



April 16, 2025

Testimony on behalf of Central Maine Power Company in Support

LD 1358: An Act to Reduce Electricity Rates by Removing Limitations on the Ownership of Generation by an Affiliate of an Investor-owned Transmission and Distribution Utility

Senator Lawrence, Representative Sachs, Members of the Joint Standing Committee on Energy, Utilities, and Technology, my name is Kathleen Newman, Vice President of Government Affairs for Central Maine Power Company, submitting testimony in support of LD 1358: An Act to Reduce Electricity Rates by Removing Limitations on the Ownership of Generation by an Affiliate of an Investor-owned Transmission and Distribution Utility.

Current law allows an affiliate of an investor-owned transmission and distribution utility to own generation or generation-related assets as long as the generation or generation-related assets are not directly interconnected to the facilities owned or operated by that investor-owned transmission and distribution utility. So, Avangrid Power, one of the leading developers of onshore wind and solar projects in the United States, with more than 9 GW of installed renewable capacity spread across nearly half the country, is prevented from submitting a bid for, to use a current example, the Maine Public Utilities Commission's request for proposals under the Northern Maine Renewable Energy Development Program.

Of the 16 states and Washington, DC that "restructured"¹ - Maine is the only state with such a prohibition.

This bill strikes the language in 35-A MRSA §3204, sub-§11 that prevents a generator from interconnecting to an affiliated transmission and distribution company. It also strikes the prohibition on eligibility to participate in a commissionapproved long term contract or term sheet.

This bill preserves MPUC's authority to promulgate rules intended to eliminate the potential for relationships and interactions between generators and affiliated utilities to lead to adverse effects on ratepayers and the competitive electricity market, as it currently does in Chapter 308. The Standards of Conduct currently in place (appended to this testimony) provide robust protections against self-dealing or preferential treatment and come with strong penalties for violations, up to and including divestiture of or by the transmission and distribution utility.

We support this legislation as a matter of fairness and to ensure healthy competition as we seek to meet our state's renewable energy goals.

Thank you for your consideration

¹ NCSL—Electricity Markets: A Primer for State Legislators, January 2022, p.4:

"During the first wave of restructuring legislation at least 23 states and Washington, D.C., enacted electric restructuring legislation, while another seven states conducted studies but decided not to pursue restructuring. However, early problems with implementation—particularly in California and Montana—caused a handful of states to freeze or reconsider these policies. Ultimately, 16 states and Washington, D.C., implemented some form of restructuring, with the flavor and details varying significantly between regions and ISO/RTOs."

Chapter 308: STANDARDS OF CONDUCT FOR TRANSMISSION AND DISTRIBUTION UTILITIES AND AFFILIATED GENERATORS**§ 4 STANDARDS OF CONDUCT**

- A. No Preference. A transmission and distribution utility may not engage in preferential, discriminatory or other anticompetitive conduct, or in any way give an affiliated generator preference over other generators in matters relating to any product or service, including the generator interconnection process.
- B. Service Provided Without Discrimination. All products and services provided by a transmission and distribution utility including the generation interconnection process, must be available to all generators on comparable terms and conditions and without undue or unreasonable discrimination.
- C. Posting. A transmission and distribution utility may not sell or otherwise provide products or services to an affiliated generator without either simultaneously posting the offering electronically on the transmission and distribution utility's internet web site or otherwise making a sufficient offering to the market for that product or service. Provision of the product or service under the terms of a filed term and condition or tariff constitutes a sufficient offering.
- D. Requests for Products. A transmission and distribution utility shall process all similar requests for a product or service related to generation or generation-related assets in the same manner and within the same period of time.
- E. No Tying. A transmission and distribution utility may not condition or tie the provision of any product or service by the transmission and distribution utility to the provision of any other product or service in which an affiliated generator has an interest.
- F. Requests for Information. A transmission and distribution utility shall process all similar requests for information from a generator in the same manner and within the same period of time. A transmission and distribution utility may not provide information to an affiliated generator without a request when information is made available to other generators only upon request. A transmission and distribution utility may not allow an affiliated generator preferential access to any nonpublic information regarding the transmission and distribution system, customers taking service from the transmission and distribution utility, or any other nonpublic information that the transmission and distribution utility has obtained that is not made available to all generators upon request. A transmission and distribution utility shall instruct all of its employees and contractors not to provide an affiliated generator preferential access to nonpublic information.
- G. Promotion of Affiliate; Joint Marketing. Neither a transmission and distribution utility nor an affiliated generator may speak or give any appearance of speaking on behalf of the other. A transmission and distribution utility and an affiliated generator may not engage in joint advertising or marketing.
- H. Non-Public Information Sharing. Employees or contractors of a transmission and distribution utility or an affiliated interest shall not share with employees or contractors of an affiliated generator any non-public information related to the development and operation of the transmission and distribution system or to the development or operation of generation or generation-related assets that was obtained through its operations unless the information is developed in connection with an ongoing generation interconnection request. Employees or contractors of an affiliated generator or an affiliated interest may not share any non-public information related to the development or

operation of generation or generation-related assets with employees or contractors of the transmission and distribution utility. A transmission and distribution utility, an affiliated generator and an affiliated interest shall instruct their employees and contractors not to share such information prohibited by this subsection.

- I. **Sharing of Employee; Contractors.** Employees of a transmission and distribution utility must be located in a separate building from the employees of an affiliated generator. Employees or contractors may not be shared between a transmission and distribution utility and an affiliated generator. An employee or contractor is considered to be shared if the employee or contractor performs work directly for both entities related to a particular transmission or distribution development or operation project or a generation development or operation project. The prohibition of sharing employees and contractors does not apply to general business support service such as billing, accounting, or other back-office functions. A transmission and distribution utility must provide, within 30 days, notice to the Commission of any employee transfers between the transmission and distribution utility and an affiliated generator. An employee who is transferred from an affiliated generator to the transmission and distribution utility cannot return to the affiliated generator for at least one year.
- J. **Employee Compensation.** No component of a transmission and distribution utility employee compensation package (including bonuses) may be related to the financial performance of an affiliated generator. This provision does not prohibit employee compensation packages (including bonuses) that relate to the financial performance of the transmission and distribution utility's parent company.
- K. **FERC Standards of Conduct.** The FERC standards of conduct shall apply to all employees of transmission and distribution utilities and affiliated generators with respect to (1) non-public transmission operation, planning and development information and (2) non-public generation operation, planning and development information..
- L. **Information Disclosure.** Transmission and distribution employees and contractors, affiliated interest employees and contractors may not disclose or use any conduit for the disclosure of non-public transmission and distribution information to any employee of an affiliated generator, nor use any such information to the undue advantage of an affiliated generator, regardless of whether those employees are considered market function employees under FERC standards of conduct. This provision does not apply in the event an affiliated generator makes an interconnection request to the transmission and distribution utility and the disclosure of confidential information is reasonably necessary to process the interconnection request. Any such information disclosed in connection with an interconnection request shall be used solely for the purpose of the interconnection request.
- M. **Regional and Federal Forums.** The Commission may direct a transmission and distribution utility to provide information, including the rationale, for positions and votes taken in regional and federal forums including, but not limited to, the ISO-NE, NEPOOL, NMISA and FERC and associated committees.
- N. **Transmission System Operation.** To the extent that a transmission and distribution utility, in its capacity as operator of the northern Maine transmission system, denies a transmission reservation request, orders a curtailment of a generator, or otherwise deviates from the NMISA balanced schedule, such activity must be reported to the Commission at the same time as reporting to NMISA. At the option of the Commission, after notice and opportunity for hearing, a transmission and distribution utility may be ordered to cease to serve as the operator of the Northern Maine transmission system.
- O. **Books and Records.** A transmission and distribution utility, affiliated generators and affiliated interests shall keep separate books of account and records, which are subject

to Commission review for the purpose of verifying compliance with this Chapter. Access to books and records pursuant to this provision includes books and records that predate the affiliated generator or affiliated interest becoming subject to this Chapter.

- P. No Subsidization. A transmission and distribution utility may not subsidize the business of an affiliated generator.
- Q. Reorganization Approval. Notwithstanding any prior Commission order to the contrary, a transmission and distribution utility must petition for reorganization approval pursuant to Title 35-A, section 708 for any reorganization that involves an affiliated generator.
- R. Complaint Log. A transmission and distribution utility shall maintain a log of all resolved and pending complaints alleging violations of the standards of conduct contained in this Chapter, which are subject to Commission review.