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**Testimony of Representative Nicole Grohoski
In Support of LD 170, An Act Pertaining to Transmission Lines
Not Needed for Reliability or Local Generation**

**Before the Committee on Energy, Utilities and Technology
25 February 2021**

Good morning fellow members of the Committee on Energy, Utilities, and Technology. I am Nicole Grohoski, and I represent the communities of Ellsworth and Trenton in the Maine House. I appreciate the opportunity to speak in support of LD 170, *An Act Pertaining to Transmission Lines Not Needed for Reliability or Local Generation*.

I am reintroducing this bill, which is the final majority report by this committee for [LD 2097](#) in the 129th Legislature, another legislative casualty of COVID-19. It seeks to improve upon the process used by the Public Utilities Commission (PUC) to evaluate and approve any nonessential transmission lines proposed in the future. To be clear, this bill springs from observations and critiques of the New England Clean Energy Connect project process (NECEC, a.k.a. CMP Corridor), but it will not affect the existing regulatory approval for that project. Instead, in the case of a future transmission project not needed to provide reliability and supply to Maine customers, it would assure ratepayers a minimum benefit, preferably in the form of a rate reduction. In other words, **it ensures that Maine ratepayers won't be a cheap date for future for-profit transmission lines.**

Why this bill?

This bill is first and foremost a good governance bill. Instead of finding flaws in the process while the process is underway, it identifies areas for improvement in advance of any future nonessential transmission line projects. I believe that this bill attracted a diverse group of cosponsors over its two iterations because of the value of **creating a fair and transparent process** for future nonessential transmission line approvals. This type of line is new for Maine and requires us to learn from our limited experience and adapt.

In the case of the CMP Corridor, when parties negotiated on behalf of the State and ratepayers, they did not have a precedent or set standard to start their negotiation from. This made it harder for the Public Advocate to negotiate and **Mainers ended up being uncertain if they got a "good deal" and dissatisfied with the process.** I believe the Public Advocate did well with the position he and his office were put in, but without an established minimum benefit, it was a

tough position. We cannot always be assured that someone will be able to significantly increase the proposed benefits on behalf of the Maine people, as Mr. Hobbins did in those negotiations. **Thus, it would be prudent to establish a minimum benefit that is based on a real dollar value that can be calculated by the PUC.**

Additionally, **we as ratepayers in Maine could benefit from a more fair competitive field for nonessential transmission lines.** Right now, our incumbent transmission and distribution utilities have an advantage over other possible developers via their monopoly status. Namely, they have access to rights-of-way and significant existing infrastructure to build a project on, at subsidized cost. Yes, in the case of the NECEC project, Massachusetts was able to benefit from a competitive process -- but what if there had been other Maine-based projects proposed that could have been more competitive if CMP was required to compensate ratepayers for the use of their funded assets?

Bill structure

The bill begins by defining a “nonessential transmission line” as a line that is not constructed primarily for reliability purposes and not to serve retail customers in Maine. Before issuing a certificate of public convenience and necessity (CPCN) for any such transmission lines proposed by a transmission and distribution utility, the Public Utilities Commission must determine if the line will use ratepayer-funded physical assets and then:

1. Determine the value of those assets,
2. Confirm that the utility will provide a minimum benefit to ratepayers of equal value, and
3. Establish the delivery method of said benefits, with a preference toward rate reduction.

Regarding the term “nonessential,” I will note that the previous version of this bill used the term “elective,” as such a line is referred to by our grid operator, ISO-NE. To avoid confusion with their definition, this committee changed the term. Of course, these lines are important to someone, somewhere for some reason -- just not directly to Maine people. **A customer desiring such a line should be willing to compensate the Maine ratepayers who paid for relevant assets for the use of that infrastructure, rather than expecting a free or discounted lunch.**

Additionally, the bill directs the PUC to open an inquiry to identify opportunities to increase competition and cost-effectiveness in the building of such lines, with consideration given to ratepayer benefits and greenhouse gas reduction goals. This portion of the bill was the result of stakeholder collaboration with the Industrial Energy Users Group (IECG) and non-utility developers in particular. Since the time of this bill’s drafting, the PUC has opened an inquiry into grid modernization, which may consider issues related to such transmission lines. I welcome a conversation with the PUC about how to ensure the goals of this section are included in that inquiry, rather than in a separate proceeding.

The bill also repeals two subsections of statute that were rendered irrelevant by previous statutory changes and identified by staff during the drafting process.

The overall goal here is to restore the benefits of a competitive environment by removing financial advantages that an incumbent utility has. The value of assets is essentially the amount of money that a third-party developer would have to spend to build these assets.

This is money that the utility does not have to spend that allows it to out-compete other developers. It is money that the ratepayers have spent on infrastructure that they are not guaranteed to be compensated for.

Proposed Amendment

In order to further clarify how this bill relates to our state's plans to transition to renewable energy, I propose to amend the definition of a nonessential transmission line to read:

4-E. Nonessential transmission line. "Nonessential transmission line" means a transmission line that is not constructed primarily to provide electricity to retail customers within the state and that is:

A. Not constructed primarily to provide electric reliability within the State, as determined by the commission; or

B. Not constructed primarily to meet the portfolio requirements established in section 3210, as determined by the commission.

Federal Energy Regulatory Commission's (FERC) Order 1000

While discussing improvements that could be made to the PUC approval process, I learned a bit about FERC Order 1000.¹ According to T&D World, the July 2011 order's stated purpose was to "increase regional transmission development by eliminating long-standing monopolies and create competition and incentives for innovative, cost-effective projects."² It was reported that FERC asserted that "enhanced transmission planning will provide a strong foundation for updating the grid to provide reliable transmission service as well as an opportunity to achieve goals that states and local authorities have set for lower emissions, demand-side resources and renewable energy."³

It is my understanding that the order shifted preference for building transmission lines from incumbent transmission and distribution utilities to any developer, in order to create a more competitive process. Flexibility was given to the regional grid operators and states to improve the competitive process. Thus, this legislation seems appropriate within the federal context, since it aims to remove infrastructural advantages that the incumbent utilities currently have.

Relation to 35-A MRS 707(3)(G)

This section of statute deals with affiliated interests of public utilities and requires PUC consent for the utility and the interest to have contracts or arrangements. Subsection 3G in particular identifies that the Commission **should determine the value of the utility's facilities, services or intangibles to be used**. The utilities must then charge this value to and receive it from its affiliated interest. This seems to me to be a first step in the direction of what I am proposing, but not broad enough to include utility projects that do not use an affiliate nor to explicitly provide a benefit to ratepayers.

¹ <https://www.ferc.gov/industries/electric/indus-act/trans-plan.asp>

² <https://www.tdworld.com/substations/article/20969538/ferc-order-1000-five-things-you-need-to-know>

³ Ibid.

It is my understanding that the Office of the Public Advocate (OPA) used this section of statute to negotiate benefits for Maine customers in the stipulation agreement of the NECEC Project.

Benefits to ratepayers are priority

In this bill, if an incumbent utility plans to use existing ratepayer-funded assets, then the value of those assets must be returned to ratepayers, preferably through a rate reduction. This provision gives the PUC guidance that our number one priority is reducing the bills of all customers within a utility's territory. **This provision guarantees that everyone will benefit from the investments they made in infrastructure through their electricity bills. It doesn't pick winners and losers via targeted benefits, but instead ensures that everyone benefits.**

These are meant to be minimum benefits derived from a project. Other groups interested in negotiating for additional benefits would still be able to do so. For example, environmental groups could negotiate additional provisions to offset anticipated environmental impacts, without having to compete with the priority of reducing rates.

Thank you!

I want to thank you all for listening attentively to my testimony in support of LD 170. I look forward to working with you to improve our process for approving future nonessential transmission lines.