

**LD 1708, An Act To Create the Pine Tree Power Company, a Nonprofit Utility,
To Deliver Lower Rates, Reliability and Local Control for Maine Energy Independence**

Testimony of Jeffrey McNelly in Opposition to LD 1708

May 20, 2021

Senator Lawrence, Representative Berry, and honorable members of the Joint Standing Committee on Energy, Utilities and Technology, my name is Jeff McNelly, and I am here today to testify in opposition to LD 1708.

Briefly, I am a resident of Waldoboro and retired. Most recently, I spent three and a half years as the Director of Telephone and Water for the Maine PUC, and before that, I spent nearly three decades as the Executive Director of the Maine Water Utilities Association. Prior to that I spent 16 years at the Camden & Rockland Water Company where I focused on water resources and planning issues. I have spent a tremendous amount of time working with consumer-owned water systems and spent lots of quality time before this Committee. I understand the challenge of your job, and I thank you for serving the people of Maine

As it turns out, I have been following the issues behind this bill since it was first proposed more than two years ago, and I have heard many claims on both sides of the issue. I felt compelled to weigh in with regard to this bill because I feel it is important that this Committee, and Maine people, understand the issues and facts before making up their mind on this critically important issue.

First, there has been a lot of talk about whether or not the entity created by this bill, which is now being called "Pine Tree Power Company," is a unit of government or a non-profit company. The title of the bill refers to this company as a "Nonprofit Maine Utility." However, this is misleading because the language of the bill actually creates a unit of government, just like the public water districts I worked with for most of my career. At various points in the bill, this company is referred to as a "body politic and corporate," which are the magic words for a unit of government that are found in most water or sewer district charters. Elsewhere in the bill, the company is referred to as a "quasi-municipal corporation" for tax purposes, which is also a term that describes water and sewer districts. The bill calls for public elections to select the governing board of the company, which sounds like government. And the bill makes clear that the company would be subject of Maine's Freedom of Access law, which is typically applied to units of government in Maine. Reading all of this together, Pine Tree Power Company is not a company at all. It is a unit of government. We should be honest about that.

Second, now that we have established that LD 1708 in fact creates a government agency run by an elected board, what will that look like? Will it invest more in infrastructure, or less? I have heard strong arguments on both sides. However, in my view, the answer to this question is simple. Tell me who is on the board, and I will tell you whether investments will go up. Change the composition of the board, and the answer will change. Ultimately, how the board of this new power authority behaves will be up to the voters of this state, and I do not have a crystal ball to predict who will get elected.

In the world of quasi-municipal water districts, which are governed by elected or appointed boards of trustees, the activities of a district will hinge on who gets elected or appointed, with some water district boards of trustees responsibly investing in infrastructure that will raise rates, and other water district boards being afraid to invest or raise rates. Regardless of where a board may fall within this range, however, the general range tends toward the cautious. As a general matter, water district trustees are nervous about rate increases, and therefore nervous about capital investments, because they don't want to provoke a public backlash. It is not unusual, in such situations, for monies designated for infrastructure needs to be used for operations. For some water districts, this has resulted in a substantial accumulation of deferred maintenance which builds up over many years, a situation that we, in the business, term "*running to failure*". Eventually, this deferral leads up to a crisis where rates must be massively increased to meet infrastructure needs. When I was at the PUC I saw rate requests that were close to half the current budget.

So, as we hear conflicting promises about whether an elected board for this new electric venture will invest more in poles and wires, or renewable energy, how can we know for sure? Very simply, we cannot, and there is just as much likelihood that investment in facilities may go down once trustees have to run a campaign before Maine voters, voters comprised of low-income Mainers, seniors, and many other hard-working, fiscally conscious people.

And look at our local roads and bridges. We all can see the infrastructure of our local roads deteriorate with every passing winter, but do our local road budgets keep pace? Do your local officials raise property taxes enough to pay for the roads? Is it any different on the state level?

The uncertainty of this proposal is also unsettling. Whether it be water or wastewater treatment, water distribution or wastewater collection, or customer service (including customer billing and having the means to pay the bills), essentially every function that a water or wastewater system performs can be described as risk management. On any given day, system managers have to prioritize and manage these risks in order to efficiently and effectively provide service. In short, if there is one thing these managers value, it's predictability of outcome, and the level of uncertainty presented by a government run power authority is therefore not a comforting thought.

Finally, I am concerned that this bill "passes the buck" by sending this highly complex and uncertain issue to the voters. It will be a challenge for policy makers to sift through and make judgments about this very complex matter. The PUC hired a sophisticated consultant to look at this issue in 2019, and the final London Economics International Report issued last February very plainly said the costs and risks of a takeover of CMP and Versant were not knowable until the final legal process concluded years from now. Their report is filled with ranges and estimates, some of which show Maine would be to the good, and other estimates show that Maine would experience "dis-savings" – which I read as a euphemism for "cost more." Given the complexity of this legislation and the many unanswered questions, our elected representatives should first ensure that we have all the data and facts, and if that means more study, so be it. That is actually what the London Economics Report recommended. But to send all of these unanswered questions out to the voters in the hope that sound bites or bumper stickers will provide answers, that is fanciful thinking. And it is irresponsible. We don't set utility rates based on political campaigns, and we shouldn't decide a utility takeover through a popularity contest. Given all of the TV ads and mailers of

the most recent electoral campaign, do we really need more, and will it lead Maine to a good decision?

In the end, creating a power authority that is governed by elected officials, whether it is called Pine Tree Power or some other clever name, does not guarantee more investment, and in some cases, the very structure of government elections can have the opposite effect. For this reason, this Committee, and all Mainers, should exercise due caution before deciding that embarking on a takeover of CMP and Versant Power is in our best interest.