



Committee on Energy, Utilities and Technology  
% Legislative Information Office  
100 State House Station  
Augusta, ME 04333

January 23, 2024

Re: Testimony in Opposition to LD 2087, *An Act to Protect Property Owners by Preventing the Use of Eminent Domain to Build Transmission Lines Under the Northern Maine Renewable Energy Development Program*

Dear Senator Lawrence, Representative Zeigler, and Members of the Committee:

On behalf of the Maine Renewable Energy Association (MREA), thank you for the opportunity to present testimony in opposition to LD 2087, *An Act to Protect Property Owners by Preventing the Use of Eminent Domain to Build Transmission Lines Under the Northern Maine Renewable Energy Development Program*.

In order to pursue beneficial electrification, meet our clean energy goals, reduce greenhouse gas emissions, enhance reliability, and avoid the worst impacts of climate change, Maine must expand its transmission and distribution grid. Though the extent of that expansion may vary based on the pursuit of battery energy storage systems, demand management strategies, and other non-wires alternatives, the fact remains that in order to accommodate new distributed generation resources and utility-scale renewable energy projects, Maine must expand its grid to deliver clean electricity.

LD 2087 proposes to prohibit the use of eminent domain in the development or construction of a generation connection line or transmission line under the Northern Maine Renewable Energy Development Program. Under Maine law, transmission and distribution utilities have been granted the right of eminent domain. Current law puts several limits on this authority. For example, the right does not apply to lands or easements located within 300 feet of an inhabited dwelling and the Maine Public Utilities Commission (Commission) must issue a certificate of public necessity and convenience in order to approve a location to be taken by eminent domain. See 35-A M.R.S. § 3136(2)(A) (1987) and 35-A M.R.S. § 3136(4) (2007). In determining public need, the Commission must take into account public health and safety; scenic, historic and recreational values; and proximity to inhabited dwellings, among other considerations. See 35-A M.R.S. § 3132(6) (2023). Above all, eminent domain must be utilized for public use and with just compensation. Eminent domain is typically used as a last resort.

[www.renewablemaine.org](http://www.renewablemaine.org)

MREA is hopeful that eminent domain will not be used in the Northern Maine Renewable Energy Development Program (Program), however, we believe that the tool must remain available. Linear development, such as the development of transmission lines, is particularly challenging to site. Without the possibility of using this tool, we are concerned that the Program will not attract interest. Wide, varied interest in the Program, including the upcoming request for proposals, will result in a more cost-effective project. Reducing costs and in turn impacts to ratepayers is in everyone's interest.

Furthermore, passage of LD 2087 would set poor precedent regarding eminent domain, generally. With no request currently before the Commission to use eminent domain for the Program and, by extension, prior to the Commission's consideration of a certificate of public need and convenience, for the Legislature to simply take eminent domain off the table could undercut eminent domain policy and process on the whole.

MREA strongly urges the Committee to vote Ought Not to Pass on LD 2087. Thank you for your consideration of our comments. MREA welcomes continued engagement with the Committee as they debate this bill.

Sincerely,



Eliza Donoghue, Esq.  
Executive Director