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PUBLIC UTILITIES COMMISSION

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Testimony of the Maine Public Utilities Commission

Neither For Nor Against

LD 1592, An Act to Reduce Energy Costs by Permitting the Ownership of Generation by Investor-owned Transmission and Distribution Utilities

April 16, 2025

Senator Lawrence, Representative Sachs, and Distinguished Members of the Joint Standing Committee on Energy, Utilities, and Technology (Committee), my name is Deirdre Schneider, testifying neither for nor against LD 1592, An Act to Reduce Energy Costs by Permitting the Ownership of Generation by Investor-owned Transmission and Distribution Utilities on behalf of the Public Utilities Commission (Commission).

LD 1592 would allow an investor-owned transmission and distribution (T&D) utility to own, have a financial interest in or otherwise control generation or generation-related assets in accordance with rules adopted by the Commission. It also repeals the provision limiting affiliate ownership of generation or generation-related assets but allows the Commission to establish standards of conduct relating to the affiliate's ownership interest in generation.

Industry Restructuring

In 1997, the Maine Legislature enacted An Act to Restructure the State's Electric Industry¹ (Restructuring Act). The Restructuring Act required investor-owned T&D utilities in Maine to divest most of their generation by March 1, 2000; prohibited T&D utilities from providing generation supply services; and opened the market to retail supply competition so that all customers in Maine could choose their generation supply providers. As part of the Act, T&D utilities were prohibited from "owning, having a financial interest in, or controlling generation or generation-related assets."

The primary purposes of the Restructuring Act were to:

- Avoid the creation of any new "stranded costs," which are above-market supply costs resulting in a utility's obligation to plan for and provide generation supply services to all customers within their service territories;
- Provide the benefits of a competitive market in terms of more choices and lower costs; and
- Eliminate the direct ownership or financial interest of utilities in generation assets.

LD 1592 appears to be in opposition to the provisions and intent of the Restructuring Act as it would allow for direct ownership by utilities and affiliates of generation as long as that ownership is in

¹ Public Law 1997, chapter 316

accordance with terms, conditions and standards of conduct established by rule. If the goal is to continue to promote effective competition, the utility should continue to serve as a neutral link between power providers and customers. The divestiture of generation and prohibition on the selling of power by the utility into the retail market is necessary to ensure that the utility serves as that neutral link. Allowing direct utility ownership of generation, especially if costs can be recovered from ratepayers, would create a substantial competitive advantage for utilities and would likely suppress interest by other generation developers considering investments in Maine.

The bill as drafted simply states that the rules must provide that ratepayers are not responsible for the costs of the utility's generation, except as approved by the Commission. It is unclear under what circumstances the Commission would allow a utility to recover its generation costs from ratepayers. If a utility is allowed to recover its generation-related costs from ratepayers, there is a risk that ratepayers would bear the costs of failed projects or projects whose costs exceed prevailing wholesale market rates. Such a result could create new stranded costs to be recovered from customers. Under current law independent generators bear the risk of their investments in generation, including the risk that their costs exceed market prices.

The bill does not authorize utilities to provide direct retail sales of electricity to its customers and therefore presumably the utility would sell its generation output to competitive retail suppliers in the New England wholesale market as is currently done by independent generators. If the intent of LD 1592 is to allow a utility that owns generation assets to provide direct electricity supply service to its customers, further modifications to the statute should be made.

With respect to generation ownership by a utility affiliate the Commission has the same concerns expressed in our testimony on LD 1358, including the potential for a utility to engage in favoritism towards its own affiliate to the detriment of other generation competitors and the competitive market more generally. This could occur, for example, through the transmission planning or generation interconnection processes.

There is no way to know with any level of certainty whether utility involvement in the generation business will result in lower rates or higher rates. The Restructuring Act was premised on the view that the ownership of generation assets is not a natural monopoly and that a competitive generation market would result in lower prices for consumers. The decision to reverse this core tenet of the Restructuring Act is one of basic policy for the Legislature. However, the Commission is concerned that the Legislature has not had an opportunity to thoroughly evaluate alternatives to restructuring before making such a fundamental decision.

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