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February 6, 2024

Testimony in Opposition: L.D. 2172, An Act to Enhance Electric Utility Performance-based Ratemaking (Emergency)

Chairs Lawrence and Zeigler and honorable members of the Joint Standing Committee on Energy, Utilities and Technology. I am Alf Anderson, Associate State Director for Advocacy and Outreach for AARP Maine. AARP is a non-profit, non-partisan social mission organization with more than 200,000 members across the state. We work on a range of energy issues at the state level. The core principles we approach this work with include affordability, reliability, sustainability, and accountability.

Based on AARP's experience in many states, the more traditional base rate regulation should continue to be relied upon instead of performance based ratemaking (PBR). While there are legitimate pros and cons to this traditional form of regulation, there is no evidence that more complicated multi-year alternative rate plans benefit consumers. Indeed, while appealing at the 30,000-foot level, deciding on and designing metrics is very complicated and time consuming. Further, we risk rewarding the utility for doing its regular job.

In particular, we oppose the change included in Section 1 in this bill that would authorize the Public Utility Commission to implement performance-based rate regulation before the study authorized in Section 2 to determine the value of such an alternative form of regulation is implemented. If the Legislature seeks to explore alternative forms of regulation for essential electric services provided by our transmission and distribution utilities, such exploration and analysis should be done prior to authorizing the implementation of such a dramatic change.

Maine's statutory directives already require the Commission to consider rates that are "just and reasonable," ensure adequate service, and take into account Maine's climate change objectives. Given that we only regulate distribution service and must defer to federally assessed charges for transmission service and purchase generation supply in the wholesale market, there is only a relatively small bandwidth available to impact our greenhouse gas emissions. Our distribution service is already being developed to accommodate electrification when and if that occurs with the widespread purchase of heat pumps and electric vehicles. The grid planning directives recently adopted by the Legislature have not yet been implemented. We recommend that the Legislature monitor these recently adopted mandates prior to adopting potentially expensive, litigious and risky requirements for the exploration of performance-based rates.

Additionally, we would like to raise the following concerns with this proposal:

- It is not clear what advantage would be obtained by authorizing rate changes based on certain metrics, such as customer service performance and reliability of service performance, when Maine has already required the inclusion of these performance standards in rate cases and authorized significant penalties borne by shareholders if those standards are not met. The punitive power of the Commission to assess penalties to shareholders is equivalent to a performance-based rate plan. Utilities do not need to be rewarded for doing their job.
- Performance based rate plans almost always are accompanied by multi-year rate adjustments. AARP opposes multi-year rate plans generally due to the “automatic pilot” approach to changing rates based on speculative forecast costs. It is our longstanding experience that rates should be set with a comprehensive analysis of costs, revenues, and external factors that influence the cost of capital.
- The Commission has plenary authority to explore and adopt rate designs to recover the authorized revenue requirement set in a base rate case. Both Central Maine Power and Versant Power are conducting stakeholder driven discussions and evaluations of current and future rate designs that are intended to respond to electrification trends. Several of the proposed rate designs in this bill raise serious concerns. AARP opposes, for example, decoupling sales from revenues, that has led to changes in rates via trackers or adjustment clauses that shift risks in between rate cases to consumers. We urge this Committee to avoid mandating rate design options that do not reflect a clear analysis of residential bill impacts for a wide range of demographic characteristics, usage level, and income. Furthermore, it is likely that the most successful rate options for residential customers will rely on incentives and rewards rather than more punitive time of use pricing and higher fixed monthly charges. We are committed to exploring rate options that work in practice rather than imposing rates based on economic theories that are not consumer friendly.
- AARP appreciates the inclusion of the need to ensure affordability in the consideration of setting rates as proposed in the list of “objectives” in Section 2 of this bill. We have pursued this concern in testimony before this Committee on Net Energy Billing policies and proposals to mandate grid investments to support electrification. In addition, our testimony and comments to the Commission have emphasized this concern in rate cases and numerous dockets relating to rate design, grid planning, and the design of Standard Offer. The need to make this a high-level criterion for regulatory decisions can be easily resolved by adding this policy to 35-A MRS Section 101, Statement of Purpose. In addition to the current policies included in Section 101 (“just and reasonable,” and the obligation to pursue reduction of greenhouse gas emissions), Maine’s policies should require the balancing of these objectives with the need to ensure the affordability of essential electric service for Maine’s consumers.

Thank you for the opportunity to provide our views on this important bill. If you have questions for me, I can be reached at aanderson@aarp.org or at 207-330-1147.

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