



STATE OF MAINE
PUBLIC UTILITIES COMMISSION

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Testimony Neither For Nor Against
LD 1682 – An Act To Require Consideration of Climate and Equity Impacts
by the Public Utilities Commission

May 12, 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 [1682](#), *An Act To Require Consideration of Climate and Equity Impacts by the Public Utilities Commission*.

The Act addresses the heart of the Commission's purpose, contained in its authorizing statute, which is driven by three regulatory priorities: (1) ensuring safe, reasonable and adequate service; (2) assisting in minimizing the cost of energy available to the State's consumers; and (3) ensuring that the rates of public utilities subject to rate regulation are just and reasonable to both consumers and public utilities. LD 1682 would add two additional priorities – emissions and equity. More specifically, the fourth priority is reducing greenhouse gas emissions to meet the greenhouse gas emissions reduction goals in [Title 38, section 576-A](#). The fifth priority is addressing and mitigating disproportionate energy burdens on environmental justice populations, frontline communities and utility customers who are underserved by utility or electricity policies, programs and systems due to geography, race, income or other socioeconomic factors.

It is important to recognize that the Commission's regulatory practices today are not inconsistent with the goals of this Act. The Commission understands the importance of taking care to ensure climate and social justice considerations are accounted for when it is overseeing public access to electricity, natural gas, drinking water, basic phone service and emergency communications.

Current law¹ directs the Commission to enforce the laws of the State on matters within the Commission's purview, and to refer issues to other relevant agencies for enforcement as necessary.

¹ [Title 35-A, §115](#)

Environmental matters are traditionally overseen by the Maine Department of Environmental Protection in conjunction with the United States Environmental Protection Agency, while justice matters are within the jurisdiction of the Office of the Attorney General, Maine Human Rights Commission, and United States Justice Department. In many cases, particular statutory provisions direct such coordination and consideration. For instance, [Title 35-A section 3132\(6\)](#) states: “The commission shall... consider the findings of the Department of Environmental Protection under [Title 38, chapter 3, subchapter 1, article 6](#), with respect to the proposed transmission line and any modifications ordered by the Department of Environmental Protection to lessen the impact of the proposed transmission line on the environment.”

Even so, the Commission is always endeavoring to learn from the past with an eye toward the future, and we recognize the increasing importance of matters of climate policy, equity and environmental justice. This is why, for example, the Commission’s performance metric proceeding (Docket No. [2020-00344](#)) is considering affordability and environmental policies, and the grid modernization proceeding (Docket No. [2021-00039](#)) is examining changes to the distribution system that will be needed to accommodate load growth from beneficial electrification, to support integration of distributed renewable resources and storage, and to enable new technologies that could benefit customers. In addition, our Chapter 330 Rule detailing the standards for electric transmission facilities to qualify for a certificate of public necessity and convenience (CPCN), in its definition of the term “public benefit,” accounts for the proximity of the proposed transmission line to inhabited dwellings, consideration of alternatives to construction of the transmission line, energy conservation, economics, public health and safety, and historic values.

The Commission observes that considerations as broad as environmental justice and equity are commonly in the Legislature’s purview. For example, equity considerations led the Legislature to add to law the Low Income Assistance Program and the Arrearage Management Program, both of which the Commission oversees. If the Legislature wishes to delegate such potentially wide-ranging authority to the Commission, which could result in the Commission developing the types of significant new policies and programs traditionally left to the Legislature, it is foreseeable that all parties would benefit from additional detail being added to this direction, particularly with respect to the criterion by which potentially competing priorities should be balanced and/or which types of proceedings should prioritize particular considerations. Without further elucidation of values or weight to be given to varying factors, the Commission anticipates its lawful exercise of discretion may be appealed to the Law Court on a routine basis. The proponents’ provision of an example or two of how the Commission might be expected to apply the directives proposed in the Act would

provide both the Commission and its stakeholders with a better practical understanding of legislative intent and may inform the Committee in considering how best to incorporate that intent into law.

The Commission is available to answer questions and plans to attend the work session as well.

Sincerely,



/s/ Philip L Bartlett II
Chair

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