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PUBLIC UTILITIES COMMISSION

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Testimony of the Maine Public Utilities Commission
Neither For Nor Against
LD 1775, Act to Establish a Clean Hydrogen Pilot Program

May 2, 2023

Senator Lawrence, Representative Zeigler, and Distinguished Members of the Joint Standing Committee on Energy, Utilities, and Technology (Committee), my name is Deirdre Schneider, testifying neither for nor against LD 1775, an Act to Establish a Clean Hydrogen Pilot Program, on behalf of the Public Utilities Commission.

LD 1775 requires the Commission to establish a clean hydrogen pilot program that would, through a competitive solicitation process, choose three clean hydrogen facilities to participate in the pilot program. In selecting a facility to qualify as a participant in the program that Commission is required to: (1) prioritize facilities that lower greenhouse gas emissions or facilities that will advance the viability of technology that reduces greenhouse gas emissions; (2) choose facilities that are in the public interest and reasonably likely not to cause significant costs for gas or electric ratepayers; and (3) require bidders to demonstrate that the owner or operator has site control and has the technical and financial capacity to construct, operate and decommission the facility. It also requires the owner or operator of the facility to ensure all construction, alterations or repairs of the facility are performed by people that are paid wages not less than prevailing hourly wages. Facilities chosen to participate in the pilot are prohibited from selling or purchasing thermal renewable energy credits.

Exemption from Charges

The sale of electricity to a facility chosen to participate in the pilot program is exempt from any distribution, delivery or related charges, including but not limited to, volumetric fees, stranded costs and demand and standby charges, as well as charges associated with the procurement of energy resources pursuant to electric efficiency and conservation programs developed by the Efficiency Maine Trust.

Providing electric service to a new clean hydrogen facility may result in incremental costs to a T&D utility. These could include costs to interconnect the facility as well as ongoing costs to provide service to the facility. Under the Commission's rules, a new customer would pay for these line extensions. Under the Act, the project would be exempt from paying these costs. As a result, other ratepayers would ultimately pay for any such costs incurred by the utility.

The exemption from paying other distribution charges (*e.g.*, volumetric and demand charges) would result in lost revenue to the utility, especially because, as written the exemption is not limited to a specific time period. The Committee may want to evaluate whether a total exemption is necessary for development of a project or whether a smaller subsidy would be sufficient to enable development.

Utilities have negotiated “special rate contracts” under which service is provided to particular customers at discounted rates when necessary to keep an existing customer from curtailing or ceasing its operations or to enable a new customer to locate and operate in the utility’s service territory. The Committee may want to consider an approach in which the utility negotiates a special rate contract that is more narrowly tailored to the specific needs of a project while mitigating any adverse impacts on other customers.

The Act refers to charges associated with procurement of energy efficiency resources by T&D utilities ordered under 35-A § 10110 (4-A). The Commission notes that this statute refers to the funding of Efficiency Maine Trust programs through charges included in the utility’s rates.¹ Because the Act already exempts all T&D charges regulated by the Commission, this provision in the Act appears unnecessary.

RPS Requirements

Under the Act, a competitive electricity provider that provides retail electricity supply service to the clean hydrogen facility would not have to comply with the State’s RPS requirements (*i.e.*, the requirement that retail suppliers purchase renewable energy credits (RECs) at specified percentages of load served). This would have the effect of lowering the cost of electricity supply to the facility but could be considered as inconsistent with the State’s general renewable energy policy that specified percentages of supply provided to retail customers come from renewable power.

In addition, this exemption appears to be inconsistent with the premise that qualifying facilities lower greenhouse gas emissions or advance the viability of technology that reduces greenhouse gas emission. Unless the facility purchases RECs equivalent to its load, it cannot be said to be converting renewable energy to fuel and as drafted the facilities are prohibited from purchasing thermal renewable energy credits.

Additional Consideration

LD 1775 requires the Commission to select three facilities to participate in a pilot program through competitive solicitations conducted between 2024 and 2029. The Committee may want to consider providing the Commission with the flexibility to suspend solicitations if experience with the pilot program indicates that this would not be in the interest of ratepayers. Currently, the only similar limitation is in relation to selecting facilities, which requires the Commission to find that the selected project is in the public interest and not reasonably likely to cause significant ratepayer impacts.

I would be happy to answer any questions or provide additional information for the work session.

¹ Under current law, T&D utilities do not procure energy efficiency resources.