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PUBLIC UTILITIES COMMISSION

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**Testimony Neither For Nor Against**  
**LD 634 – An Act To Cap the Value of Contracts for Renewable Resources and Distributed Generation Resources**

March 16, 2021

Senator Lawrence, Representative Berry, honorable members of the Committee on Energy, Utilities, and Technology, the Public Utilities Commission (Commission) testifies neither for nor against LD 634, *An Act To Cap the Value of Contracts for Renewable Resources and Distributed Generation Resources*. The Act would cap the “total value” of certain contracts entered into pursuant to the renewable portfolio standard (RPS) procurement laws and the distributed generation (DG) procurement laws at no more than \$100,000 above the “reasonable costs associated with a project becoming commercially operable”.

Background

LD 634 would amend two Acts enacted during the 2019 session governing procurement of renewable resources through 20-year long-term contracts with Maine’s investor owned transmission and distribution (T&D) utilities (Central Maine Power or Versant Power). Section 1 of the Act would amend *An Act To Reform Maine’s Renewable Portfolio Standard*, P.L. 2019, Chapter 477, codified at 35-A M.R.S. [§ 3210-G](#), which directs the Commission to conduct two competitive solicitation processes to procure, in the aggregate, an amount of energy or renewable energy credits (RECs) from Class 1A resources that is equal to 14% of retail electricity sales in the State during calendar year 2018, or 1.715 Million MWh. Section 2 of the Act would amend *An Act To Promote Solar Energy Projects and Distributed Generation Resources in Maine*, P.L. 2019, Chapter 478 (Act), codified at 35-A M.R.S. [§§ 3481-3488](#), which directs the Commission to procure targeted amounts of energy, capacity and (RECs) from renewable distributed generation (DG) facilities of less than 5 MWs.

LD 634

It appears to the Commission that the purpose of LD 634 is to reduce ratepayer impacts resulting from long-term contract solicitations. The specific approach in the bill of capping contract prices based on “reasonable cost” or “total value” may not be administratively workable, however. The Commission understands the bill as requiring an in-depth review of the underlying costs of each project that submits a proposal. This would involve, for each project, a careful examination of things such as: costs involving the purchase or lease of property; environmental and other permitting costs; purchase of equipment; construction and installation costs; financing costs; state, local and federal taxes; and reasonable profit margins. Because this analysis would be required for each project that submits a bid, the Commission is concerned about the magnitude of the information that would need to be obtained and analyzed, and the difficulty in assuring that all the project costs could be captured for each specific project. Finally, given the possibility of a significant number of bids, the work required to compile this information could be beyond our existing resource capacity. For reference, in the last renewable portfolio standard RFP procurement the Commission received more than 70 bids and in the DG procurement, the Commission received 22 bids.

Given that this legislation appears to be directed at RECs, the Commission also raises two questions: (1) should the cap apply to contracts for energy; and (2) if there is a contract for energy from a Class 1A resources and the project retains the RECs, would the intention be that this proposal limits the purchase price of the RECs? The Commission is unsure what enforcement mechanism would be appropriate for such a scenario. Furthermore, the timing of enactment of this proposal could intersect with contracts entered into in the Commission’s second procurement tranche pursuant to Title 35-A, section 3210-G, potentially requiring the request-for-proposals process to be restarted, although the statute requires that tranche to commence by January of 2021.

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  
Deirdre Schneider & Daniel Tartakoff, Legislative Analysts