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Testimony of Representative Sophie Warren Presenting
L.D. 1777, An Act to Clarify Tariff Rates for Nonresidential Customers Participating in Net Energy Billing with a Distributed Generation Resource
Before the Joint Standing Committee on Energy, Utilities and Technology

Good morning, Senator Lawrence, Representative Sachs, and respected colleagues of the Joint Standing Committee on Energy, Utilities and Technology. My name is Sophie Warren, and I represent House district 124. Thank you for the opportunity to present **L.D. 1777, An Act to Clarify Tariff Rates for Nonresidential Customers Participating in Net Energy Billing with a Distributed Generation Resource.**

LD 1777 offers for consideration of this committee reform to a program that has achieved much, but that now needs recalibration. It closes loopholes that have allowed windfall profits to accrue at public expense, restores fiscal discipline to NEB tariff setting, and maintains investor confidence through clear, adaptable, and regionally grounded rules.

To baseline this conversation, I want to express my view that Maine's distributed generation policy has played a pivotal role in expanding our renewable energy portfolio, avoiding transmission costs, creating jobs, and supporting climate action.[1][2] Today, there are over 1,000 megawatts (MW) of distributed solar generation installed on our grid, and approximately 100,000 participating ratepayers in our state.[3]

To get to the problem I'm seeking to solve, I want to explain where I believe we went wrong as a state. The tariff rate for NEB customers under current law is tied to the standard-offer supply rate plus a fixed portion of the transmission and distribution (T&D) rate. When this structure was originally enacted, it was based on what were then relatively stable and moderate market conditions.

However, the unprecedented volatility in natural gas markets[4] driven by global supply disruptions and post-pandemic demand, compounded by storm recovery costs[5] have caused Maine's standard offer rate to soar to record levels and stranded costs to rise.[6]

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[1] https://www.maine.gov/mpuc/sites/maine.gov.mpuc/files/inline-files/Maine-NEB-Y2024_CBA_Final.pdf.
[2] https://www.maine.gov/meopa/sites/maine.gov.meopa/files/inline-files/LEI%20Final%20Report%20-%20Reducing%20the%20Cost%20of%20Solar%20in%20Maine.pdf.
[3] https://www.maine.gov/meopa/sites/maine.gov.meopa/files/inline-files/2025-02-27%20Repeal%20NEB%20OPA%20Testimony%20NFNA%20Final_0.pdf.
[4] The Maine Public Utilities Commission attributed significant increases in standard offer electricity supply rates to natural gas market volatility. Chairman Bartlett has noted that natural gas markets were driving price increases to this committee.

Because the current NEB formula is directly tied to the standard offer rate, this surge has translated into unexpectedly high returns for distributed generation developers under this program. These returns go well beyond what was intended by policymakers or what was necessary to finance these projects. In many cases, these rates now exceed what is required for project viability and are placing an unnecessary burden on nonparticipating ratepayers. This outcome could not have been reasonably anticipated[7] when the tariff structure was originally created.[8]

Removing windfalls to preserve credibility

The experience of the past few years has made clear that tying clean energy incentives to fossil fuel-driven rate structures creates risks for consumers and credibility challenges for policy. When NEB credits balloon due to natural gas volatility, it raises legitimate questions about the fairness and sustainability of the program, not only from regulators, but from the public, small businesses, and legislators like ourselves.

LD 1777 asks the simple question of whether we can achieve the value and benefits of NEB at a lower tariff rate.[9] It ensures that NEB continues to serve as a tool for advancing clean, distributed energy, but does so with pricing that reflects today's realities, not yesterday's assumptions. It affirms Maine's commitment to energy innovation, while reestablishing a fair baseline for participation and investment.

What LD 1777 does

The bill before you today makes three main changes to the tariff rate program for all customers:

1. **Amends Paragraph A of Subsection 5** (so-called Original Tariff Rate[10]) to replace the existing arbitrary rate formula with a flexible structure allowing the PUC to set rates that reflect economic conditions and establishes an independent, nonpartisan and knowledge entity to determine balance between the interests of developers and customers. It does so by applying the standard reflected in this bill to projected subject to the so-called Original Tariff Rate and mature before September 1, 2022.

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[5] https://www.pressherald.com/2025/02/28/cmp-seeks-228-million-for-2024-storm-repair-costs/#:~:text=Central%20Maine%20Power%20Co.,two%20dozen%20storms%20last%20year.

[6] For two consecutive years, standard offer prices increased—by 80% on January 1, 2022, and by 40% on January 1, 2023. https://www.newscentermaine.com/video/money/consumer/maines-electricity-prices-grew-at-the-third-fastest-rate-in-the-country/97-dc20ddca-fefa-4727-a113-ccf7c2c218bd.

[7] For context, the average retail price of electricity in Maine during the 10-year period of 2014-2024 rose from 12.65 cents/kWh to 19.62 cents, according to data collected by the federal Energy Information Administration, or 55%. https://tinyurl.com/43wct9eb.

[8] For example, in December 30, 2020, the standard offer rate was $0.073037. The tariff rate was set at 75% over this rate, or $0.05475. Together, this number would be approximately 13 cents.
Via https://www.maine.gov/mpuc/regulated-utilities/electricity/standard-offer-rates/cmp.

[9] MPUC Report on the Effectiveness of Net Energy Billing in Achieving State Policy Goals and Providing Benefits to Ratepayers [PDF]. November 10, 2020.

[10] Customers subscribed to a facility that satisfies the requirements under Section 3(J)(4) of Chapter 313 receive the rate described in Section 3(J)(4)(a) (Original Tariff Rate). Via https://www.maine.gov/mpuc/regulated-utilities/electricity/neb.

2. **Amends Paragraph A-1** (so-called Alternative Tariff Rate[11]) to apply the same fair-profit standard and regional benchmarking cap to remaining DG projects not covered under paragraph A and mature after September 1, 2022. This eliminates the annual escalation model and ties all nonresidential NEB rates to a fair and regionally competitive framework.[12]

LD 1777 seeks to replace overly, and unintentionally generous formulas[13] with a more dynamic and transparent standard: the tariff rate must be *just and reasonable* as determined by the PUC, and designed to allow developers the opportunity to earn a fair profit. This bill aligns Maine's NEB tariff structure with common utility ratemaking principles and provides a cap to protect ratepayers by limiting tariff rates to no more than 1.5 times the average of similar rates in peer states in the region.[14i]

LD 1777 removes the rigid, automatic formula based on the standard offer and instead empowers our Public Utilities Commission to establish and revise tariff rates as needed to be just and reasonable, both for customers and developers. This more flexible approach:

- Provides developers with a reasonable opportunity to earn a fair profit, no more, no less;
- Prevents ratepayer-funded windfalls that distort the purpose of the NEB program;
- Protects consumers from future cost spikes tied to fossil fuel volatility;
- And ensures that rates are capped at no more than 1.5 times the average of similar rates in neighboring states, offering an important regional benchmark to ensure competitiveness and fiscal responsibility.

Balancing reasonable concerns

Some may have concerns that the PUC does not have the resources to hold hearings and set rates for each of the hundreds of NEB developers affected by the bill. I have two responses to three responses to this for your consideration:

1. I may suggest the PUC set a single tariff rate for all developers that provides 'a hypothetical developer with average costs of construction and operation' a reasonable opportunity to earn a fair profit, similar to that conceived of in my co-sponsor Rep. Foster's legislation on

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[11] Customers subscribed to a facility that does not satisfy the requirements receive the rate described in Section 3(J)(4)(e) (Alternative Tariff Rate). Via https://www.maine.gov/mpuc/regulated-utilities/electricity/neb.

[12] LD 1777 directs the PUC to adopt implementing rules by January 1, 2026, and sets that same date as the effective date of the new tariff provisions.

[13] Annual ratepayer cost of NEB projects has reached < $240 million, exceeding OPA's 2023 estimate of $220 million per year. Via https://www.maine.gov/meopa/sites/maine.gov.meopa/files/inline-files/2025-02-27%20Repeal%20NEB%20OPA%20Testimony%20NFNA%20Final_0.pdf.

[14] *Please see all sources in endnotes.* My impression of the **cap** under this section would be equivalent to approximately **14.7 cents** if set today, determined by an average of regional tariff rates. In summary, New Hampshire currently has arguably the lowest rate in New England, currently (2025) at approximately **10** cents per kWh for large projects, and **14.7** cents per kWh for smaller projects excess generation, while Rhode Island's tariff rate is **14.7** cents per kWh, **12-14** cents per kWh to **15** cents per kWh in Connecticut, in Vermont the rate is either **8-13** cents or **15-19** cents per kWh, and Massachusetts ranges from effectively **0** cents to between **5-15** cents. This is all in comparison to Maine, who is the highest regional tariff rate subject to massive fluctuation and higher than all others in 2025.

NEB earlier this session.

2. I may recommend a standard rate, but one that provides opportunities for specific developers to receive either a phase in period for any reduction in rate, or perhaps edge cases for a higher rate (but under the cap) if they are able to demonstrate certain technical and financial needs.

3. I want to be clear that the typical suburban roof top solar project will still receive the generous and full NEB subsidy under the NEB kWh program.

With all of this said, I do feel the need to emphasize that the PUC has a staff of 75 professional employees and is in a far better position than the Legislature to be sure that the NEB subsidy is sufficient, but no greater than necessary, to support renewable energy.

I am aware that there will be advocacy from organizations participating in the tariff program, especially municipalities, that are counting on and need the full amount of the NEB subsidy to meet their budget requirements. On this point, I want to offer a couple further reflections:

a. this proposal does not address how any reduction in the subsidy will be allocated between that NEB developer and the participating ratepayers. That has always been, and will remain, a matter of private negotiation between the NEB developer and the participating ratepayers.
b. As a further effort at compromise, I could conceive of this committee choosing a phase in period for any reduction in the amount of the subsidy (e.g. 50% in year 1; 100% in year 2) to give participating ratepayers some time to adjust to a new rate of return.

At the end of the day, my goal is to find a compromise that balances competing interests. Just as it is important to me we are not asking Maine ratepayers to bear the burden of these immense costs, I aim to find a solution to windfall profits which does not disproportionately and negatively impact organizations participating in the tariff program.

The purpose of the cap and regional benchmarking

By introducing a regional cap, 1.5 times the average of similar NEB rates in nearby states, this bill seeks to set a context for Maine's rates to remain competitive and fair. It allows the PUC discretion while shielding Maine ratepayers from relatively excessive costs. This approach respects Maine's energy goals while also promoting fiscal responsibility.

This is also to reflect that this bill, through this cap, is not an open-ended incentive. Rather, it reflects the reality that if we want distributed generation to succeed, particularly in rural areas where it can meet the most essential value adds, avoided transmission costs by boosting grid resilience and reducing line losses, we must provide a framework that adapts to economic conditions and attracts sustained investment.

At the same time, it reflects the difficult reality that it can be reasonably argued Maine is by far the most generous tariff rate in our region while we continue to see some of the highest and

most volatile rates in the country.[15] This path is unsustainable, and unfair to the people of Maine, most of all those least able to bear the burden of these costs, from working people to small businesses alike.

LD 1777 responds by restoring balance: ensuring that tariff rates are fair to both customers and developers, grounded in actual market conditions, and not driven by short-term volatility in fossil fuel prices or storm damage we know is likely to increase due to climate change.

Conclusion

The current structure was designed under much different market conditions. It's tied to the standard offer rate, which has spiked due to volatile natural gas prices, leading to unintended windfall profits for some developers. This was never the intent. LD 1777 ensures tariff rates are fair and predictable for both developers and customers,[16] without overcompensating based on fossil fuel volatility, and preserves Maine's credibility as a clean energy leader in New England.

I ran for public office to fight climate change. I live by Higgins Beach in Scarborough and I have seen pictures from my grandparents at that beach and I know from then to now, the water line has risen. I see the damage of flooding, the consequences of warming oceans, the ever-increasing record high temperature days. But to fight climate change, though, has always meant to me that I hold values of climate and economic justice together. I have refused and will continue to refuse to leave one behind for the sake of the other.

I urge this Committee to consider seriously this bill. No matter what is done on NEB, I look forward to seeking compromises here on this issue, which represents both an enormous undue cost and engages directly with the notion of retroactivity, which I believe any just solution to NEB must do, as well as ongoing conversations about the future of the kilowatt hour program, and the critical protection of rooftop solar. My attempt here is to strike balance between honoring prior commitments, addressing the genuine financial concerns that exist if we do establish retroactive reforms, and protecting ratepayers. I also want to express my commitment to a productive dialogue and a willingness and interest to hear from all who have critique or perspective to share to inform whatever solutions can be reached this session. I thank you for your time and would be happy to answer any questions.

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[i] **State Sources:**

1. Massachusetts DOER and DPU filings
- Massachusetts Department of Energy Resources (DOER): https://www.mass.gov/orgs/massachusetts-department-of-energy-resources
- Department of Public Utilities (DPU): https://www.mass.gov/orgs/department-of-public-utilities
- SMART Program info: https://www.mass.gov/guides/solar-massachusetts-renewable-target-smart-program

[15] https://themainemonitor.org/electricity-prices-third-fastest-rate/.

[16] https://www.maine.gov/mpuc/sites/maine.gov.mpuc/files/inline-files/NEB-Y2023_CBA-LD%201986.pdf. Page A-9 to A-12.

- Other: https://www.mass.gov/info-details/net-metering-guide#1.-net-metering-basics- ; https://www.energysage.com/local-data/net-metering/eversource/; https://www.mass.gov/doc/declining-smart-incentive-rates/download

2. Connecticut PURA program documents
- Public Utilities Regulatory Authority (PURA): https://portal.ct.gov/pura
- NRES Program page: https://portal.ct.gov/pura/electricity/NRES
- Other: https://programs.dsireusa.org/system/program/detail/22451; https://www.cga.ct.gov/2022/rpt/pdf/2022-R-0144.pdf; https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXII/Chapter164/Section139

3. Rhode Island OER/RI Energy filings
- Office of Energy Resources (OER): http://www.energy.ri.gov
- Renewable Energy Growth Program: https://ngus.force.com/s/recp (RI energy portal)
- Other: https://programs.dsireusa.org/system/program/detail/287; https://portalconnect.rienergy.com/RI/s/article/Net-Metering-in-Rhode-Island; https://energy.ri.gov/renewable-energy/net-metering

4. Maine PUC net energy billing reports
- Maine Public Utilities Commission (PUC): https://www.maine.gov/mpuc/
- NEB Program page: https://www.maine.gov/mpuc/electricity/topics/netenergybilling.shtml

5. Vermont PUC and legislation summaries
- Vermont Public Utility Commission: https://puc.vermont.gov
- Standard Offer Program: https://vermontstandardoffer.com/
- Net Metering overview: https://puc.vermont.gov/electric/net-metering
- Other: https://www.cleanenergynh.org/post/folks-we-have-a-settlement#:~:text=Why%20did%20the%20settling%20parties,distribution%20system%20as%20they%20interconnect.

6. New Hampshire PUC and Department of Energy summaries
- New Hampshire Public Utilities Commission: https://www.puc.nh.gov
- NH Department of Energy: https://www.energy.nh.gov
- Net Metering Info: https://www.puc.nh.gov/Sustainable%20Energy/RenewableEnergy/net_metering.htm
- Others: https://www.nhbr.com/net-metering-in-limbo/; https://www.raponline.org/wp-content/uploads/2023/09/rap_littell_sliger_new_england_rate_design_part1_2019_april.pdf; https://www.cleanenergynh.org/post/nem-3-0-local-renewables-lower-electric-rates-for-all-granite-staters

7. ISO New England state forecasts
- ISO New England: https://www.iso-ne.com
- Load and resource forecasts and planning reports: https://www.iso-ne.com/system-planning/system-plans-studies/