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PUBLIC UTILITIES COMMISSION

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Testimony of the Maine Public Utilities Commission

Neither For Nor Against

LD 2163, An Act to Require Electricity Providers to Inform Customers of Alternative Electric Rates and Gather Consent Prior to Contract Renewal

February 6, 2024

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 2163, An Act to Require Electricity Providers to Inform Customers of Alternative Electric Rates and Gather Consent Prior to Contract Renewal on behalf of the Public Utilities Commission (Commission).

The Commission is supportive of sections 2 through 6 and 9 of the bill. The Commission has some concerns relating to sections 1 and 8 of the bill.

Section 3 – Affirmative consent for contract renewal

The Commission is very supportive of requiring a customer's express consent before any contract is renewed with a CEP. We suggested this change in our testimony last session on LR 2581 as this change compliments the current regulatory structure and provides additional safeguards for CEP customers. As the Commission has seen in the past, problems often arise upon the renewal of a contract for generation service. Current law only requires express consent of a contract renewal when the new contract would be for 20 percent or more than the contract rate that is expiring. It is easy for a customer to overlook a notice that the contract is going to expire and if no action is taken it automatically renews. Requiring express consent, as well as requiring the CEP to provide a price comparison between the price they are offering with the standard-offer price, would go a long way to address many problems. If the customer does not provide express consent the residential customer would be transferred to standard-offer service.

Section 1 – Customer enrollment or unenrollment

Section 1 of the bill requires the billing and metering entity to process the electronic enrollment or unenrollment of a customer from a standard-offer (SO) provider or competitive electricity provider (CEP) within 3 days of receiving the electronic notice. The bill specifies that the utility would not be required to process more than 2 enrollments and 2 unenrollments per customer per billing cycle. This requirement will potentially result in the off-cycle enrollment/unenrollment of a customer and result in a customer receiving a prorated bill. To the extent that any of the customers are a customer of a utility

that does not have advanced metering infrastructure, then the utility would be required to drive to the customer's location to obtain a meter read. This could potentially result in additional costs that would be borne by all ratepayers of that utility.

The bill does not appear to limit this section to residential customers. Under the Commission's rule, chapter 301, Standard Offer Service, a medium or large non-residential customer who unenrolls from a CEP and begins receiving SO service is required to maintain SO service for a period of 12 months. If that commercial customer wishes to reestablish service with a CEP within that 12-month period, they are required to pay an opt-out charge. This requirement is intended to minimize the risk to a SO service provider. It is unclear if the language in the bill is meant to apply to all customers. If it is, then this could result in SO providers building into their rate a larger risk premium, thus resulting in a higher price for SO service. If it is not, it would be helpful to state that the requirement applies only to residential customers.

Section 8 – Low-income customer participation; confidential customer information

The Commission is concerned that language in section 8 regarding the disclosure of customer information is not narrowly tailored and could result in the disclosure of customer information to a CEP without the customer's consent. The bill states that the billing and metering entity is required, on a monthly basis, to send a list of all customers that participate in the low-income assistance program (LIAP) or arrearage management program (AMP) to all CEPs, regardless of whether or not that customer is a CEP customer. The intent may be that it is only those customers that are served by a CEP, but the language is not sufficiently clear.

Section 8 of the bill also would prohibit a CEP from charging a customer participating in the LIAP or AMP more than the SO price for service upon contract renewal. However, it appears that the CEP could enter into an initial contract with a customer participating in LIAP or AMP at a price higher than the SO offer price. With the requirement proposed in section 3 that affirmative consent from a customer is required for all contract renewals it is unclear to the Commission what this limited prohibition actually accomplishes. The Commission is concerned with the message this requirement sends as it seems to imply that low-income customers are not capable of making an informed decision for themselves during a contract renewal, especially when section 3 also requires the CEP to provide that customer with the rate and terms of the contract, along with the SO rate in effect and the term of that SO rate. Additionally, current law also prohibits contract termination fees. The termination on fees and the need to acquire express consent on a contract renewal allows a customer that is or may be paying more than standard-offer service to easily remedy that situation in a direct and efficient manner, that would not require the sharing of customer information with CEPs.

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