

May 15, 2025

Testimony of Thomas L. Welch concerning rate design legislation relating to recovery of Net Energy Billing costs

Senator Lawrence, Representative Sachs, Members of the Joint Standing Committee on Energy, Utilities, and Technology, my name is Thomas Welch, and I live in Hancock, Maine. I served as chairman of the Maine Public Utilities Commission from 1993 to 2005 and again from 2011 through 2014. I recently submitted testimony in Maine Public Utilities Commission docket no. 2024-00137, on behalf of the Industrial Energy Consumers Group, concerning an appropriate rate design for the portion of "stranded costs" created as a result of the implementation of Maine's Net Energy Billing initiative.

The litigation regarding the treatment of those costs which led to the recent Commission order highlights the value of clear and specific legislative guidance. The essential problem is that the costs associated with NEB -- comprising largely revenues that utilities must forego without any commensurate reduction in their costs -- are, as the Commission itself recognized in prior orders, fundamentally disconnected from the costs that customers impose on the electricity system, *and thus are not readily amenable to the application of the principles of rate design available to the Commission*. The Commission was (and absent additional legislative direction would continue to be) faced with choosing among competing interests -- including preserving a healthy industrial base by limiting the NEB cost burden placed upon large Maine employers; further subsidizing renewable generation; protecting vulnerable customers; and encouraging the shift away from fossil fuels by avoiding increases in prices tied to electricity use -- and to make those choices with minimal guidance from familiar ratemaking principles, which were designed to address the recovery of costs created by utility services, not revenue shortfalls created by public policy initiatives.

Balancing competing policy and economic interests is a task essentially legislative in nature. Absent clear guidance from the Legislature concerning which of these imperatives should be given more, or less, weight in recovering the NEB costs -- which, it is worth emphasizing, are not at all related to the electricity usage of those being asked to pay -- the Commission is in essence left with the task of making, rather than applying, what is fundamentally legislative policy.

The revenue shortfall at issue here was created by a public policy decision to fund increases in the production of renewable energy through transmission and distribution company rates. The Legislature can and should express its will concerning how the associated cost burden should be apportioned among Maine's citizens. If this shortfall

continues to be recovered from electricity customers (rather than, as would be more economically rational, through general fund revenues), the legislature can and should determine how the recovery should be spread among Maine's electricity consumers. This would not in my view in any way diminish the basic role of the Commission -- which is, after all, to carry out the will of the Legislature. Such legislative action would simply describe with greater precision the legislative will as to how these costs should be recovered in the future.

For the substantive content of legislation expressing how the NEB costs should be recovered, it would be, in my view, appropriate to look to the stipulation offered by the parties in the NEB Commission litigation. It was significant, in my view, that the stipulation joined by virtually all parties in the case, and opposed by none, was the product of a process that largely mirrored the legislative process: give and take among the various interests, and a willingness to forego some benefits and assume some burdens in the effort to achieve a solution that all could live with. Under the stipulation, no party achieved all of its litigation objectives, but no party was unduly burdened (indeed, the "burden" on residential customers that the stipulation would have imposed was roughly a nickel a day). The Commission's rejection, by a 2-1 vote of the stipulation is, in my view, an unfortunate missed opportunity to resolve this difficult issue in a fair and relatively modestly painful way for all of Maine's electricity customers.

In any case, the balance among affected interests and policies embodied in the stipulation is a balance that essentially all segments of Maine's electricity consuming and producing market agreed is fair and consistent with Maine's energy policies. Legislation that would result in the implementation of the NEB cost recovery balance presented in the stipulation would be sound policy.

I appreciate the opportunity to present these thoughts, and would be happy to answer any questions.