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**Testimony Neither For Nor Against**  
**LD 9 – An Act To Promote Renewable Energy**  
**by Authorizing a Power-to-fuel Pilot Program**

February 11, 2021

Senator Lawrence, Representative Berry, honorable members of the Committee on Energy, Utilities, and Technology, the Public Utilities Commission testifies neither for nor against LD 9, *An Act To Promote Renewable Energy by Authorizing a Power-to-fuel Pilot Program*.

This legislation requires the Commission to establish a pilot program and approve “power-to-fuel” projects that convert electricity from renewable energy sources to hydrogen gas, methane gas or other fuel. The Act directs the Commission to approve up to two projects with a capacity limit of 10 MWs for each project. The Act also contains exemptions from electric delivery charges and the States’s renewable portfolio requirements that would otherwise apply to qualifying projects. Finally, it is the Commission’s understanding that an important goal of the Act is to make use of renewable power that might not otherwise be generated (e.g., due to transmission constraints) as part of a power-to-fuel project.

The Commission offers the following points for the Committee’s consideration.

**1. Legislative Guidance and Clarification**

The Commission suggests that the Committee consider providing further guidance on the requirements for projects to qualify for the program.

First, the Act specifies that the facility “converts” renewable energy to fuel. It would be helpful for the Act to provide greater clarity regarding this requirement. If the intent is for only renewable energy to be used by the power-to-fuel facility, the Committee may want to clarify that in the Act. If the facility is intended only to make use of renewable generation that would otherwise be curtailed or not generated, the Committee may want to state that expressly. The Committee may also want to clarify whether there needs to be a direct connection between the renewable generator and the power-to-fuel facility.

Second, the Act states that between January 1, 2022 and December 31, 2027, the Commission “shall approve” up to 2 power-to-fuel projects under the pilot program. The Committee may want to clarify whether the Commission is required to approve projects regardless of the degree to which they promote

the policies of the Act or result in costs to ratepayers. If the intent is for the Commission to have discretion not to approve projects, it would be helpful to have some guidance on what level of ratepayer costs would be acceptable.

## **2. Exemptions from Charges**

The Act specifies that sales of electricity to a “power-to-fuel project” are exempt from the following:

- 1) All utility distribution charges regulated by the Commission;
- 2) Charges associated with the procurement of energy efficiency resources by transmission and distribution (T&D) utilities; and
- 3) Renewable Portfolio Standard (RPS) requirements.

The exemptions would continue for at least 15 years after the project becomes operational.

### Utility Distribution Charge Exemption

Providing electric service to a new power-to-fuel project may result in incremental costs to a T&D utility. These could include costs to interconnect the facility as well as ongoing costs to provide service to the facility. Under the Commission’s rules, a new customer would pay for these line extensions. Under the Act, the project would be exempt from paying these costs. As a result, other ratepayers would ultimately pay for any such costs incurred by the utility.

The exemption from paying other distribution charges (e.g., volumetric and demand charges) would not result in lost revenue to the utility if the power-to-fuel project was not developed with a total exemption from all utility distribution charges for a 15-year period. The Committee may want to evaluate whether a total exemption for 15 years is necessary for development of a project or whether a smaller subsidy would be sufficient to enable development.

Utilities have negotiated “special rate contracts” under which service is provided to particular customers at discounted rates when necessary to keep an existing customer from curtailing or ceasing its operations or to enable a new customer to locate and operate in the utility’s service territory. The Committee may want to consider an approach where the utility negotiates a special rate contract that is more narrowly tailored to the specific needs of a project while mitigating any adverse impacts on other customers.

### Energy Efficiency Charge Exemption

The Act refers to charges associated with procurement of energy efficiency resources by T&D utilities ordered under Title 35-A, section 10110 (4-A). The Commission notes that this statute refers to

the funding of Efficiency Maine Trust programs through charges included in the utility's rates.<sup>1</sup> Because the Act already exempts all T&D charges regulated by the Commission, this provision in the Act appears unnecessary.

### RPS Requirements

Under the Act, a competitive electricity provider (CEP) that provides retail electricity supply service to the power-to-fuel project would not have to comply with the State's RPS requirements (i.e., the requirement that retail suppliers purchase renewable energy credits (RECs) at specified percentages of load served). This would have the effect of lowering the cost of electricity supply to the power-to-fuel project but could be considered as inconsistent with the State's general renewable energy policy that specified percentages of supply provided to retail customers come from renewable power.

In addition, this exemption appears to be inconsistent with the premise that qualifying facilities be fueled by renewable power. Unless the facility purchases RECs equivalent to its load, it cannot be said to be converting renewable energy to fuel.

The Commission will provide any additional information that would be of assistance to the Committee.

Sincerely,



Garrett Corbin  
Legislative Liaison

cc: Energy, Utilities, and Technology Committee Members  
Legislative Analyst

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<sup>1</sup> Under current law, T&D utilities do not procure energy efficiency resources.