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MWUA

MAINE WATER UTILITIES ASSOCIATION

Organized in 1925

April 2, 2025

Honorable Mark Lawrence, Senate Chair
Honorable Melanie Sachs, House Chair
Joint Legislative Committee on Energy, Utilities and Technology
100 State House Station
Augusta, ME 04333

Re: *Testimony in Support of LD 1127 An Act to Establish Immunity for a Receiver Appointed by the Public Utilities Commission to Oversee the Operations of a Consumer-owned Water Utility*

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

The Maine Water Utilities Association (MWUA) appreciates the opportunity to provide testimony in support of LD 1127, which provides a receiver appointed to a consumer-owned water utility, who acts in place of trustees, with the same immunity accorded to trustees.

About MWUA. MWUA is a nonprofit association based in Augusta that provides support for water works professionals throughout the State of Maine in advocating for safe drinking water through educational and technical programming as well as advocacy on the local, state, and national level. The Association was formed in 1925 and consists of approximately 86 utility and 60 associate members. Maine's water utilities provide service to approximately 700,000 Maine residents, thousands of Maine businesses and public institutions, and millions of visitors to Maine every year.

Discussion. Many small consumer-owned water utilities face challenges of on a scale that sometimes overwhelm their small volunteer boards. On rare occasions, the board members, who often both oversee and operate a small water utility, will all resign. When that occurs, the Public Utilities Commission needs to appoint a receiver to act as the board of directors and ensure that safe water continues to be provided to the utility's customers. In those situations, it is important to provide the same tort liability protections afforded to an employee of the consumer-owned water utility as many potential receivers are unwilling to step in given the substantial level of liability assumed when stepping in to oversee a public water supply system.

We would further note that this bill does not remove accountability to the public from receivers of water districts. This bill provides that a receiver would be covered by Maine's Tort Claims Act, which applies to government entities and their employees. This insulates receivers from most tort claims (like "negligence" claims) and limits liability for tort claims that may be brought. However, tort claims represent only one type of legal accountability of the receiver for performing its duties. Another important type of accountability is liability under a contract, and



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this is not governed by Maine's Tort Claims Act. In this regard, if LD 1127 passes and a receiver failed to live up to their duties under the contract hiring them, the receiver can be held accountable under the terms of the contract itself. We think this provides an adequate balance and protection for all of the parties involved.

Conclusion. This bill will allow parties who may not otherwise be willing to assume the liability of being a receiver in these situations to come forward and be willing to share their expertise and better enable PUC to appoint a receiver in dire situations by easing the burdensome liability of taking on that daunting task. We urge the committee to vote LD 1127 ought to pass.

Thank you for your consideration,



Roger Crouse, Chair,
MWUA Legislative & Regulatory Affairs Committee

cc: Nicki Pellenz, MWUA Executive Director
James I. Cohen, Verrill Dana, LLP, Legislative Counsel