

Testimony of Central Maine Power
in Opposition to
L.D. 1587, An Act To Remove the Municipal Ordinance Exemption for the
Development of Nonessential Transmission Lines
May 4, 2021

Senator Lawrence, Representative Berry, and Members of the Committee, I am Jim Mitchell and testify today on behalf of Central Maine Power in respectful opposition to LD 1587.

From Henry Clay's American Plan to Dwight Eisenhower's Interstate Highway System, and from FDR's Rural Electrification Act to The Natural Gas Act,* America's policymakers have sought to balance the competing interests of building out adequate energy and transportation infrastructure with robust protection of individual property rights and community values. The central idea behind these transformative policies — policies that many would argue have fueled America's economic dominance in the world — is that the public interest most often is found by allowing the many to benefit at the expense of the few.

This should not, and for the most part, has not meant that property rights and community values can be trampled upon through a tyranny of the majority. But it does mean that lawmakers and those they empower to administer the law must find a clear, compelling public interest to allow infrastructure projects to be permitted for construction.

* The central motivation for congressional adoption of the Natural Gas Act was regulation of interstate natural gas prices; nonetheless, a direct result of the implementation of the Act by the Federal Power Authority was the certificate process which grants private entities, interstate pipeline companies, the right of condemnation of private property for rights of way in fulfillment of the public interest by the certificated facilities.

Obviously, the Maine Legislature could decide that the public interest test means every citizen, in every town, in every neighborhood of every town affected by a project

must be satisfied — must agree with a project being permitted. That is your right and privilege as lawmakers. But, would that approach truly meet your duty as public officials to advance our society— economically, environmentally, socially? I think not.

Our society must confront a difficult duality: secure a prosperous future for America's citizens with sufficient, efficient, clean energy sources and confront climate change. Further electrification of our economy and massive decarbonization of aggregated generation is the only road to that destination.

As President Biden has said several times — and repeated in his address to the Congress — massive investment in renewables will require electric transmission. *Lots of It.* No matter your renewable of choice — solar, wind, water, geothermal — they will require more transmission if they are to be scaled to the size required. Some may assert small, distributed generation can meet our energy future. And, no doubt, DG is a critical stepping stone to a cleaner future. But the first law of economics — economies of scale — is rarely overcome. Certainly, Maine's recent experience bears that out. Grid scale solar and storage comes in at under 3.5 cents/kwh; substantially smaller solar installations need 12-13 cents/kwh. And, as a society we simply do not have unlimited resources. Price matters.

Respectfully, LD 1587 distorts the concepts behind constitutional protection of individual liberty and the pursuit of happiness. One person's unlimited ability to protect her or his interests to the detriment of society at large is untenable in a pluralistic, divergent society. Now, let's go from the abstract to the concrete.....from the theoretical to the specific.

In October of 2018, the citizens of the town of Caratunk considered an ordinance instituting a moratorium on utility infrastructure within their town. Well within their

rights to do so, 12 citizens supported adoption of the ordinance. 5 opposed. In a democracy, the 12 prevailed and the ordinance was adopted.**

The Maine Legislature, in its wisdom, authorized a quasi-judicial body known as the Maine Public Utilities Commission to ascertain if proponents of electric transmission facilities deserve to be granted a certificate of public convenience and necessity. Applicants must demonstrate the public interest of their proposed facility, in part, because the Legislature simultaneously grants that entity — the PUC — the ability to consider the evidence of the purpose and impact of town ordinances when a fully certificated project, such as the New England Clean Energy Corridor (NECEC), cannot reasonably meet a municipal requirement to construct and operate its approved facilities. Applicants then must come to the Commission and demonstrate why they cannot meet the requirements of the ordinance and why alternatives are either not practicable or impose an unreasonable economic burden on the certificated project.

The Legislature did NOT grant the PUC the power to overcome municipal ordinances arbitrarily, capriciously, unwisely. The power is limited, appropriate, necessary. These matters are not simply decided by the Commission but part of a deliberative process described in Chapter 885 of the Commission rules. The rules specify the necessity of adequate notice to affected parties, requires a hearing, and the opportunity to provide evidence and argument at such a hearing.

** Caratunk later adopted its Energy Systems ordinance on July 22, 2020 and certified by the Clerk.

In the case of the NECEC, the PUC spent nearly two years considering the evidence on the project. Well within the powers granted it by the Legislature, the Commission found that, in fact, the project was in the public interest. Does that mean that all 1,362,359 souls in this great State of ours are better off with the NECEC than

without it? Of course not. But the preponderance of the evidence demonstrated that the benefits of the project — economic, environmental, electric — outweighed its negative impacts.

I respectfully submit that the 12 citizens of Caratunk who supported the original ordinance that was developed, written, and considered specifically to stop the NECEC should not be able to usurp the powers of the Maine Legislature exercised through the administrative body your predecessors created explicitly to act on behalf of *all* Maine citizens — the Maine Public Utilities Commission.

To secure our collective future, not simply the wants of the few, we cannot have a tiny minority in a single town determine whether or not an electric transmission facility with enormous benefit for the many should be built. And, that is exactly the intention of LD 1587.

Thank you for considering our position on this legislation.