

Testimony of the Industrial Energy Consumer Group
In Support of L.D. 1465,
An Act to Amend the Calculation of Tariff Rates and Billing Credits Under Net Energy Billing
Before the Joint Standing Committee on Energy, Utilities and Technology
January 8, 2024

Good afternoon, Senator Lawrence, Representative Zeigler 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 thirty-five years at the state, regional and federal level. We advocate for policies that reduce the cost of energy for our members and cost-effectively help Maine achieve its climate goals. Unfortunately, Maine's Net Energy Billing program in our view is not a cost-effective solution – the first \$100 MM in NEB costs for ratepayers arrived last summer in the form of higher stranded costs for all ratepayers and we have now seen two large manufacturers – Pixelle and Dragon Cement - announce closings of their Maine facilities. And there is an ongoing effort by generators, including some developers of NEB projects, to avoid paying their fair share of NEB costs.

To the surprise of no one in this room or listening online, Industrial Energy Consumer Group testifies today in support of L.D. 1465, *An Act to Amend the Calculation of Tariff Rates and Billing Credits Under Net Energy Billing*. We will not repeat our detailed criticisms of the current system which we have expressed to the Legislature multiple times per year since 2019, and most recently last session. We will remind you that IECG was a stalwart defender of the original net energy billing program in Maine, and IECG general counsel Tony Buxton delivered the oral argument in favor of that program before the Law Court. That case, and that program, have no relation to the current program.

This committee heard last week from the PUC about the number of projects, the total MW, and the current rates for NEB. IECG would like to call the committee's attention to the following:

- The number of projects and their total capacity remains high, at over 1,900 MW total. Despite the promises of solar developers that the number of projects would fall due to project attrition as high as 50%, this simply has not occurred. We noted the Senate chair's quick tally last week that over 1,900 MW of total NEB projects are still alive. As noted in the attached charts, this number is actually 17% higher on a capacity basis than that forecast when the 750 MW goal was inserted

into the statute several years ago¹. We also note that this number does not appear to include the currently unlimited number of sub-one MW projects that could be, built and paid for by ratepayers.

- Total NEB costs for ratepayers remains high, even while some of the rates have gone down due to lower standard offer rates. This committee heard last week about the latest PUC forecasts on the 2024 rates for the various NEB projects. While thankfully the variable rates have gone down slightly, there is no guarantee that such rates won't increase if the standard offer also increases in the future. The sum of NEB costs to be recovered from ratepayers exceeds \$100 MM as of last year and new costs will be imposed this year as new projects come online, and existing projects get their second or third year of higher-than-market rates. There is nothing in the NEB program that will assure such costs do not increase year over year for the remaining 20 years of the programs' life. Depending on the methodology used to allocate such stranded costs, we could very likely see stranded cost assessments for the major manufacturers on the grid of up to \$3 MM per year. And these estimates do not yet account for the shuttering of other large manufacturers like the Pixelle mill in Jay or Dragon Cement in Thomaston.
- There are several developments playing out right now at the PUC. There has been an onslaught of Good Cause Exemption petitions filed by solar developers seeking to be excused from having to meet the Commercial Operation Date deadline of December 31, 2024. While that is certainly their right to request, and while the PUC is attempting to manage the volume of requests, it would be disconcerting if baseless petitions are taking up the PUC's time, preventing them from fully considering those petitions which ought to be granted. It would be equally disconcerting if developers are relying on the sheer volume of petitions, whether based in good faith or not, to be used as a battering ram to allow more projects into the program than would otherwise be justified.
- Finally, multiple generators, both fossil-fueled and renewable, are challenging the allocation of stranded NEB costs before the PUC. Most of these generators operate in Central Maine Power's service territory – where they currently pay NOTHING to use the grid that was built upon ratepayer funds. They are now objecting to being treated equally with other ratepayers in their same rate classes. Ironically, there is at least one solar developer complaining about being asked

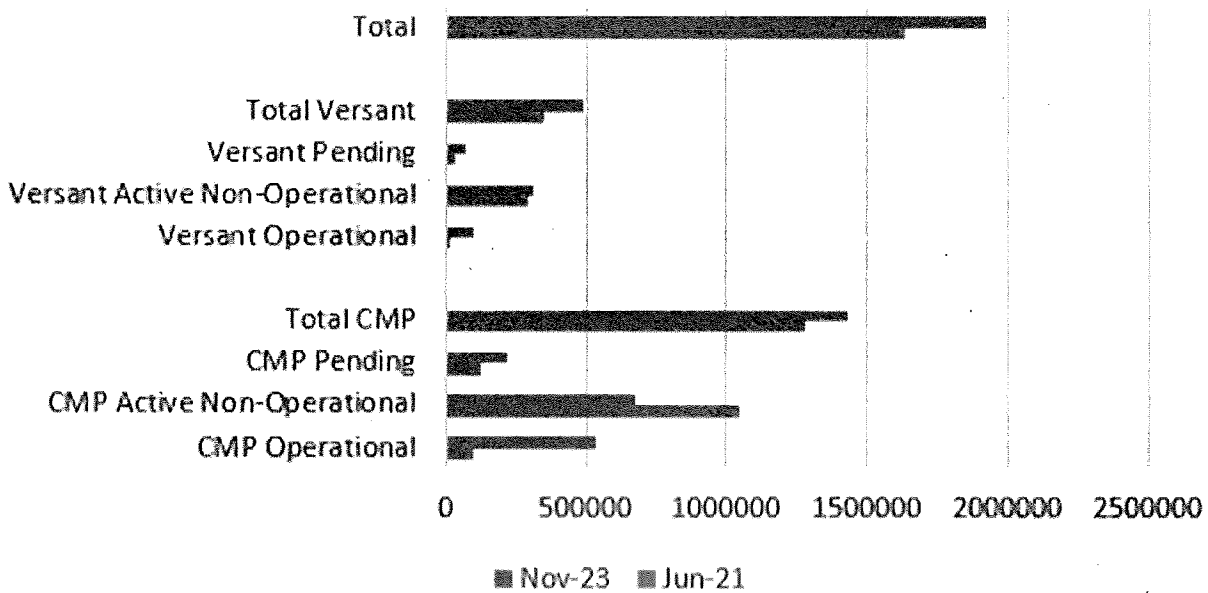
¹ The 750 MW provision was added through the enactment of LD 936 as PL 2021, c. 390, in July 2021

to bear a fair share of the cost of NEB. Whether or not someone supports today's NEB program, I would hope we could all agree that cost allocations should be fair and everyone who uses the grid should contribute to paying for it.

IECG is aware that the political dynamic existing today favors the status quo on NEB. While we do not know if that political dynamic will change in a year or in a decade, what we believe is that the Legislature should be fully aware that the issue of the ongoing cost of that status quo will remain and will be an obstacle to Maine's economic and climate change goals. IECG has urged, and will continue to urge, that Maine's policymakers pursue those policies that achieve the biggest climate mitigation for the ratepayer dollar. We hope the Committee will continue to bear this concept in mind.

Thank you for the opportunity to submit these comments. IECG is happy to answer questions now or at the work session.

NEB kW, June 2021 vs. November 2023



NEB Project Count, June 2021 vs. November 2023

