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Testimony of Rep. Chris Kessler introducing

LD 2174, An Act to Replace the Maine Waterway Development and Conservation Act with the Maine Renewable Energy and Associated Transmission Development and Conservation Act

Before the Joint Standing Committee on Environment and Natural Resources

Senator Tepler, Representative Doudera, and members of the Joint Standing Committee on Environment and Natural Resources, my name is Chris Kessler and I represent House District 121, which includes parts of South Portland and Cape Elizabeth. I'm here today to introduce **LD 2174, An Act to Replace the Maine Waterway Development and Conservation Act with the Maine Renewable Energy and Associated Transmission Development and Conservation Act.**

The bill before you today came about to address the criticism that Maine's regulatory environment has made it impossible for energy projects to get permitted and built at the scale required to lower the cost of energy we all pay.

I want to set the table for this discussion first by explaining the underlying problems we are trying to solve and to establish a common truth and common ground. If we are unable to agree on a common truth, then we will be doomed to repeat the same mistake of engaging in the same old partisan battles that have kept us at a standstill.

The problems:

1. The cost of energy is a significant concern for the poorest people in our state. Data from a recent study on affordability concluded that approximately 200,000 households in Maine (34% of all households) are having a hard time affording to pay to fuel their vehicles and heat their homes. 164,000 of that total are paying 30% of their income toward energy costs. **We want to help relieve this energy burden.**
2. The cost of energy is a significant concern for doing business and attracting new businesses in Maine. Having some of the highest electricity costs in the country makes it harder to compete with businesses in other regions of the country and the world. **We**

want to keep jobs here and we want people to see Maine as a place to invest in new and emerging industries.

3. Maine is still the most fuel oil-reliant state in the nation, with 50% of homes heating with oil (down from 60% eight years ago). 98% of people still fuel their vehicles with gasoline and diesel fuel. Over 80% of this fuel comes from the Irving refinery in St. John, New Brunswick, which sources their crude oil worldwide. **We are exporting around \$4 billion from Maine per year, and most of it out of the country. This dependency is a major drain on Maine's economy and a major trade imbalance we want to fix.**
4. Our regional electric grid is fueled by a variety of resources. Power is primarily dispatched based on price; the least expensive power plants get dispatched until demand is satisfied, and the price we pay for that last generator is the price all generators get paid. Natural gas consistently sets that price because it still accounts for over half of all power generation, and during peak demand times, more expensive and polluting oil-fired plants set that price. **The goal is to increase the supply of less expensive, cleaner resources on the grid.**
5. The price of natural gas and oil is greatly impacted by factors outside of Maine's control. Tariffs could add another 15% to already high prices. Extreme heat and cold are becoming more common. The latest threat of US conflict with Iran is impacting global oil prices. Although the US is at peak natural gas production, pipeline capacity into New England remains constrained. In spite of calls from some to expand use of natural gas, **New England states are unwavering in their determination to expand pipeline capacity.** This means our grid will continue to rely on imported liquefied natural gas (LNG) from foreign countries to meet demand. Because international demand for LNG has spiked due to the war in Ukraine, New England has to compete with the rest of the world for the same natural gas, resulting in the major price spikes we've seen. **Continued exposure to international energy markets is an economic and energy security risk for Maine and the region.**
6. Home rule is arguably one of the most cherished parts of the Maine Constitution. The Maine Constitution, Article 8, Section 1 states, "The inhabitants of any municipality shall have the power to alter and amend their charters on all matters, not prohibited by Constitution or general law, which are local and municipal in character. The Legislature shall prescribe the procedure by which the municipality may so act." We must recognize that home rule authority is not absolute. **Ultimately, it is the Legislature that determines the boundaries of home rule authority.** The debate before us should be about the wisdom of making changes to home rule authority in this area of law, similar to other actions this body has taken to address the urgent needs of our citizens.

Since the bill's submission to the Legislative Council, I have spent many hours talking to people across the spectrum about their take on what the holdup is. What I've identified are four main problems:

- The Department of Environmental Protection (DEP), under the leadership of Commissioner Loyzim, has done quite a bit within existing resources to make things go faster and more smoothly. The department deserves recognition for these improvements, which get at the root of the issues we will debate. However, there is still a real human resource constraint, measured in headcount, experience and pay. I believe we need to give the DEP the resources they need, and that could be accomplished with a fiscal note to this bill.
- Project review can get delayed due to a variety of factors like incomplete applications, departing staff, and the experience of the reviewer to name a few. Regardless of those reasons and what's behind them, there needs to be a deadline to improve predictability. Setting hard timelines on project review functions as a mechanism for the DEP to prioritize these types of projects and bring them to the top of the stack.
- There are smaller projects that don't require the same level of review as others. Rather than have to go through a longer review process, there can be a prescriptive path that can move things along faster but still adhere to our environmental standards. The bill proposes to expand the use of "permit by rule" to accomplish this.
- What has been cited by many as the biggest obstacle is also the most controversial part of this bill. The towns that have been identified as the only logical location for generation or transmission projects have created ordinances that make it impossible to build. We must recognize that the reason for these ordinances is rooted in legitimate concerns about the impact of development on their homes and their communities. This is a long-standing moral dilemma: do we advance policy which seeks the greatest good for the greatest number, knowing that there will be negative impacts to some? I believe that this is required if we want to reach a future where we can be assured that the cost of energy will not be the reason for Maine's economic stagnation.

The bill that is posted to the Legislature's website contains proposed solutions I just described. The proposed amendment before you today is a result of working with the DEP and others to accomplish those same goals within the existing statutory framework, rather than create new bureaucracy.

As many of you know, the sausage making that goes into creating a law requires a lot of back and forth, and this amendment reflects a lot of that work. However, there is still some work to be done. What this bill does not contain, and what I would like to address, are solutions to concerns of the people who live in and around these potential future projects. I can proudly say that my colleagues on the EUT Committee and I, in a bipartisan way, have done a lot of work over the past few years to improve transparency, increase participation and strengthen their hand in these matters. In my opinion, I believe we need to go further for these people. Even with the changes we've made, I believe our laws around compensation for land, impacts on property values or

community benefits can be strengthened further while still achieving our goals of cleaner air and affordable energy. I've come to the conclusion that if we are to reach this future, we need to pay the price for that future. The NECEC, aka "CMP Corridor" is proof that this is possible. In spite of legal delays that added \$500 million to that transmission project, it still penciled out. Now we know the kind of wiggle room we have in negotiating for projects that can be a win-win for developers and the people of Maine. We must not shy away from working this out.

Thank you for your time, and I'd be happy to answer any questions.