

**Testimony before the Committee on Energy, Utilities and Technology  
in support of LD 542: An Act To Comprehensively and Equitably Reform Electricity Rates**

**March 16, 2023**

Senator Lawrence, Representative Zeigler, and members of the Committee on Energy, Utilities and Technology, my name is Phelps Turner, and I am a senior attorney with Conservation Law Foundation (CLF). I appreciate this opportunity to testify in support of Representative Runte's Sponsor Amendment to LD 542, An Act to Comprehensively and Equitably Reform Electricity Rates.

CLF, founded in 1966, is a public interest advocacy group that works to solve the environmental challenges threatening the people, natural resources and communities in Maine and across New England. In Maine for almost four decades, CLF is a member-supported organization that works to ensure that laws and policies are developed, implemented and enforced that protect and restore our natural resources; are good for Maine's economy and environment; and equitably address the climate crisis.

CLF supports the sponsor amendment to LD 542 because it will allow the Maine Public Utilities Commission (Commission) to explore a standard offer time-of-use rate, and will expand and improve the Commission's performance-based regulation of Maine's transmission and distribution utilities, both of which will help the state achieve its statutory greenhouse gas (GHG) emissions reduction obligations, and help the Commission satisfy its statutory requirement to facilitate the achievement of those obligations.

**LD 542 will advance utility rate design, which will advance important state policies.**

The time-of-use (TOU) investigation proposed in Section 4 of the sponsor amendment to LD 542 will help advance rate design in Maine. A report on the feasibility and effect of a standard-offer TOU rate will better inform the Commission, the T&D utilities and stakeholders as they explore and develop new rate designs that align with, and advance, state policy. As the Legislature has declared, improvements in utility rate design "have great potential for reducing the cost of electric utility services to consumers, for encouraging energy conservation and efficient use of existing facilities and for minimizing the need for expensive new electric transmission capacity."<sup>1</sup> In addition to these policies, improved and modernized rate design can advance several related policies, including Maine's GHG emissions reductions goals.<sup>2</sup>

<sup>1</sup> 35-A M.R.S. § 3152(1), <https://legislature.maine.gov/statutes/35-A/title35-Asec3152.html>.

<sup>2</sup> In its climate action plan, the Maine Climate Council recognized the role of rate design in advancing this policy. Maine Climate Council, *Maine Won't Wait, A Four-Year Plan for Climate Action*, December 2020, 61, [https://www.maine.gov/future/sites/maine.gov/future/files/inline-files/MaineWontWait\\_December2020.pdf](https://www.maine.gov/future/sites/maine.gov/future/files/inline-files/MaineWontWait_December2020.pdf).

Rate design can advance other related state policy initiatives, including the state energy storage policy goals.<sup>3</sup> Indeed, the Legislature explicitly acknowledged the role rate design will play in furthering these policy goals, calling on the Commission to develop and implement a pilot program to test and evaluate time-of-use rates in conjunction with energy storage. Likewise, rate design can help advance a policy of beneficial electrification of both the transportation and building sectors because it presents consumers with fuel-saving opportunities.

Improved rate design can also advance Maine’s smart grid policy, pursuant to which it is the policy of the state to promote the development of smart grid infrastructure to improve the reliability of the electric system, reduce ratepayers’ costs, reduce energy consumption and reduce GHG emissions.<sup>4</sup> The Act states that to meet the goals of the smart grid policy, “it is the policy of the State that all available energy resources be assessed, including but not limited to ... demand management, including but not limited to establishment of time-of-use tariffs.”<sup>5</sup>

LD 542 proposes a study of a standard offer TOU rate. TOU rates can help promote the policies outlined above if they are thoughtfully designed. TOU rates for delivery seek to shift demand away from peak times and can thus reduce consumer costs as well as peak period generation, which typically relies on resources that emit greater amounts of GHGs, thereby advancing emissions reductions. Indeed, TOU rates were identified by a group of energy stakeholders as one way to achieve the state’s decarbonization mandates.<sup>6</sup>

A standard-offer TOU rate involves time-differentiated supply, and would be new in Maine, but warrants the consideration contemplated by LD 542. In Central Maine Power’s current rate case, the utility has proposed changes to its TOU rates, and has been asked by the Commission about a standard-offer TOU rate.<sup>7</sup> LD 542 will help advance the Commission’s understanding of a standard-offer TOU rate, which has the potential to advance state policy.

### **LD 542 will help meet the need for expanded performance-based regulation in Maine.**

Ongoing poor utility performance in Maine, together with the state’s recently strengthened clean energy and climate policies, which include revised renewable portfolio standards and emissions reduction targets, dictate the urgent need for revised and expanded

<sup>3</sup> P.L. 2021, c.298, § 1, <http://www.mainelegislature.org/legis/bills/getPDF.asp?paper=SP0213&item=3&snum=130>.

<sup>4</sup> 35-A M.R.S. § 3143(3), <https://legislature.maine.gov/statutes/35-A/title35-Asec3143.html>.

<sup>5</sup> *Id.* at § 3143(4)(B).

<sup>6</sup> “The Maine PUC should immediately look more closely at time of use rates and/or other dynamic rate structures that more accurately reflect the cost of producing and delivering power. It should also take into account how time-varying rate designs could help to meet the state’s climate and energy requirements.” Maine Utility Regulatory Reform and Decarbonization Initiative (MURRDI), *Stakeholder recommendations to plan, build, and operate the electric grid that is needed to meet Maine’s climate and energy requirements*, April 2021, 20, <https://www.betterenergy.org/wpcontent/uploads/2021/04/MURRDI-Stakeholder-Process-Summary.pdf>.

<sup>7</sup> See Central Maine Power Company Request for Approval of Rate Case Filing, Docket No. 2022-00152, CMP Rate Design and Revenue Allocation Rebuttal Testimony, February 7, 2023, 21-25, <https://mpuc-cms.maine.gov/CQM.Public.WebUI/Common/ViewDoc.aspx?DocRefId={FB19394E-CB3B-48A9-9CF3-6BF7FBEF8116}&DocExt=pdf&DocName={FB19394E-CB3B-48A9-9CF3-6BF7FBEF8116}.pdf>.

performance metrics and incentives, as contemplated in the sponsor amendment to LD 542.<sup>8</sup> New and improved metrics and incentives are needed to motivate the utilities to deliver a cleaner, more reliable power system, and to align utility performance with state public policy.

Despite this clear need for reform of performance-based regulation, recent attempts by the Commission to effect such reform reveal that the Commission requires explicit direction from the Legislature to meaningfully expand performance-based regulation. Indeed, in recent Commission proceedings, the Commission has followed the path of least resistance and largely maintained the status quo with respect to incentivizing utility performance and has squandered opportunities to motivate improved utility performance that also advances state public policy.

In December 2020, the Commission opened a docket to explore whether the performance metrics and incentives under which Maine’s transmission and distribution (T&D) utilities have operated should be revised or expanded to better measure and motivate improved performance in the areas of service quality and customer service, as well as for other aspects of the T&D utilities’ performance.<sup>9</sup> Though the Commission initially indicated it would explore metrics for performance in the areas of affordability and cost control, grid modernization and technologies, distributed energy resources (DER) interconnection and deployment and furtherance of energy and environmental policies, it ultimately declined to develop any such metrics.

As CLF explained to the Commission, this was a missed opportunity to help satisfy the state’s climate and clean energy mandates.<sup>10</sup> The Commission should have explored and developed metrics for DER interconnection, grid modernization and technologies and state energy and environmental policies. That this was a missed opportunity is highlighted by the fact that Central Maine Power, citing mechanisms in use in New York, including a beneficial electrification tool that measures GHG reductions provided by heat pumps and electric vehicles, stated that “analogous metrics and incentives could be developed for Maine to encourage T&D alignment with and efforts to achieve Maine State energy and environmental policies.”<sup>11</sup>

In March 2022, the Commission initiated a rulemaking to revise its T&D utility service standards in Chapter 320 of its rules. As CLF explained in the rulemaking, the proposed

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<sup>8</sup> 38 M.R.S. § 576-A, <https://legislature.maine.gov/statutes/38/title38sec576-A.html>, 35-A M.R.S. § 3210, <https://legislature.maine.gov/statutes/35-A/title35-Asec3210.html>.

<sup>9</sup> Maine Public Utilities Commission Inquiry into Performance Metrics and Regulatory Mechanisms for Transmission and Distribution Utilities, Docket No. 2020-00344, Notice of Inquiry, December 15, 2020, <https://mpuc-cms.maine.gov/CQM.Public.WebUI/Common/ViewDoc.aspx?DocRefId={6F593CC3-B552-4AA1-A127-F69F4FF0B909}&DocExt=pdf&DocName={6F593CC3-B552-4AA1-A127-F69F4FF0B909}.pdf>.

<sup>10</sup> Docket No. 2020-00344, CLF Comments on Straw Proposal for Performance Metrics, July 16, 2021, 4-8, <https://mpuc-cms.maine.gov/CQM.Public.WebUI/Common/ViewDoc.aspx?DocRefId={D66A382A-1C8C-4328-8C9A-D8F523B4FADF}&DocExt=pdf&DocName={D66A382A-1C8C-4328-8C9A-D8F523B4FADF}.pdf>.

<sup>11</sup> Docket No. 2020-00344, Response of CMP to Notice of Inquiry, February 18, 2021, 16-17, <https://mpuc-cms.maine.gov/CQM.Public.WebUI/Common/ViewDoc.aspx?DocRefId={1314082A-5C42-4925-A02B-1F8EA8064065}&DocExt=pdf&DocName={1314082A-5C42-4925-A02B-1F8EA8064065}.pdf>.

amendments failed to meet the moment by falling well short of what is needed to motivate utilities to provide a cleaner, more affordable and more reliable grid and to align their performance with public policy goals, for the same reasons that plagued the earlier docket.<sup>12</sup> Numerous other jurisdictions are developing metrics in these areas, including New York, Minnesota, Hawaii and Puerto Rico.

By requiring the Commission to develop metrics concerning facilitation of the development and interconnection of DERs, measures to encourage peak load reduction and beneficial load-shaping and measures to encourage carbon reduction, beneficial electrification and energy efficiency, LD 542 captures the opportunities the Commission missed in its recent performance-based regulation proceedings.

**LD 542 will put the Commission on a path to compliance with its statutory mandate.**

In 2021, the Legislature enacted a statute obligating the Commission, in executing its duties, powers and regulatory functions, to “facilitate the achievement by the State of the greenhouse gas emissions reduction levels set forth in Title 38, section 576-A.”<sup>13</sup> The Commission’s existing performance-based regulation framework is in violation of this explicit statutory obligation. The current framework has no performance standards that would help incentivize utilities to improve deployment of DERs<sup>14</sup>, to increase grid modernization and technologies or to further state clean energy and environmental policies. Improved utility performance in these areas will help reduce greenhouse gas emissions in Maine. By not developing any such metrics, the Commission is not in compliance with its obligation to facilitate the achievement by Maine of its greenhouse gas emissions reduction levels.<sup>15</sup> LD 542 will put the Commission on a path to compliance with its statutory obligation.

Thank you for the opportunity to submit testimony in support of LD 542.

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<sup>12</sup> Maine Public Utilities Commission, Amendments to Electric T&D Utility Service Standards (Chapter 320), Docket No. 2022-00052, CLF Initial Comments on Proposed Chapter 320 Rulemaking, March 31, 2022, 3-7: <https://mpuc-cms.maine.gov/CQM.Public.WebUI/Common/ViewDoc.aspx?DocRefId={05547392-671C-4753-B1DB-5A2FE23EF2CE}&DocExt=pdf&DocName={05547392-671C-4753-B1DB-5A2FE23EF2CE}.pdf>.

<sup>13</sup> 35-A M.R.S. § 103-A, <https://legislature.maine.gov/statutes/35-A/title35-Asec103-A.html>.

<sup>14</sup> In May 2022, the Legislature enacted a statute that, among other things, added DER interconnection to the list of performance-based measures the Commission must regulate, but the Commission has yet to promulgate any such rules. See 35-A § 301(1-A)(A)(4), <https://legislature.maine.gov/statutes/35-A/title35-Asec301.html>.

<sup>15</sup> Docket 2022-00052, April 7, 2022 Public Hearing Transcript, 10:1-14, available at: <https://mpuc-cms.maine.gov/CQM.Public.WebUI/Common/ViewDoc.aspx?DocRefId={68BC1923-BFA0-496D-BDAA-1025709DF295}&DocExt=pdf&DocName={68BC1923-BFA0-496D-BDAA-1025709DF295}.pdf>.