



**Testimony In Opposition to LD 2172 (as amended)  
An Act to Enhance Electric Utility Performance-based Ratemaking  
February 6, 2024**

Senator Lawrence, Representative Zeigler, and distinguished members of the committee, my name is James Cote and I am here on behalf of Versant Power to testify in respectful opposition to LD 2172.

We want to first thank Representative Runte for bringing this legislation and important discussion forward. We also appreciate the sponsor's willingness to engage in constructive dialogue with various stakeholders while crafting this bill. While we continue to have concerns with the amendment published over this weekend, we are committed to continuing to work with the sponsor, the Committee, and key stakeholders to try to find a path forward that all parties can support.

As with all ratemaking, the implementation of performance-based ratemaking ("PBR") will have significant impacts for customers, utilities, stakeholders, and the State of Maine. If well executed, PBR can provide important clarity to utilities about the goals they are expected to accomplish and can align incentives with the efficient accomplishment of such goals. If poorly designed or executed, however, PBR can lead to serious negative consequences, e.g., delay in meeting state policy objectives, inefficient over- or -under-investment in the grid, upward pressure on utility costs or customer rates, etc.

For these reasons, we urge the committee to consider the topic of performance-based ratemaking deliberately and to recognize that, in jurisdictions where the institution of PBR has been successful, it has only come at the end of a comprehensive, transparent process whereby policy goals were clearly identified (and, critically, prioritized), where metrics were carefully set to align with these goals, and where financial incentives and disincentives were designed to compliment these metrics as efficiently as possible. Such processes have taken anywhere from five to ten years to accomplish in other states, reflecting the complexity and scope of such an undertaking.

As you know, in Maine, we are not starting with a blank slate. In addition to various metrics, service quality indices, alternative-rate-mechanisms (e.g., revenue decoupling), etc. into which some utilities have entered with the Commission in recent years on an individual basis, Governor Mills' LD 1959 from the previous legislature set in motion the setting and enforcement of certain regulatory requirements that aim to achieve similar goals to those proposed in this draft legislation. As the committee considers the path forward with this bill, we believe it is critical that significant attention be paid to the degree of overlap this would have with existing metrics and how it would interface with this ongoing work.

LD 1959 – which, among other things created minimum service standards for transmission and distribution utilities – is being diligently implemented by the Commission, including a robust stakeholder engagement process. As a result, the outcomes of that law (including, e.g., utility customer scorecards and climate change plans, and, in the coming years, Maine's first utility Integrated Grid Plans) are rolling out. Additionally, the Commission has set more stringent metrics in recent utility rate cases. We hope that any action the committee takes this session carefully contemplates this progress within the already established metrics and policy initiatives.



Our primary concern is largely with the timing and process the bill proposes. We note, as a preliminary matter, that there is currently no performance-based rate making construct to review in Maine. Further, we believe that it is reasonable, should the Committee decide to move forward with this bill, to ask the Commission to investigate the concept of performance-based ratemaking, including the experience of other jurisdictions, and report back to the legislature whether such an approach could serve the public interest here in our state. To move forward with the implementation of PBR would be a major policy decision, and we believe the Commission and the legislature would be well-served by a transparent process to weigh the potential costs and benefits of PBR before applying it here.

However, implementing a PBR regime that mandates the development of goals and specific metrics, most of which already exist in the Commission's established minimum service standards and LD 1959, as the current amendment proposes, before fully evaluating how PBR could fit into and, ideally, compliment, the existing regulatory environment in Maine, seems to put the cart before the horse.

Below we offer some specific thoughts for your consideration. As always, Versant Power would be very willing to work with the sponsor, committee, and other stakeholders on any additional concepts or amendments.

**Section 2, 1. Commission proceeding, A, B & C.-** As stated above, we support a commission proceeding to evaluate PBR (as contemplated in Sec. 2, 1), which we agree could reveal that such a regime would be beneficial in Maine if carefully implemented.

We believe, however, that the appropriate next step, following such a proceeding, would be for the Commission to report its findings and recommendations back to the legislature, including recommending whether the implementation of PBR would provide benefits to Maine ratepayers, support policy goals, and enable utilities to continue to cost-effectively facilitate the energy transitions. Sec. 2, 1-A, on the other hand, would require the Commission to move immediately to the complex and resource-intensive tasks of goal setting and metric development before such a public interest determination has been made by either the Commission or the legislature.

Additionally, we believe that before the Legislature directs the Commission to begin establishing goals (and the standards and metrics to align with such goals) we must first prioritize a limited number of reasonable, achievable, and accomplishable (that is, directly within the ability of utilities to control) objectives.

This critical step – of identifying and prioritizing the most critical utility roles the state wishes to incentivize – should be undertaken carefully and with stakeholder involvement. As the end of the day, however, we believe it is appropriate for the Legislature to ratify such goals, given these objectives would ultimately have tremendous impact on the outcomes of any PBR regime designed to achieve them. We would suggest that Sec. 2, 1 B be struck and replaced with a requirement that the Commission, as an outcome of the Sec 2, 1 proceeding, be asked to propose a limited number of critical goals for the legislature to consider approving should it decide to move forward with implementation of PBR. We suggest Sec. 2, 1 C, requiring the Commission to consider PBR regimes in other jurisdictions, be integrated instead into the directive in Sec. 2, 1.



**Section 2, 2. Goals, standards and metrics; considerations-** We believe that the considerations in this section should be evaluated and prioritized in a transparent process that allows for stakeholder input. As drafted, the sponsor's amendment appears to give precedence to the certain objectives (e.g., implementation of the State's climate action plan and utility's integrated grid plans) over other identified goals (e.g., increased affordability and accomplishment of the State's greenhouse gas emissions reduction goals). If the Legislature directs the Commission to proceed with this work, we believe the initial proceeding should allow for all of these goals (and any others proposed by stakeholders) to be fairly evaluated and ultimately prioritized, including considerations of importance, cost, and timing. It is only after this step is completed that we should collectively develop standards and metrics that are aligned with these consensus goals.

**Section 2, 4- Stakeholder input-** Versant Power believes that, if the Legislature intends to move forward with this legislation, stakeholder input should be integrated into any Commission proceeding. In line with our perspective that consideration of PBR should begin with a wide-ranging, Commission-led, and transparent evaluation followed by a report back to the legislature, we suggest that this requirement be moved up to Sec. 2, 1, Section 3, Technical Policy Group- Versant Power would defer to the Commission's perspective regarding any specific needs pertaining to the evaluation and/or implementation of performance-based ratemaking. At a higher level, we believe the concept of a dedicated policy staff at the Commission is worth consideration given the multiple complex policy-initiated proceedings the Commission has taken on in recent years and to provide for some separation between those Commission staff focused on shaping and implementing policy directives on one hand and those focused on more traditional regulatory oversight on the other.

Versant Power believes performance-based ratemaking is a concept that, if designed and implemented carefully and deliberately in order to compliment Maine's specific energy and policy landscapes, is one tool that can benefit ratepayers and help our state achieve our goals. We urge the Committee, if it intends to move in this direction, to allow the time and resources necessary to conduct a serious and transparent evaluation of the costs and benefits of PBR in Maine before requiring the Commission to move to implement such a system.

Versant Power is committed to being a constructive participant in these important policy debates and would be pleased to provide any information that may be helpful upon your request.

Thank you for your consideration.