

**TO: Committee on Environment and Natural Resources**  
**RE: LD 2174 – Testimony in OPPOSITION**  
**DATE: February 25, 2023**

Esteemed Committee Members,

Irrespective of original intent, LD2174 oversteps reasonable governance processes including Home Rule, which has been an essential part of Maine's Constitution and governance since 1969. Energy infrastructure is a very complex need; infrastructure benefit is diffuse and marginal to rate payers, however the adverse impacts of energy infrastructure construction are acute, and felt by relatively few rate payers. Further, in the efforts to mitigate against climate change, more environmental and climatic damage can be caused through rapid deployment of energy infrastructure, than would be accomplished by preserving existing woodlands/wetlands and pursuing energy efficiency/ consumption reduction solutions.

Consequently, all echelons of Maine society need to be involved in energy infrastructure deliberation. To date that has been accomplished with Home Rule of municipalities and grassroots citizen participation with legislators. LD2174 circumvents these established due processes.

The Constitution of Maine is the foundation of our governance; proposed legislation should not be in contradiction to it. The first matter addressed in the Constitution is our most fundamental concern: the Declaration of Rights in Article 1.

Section 1: Natural Rights:

*"All people are born equally free and independent, and have certain natural, inherent and unalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and of pursuing and obtaining safety and happiness."*

Possessing and protecting personal property is a key facet in current municipal ordinances that deal with energy infrastructure.

Section 2: Power Inherent in People:

*"All power is inherent in the people; all free governments are founded in their authority and instituted for their benefit; they have therefore an unalienable and indefeasible right to institute government, and to alter, reform, or totally change the same, when their safety and happiness require it."*

Home Rule municipal ordinances are the most fundamental example of the people's right to govern themselves. Where collective State needs indicate concerns going beyond municipal Home Rule, a municipality cannot ignore the State. **But neither can the State ignore legally binding municipal ordinances already vetted through due process and adopted through vote by the people of a municipality.**

Section 21: Private Property, when to be taken:

*"Private property shall not be taken for public uses without just compensation; nor unless the public exigencies require it."*

High electricity rates do not constitute a “public exigency” that necessitates superseding the rights of private property and norms of Home Rule. Electric consumers do have the ability to reduce their consumption. If the State of Maine was concerned for ratepayers’ expenses, there are far more reasonable courses of action than riding roughshod over Constitutional rights. The state could subsidize passive home energy efficiency improvements. Or they could invest in behind-the-meter, “nonwires alternatives” for distributed renewable energy production, thus serving the increasing load growth and mitigating against the need for disruptive, transmission system growth.

Section 25: Right to Food:

*“All individuals have a natural, inherent and unalienable right to food, including the right to save and exchange seeds and the right to grow, raise, harvest, produce and consume the food of their own choosing for their own nourishment...”*

Another key factor in municipal ordinances relating to energy infrastructure is developers can propose siting and routes that give no concern to landowner rights and local commerce including food production. The people have a right to grow their own food, and no infrastructure development plan can supersede that. Albion has seen proposals that would have bifurcated farmland, and installed high-impact electrical infrastructures around dairies and apiaries where stray voltage and EMF emissions could adversely impact farming production. This was one of the main reasons for writing municipal ordinances for energy infrastructure in the first place.

Beyond the declaration of rights, Article VII of the Constitution institutes Home Rule for Municipalities. Article VII, Part Second, Municipal Home Rule: Section 1: (Power of municipalities to amend their charters) says: *“The inhabitants of any municipality shall have the power to alter and amend their charters on all matters, not prohibited by Constitution or general law, which are local and municipal in character.”*

Again, energy infrastructure benefits are marginal and diffuse among all rate payers. But the adverse impacts of energy infrastructure construction are acute, and experienced by relatively few rate payers. These adverse impacts are experienced most directly at the municipal level; therefore municipal ordinances and Home Rule are essential constraints within which to make infrastructure decisions.

Thank you for your time and consideration,  
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LD 2174

Please see the attached file "LD2174 Comment.pdf"