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Written Testimony of Chet Randall, Pine Tree Legal Assistance

In Support of LD 2132

“An Act To Clarify the Right to Appeal Certain Public Utilities Commission Decisions”

Dear Senator Lawrence, Representative Zeigler and distinguished members of the Joint Standing Committee on Energy and Technology:

I submit this written testimony in support of LD 2132. I apologize that I was unable to attend today’s hearing because of a scheduling conflict. We join in the comments submitted by others in support of LD 2132 including those of Maine’s Public Advocate, William Hardwood.

I am the Deputy Director at Pine Tree Legal Assistance and live in Portland, Maine.

Pine Tree Legal Assistance is Maine’s oldest and largest civil legal aid provider, offering representation with non-criminal legal needs throughout the State in a wide variety of legal proceedings. We have six local offices spread across the State, including Machias and Presque Isle, in order to be accessible to rural communities. A third of Maine residents currently qualify for free legal services from our program because their household incomes are at or below 200% of the federal poverty guidelines. As a result of being in operation for 53 years, Pine Tree is a widely recognized resource for people with civil legal needs. As many of you know, Pine Tree provides assistance in a wide range of

services from tax disputes, to access to health care, to foreclosure and eviction prevention, to consumer rights, discrimination, domestic violence, taxpayer disputes, farm workers, veterans, and children.

Our clients frequently face utility termination. The importance of access to utilities cannot be overstated. As the dissent in the *General Marine Construction Corporation et. al. v. Public Utilities Commission*, 2022 ME 20, ¶52 correctly observed “the consumer once taken on to the system, becomes dependent on that system for a prime necessity of business, comfort, health and even life.” Utilities such as electricity are more essential than ever. Nearly every aspect of our lives depends on access to electricity or water, including health.

Such a fundamental need and service such as electricity should have the benefit of due process before it can be terminated where a dispute or controversy exists related to a bill, the delivery of service, or termination of that service. The right to notice, hearing before the PUC and review of a final decision of the PUC are fundamental to due process and we do not believe that this legislature expected anything less. Access to a hearing and judicial review is essential to ensure that mistakes are corrected, and injustices addressed.

LD 2132 merely clarifies what we believe the statutes, when read in their entirety, meant to convey but that the Maine Supreme Judicial Court did not see.

We also do not believe that the process provided for in LD 2132 will result in a large volume of requests for hearings or judicial review. Our experience suggests that it will be rare that the issues which arise for our clients will not be resolved by the informal resolution process and go on to a hearing. Moreover, judicial review of agency actions generally is infrequent. While we at Pine Tree have appealed agency decisions to the


Maine Superior Court under Maine Rules of Civil Procedure 80B and 80C, for issues ranging from termination of public benefits, to a town's denial of a property tax abatement, they are very infrequent and any such cases represent a tiny fraction of the total cases we work on in a given year.

While we support LD 2132 as drafted, and believe that the process before the Public Utilities Commission (PUC) need not be a full adjudicatory process, we do believe that rate payers should be permitted to submit evidence supporting their position, offer witness statements for the PUC to consider, be allowed to make an oral or written statement, have an opportunity to respond to their opponent's statement, and an opportunity to be heard before a final decision is made. Also, it should be made clear that the consumer should be allowed to be represented by counsel at their own expense. These steps are elemental to a fair process, are not complicated, and not demanding of the PUC or its staff.

It is likewise important that any notice of the right to request a hearing and/or appeal a decision of the PUC be provided to the consumer.

In conclusion, we do not believe that the requirements of LD 2132 are burdensome. We believe it provides the minimum due process that should be expected and indeed this legislature intended before a consumer faces termination or denial of a critical service.

Respectfully submitted,

A handwritten signature in blue ink that reads "Chet Randall". The signature is written in a cursive, slightly slanted style.

Chet Randall
Deputy Director