



Testimony in Opposition to LD 1959
An Act To Ensure Transmission and Distribution Utility Accountability
February 22, 2022

Senator Lawrence, Representative Berry, and members of the Joint Standing Committee on Energy, Utilities and Technology, my name is John Flynn, I am President of Versant Power, and I am here today on behalf of Versant Power in respectful opposition to LD 1959.

First, I would like to acknowledge the fact that while Versant Power has substantive concerns about this legislation, we have a sincere desire to work with Governor Mills and the Legislature towards improved service for our customers.

We know that we can never lose sight of the need for continuous improvement in a world where reliability and customer service are becoming ever more important. Versant Power has clearly demonstrated that we are up to that task. As evidence of this, I would like to highlight a few of Versant's milestones in just the short time since our acquisition was approved:

- In 2021, Versant Power exceeded each one of the stringent reliability-focused Service Quality Indices (SQI) for which we were responsible following our reorganization in 2019 and experienced the highest overall level of reliability in the previous 12 years, since 2009. Despite these SQIs expiring in 2022, Versant voluntarily proposed to extend them in our most recent rate case.
- Versant Power significantly exceeded its billing accuracy SQI in 2021. Over 99.6% of our bills were accurate.
- The Company has received 252 Level 4 interconnection applications (93 executed Interconnection Agreements) from renewable energy projects, representing approximately 580MW in Versant's queue. In 2019 alone, the percent increase in applications was roughly 3,300% compared to 2018. In 2020, the number of interconnection applications rose by 43%.
- Versant Power achieved these and other related goals safely – in 2021, zero work hours were lost due to incidents on the job – an incredible achievement by our employees.
- We met all these important goals AND have invested over \$200 million in our system since the beginning of 2020, while still maintaining some of the lowest T&D rates in New England, even after our distribution rate adjustment last fall.

The effectiveness of this legislation, should it move forward, will rest in a mutual understanding by us as the utility, by you as policymakers, and by our regulators regarding some principles that can make legislation such as LD 1959 most effective. Among the most important of these understandings are:



1. Hold utilities accountable for those things which are within our direct control and which align closely with our customers priorities and state policy goals;
2. Be wary of measures that allow interests to “game the system” for political benefit;
3. Require alignment between utilities and our regulators so that we can effectuate the changes that you and our customers desire with certainty, efficiency, and at the lowest possible cost to our customers.

With these principles in minds, on which we hope there is broad consensus, we would offer the following concerns and questions for your consideration:

Section 1- Performance Report Card

Versant Power welcomes being held to high standards. Our customers deserve nothing less. However, this assumes there is alignment among policymakers and regulators that prudent and adequate revenue allowances for our staff and system to meet those standards will be reliably approved. This concept simply cannot work if we do not have the resources to make the investments necessary to meet these standards. To that end, we believe it would be beneficial for the Legislature to affirmatively signal to the utilities and the PUC that, subject to the Commission’s judgement, expenses required to meet these new standards are considered prudently incurred.

In regard to 1-A, A(2) and A(3), we are concerned that these are standards that external parties could potentially manipulate for political or other purposes unrelated to customer priorities or state policy goals.

- We recommend A(2) be modified to add qualifying additional language such as “taking into account the resources available to the utility and the complexity of the requests.”
- Section A(3) is perhaps most vulnerable to potential manipulation by special interests and we urge the Committee to consider limiting this evaluation to legitimate complaints directly related to utility performance.

In regard to A(6), we understand the critical importance of storm restoration to our customers and strive always strive to restore power as quickly as safety considerations allow. We are concerned this section does not adequately account for the resources available and the severity and geographic scope of the weather event(s) in question. As you know, Versant Power’s service territory is very large and among the least populated in the country, along with being one of the most heavily forested and prone to severe weather events such as snow, ice, and wind. This service territory should not be artificially compared to densely populated areas in moderate climates.

We are also concerned about the potential for these report cards, if not carefully designed to include reasonable metrics that align closely with customer priorities and policy goals, to undermine the trust and confidence that Versant Power has been working incredibly hard to earn from our customers and



regulators. There is potential in this section for a utility to receive “bad” report cards, perhaps regularly (due, for example, to forces beyond a utility’s direct control) which, after evaluation by the Commission, do not lead to a penalty. In these cases we believe that a “bad” report card – despite resulting from extenuating circumstances for which the Commission chose not to assess a penalty – could be more destructive than constructive to our shared longterm goal of high-quality utility performance and increased customer satisfaction. I believe we all agree that the purpose behind these report cards should fundamentally be constructive.

Section 3- Testimony Provided by Employees

We would encourage further examination of how this proposed section aligns with protections in other states and jurisdictions. Defining employees as people who formerly worked for a utility, a contractor to the utility, or subcontractor to said contractor, is a significant change in whistleblower protection and we are concerned about the possibility of unintended consequences. Versant Power fully supports strong whistleblower protections for employees and those over whom a company has the power to retaliate, which is the core justification for such protections in law. Expanding the community eligible under these protections to those with distant engagements could set problematic precedent. This section also lacks clarity about who the arbiter of good faith testimony would be, which we believe is worthy of your consideration.

Section 4- Administrative Penalties

Versant Power believes that all utilities should be held accountable to reasonable standards and that all utilities should similarly be eligible for reasonable penalties for failure to meet such standards. However, the penalty structure in this section, “*in an amount that does not exceed \$1,000,000 or 10% of its annual gross revenue received from ratepayers in the State, whichever amount is less,*” is discriminatory against Versant Power, which has much lower gross revenue than other utilities. We urge the Committee to consider a penalty provision that would apply to all utilities in an equitable manner.

Section 5- Divestiture

We would suggest modifying this provision to clarify that a divestiture proceeding should only occur in instances where the utility regularly receives failing report cards that warrant significant penalties (in excess of a specific amount). As noted previously, it is possible for a utility to receive a “bad” report card which the Commission ultimately finds does not warrant financial penalties (e.g. if circumstances beyond the utility’s direct control were the primary cause for failing to meet one or more metrics). Divestiture proceedings should be reserved for ongoing avoidable poor performance due to mismanagement and bad behavior, and such a process should only be contemplated if the Commission has decided that violations of the standards established in section 301, subsection 1-A, paragraph A meet such criteria.



Section 6- Climate Change Protection Plan

Versant Power recognizes that climate change is one of the biggest challenges facing our company – as well as our state – and is taking seriously our responsibility to maintain safe and reliable networks even as climate-related challenges will continue to make this work more difficult. We believe that this section represents an opportunity for lawmakers to signal to regulators a clear policy goal of climate resiliency for the electric grid. Such a policy goal should be accompanied by an acknowledgement that the requirements associated with this section will lead to additional funding requirements, which in turn will be funded by rates. Lack of adequate funding to accomplish this plan – as well as the significant investments that will be required to ensure ongoing reliability and resiliency – undermines its objective, and we believe that if these plans are developed that they should be implemented.

Section 7- Rules

We agree that the Public Utilities Commission, as the expert agency created by the legislature to oversee such complex matters, is the appropriate venue for rules associated with establishing minimum performance requirements to be developed.

In closing, I appreciate your time and consideration. Versant Power strives to improve every single day and is committed to meeting and exceeding our customers' expectations. We remain ready to work with you to implement an energy future that is practical, cost effective, responsive, and accomplishes our shared goals. But I am also here to tell you that we need predictability, reasonable and reliable performance targets, and policies that are durable in terms of a long-term energy plan. If we can work on those things together, Maine's energy future will be bright.

I am happy to answer any questions that you may have. Thank you.