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March 9, 2022

Jason Allarding, Clerk  
Utilities, Energy and Technology Committee  
State of Maine Legislature  
Augusta, ME 04333

RE: LD 697

Dear Senator Lawrence, Representative Berry, and Members of the Committee:

Please accept this written testimony which follows up the oral testimony that I gave at the public hearing on March 8, 2022.

I was employed as Senior Counsel to the Public Advocate for 23 years, until 2014. During that time, I worked on many cases involving reorganizations and mergers of utilities under Section 708 of our Public Utilities laws. Reflecting now on that experience, I have a few significant and lasting impressions with respect to the unsatisfactory results that flow from the current applicable standards and PUC policies under Section 708. Primarily, I note that the PUC has approved virtually every merger that came before it, and with one or two possible exceptions, Maine ratepayers became worse off every time the PUC approved a reorganization that resulted in local Maine utilities becoming more distant from the ultimate owners of a larger utility corporate structure.

For example, in the telecommunications sector, about 85% of Maine people were served by New England Telephone, which then merged with New York Telephone to form NYNEX which then merged to become part of Bell Atlantic which served most of the east coast, which eventually merged with telecom giant GTE to form Verizon. Each of these reorganizations made Maine dramatically less important to the corporate owners that served them. Not long after Verizon became the owner, it was clear that Verizon had virtually no interest in serving Maine ratepayers and, as we know, in order to benefit from a tax loophole, handed it over to small weak utility that was completely unprepared to reasonably serve Maine customers, and with disastrous consequences.

I suggest that a similar phenomenon is happening in Maine's electric utility sector. Now that CMP's owner is a huge international corporation owned by foreign private and governmental shareholders, and Versant is 100% owned by a foreign governmental entity, these distant owners have no intrinsic concern for the welfare of Maine customers or the local Maine environment. Both the boards and the management of these utilities ultimately have a fiduciary duty mainly to their shareholders and not to their customers. Promises to appoint local board members is a false reassurance because their fiduciary duty to shareholders remains.

It seems that the PUC has historically been inclined to approve every reorganization that's come before it, and there are clear reasons for that unfortunate history. While the Public Advocate and others may be free to argue about various potential adverse effects, the PUC has wide discretion and often succumbs to giving undue weight to the promises of benefits put forward by two powerful aligned corporate entities. This puts enormous pressure on the PUC to approve a reorganization. Exacerbating this pressure is the fact that corporate lobbyists seeking approval of a major transaction in the utility industry often seek to enlist the political support of the State's Executive Department, which includes the Public Advocate. I support LD 697 because the PUC needs more specific legislative direction when it evaluates certain adverse factor and whether net benefits will actual flow from a reorganization.

This is an important concern not only because Maine often becomes a less and less important part of a larger interstate or international utility's corporate parent, but also because of security concerns in a changing, more dangerous and interconnected world. Currently the PUC has no obligation to even consider that important factor when it evaluates potential adverse consequences of a reorganization. LD 697 would reflect the Legislature's intent that the Commission must seriously weigh such concerns.

Maine regulators face an increasingly difficult task when it has to monitor the dealings of far-flung and complex holding corporations that can make important decisions about the security and general management of local Maine utilities. We have recently seen the inherent costs and difficulties that flow from an attempt by our small PUC to oversee or audit CMP's corporate management. While the PUC and the Public Advocate may believe that their regulatory authority applies to Maine utilities regardless of corporate ownership, I believe that view is naïve because important decisions about utility resources and policies are indeed made in distant board rooms and by people who lack any intrinsic concern for Maine customers.

In my view, LD 697 should be even stronger by directing the PUC to deny reorganizations when the specified evolving categories of risks are apparent, especially when net benefits consist primarily of promises and self-serving predictions. I also suggest that the PUC should be directed specifically weigh the adverse consequences inherent in any reorganization that makes Maine a substantially smaller part of the corporate pie or makes it significantly more distant from the owners that would control it.

Respectfully,

Wayne R. Jortner

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LD 697

This is written testimony to follow up oral testimony given on March 8, 2022. Please let me know if this needs to be uploaded rather than emailed.

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