

Energy, Utilities, and Technology Committee
LD 810 An Act Regarding the Approval of Transmission Lines
Testimony provided by Joshua Abram Kerckmar, Unity, Maine (Mar. 11, 2025)

Senator Lawrence, Representative Sachs, and Distinguished Members of the Committee on Energy, Utilities, and Technology:

My name is Josh Kerckmar, and I write in opposition to LD 810. I am a historian, not a lawyer or constitutional scholar — but one does not need to be either to see that LD 810 takes us into dangerous territory. A plain reading of the Maine Constitution makes that clear enough.

I write not only as a Maine citizen, but as someone who believes that laws are meant to hold real meaning — that constitutions are not dusty relics, but living covenants meant to bind both government and people to shared principles. When we cut ourselves loose from those moorings, we risk drifting into waters where power is exercised without accountability, and where the voice of the people is easily silenced.

LD 810 would remove the Legislature’s role in approving transmission lines that the State itself proposes to build. It would hand that immense power to unelected agencies and officials — people who may be well known in Augusta, but who do not answer to the people of Maine.

I understand the desire to move quickly in the name of progress. But constitutions exist precisely to remind us that not everything should be done quickly — that some decisions are so consequential they require public deliberation, even if it slows us down. LD 810 asks us to forget that hard-earned wisdom. For that reason alone, I urge you to reject it.

I. First, the Maine Constitution vests legislative power in the people’s elected representatives —not in agencies.

Let us begin with **Article IV, Part First, Section 1** of the [Maine Constitution](#), which says plainly that “The legislative power of this State shall be vested in two distinct branches, a House of Representatives and a Senate.”

Words matter. “Legislative power” does not mean “some power” or “occasional power” but all legislative power. The power to approve—or to reject—a major transmission line that will cut across this state, over rivers and through forests and farms, is a quintessential legislative act. To let unelected officials make that decision is not only unwise; it is unconstitutional, for it robs the Legislature of a power that belongs to it and to no one else.

We should bear in mind a simple truth, one that the authors of our Constitution knew well: if you give away power, it will not come back. Once the people’s representatives stop making these decisions, they may never again be allowed to make them. And if that happens, we will have moved one step closer to government by decree, not by debate.

II. Second, LD 810 could violate Article IX, Section 23 of the Maine Constitution by sidestepping legislative approval for projects that cross public lands.

Under **Article IX, Section 23**, the Legislature must give two-thirds approval to any “substantial alteration” of public reserved lands. I have never seen an industrial-scale transmission line that does not “substantially alter” the land beneath it. Corridors one-hundred-fifty feet wide do not leave a forest as they found it.

If LD 810 gives state agencies the power to approve a transmission line that crosses these public lands—without requiring a legislative vote—it invites a direct violation of this constitutional safeguard. It asks us to pretend that something massive and destructive is “insubstantial.” And worse, it strips from the people’s representatives the chance to say “no” when the public interest demands it.

If a developer comes forward with a line that would cut through lands held in trust for all Mainers, the people deserve a voice in that choice—and the Legislature is the only proper way to give them that voice.

III. Third, LD 810 runs afoul of core constitutional principles of separation of powers and accountability.

Our system of government is built on a profound but simple idea: those who make the rules must answer to the people. That is why legislative power is separated from executive power, and why both are separated from judicial power.

LD 810 collapses this careful structure. It gives an agency the power not only to implement the law but to decide what the law will be in cases that affect thousands of lives, homes, and ecosystems. This is not merely a technical violation of constitutional design: it is a betrayal of the principle of government by consent.

Transmission lines are not built in a vacuum. They have consequences for property owners, farmers, wildlife, forests, and watersheds. Who will speak for these people, or defend these ecosystems, if not the Legislature? Will an agency, tasked perhaps with balancing a budget or pleasing a governor, truly hear the voices of rural landowners and small-town residents? I think we all know the answer to that.

To be blunt, LD 810 would silence the very voices the Constitution seeks to protect, by cutting off the one branch of government—the Legislature—designed to hear them.

IV. Finally, we should not forget the lesson of recent history.

Some will argue that LD 810 is simply a practical measure to “streamline” the process of transmission siting. But “streamlining” is often another word for “bulldozing.” And we need look no further than last year’s Aroostook Renewable Gateway debacle to see the danger of rushing forward without legislative oversight.

In that case, under the powers granted by LD 924, a transmission project was authorized that many legislators—and certainly many local residents—had no idea would slice through their communities. By the time the opposition arose, money had been spent, promises had been made, and yet the project crumbled under the weight of financial miscalculation and difficulty in selecting a route.

Had the Legislature been required to deliberate and vote on that specific project before final approval, we might have avoided the whole mess.

To put it more plainly: if you are setting out on a journey, better to check the map now than to realize halfway through that you are heading in the wrong direction. LD 810 would ask us to set out blindly—and hope for the best.

Conclusion

In sum, LD 810 asks us to abandon the very constitutional principles that protect Mainers from unaccountable government and reckless development. It asks us to hand over to unelected officials the power to reshape our state’s landscape, and to do so without even conferring with the people’s representatives.

We are told that this is the only way to bring renewable energy to Maine. I say, nonsense. Renewable energy that tramples the Constitution is not a victory for the future—it is a failure of the present.

If we are going to undertake great projects, we ought to do them with care and accountability, and in keeping with the highest laws of our state.

For these reasons, I urge you to vote “Ought Not to Pass” on LD 810.

Respectfully,
Josh Kerckmar