required to pay more property taxes from the ratepayer trust used to fund its operations. Additional expenditures from the ratepayer trust would reduce the amount of funds that can be

returned to ratepayers, and also increase the potential need for future additional collections from ratepayers. Although Maine Yankee would likely seek to recover any increased property tax costs from the federal government in litigation, it is not guaranteed that Maine Yankee would recover those additional costs.

For these reasons, we respectfully urge the Committee to vote Ought Not to Pass on LD 2027. Thank you for your consideration and I'd be pleased to try to answer any questions you may have.