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PUBLIC UTILITIES COMMISSION

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Testimony Neither For Nor Against

**LD 1328 – An Act to Protect Maine Electricity Customers from
Threats of Disconnection in the Wintertime**

April 13, 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 1328](#), *An Act to Protect Maine Electricity Customers from Threats of Disconnection in the Wintertime*. This Act prohibits the use by an electric transmission and distribution utility of a notice or communication to a residential customer in the winter months that threatens disconnection on a specified date or within a specified time period unless the utility already has permission for the disconnection from the consumer assistance and safety division (CASD) within the Public Utilities Commission. It also requires that any notice which in any way mentions disconnection during the winter months also state prominently that disconnection cannot take place without the advance permission of the CASD and that the customer will be notified and heard. A violation of these requirements subjects the utility to a penalty up to \$2,500 per violation payable to the affected customer, in addition to any other remedies to which the customer may be legally entitled.

Background

Chapter 815 of the Commission's rules sets forth the Commission's general policy considerations with respect to winter disconnection. The first policy is that customers should not be disconnected because of their inability to pay their utility bills during winter months when severe weather conditions can pose a threat to health and safety. The second policy is that electric and gas utilities should attempt to contact all customers who are in arrears by more than \$50 and establish a regular or special payment arrangement.¹

¹ A "regular payment arrangement" requires a customer to pay their current bill plus a reasonable amount towards the past due balance each month. A "special payment arrangement" allows a customer to pay less than their current bill each month during the winter and requires the customer to make up the difference during the summer months.

The third policy is that customers should pay a reasonable portion of each monthly bill during the winter period to avoid significantly increasing their arrearage. These policies are intended to strike a balance between the protection of the health and safety of residential customers and the ability of utilities to collect amounts due for service to these customers, which is consistent with statute enacted by the Legislature.

These policies were developed through a rulemaking proceeding that established Chapter 815 in 2008. In that rulemaking proceeding, the Commission created a workgroup comprised of low-income advocates, utilities, the OPA and Commission staff to examine the winter disconnection process and to explore the possibility of establishing a moratorium on disconnections during the winter months. The general consensus of the work group was that a complete moratorium on winter disconnections would be harmful to customers. This is because customers would not be able to access financial assistance through social services without an imminent threat of disconnection, and because the possibility of a winter disconnection provides customers some motivation to make whatever payments are possible, thereby reducing the arrearages those customers might have otherwise acquired. Stakeholder parties agreed this would ultimately result in a reduced likelihood that these customers would lose their electric or gas service at the end of the winter period.

LD 1328

Section 717(2)(a) of the bill would prohibit an electric utility from sending or delivering a disconnection notice to any residential customer that provides for the disconnection of the customer's electric service on a specified date or within a specified interval of time during a disconnection prohibition period, unless the utility has received the prior permission of the CASD to make the disconnection on the specified date or within the specified interval of time. The Commission would like to respectfully point out a few concerns with this provision. First, as described above, the purpose of a disconnection notice is to solicit contact with a customer who is having payment problems. In fact, the vast majority of disconnection notices result in payment, or in an arrangement to pay, thus resolving the matter without the need for involving the CASD. Due to the sheer volume of disconnection notices issued, it would be prohibitive from an internal Commission resources standpoint for the CASD to “pre-approve” each of these situations prior to the utility issuing a disconnection notice. For example, Eastern Maine Electric Cooperative (EMEC) issued 5,435 disconnection notices during the winter of 2019 – 2020, yet submitted only 162 requests to disconnect to the CASD. In addition, Central Maine Power Co. (CMP) issued 109,573 disconnection notices and Versant issued 66,884 notices during that same winter and neither company submitted any requests to disconnect with the CASD. Just between these three utilities, 181,892 disconnection notices were issued during the winter months. The CASD simply does not have the resources to review this number of customer accounts.

Second, as stated above, the issuance of a disconnection notice and the resulting imminent threat of disconnection opens the door for financial assistance to customers that would not exist absent the active disconnection notice. For example, a customer who has an active disconnection notice and qualifies for LIHEAP is able to access assistance through the Energy Crisis Intervention Program (ECIP) administered through LIHEAP. Customers who qualify are also eligible to receive assistance from the Emergency Assistance Program (EAP) administered by DHHS. The assistance provided by these programs is often sufficient to cure the disconnection situation, thus avoiding the need for the utility to seek CASD permission to disconnect. Requiring the CASD to review and preapprove situations that are more likely than not to be resolved without the need to request permission from the CASD to disconnect would place an unnecessary administrative burden on the CASD and possibly reduce the amount of assistance provided to customers during the winter months.

Finally, the CASD as a general policy does not provide permission to utilities to disconnect customers during the winter months. Instead, the CASD attempts contact with the customer and establishes an affordable payment arrangement to ensure that the customer does not lose their electric service. In light of this objective, the CASD would not be inclined to “pre-approve” a disconnection request submitted by a utility that more likely than not would be resolved without the need for disconnection. Further, this requirement could have the unintended consequence of an actual disconnection taking place during the winter months due to the pre-approval process in situations where a customer fails to respond to the disconnection notice issued by the utility.

Section 717(3) of the bill states that a disconnection notice to a residential customer from an electric utility for a past due account that if not paid could lead to termination of utility service that is issued after April 15th is sufficient evidence to establish eligibility for emergency general assistance as described in Title 22, chapter 1161 and for fuel assistance as described in Title 30-A, 35 chapter 201, subchapter 13. To the Commission’s knowledge, many customers who receive a disconnection notice are not low income and the vast majority of these customers ultimately pay their bill. For example, in 2019, CMP issued a little over 500,000 disconnection notices, but ultimately disconnected only 22,945 customers (4%). Versant issued 186,448 notices and ultimately disconnected 4,214 customers (2%). Similarly, EMEC issued 5,435 disconnection notices and ultimately disconnected only 667 customers (4%). Thus, most customers pay or enter a payment arrangement when they receive a disconnection notice. The Commission also observes that this requirement may conflict with income eligibility requirements for the general assistance and fuel assistance programs.

The Commission hopes that the Committee finds this information helpful and welcomes and questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Garrett Corbin", is enclosed within a white rectangular box.

Garrett Corbin
Legislative Liaison

cc: Energy, Utilities, and Technology Committee Members
Deirdre Schneider and Daniel Tartakoff, Legislative Analysts