CENTRAL MAINE POWER

February 6, 2024

LD 2172, An Act to Enhance Electric Utility Performance-based Ratemaking

Testifying: In Opposition

Senator Lawrence, Representative Zeigler, Members of the Joint Standing Committee on Energy, Utilities and Technology, my name is Peter Cohen, Vice President of Regulatory for Central Maine Power Company, presenting testimony in opposition to the sponsor's amendment to LD 2172, An Act to Enhance Electric Utility Performance-based Ratemaking.

CMP supports the state's climate goals. Planning to meet the challenges of significant load growth as we move to electric heating and cooling of our homes, electric vehicles for both public and private transportation, and preparing a stronger, smarter, more resilient grid for the further impacts from climate change, experienced directly through more severe and frequent storms – these are challenges we all face. There is no time to waste, nor can we squander limited resources. The way we approach these challenges, collectively, will dictate whether we meet our goals effectively and at the least cost to Maine ratepayers.

While we understand the sponsor's stated goal as laid out in the emergency preamble to this bill, and appreciate the significant amount of time he has spent with us discussing this initiative, we oppose the bill for two overarching reasons: 1) there is a significant amount of overlap with the Public Utilities Commission's recently modified Chapter 320 rules - as dictated by the Governor's Utility Accountability legislation, and with elements of our current rate plan, and 2) it could have a chilling effect on the ability of Maine's utilities to attract the capital necessary to support investments and innovation, ultimately leading to customer costs that are higher than necessary to meet our beneficial electrification goals.

Overlap with existing proceedings

The Governor's Utility Accountability legislation (LD 1959) included broad ranging energy policy directives to the MPUC to foster achievement of the state's policy goals, and imposed on utilities strict performance metrics, reporting requirements and associated penalties.

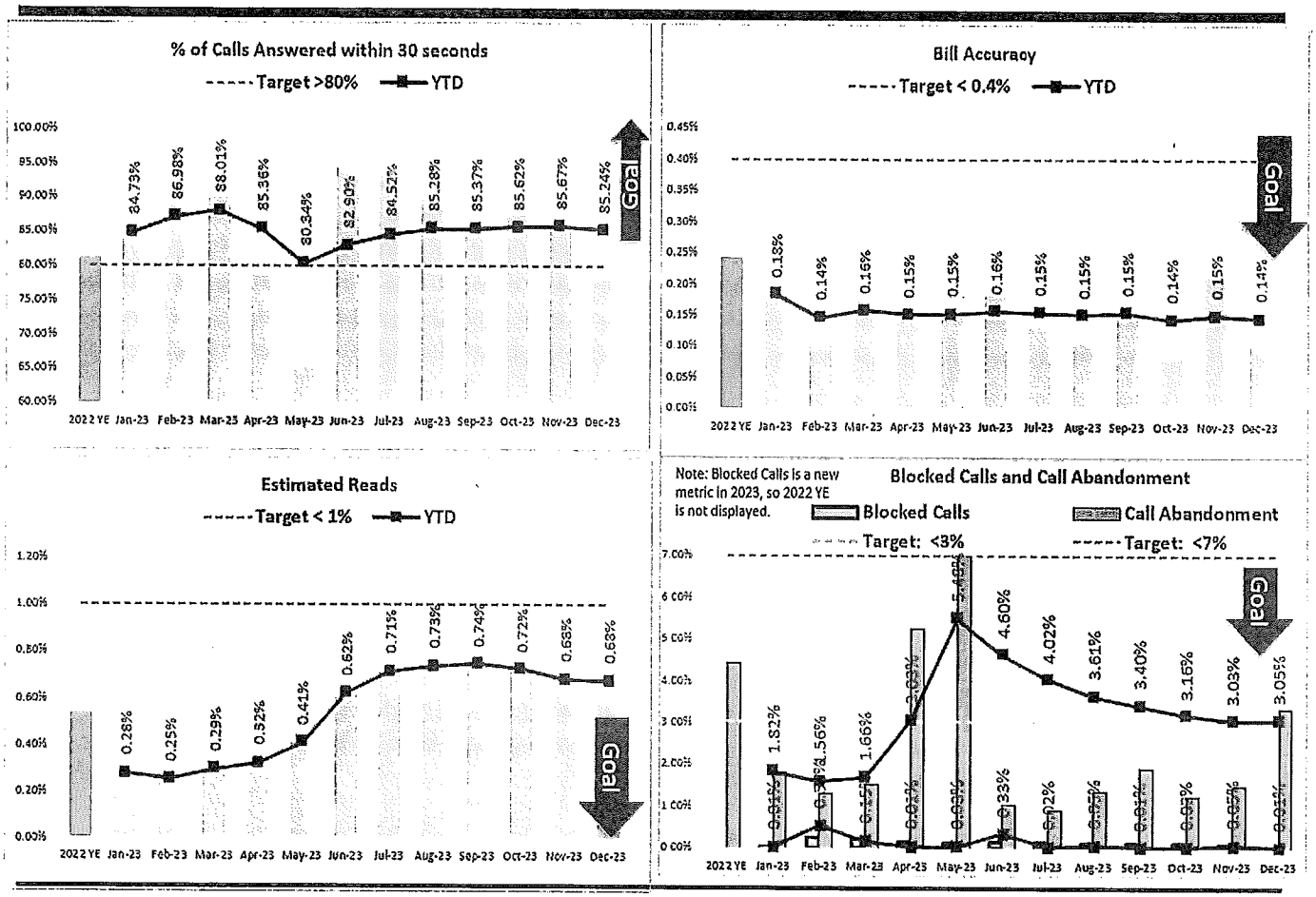
Performance metrics and new reporting requirements were codified in the MPUC's Chapter 320: Electric Transmission and Distribution Utility Service Standards in 2023 after many months of stakeholder engagement and public input at the Commission. Last week CMP filed its first annual results for our 2023 performance against a myriad of requirements and is now preparing the first Customer Report Card required under the new rules.

CMP agrees that customers are entitled to expect utilities to achieve reasonable performance requirements. The Company participated actively in the stakeholder process to implement the changes to Chapter 320 required by LD 1959, where extensive metrics were determined to measure utility Reliability, Customer Service and Operations. Specifically, the Reliability metrics measure the length of the average customer interruption (CAIDI), the frequency of interruptions (SAIFI), the total hours an average customer was without power (SAIDI), and the Feeder Adder Interruption Frequency Index (FAIFI) for circuits that performed poorly by comparison to the rest of the system. Customer Service metrics measure how many customer calls are answered within 30 seconds (85% in 2023), how many callers hang up before being

answered, how many callers cannot reach the Company when they call, how accurate and timely customer bills are issued, and how many customers have bills based on actual reads instead of estimates. Operations metrics identify how many customers had their new construction completed and energized by their Customer Guarantee Date. Each of these metrics and their associated targets were determined in a collaborative proceeding and then approved by the Commission.

CMP is very pleased to report that every single metric was achieved in 2023 – see the customer service results below:

CMP – Service Quality Indicators



Accomplishment of these metrics was the result of careful and thoughtful work and planning on CMP's part, respecting the authority of the Commission and the intentions of the Governor's bill.

In addition to the performance metrics and penalties that LD 1959 established, it also directed several other sweeping efforts aimed at advancing climate goals and readying the grid for beneficial electrification and climate resiliency. Specifically, LD 1959 directed that beginning in December 2023, and every 3 years thereafter, T&D utilities shall submit a 10-year plan for addressing the expected effects of climate change. The Commission, in response to the submittal, must set up a public process for input from stakeholders. CMP's first Climate Change Protection Plan has been submitted and is now the subject of an active case at the MPUC in Docket No. 2023-282.

The outcome of the proceeding will be recommendations the Commission will use in future rate

proceedings or other proceedings involving the T&D utilities, establishing goals that are consistent with the State's climate action plan. Duplicating this effort through LD 2172 is simply not necessary.

LD 1959 also directed the Commission to initiate a proceeding to identify the priorities to be addressed for a 10-year integrated grid plan designed to "improve system reliability and resiliency and enable the cost-effective achievement of the greenhouse gas reduction obligations and climate policies." The proceeding will include technical conferences and stakeholder workshops to identify priorities, assumptions, goals, methods, and tools to assist in the development of the grid plan. Following the technical conferences and stakeholder workshops, the Commission will issue an order directing the T&D utility to submit a filing within 18 months of the order addressing the priorities identified in the proceeding and also:

1) Assess the electric system of the utility and its relationship to the regional grid;
2) Reference and incorporate elements of the Efficiency Maine Trust triennial plan, including analysis of the cost-effective energy efficiency potential and plans to implement energy efficiency programs, demand management programs, and beneficial electrification programs;
3) Include at least 2 potential planning scenarios – a baseline scenario and a scenario of high-penetration distributed energy resources and end-use electrification.

This extensive and comprehensive public process is currently underway at the Commission. All of the major energy stakeholders in the state are party to the proceeding, and meaningful dialogue and collaboration around these important issues is ongoing.

In addition, the MPUC currently has open dockets reviewing energy storage issues, net energy billing rules, distributed generation timelines, and many other topics that are squarely related to the grid of the future.

There is simply no need at create another duplicative law for the very same purposes. To do so wastefully expends ratepayer funds while simultaneously advocating for increased affordability. It distracts the utilities, the Commission and other parties from the urgent business at hand – preparing our grid to sustain increasingly severe weather and to increase capacity to support Maine's green energy policies, while being mindful of customer costs. CMP urges the Committee to consider the extensive regulations already in place, review the utilities' 2023 performance against those regulations and then determine whether LD 2172 is needed or if it simply duplicates existing requirements.

CMP believes customers would be better served by letting the ink dry on the new reporting under LD 1959 and taking the time to evaluate the results before implementing even more changes.

Impact on rates

With regard to the impact this bill could have on our ability to attract the capital necessary to support investments and innovation, please refer to *Section 2, 3. Innovative rate design* in which the commission is directed to consider implementing innovative rate designs to align our performance with standards and metrics they develop after developing new goals – every three years. This will stymie progress already being made and result in significant regulatory uncertainty. Uncertainty equals risk and risk equals more cost. Worse yet, delays in the inclusive and collaborative rate design work currently being done get our State no closer to the implementation of tangible responses to the challenges society is facing today.

Specifically, the bill directs the commission to consider implementing rate designs that:

A. Assess the effectiveness and adjust the decoupling of the transmission and distribution utility profits from utility sales where appropriate;

B. Use the total of operations and capital expenses as the basis for ratemaking, rather than capital

expenses alone; and

C. Use of cost of equity as the minimum to be recovered by utilities in rates, with any recovery above that amount determined by utility performance.

Taking each in turn, in 3-A, the reference to decoupling utility profits from utility sales – or a "rate decoupling mechanism (RDM)" is particularly concerning. In an environment encouraging beneficial electrification, the utilities should and certainly will be increasing sales. The existence of RDMs addresses issues such as weather variability, which reduces costs to customers (due to a reduced risk profile). The entire point of an RDM is that the level of forecasted sales used to establish the revenue requirement is fixed – under and over recovery is reconciled annually. As such, there is no profit being gained or lost from sales variations and customers directly benefit from advances in electrification through this mechanism.

Next, in 3-B, today, capital expenses alone don't establish the revenue requirement. Under cost of service rate making, utilities recover prudently incurred costs necessary to provide safe, adequate, and reliable service to customers. Capital investments are financed through the acquisition of capital, typically equity and debt. The costs associated with that capital, either interest expense or shareholder return are a component of the revenue requirement. These costs are correlated with risk, in that investors, either debt or equity, require a return on their investments. As risk increases, so do the costs necessary to attract the capital necessary to fund investments and innovation. Operating expenses such as property taxes and labor costs are already incorporated into the revenue requirement used to establish tariffs.

Finally, in 3-C, it is unclear what the reference to a minimum ROE is intending to convey. Would the ROE used to establish rates be at a minimum with additional shareholder return conditioned on to-be-established performance metrics? Is it suggesting that utilities need to have risk of financial consequences for poor performance? Because that already exists, not only in our rate plan, but in Chapter 320, and at the MPUC's discretion. One needs to look no further back than 2020 when CMP itself was assessed a 100bps reduction to its authorized ROE due to poor performance. This is yet another example of something already happening that should not be duplicated.

If the intention is to create risk for utilities by setting an artificially low ROE – our rejoinder would be that water finds its level. If you introduce that type of risk to a utility, the returns demanded by equity investors will increase to recognize the incremental risk being borne. In addition, the utility has an opportunity to earn a reasonable return, and we also flag that, depending on how this minimum ROE is structured, it could have constitutional infirmities if it is confiscatory as applied. Additionally, creating uncertainty around cash flow metrics will lead to an increasing cost of debt – so ultimately the result of this endeavor, to address a problem that doesn't exist, will increase costs to customers. To the extent the effort is to lower the base ROE, this would serve to limit the acquisition of capital necessary to support climate change goals – ultimately this "base" ROE will be higher than otherwise if incremental profitability is ambiguous, subjective, or conditional.

CMP maintains the language presented in LD 2172 has far too much ambiguity and overlap to be supported. Though it is designed to support climate change goal achievement, it will have the exact opposite effect - derailing the current efforts underway at the Commission, imposing additional studies and reports on an over-tasked staff, harming the utilities' ability to make universally agreed upon, necessary investments in a cost-effective manner, and handcuffing our ability to make investments needed to harden the grid. It seems misplaced to create more *process* as so much *progress* is already occurring.

For these reasons, CMP respectfully opposes passage of LD 2172.

Thank you for your consideration.