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**Testimony of Rep. Seth Berry
Before the Joint Standing Committee on Energy, Utilities and Technology
Presenting Sponsor's Amendment to LD 697,
"An Act To Enhance the Energy Security of Maine Residents."**

Senator Lawrence and fellow members of the Committee: my name is Seth Berry and I represent House District 55: Bowdoin, Bowdoinham, most of Richmond and beautiful Swan Island on the Kennebec. I'm pleased to present today the amended language sent out last week for LD 697.

The original title was "An Act To Enhance the Energy Security of Maine Residents." Because it touches our other utilities, a better title to reflect the amendment before you would be "An Act to Reduce Risks to Maine's Critical Infrastructure."

As amended, LD 697 will require the PUC to deny any future purchase of a Maine utility by a foreign entity if it risks losses to reliability, customer privacy and safety, regulatory capacity, and/or our state economy.

As you know better than most, our utilities today provide critical, monopoly service on which our lives and livelihoods depend. Even as I speak to you, wars are being fought elsewhere in the world over energy, over gas, and over water. At the same time, at least two of our utilities are now owned by foreign governments, either in whole or in part. This is a new phenomenon, driven by the recent rise of globalization, state-owned enterprises and sovereign wealth funds.

And here is where Maine policymakers come in, as the only authorities chosen by the people to represent their interests. Our laws, written largely in the last century, provide the PUC with no playbook for the present.

In the case of Versant, through two intermediary companies, ownership and control is held 100% by a foreign government. In the case of Central Maine Power, again through two layers of intermediaries, two of the largest single shareholders are the governments of Qatar and Norway. We are fortunate that at present, all of these nations are allies. But once approved, an ownership structure may persist for decades. What happens when today's ally becomes tomorrow's adversary? Maine law is silent, simply because our situation has no precedent.

This bill would not impact CMP or Versant's current structure. It is prospective, not retroactive. It protects our critical infrastructure going forward – our electricity, gas, water, and even provider-of-last-resort telephone service.

Before approving any change in ownership or control of Maine's critical monopoly infrastructure, it is important that we ask our regulators to carefully scrutinize the potential risks and rewards of the transaction in relation to today's challenging and complex global realities. By clarifying the guidance we provide to our Public Utilities Commission in judging the "net benefit" for any future utility reorganization, the language before you today would provide for this additional safeguard against unintentional risk.

As I mentioned, Versant is today owned by a friendly foreign government. Many of those who helped to win PUC approval for purchase of Emera Maine by Versant are here today, and will testify on this bill. They may wish to recount their roles in the proceeding, and their perspectives.

In the docket pertaining to Versant's proposed purchase, the PUC Chair expressed concern in December 2019 ([see pp. 38-45](#)). He asked: *"How do we value the risks of foreign ownership?... It's unquestionable we would all agree there are certain foreign governments we would all agree should not own a utility in Maine... Should there be any parameters around it or is it purely sort of a gut check kind of a thing? ...Are there particular concerns we should have about a foreign government of any kind owning the utility?... I feel like we are setting a precedent here."*

The questions were asked, and they were prescient, but they were not answered. In the PUC decision to approve Versant a precedent was indeed set, but more than two years later, no parameters exist in Maine law or in PUC rule.

CMP's ownership structure also set new precedents. For the first time, starting in 2005, a Maine utility has been approved to be owned by a Spanish-based parent company, with significant foreign government ownership, that had its origins in the regime of Francisco Franco. At the time, it seemed to our regulators like an okay idea.

Today, with the benefit of 20/20 hindsight, we look back and see things differently. CMP's distant, multilayered ownership structure has caused massive declines in quality of service, massive increases to the monies exported from our state's economy, and a precipitous drop in customer satisfaction. This ownership structure has recently been the subject of an expensive audit at the PUC, and is now the topic of an expensive new PUC management inquiry.

Had LD 697 been law before the Iberdrola takeover, at least some of the problems we have seen with CMP could have been avoided. Perhaps, as New Mexico regulators recently and wisely did, our own regulators would have said "no" to Iberdrola ownership.

At best, today's arrangement with Versant and CMP's beneficial owners is bad business: a wasteful and costly export of money from our economy. Today we pay at 9-12% interest for equity capital that costs foreign governments like Calgary only 2-3% to borrow. It's a great deal for them, and a lousy one for us.

And at best, the unmarked path on which we now wander also jeopardizes the proper reach of regulatory oversight.

At worst, the path on which we now wander, still without legal guardrails to protect our most critical, complex, increasingly information- and tech-heavy infrastructure, could even put at risk the security and safety of our state and its residents.

I urge you to join me in voting Ought to Pass as Amended on this legislation, to protect the privacy, safety, and wallets of every utility customer in future reorganizations, whether a small rural water utility or the biggest utility in the state.

Thank you for listening. I would be happy to try to answer any questions.