Advancing the Clean Energy Future
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Testimony In Support of LD 2172, An Act to Enhance Electric Utility Performance-based Ratemaking
To the Committee on Energy, Utilities and Technology
By Oliver Tully, Director, Utility Innovation and Accountability, Acadia Center

February 6, 2024

Senator Lawrence, Representative Zeigler, and members of the Committee: my name is Oliver Tully and I lead the Utility Innovation initiative at Acadia Center, a nonprofit incorporated in Rockport, Maine. Acadia Center testifies in support of LD 2172, An Act to Enhance Electric Utility Performance-based Ratemaking.

Performance-Based Regulation (PBR) is an important policy tool to better align the incentives that utilities face with improved performance around a range of public policy goals, including DER deployment, social equity, affordability, and others.

PBR includes a broad set of regulatory tools, including but not limited to performance metrics, scorecards, and financial penalties or rewards, that can help to overcome outdated incentives under traditional utility regulation.

Today, utility revenues and profits are based on the costs required to provide service to customers. Utilities are allowed to earn profits on capital expenses, such as poles, wires, and substations. But high allowed returns on these types of investments create incentives for utilities to continue to build expensive infrastructure projects, rather than alternative investments, such as non-wires alternatives and distributed energy resources, that may be cheaper and may avoid the need for traditional investments but do not provide a similar opportunity to earn a profit compared to capital expenses.

By setting clear metrics and targets for performance and by adjusting the financial incentives that utilities face, PBR can help reorient utilities towards more cost-effective solutions and can tie earnings more directly to performance outcomes. Other states such as Rhode Island, Massachusetts, Hawaii, and New York have already employed PBR tools with success. In fact, in a report from July 2023, the credit rating agency, Fitch Ratings, stated that it views the PBR framework implemented in Hawaii "as a credit positive as it provides [a] more stable framework for the utility to deliver on its earnings and cash flow."[1]

While we think there is room to amend the language of the bill so that it captures all potential regulatory tools within the umbrella of PBR, Acadia Center urges the Committee to support LD 2172

Thank you.

[1] https://www.fitchratings.com/research/corporate-finance/fitch-upgrades-hei-to-bbb-heco-to-a-outlook-is-stable-28-07-2023

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