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PUBLIC UTILITIES COMMISSION

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Testimony of the Maine Public Utilities Commission

Neither For Nor Against

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

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 the sponsor's amendment to LD 2172, An Act to Enhance Electric Utility Performance-based Ratemaking on behalf of the Public Utilities Commission (Commission).

The Commission would like to thank Representative Runte for considering an amendment to the bill as originally printed provided by the Commission. While, the Commission has additional suggestions related to the sponsor's amendment in order to provide more flexibility, we appreciate that a fair amount of the Commission's input was incorporated into this amendment.

Background

During the 130th Legislature, Public Law 2021, chapter 702 was enacted requiring, the Commission, through rulemaking, to establish minimum service standards for investor-owned transmission and distribution utilities. The Commission, in rule chapter 320, adopted requirements related to quality of service, service interruptions, reliability, customer service, billing performance and customer satisfaction. The first utility report cards are expected to be produced in June 2024.

In addition to the required minimum service standards, the Commission in recent rate cases established additional performance-based requirements for both CMP and Versant Power to ensure that customers realize the benefits of the utility's proposed capital investments. The utilities performance is measured annually, and for any metric that the utility fails to meet, a penalty will be assessed. In the case of CMP, distribution revenues may be adjusted downward annually, with an annual downward adjustment cap of \$8.8 million.¹ For Versant Power for each point deducted² out of 100 points, Versant Power will be required to make a payment of \$300,000 to be credited to customers through Versant's stranded cost rates on an annual basis, with a cap on payments not to exceed \$3 million³. As these new requirements were only established in May and June 2023, there has not yet been an annual reporting to determine compliance.

¹ This includes service quality indices related to frequency and duration of outages, call answering metrics, billing accuracy and the effectiveness of a new automation program.

² Proportional payment will be made for deduction of less than one point, to the tenths of points.

³ This includes service quality indices related to frequency and duration of outages, call answering metrics, billing accuracy and timeliness of fulfilling field service requests.

The Commission intends to utilize performance metrics as a regular feature of rate cases so that customers can be confident their utilities are investing wisely to ensure safe, adequate, and reliable service. The Commission has taken a targeted approach when establishing performance-based metrics in order to address specific areas of performance to measure for each individual utility, as the two utilities are not similarly situated.

Sponsor's amendment

The sponsor's amendment to LD 2172 requires the Commission to conduct a triennial proceeding to evaluate performance-based rate designs, including rate adjustment mechanisms and innovative rate designs that may be implemented for investor-owned transmission and distribution utilities. The Commission thinks there is great value in conducting these proceedings on a regular basis in order to consider goals for performance and seek stakeholder input. The information obtained from these proceedings would allow the Commission to more nimbly develop standards and metrics to assess a utility's performance in rate cases and other proceedings involving the utility. However, portions of the sponsor's amendment are too prescriptive and would impair the Commission's ability to take a targeted approach to the establishment of performance standards and in some instances the requirements may be an inefficient use of Commission resources. The Commission has attached a proposed amendment to our testimony for the Committee's consideration. The changes proposed in the amended language affords the Commission with flexibility and creates an informative process that can assist the Commission in rate cases and other proceedings involving the utility.

The Commission is not opposed to establishing a technical policy group and we appreciate that the focus of this group's work has been expanded beyond performance-based rate design. However, we think this concept should be carefully considered to ensure that the designation of additional staff and resources are used effectively.

Lastly, the Commission is very supportive of section 1 of the bill as drafted, as this provides clarity on the Commission's authority to establish performance-based metrics and rate adjustment mechanisms in a proceeding for a general increase in rates for all utilities.

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

Proposed Amendment Provided by the Public Utilities Commission

Sec. 2. 35-A MRSA § 3196 is enacted to read:

§3196. Review of performance-based rate designs.

1. Commission proceeding. Beginning October 1, 2024, then every 3 years thereafter, the commission shall initiate a proceeding to evaluate performance-based rate designs, including rate adjustment mechanisms and innovative rate designs, that the commission may implement for an investor-owned transmission and distribution utility.

A. In conducting a proceeding, the commission shall first, may in accordance with subsection 2, paragraph A, establish goals for the utility's performance and then may develop standards and metrics, in accordance with subsection 2, paragraph B, that may be used to assess the utility's performance towards achieving those goals.

B. In its evaluation, the commission must consider performance-based rate designs to:

- (1) Enhance the minimum service standards established pursuant to section 301, subsection 1-A; and
- (2) Align utility performance with standards and metrics developed in accordance with subsection 2, paragraph B.

C. The commission shall also consider performance-based rate designs utilized in other states.

2. Goals, standards and metrics; considerations. The commission shall consider establishing establish goals for a utility's performance and standards and metrics to assess the utility's performance towards achieving the goals in accordance with this subsection.

A. The commission shall consider the establishment of goals that are consistent with the objectives of the State's climate action plan under Title 38, section 577 and address the elements of a utility's integrated grid planning filing pursuant to section 3147, subsection 4. The commission shall also consider, at a minimum, goals that would benefit ratepayers and would achieve the following:

- (1) The promotion of efficiency and cost-effective utility operations;
- (2) Increased planning and preparation for extreme weather events and climate hazards;
- (3) The cost-effective and comprehensive response to outages;
- (4) Increased affordability, customer empowerment and satisfaction; and
- (5) The advancement of the State's greenhouse gas emissions reduction goals established pursuant to Title 38, section 576-A.

B. After establishing goals in accordance with paragraph A, the commission shall may establish specific standards and metrics for assessing transmission and distribution utility performance relative to the goals to be used in rate cases and other proceedings involving

the utility. In developing standards and metrics, the commission shall consider standards and metrics used in other states.

3. Innovative rate design. As a part of the proceeding pursuant to subsection 1, the commission shall consider implementing innovative rate designs to align transmission and distribution utility performance with the standards and metrics developed pursuant to subsection 2, paragraph B, including, but not limited to, 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.

4. Stakeholder input. The commission shall hold stakeholder workshops to receive stakeholder input and to assist in evaluating performance-based rate designs. Nothing in this section prohibits the commission from investigating performance-based rate designs for consumer-owned transmission and distribution utilities.

5. Report. Beginning January 1, 2026, and then every 3 years thereafter, the Commission shall provide a report summarizing the proceeding, along with any information regarding the utilization of performance-based rate designs, and any recommended legislation, to the joint standing committee of the Legislature having jurisdiction over utility matters.

Section 3. Technical policy group. The Public Utilities Commission shall create a technical policy group to develop goals, standards and metrics, including those required by the Maine Revised Statutes, section 3196, subsection 2; monitor utility performance and recommend rate designs based on performance; draft legislative reports requiring policy-based analysis; and perform other activities that have broader implications related to the commission's regulatory oversight. The commission may hire 3 full-time employees for this purpose.