

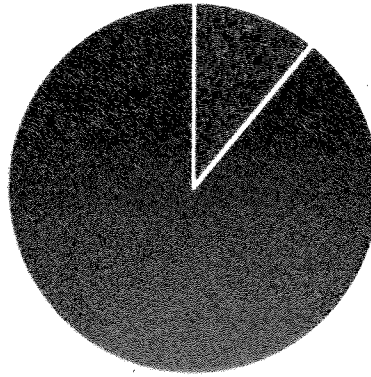
**Testimony of the Industrial Energy Consumer Group**  
**In Opposition of**  
**L.D. 509, *An Act to Amend the Net Energy Billing Laws to***  
***Require Net Energy Billing Credits to be Nonlapsing***  
**Before the Joint Standing Committee on Energy, Utilities and Technology**  
**March 2, 2023**

Good morning, Senator Lawrence, Representative Ziegler and Members of the Joint Standing Committee on Energy, Utilities and Technology. I am Steven Hudson, an attorney with the firm of Preti Flaherty, here today on behalf of the Industrial Energy Consumer Group (IECG). IECG has been representing medium and large sized consumers of energy in Maine for more than twenty-five years at the state, regional and federal level. We advocate for policies that reduce the cost of energy for our members, helping to maintain their operations in our state and the thousands of jobs provided directly and indirectly by those operations. IECG is here today in opposition to LD 509 to ask that it be voted Ought Not To Pass.

We strongly believe that this Committee, with its numerous new members, would benefit from a history lesson on:

- Maine's original net energy billing program, which was well-designed to discourage overbuilding and speculation by limiting the size of projects and the life of NEB credits;
- how that program came under attack during a prior administration even though it was only a \$1 MM cost to ratepayers at that time (by the way, IECG wholeheartedly supported that original NEB program, and our general counsel provided the oral argument in defense of the program before the Law Court);
- how in 2019, the Legislature enacted LD 1494, which made changes to Maine's Renewable Portfolio Standard and established new procurement programs for cost-effective low-cost grid scale renewable projects;
- how also in 2019, LD 1711 was enacted and created Maine's current NEB program as well as a second distributed generation program later found subject to developer gaming by the PUC and now abandoned (we note that one of the arguments used by proponents was the need to do "something" for local developers – but today 89% of NEB project developers have an out of state address as shown below);
- how the current NEB program has undergone numerous tweaks since passage of LD 1711 and a valiant attempt was made last year on a bipartisan basis to reduce the program costs;

## Registration for Distributed Generation (DG)/Net Energy Billing (NEB) Project Sponsors and Related Entities as of 2-27-2023



■ Maine ■ Not Maine

Prepared using the geographic information presented in the Maine PUC's registry of NEB sponsors, marketers, and representative/agents, Registration for Distributed Generation (DG)/Net Energy Billing (NEB) Project Sponsors and Related Entities, available at <https://apps.web.maine.gov/online/aeviewer/ME/9/list.html>

- how the above market costs of the program are now estimated by the PUC to be \$250 MM/yr for 20 years, assuming 1,000 MW of projects are built (we note that 1,500 MW is STILL the amount in the queues of CMP and Versant, so the total exposure to ratepayers is more than \$6 billion dollars over the next 20 years or so; please see the attached information); and
- finally, how last year the Legislature enacted LD 1025, in order to allow NEB customers to donate unused NEB credits before their expiration for the benefit of customers in the utilities' arrearage management programs

Now LD 509 proposes to increase costs on all ratepayers for the benefit of customers who have NEB credits in excess of their usage – and to do so by denying the use of those credits for the benefit of fellow Mainers who struggle to pay their utility bills.

We urge this Committee to keep faith with those struggling ratepayers and vote LD 509 Ought Not To Pass. Thank you for the opportunity to submit these comments. We are happy to answer questions now or at the work session.



**February 2, 2023**

**To: E2Tech Attendees**

**From: Tony Buxton, Preti Flaherty, Beliveau & Pachios**

**Re: Projections of Future Net Energy Billing Costs to Maine Electric Consumers**

Good morning!

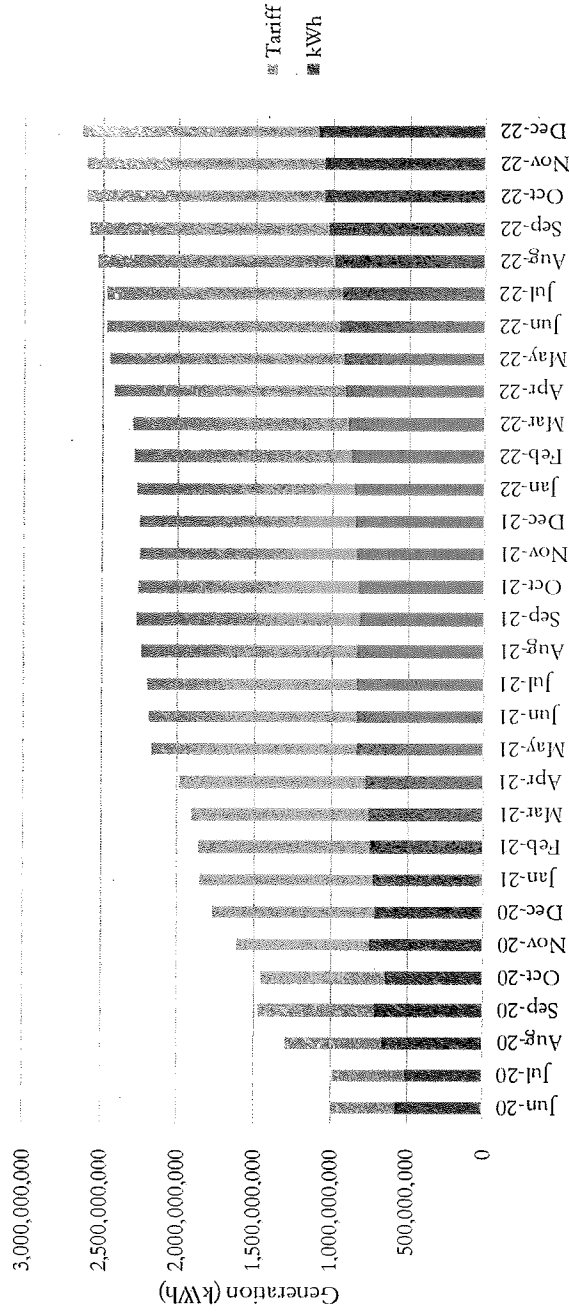
Industrial Energy Consumer Group (IECG) requested Dr. Richard Silkman of Competitive Energy Services to calculate future electric ratepayer costs for Maine's existing Net Energy Billing (NEB) program using data from the Public Utilities Commission, CMP and Versant. Please find Dr. Silkman's resulting bar charts, including his assumptions.

Note these calculations do not include any costs resulting from the possible Commission classification of gas-fired fuel cells as "renewable" or resulting from the "Distributed Generation 2.0" expansion of NEB to be considered by the current Legislature.

We draw your specific attention to the following:

- 1.) There is little indication that project demise predicted by NEB proponents is coming true.
- 2.) The projected state-wide annual ratepayer impact or NEB approaches and may exceed \$400,000,000.00
- 3.) This impact includes lost utility sales of some \$130,000,000.00 per year that must be made up (paid) by ratepayers not engaged in NEB.
- 4.) The NEB contracts are for twenty years, meaning that total NEB costs may be \$8,000,000,000.00 or eight billion dollars over their lives.
- 5.) For these costs, Maine electricity consumers will receive, at most, one-sixth of their required KWh per year.

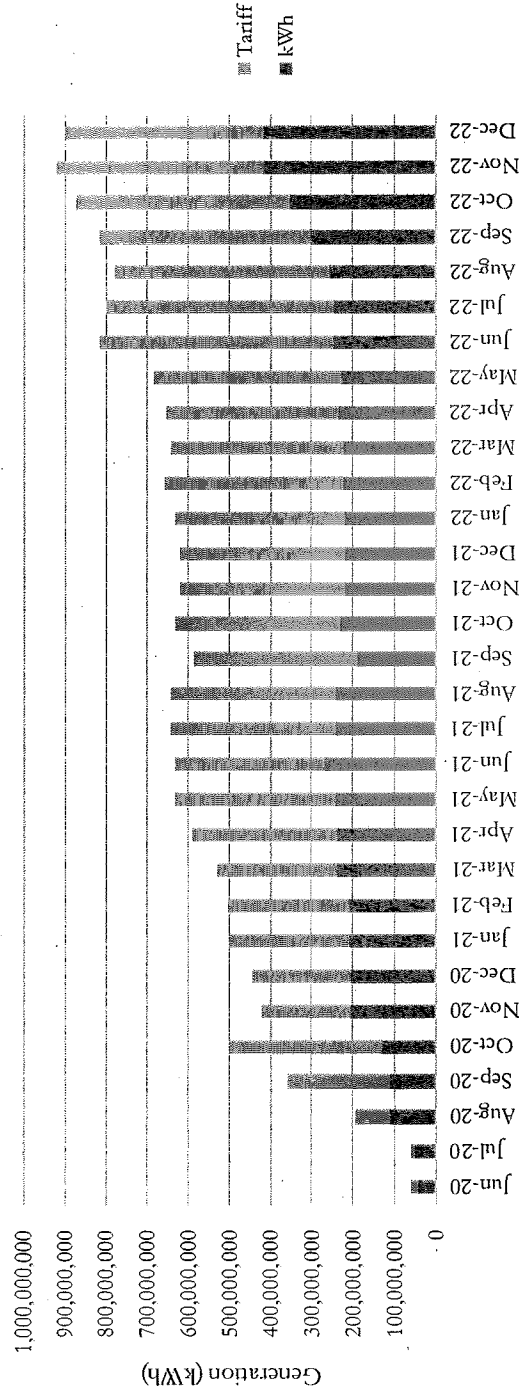
### CMP - LD 1711 Project Generation



### As of End of October 2022 - Assuming all Projects Get Built

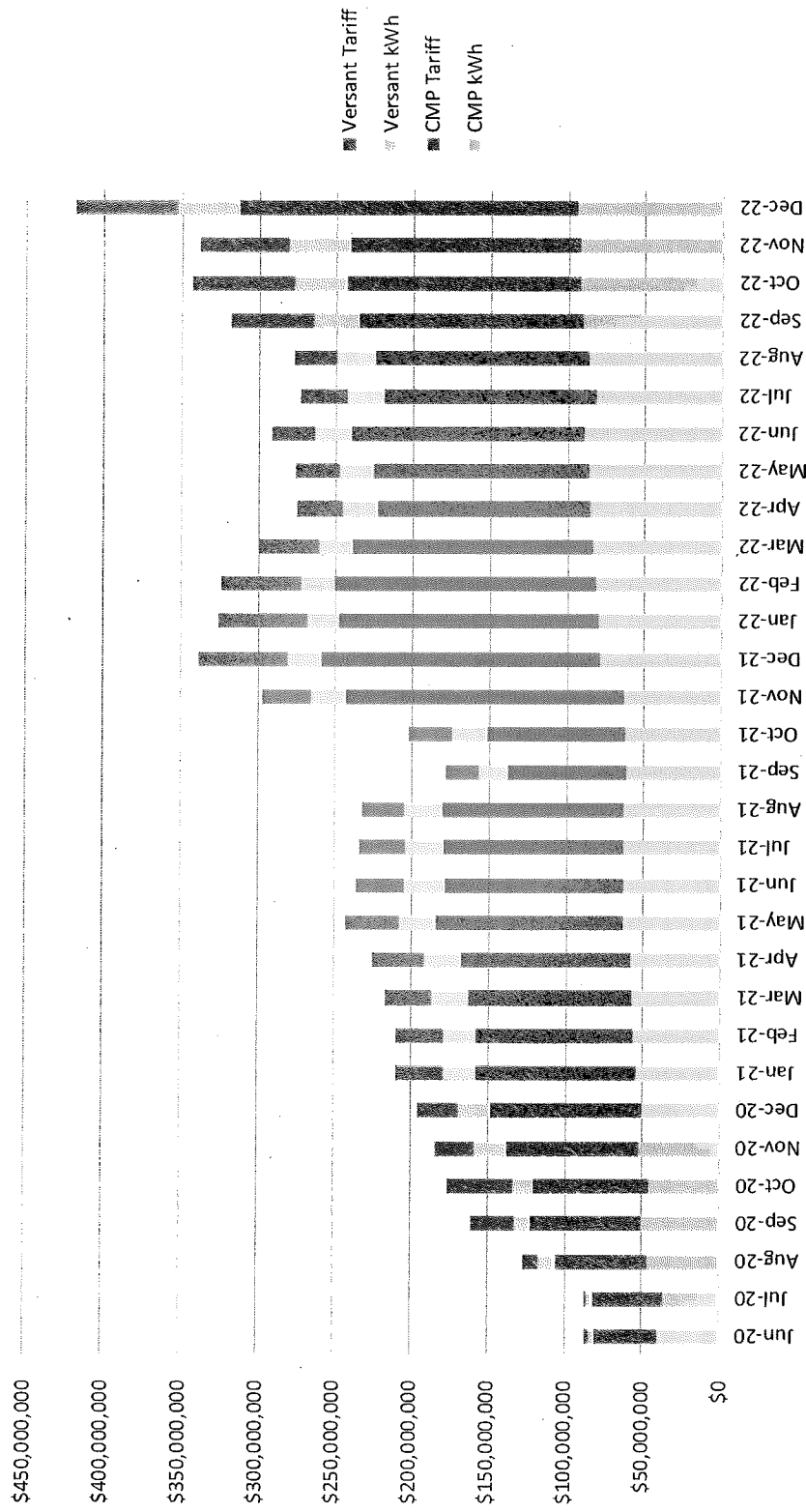
		\$/MWh
Estimated Value of Lost Sales - kWh Program	\$94,604,150	\$86.42
Estimated Tariff Program Gross Costs	\$363,119,135	\$235.50
Less Estimated Value of Energy	\$144,798,759	\$141.59
Estimated Net Cost of Tariff Program	\$218,320,376	\$93.91
Estimated Total Cost of Net Energy Billing	\$312,924,527	
Total CMP Load - MWh	9,000,000	
Cost per MWh	\$34.77	

### Versant - LD 1711 Project Generation



As of End of October 2022 - Assuming all projects Get Built		
Estimated Value of Lost Sales - kWh Program	\$40,837,879	\$98.46
Estimated Tariff Program Gross Costs	\$98,830,932	\$204.26
Less Estimated Value of Energy	\$33,289,441	\$135.46
Estimated Net Cost of Tariff Program	\$65,541,491	\$68.80
Estimated Total Cost of Net Energy Billing	\$106,379,369	
Total Versant Load - MWh	1,900,000	
Cost per MWh	\$55.99	

Estimated Annual Ratepayer Cost of NEB by Utility by Program  
 [Source - Utility Monthly Reports to PUC in Docket 2020-00199]



STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-ONE

H.P. 763 - L.D. 1025

**An Act To Support Arrearage Management Programs through Unused  
Kilowatt-hour Credits Derived from Net Energy Billing Arrangements**

Be it enacted by the People of the State of Maine as follows:

**Sec. 1. 35-A MRSA §3209-A, sub-§5** is enacted to read:

**5. Unused kilowatt-hour credits; rules.** To the extent rules adopted under this section provide for the periodic expiration of unused kilowatt-hour credits accumulated by a customer participating in a net energy billing arrangement, the commission shall require by rule that, no earlier than April 1, 2022, each transmission and distribution utility with a net energy billing arrangement that has implemented or elected to implement an arrearage management program pursuant to section 3214, subsection 2-A shall account for and, on or before January 1st of each year, apply all unused kilowatt-hour credits that were accumulated and that expired during the prior calendar year for the benefit of participants in the utility's arrearage management program. The rules adopted by the commission pursuant to this subsection must:

A. Establish the manner by which a transmission and distribution utility must account for unused kilowatt-hour credits that were accumulated by all customers of the utility with net energy billing arrangements during the prior calendar year and that expired during the prior calendar year; and

B. Establish the manner by which a transmission and distribution utility must apply such unused kilowatt-hour credits for the benefit of participants in the utility's arrearage management program, which must be designed to result in each such participant receiving as close to an equal amount of those credits except when the credited amount would exceed the amount of a participant's arrearage.

Notwithstanding any provision of this section to the contrary, rules adopted by the commission pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.