



## Natural Resources Council of Maine

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**Testimony in Support of LD 301,  
An Act to Allow the Public Utilities Commission to Establish Performance-based Metrics  
and Rate-adjustment Mechanisms for a Public Utility in Any Proceeding**

**To the Joint Committee on Energy, Utilities and Technology  
by Rebecca Schultz  
Senior Advocate for Climate and Clean Energy  
March 6, 2025**

Senator Lawrence, Representative Sachs, members of the Energy, Utilities and Technology Committee, my name is Rebecca Schultz, and I am a Senior Advocate for Climate and Clean Energy with the Natural Resources Council of Maine (NRCM). NRCM is a nonpartisan membership organization that has been working for more than 65 years to protect, restore, and conserve Maine's environment, now and for future generations.

On behalf of our nearly 24,000 members and supporters, NRCM testifies in support of LD 301, An Act to Allow the Public Utilities Commission to Establish Performance-based Metrics and Rate-adjustment Mechanisms for a Public Utility in Any Proceeding.

This bill proposes clarification of the Commission's existing authorities to strengthen the regulatory system of Maine's public gas and electric utilities, for the basic purposes of ensuring safe and adequate service, minimizing costs, and ensuring rates are just and reasonable.

Evaluating utility performance and adjusting rates accordingly, which is what this bill provides, is bread and butter regulation.

Indeed, the Commission already has statutory authority to do similar work, including under its general provisions to use incentive ratemaking in the electric sector,<sup>1</sup> as well as under section 301, which requires the Commission to impose administrative penalties on electric utilities for poor performance relative to minimum service standards.<sup>2</sup> Recent applications include Central Maine Power's 2022 rate case, which established financial penalties up to \$8.8 million in certain performance categories, including reliability.

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<sup>1</sup> 35-A §3195, <https://legislature.maine.gov/statutes/35-A/title35-Asec3195.html>

<sup>2</sup> 35-A §301, <https://legislature.maine.gov/statutes/35-A/title35-Asec301.html>

However, this bill provides additional and important clarification to empower state regulators to continue to demand more from our utilities and raise the bar for Maine people.

What this bill does should be distinguished from a more concerted pivot to what's known as "performance-based regulation," debated most recently by this Committee last year with LD 2172.<sup>3</sup> Performance-based regulation is a reformed regulatory framework to align utility incentives with desired outcomes, currently being pursued by at least 17 states and the District of Columbia.<sup>4</sup>

NRCM supported that bill last year and we continue to advocate for a shift away from traditional "cost-of-service" regulation, which gives our public utilities guaranteed returns of 8-11% on their capital expenditure. A cost-of-service approach, which the Commission currently uses, may have served the state well 100 years ago when we needed to motivate utilities to build out infrastructure to connect remote communities. But it doesn't serve us well today, when we need nimble investments that make the most out of existing infrastructure, while rewarding innovation, load flexibility, and collaboration to save ratepayers money through new and affordable clean energy technologies.

**Today, these guaranteed returns to our public utilities represent 15-20% of customer bills.<sup>5</sup>** And the more we spend to make our grid resilient to climate change impacts—to help avoid, for instance, the \$228 million that CMP just requested in storm recovery for 2024—the greater the impact these guaranteed returns will have on customer bills.<sup>6</sup>

While NRCM believes we need more extensive regulatory reforms to align utility incentives with desired outcomes in our modern era, this bill is an important step forward to strengthen and clarify the tools at the disposal of our Public Utilities Commission.

We urge the Committee to vote Ought to Pass on LD 301.

I would be happy to answer any questions that the Committee has.

Thank you.

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<sup>3</sup> [https://www.mainelegislature.org/legis/bills/display\\_ps.asp?PID=1456&snum=131&paper=&paperId=l&ld=2172](https://www.mainelegislature.org/legis/bills/display_ps.asp?PID=1456&snum=131&paper=&paperId=l&ld=2172)

<sup>4</sup> National Conference of State Legislatures, Report: Performance-Based Regulation: Harmonizing Electric Utility Priorities and State Policy, April 12, 2023, <https://www.ncsl.org/press-room/details/ncsl-releases-new-report-on-performance-based-regulation>.

<sup>5</sup> RMI, *Rebalancing "Return on Equity" to Accelerate an Affordable Clean Energy Future* (Ryan Foelske and Joe Daniel), Feb 21, 2025, <https://rmi.org/rebalancing-return-on-equity-to-accelerate-an-affordable-clean-energy-future/>

<sup>6</sup> <https://www.pressherald.com/2025/02/28/cmp-seeks-228-million-for-2024-storm-repair-costs/>