



An Avangrid company

January 22, 2026

Testimony in opposition to
LD 2038 An Act to Require Maine Transmission and Distribution Utility Participation
in a Regional Transmission Organization

Senator Lawrence, Representative Sachs, Members of the Joint Standing Committee on Energy, Utilities, and Technology, my name is Kathleen Bowman, Vice President of Government Affairs for Central Maine Power Company, presenting testimony in opposition to portions of LD 2038 An Act to Require Maine Transmission and Distribution Utility Participation in a Regional Transmission Organization

CMP opposes this legislation for the following reasons:

Limiting Flexibility for the Maine Public Utilities Commission (MPUC)

LD 2038 would mandate participation in a Federal Energy Regulatory Commission (FERC) -approved regional transmission organization (RTO) for all transmission and distribution utilities in Maine, except for consumer-owned utilities and those in areas administered by the independent system administrator for northern Maine. By locking Maine into RTO participation, the bill significantly restricts the discretion and regulatory flexibility that the MPUC currently holds to address complex, evolving, and local energy circumstances. This legislative mandate would remove the MPUC's ability to evaluate whether RTO participation is in the best interest of Mainers on a case-by-case basis, potentially undermining Maine's ability to tailor solutions to local conditions and policy goals.

The MPUC has in the past exercised its authority to vet whether the status quo or a new arrangement would best serve Maine customers. Prompted by affordability concerns and a governor resolution, between 2006 and 2009 the MPUC evaluated the option of exiting ISO New England Inc. (ISO-NE), the RTO for the New England region. At that time, the MPUC concluded that the ISO-NE arrangement was deficient and required reform.¹ LD 2038 erects a barrier to MPUC's exercising that same due diligence in the future. The existing flexibility and optionality for MPUC to undertake such a study should be retained for the benefit of Mainers.

State Intrusion into a Federally Regulated Rate

LD 2038 is not really about making CMP participate in an RTO, which it already does, but rather an attempt to intrude on FERC's jurisdiction over the rates for electric transmission. The formation of ISO-NE as the New England RTO occurred in 2004. The founding transmission owners (including Central Maine Power Company) negotiated, and FERC approved, an RTO participation incentive for voluntarily turning over operational control of their transmission assets to ISO-NE, a significant departure from standard utility operation up to that point. The incentive rates were negotiated in exchange for the level of

¹ See *Investigation of Maine Utilities Continued Participation in ISO-NE*, Docket No. 2008-156, Order (Me. Pub. Utils. Comm'n Jan. 16, 2009), available at <https://www.maine.gov/tools/whatsnew/attach.php?id=66942&an=1>.

operational independence that the New England RTO wanted in order to operate the regional system, including the grant of rate authority under Federal Power Act Sections 205 and 206.² The RTO incentive, which adds 50 basis points to a participating transmission owner's authorized return on equity, is federally authorized and cannot lawfully be removed unilaterally by the State. The state of Maine cannot undercut that arrangement by writing over an already bargained-for exchange, which is memorialized in the Transmission Operating Agreement and protected by the filed rate doctrine.

The voluntary participation in the energy market and regional use of transmission lines is key to delivering lower energy costs for customers across New England. The bill asserts that immediate implementation is needed to prevent continued collection of a "special bonus return on equity" by Maine utilities, allegedly inflating electricity rates for Maine consumers. However, the legislation does not substantiate the scale of such financial impacts in Maine or provide data quantifying the actual cost to consumers under current arrangements. The RTO voluntary participation incentive only applies to regional rates, not to local rates. CMP's allocation of regional network service was 7.8% in 2025. Over the past decade, CMP has often paid less for its share of regional transmission costs than its own revenue requirement, thus benefiting on a net basis from allocating its regional transmission costs to other customers in ISO-NE. Removal of the RTO voluntary participation incentive would have a *de minimis* impact on current rates but would cause a deterrence for investment in the state. In addition, Mainers would still be paying for the incentive that other transmission owners in New England have and will see capital investment flow to other states due to negative state policy.

The Ohio and California Decisions are Fact-Specific

The emergency preamble to LD 2038 references recent decisions from the United States Courts of Appeals for the Sixth and Ninth Circuits concerning the recovery of a "special bonus return on equity" for electric utilities that join an RTO. However, these cases arose in Ohio and California, which have distinct regulatory environments, utility structures, and policy objectives. Maine's electric market, regulatory framework, and the nature of its transmission and distribution utilities differ significantly from those in Ohio and California. The preamble does not provide detail on how the facts or legal reasoning of those cases directly apply to Maine's unique circumstances and the creation of ISO-NE. Using these out-of-state cases to justify sweeping changes to Maine law is inappropriate and could result in unintended consequences.

Legal Applicability to Transmission-Only Utilities

LD 2038 applies its participation mandate to "a transmission and distribution utility" but does not expressly address the unique situation of transmission-only utilities in Maine. The language requiring "ownership or control" of a transmission and distribution plant to be contingent on RTO participation could raise interpretive questions for entities engaged exclusively in transmission rather than distribution. The bill's exceptions address consumer-owned utilities and those operating in territories managed by the

² See *Bangor Hydro-Electric Company et al., Joint ROE Filing of New England Transmission Owners Under the RTO New England Open Access Transmission Tariff*, Docket No. ER04-157-000, at 16 (filed Nov. 4, 2003) (noting that a "50 basis point adder was included in the ROE approved for the Midwest ISO transmission owners for joining and turning over operational control of their facilities to the Midwest ISO"); *Midwest Indep. Transmission Sys. Operator, Inc.*, 100 FERC ¶ 61,292, P 31 (2002), *reh'g denied*, 102 FERC ¶ 61,143 (2003) (The Commission stated that in addition to the 50 basis point upward adjustment, it would "consider providing additional upward adjustments for greater levels of independence."); *PJM Interconnection, L.L.C.*, 104 FERC ¶ 61,124, P 74, *order on reh'g*, 105 FERC ¶ 61,123 (2003) (noting that the Commission's acceptance in the MISO TO "proceeding was based on a policy justification for recognizing the value of independent operation of transmission facilities, a similar adjustment would be allowed for the PJM TOs.").

northern Maine system administrator, but do not explicitly clarify applicability for transmission-only utilities that may not fit neatly into those categories. This ambiguity could create legal uncertainty for such entities and complicate regulatory oversight, thus creating a chilling effect on competitive transmission development in the state.

Conclusion

In summary, LD 2038 would unnecessarily limit the Maine PUC's regulatory flexibility, inappropriately extrapolate from legal cases in other states, fail to substantiate its asserted financial benefits, and introduce legal uncertainty for transmission-only utilities. For these reasons, CMP respectfully urges the Committee to reject LD 2038.

Thank you for your time and consideration. I would be pleased to answer any questions.