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Testimony Neither for Nor Against
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"
April 16, 2025

Senator Lawrence, Representative Sachs, and distinguished members of the Joint Standing Committee on Energy, Utilities and Technology,

My name is Heather Sanborn, here today as Public Advocate, to testify neither for nor against 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."

BACKGROUND

Restructuring Act

In 1997, the Maine Legislature enacted comprehensive legislation that fundamentally restructured the electric industry in Maine[1] (Restructuring Act). The Restructuring Act required investor-owned transmission and distribution (T&D) utilities in Maine to divest their generation assets by March 1, 2000, and prohibited T&D utilities from providing generation supply services.

As part of the Restructuring Act, affiliates of T&D utilities were prohibited from owning, having a financial interest in, or otherwise controlling generation assets.[2] The purpose of this provision was to promote fair competition in the generation market by preventing T&D utilities from having an incentive to favor certain generation development and operations over others. Such favoritism could occur, for example, in T&D utility transmission and distribution planning or through the generation interconnection process.[3]

2017 Legislation

During its 2017 session, the Legislature enacted "An Act to Clarify the Authority of an Affiliate of a Utility to Own Power Generation Outside of the Utility's Territory"[4] (Affiliate

[1] P.L. 1997, Ch. 316 (codified at 35-A M.R.S.A. § 3201-3217).
[2] 35-A M.R.S.A. § 3204(5).
[3] For example, a T&D utility might develop T&D facilities in a manner or location that would benefit its generation affiliate.
[4] P.L. 2017, ch.287 (codified at 35-A M.R.S.A. § 3204(11).

Act). The Affiliate Act specified that an affiliate of an investor-owned T&D utility may own generation assets in accordance with standards of conduct adopted by the Commission if the generation is not directly interconnected to the utility's facilities. As directed by the Affiliate Act, the Commission adopted rules to establish standards of conduct governing the relationships between a T&D utility and an affiliate that owns generation.[5]

LD 1358

LD 1358 would amend 35-A MRSA §3204(11) to remove the current statutory restriction that prohibits an affiliate of a T&D utility from owning generation assets that are connected to the utility's facilities. The bill also removes the prohibition on affiliate generation participating in long-term contracts under Title 35-A.

The OPA's view is that removing these restrictions should be seriously considered by the Committee. This would allow for additional competition both in the construction and operation of generation facilities, and in the procurement of long-term contracts that could lower ratepayer costs. As mentioned above, Chapter 308 of the Commission's rules contain strict and detailed standards of conduct related to interactions between a utility and an affiliated generator, and includes serious sanctions for violations of these rules, including monetary penalties and mandatory divestiture. Moreover, the Commission's generator interconnection rules[6] have become significantly more detailed and enforceable in recent years due to the substantial increase in the development of generation seeking to interconnect with the utility's transmission and distribution systems.

Finally, the Committee may want to consider amending the bill to require utility affiliated generation to be "renewable," as defined in statute.

I welcome your questions and would be pleased to provide additional information for the work session.

Respectfully submitted,
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Public Advocate

[5] PUC Rules, Chapter 308.
[6] PUC Rules, Chapter 324.