



STATE OF MAINE
PUBLIC UTILITIES COMMISSION

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Testimony of the Maine Public Utilities Commission

Neither for Nor Against

LD 1969, An Act Concerning Equity in Renewable Energy Projects and Workforce Development

February 28, 2022

Senator Daughtry, Representative Sylvester, and honorable members of the Joint Standing Committee on Labor and Housing, the Public Utilities Commission (Commission) testifies neither for nor against the sponsor's amendment to LD 1969, An Act Concerning Equity in Renewable Energy Projects and Workforce Development.

Overview

The sponsor's amendment to LD 1969 requires the Commission to ensure that all contractors and subcontractors, excluding those workers that are participants in a registered apprenticeship program, working on an assisted renewable energy project are paid no less than the prevailing wages and benefits established by the Bureau of Labor Standards, unless that entity has entered into a project labor agreement. It requires the Commission to receive and review the records filed by the entity responsible for the assisted project with the Commission on a monthly basis showing the name, occupation, hours worked, the title of the job, the hourly rate or other method of payment and the actual wages or other compensation paid to all laborers, workers and mechanics employed on the project. It provides the Commission with the authority to impose penalties on an entity that receives assistance for an assisted project that fails to comply with wage and benefits requirements. It also requires, if it engages in a competitive solicitation for Class IA resources, the Commission to include in its assessment of the benefits of the project, whether the project has entered into a project labor agreement or the entity is employee-owned.

Observations

While the Commission finds it is reasonable that workers on a project that is receiving assistance are paid the prevailing wage and are provided benefits, we are concerned with the Commission's role in ensuring compliance with these requirements. We are not generally familiar with the administration and enforcement of labor laws. An entity's compliance with wage and benefit requirements seems better suited for the Department of Labor to undertake. We understand other state agencies and offices are responsible for ensuring compliance with wage and benefit

requirements; however, in those instances there is a direct relationship between the entity and state agency. For example, the Department of Transportation is directly hiring an entity to perform work for the Department. In the scenarios provided in the sponsor's amendment we are not a party to any contract for a renewable energy project. Our role is to either direct a transmission and distribution utility to enter into a contract with an entity responsible for a renewable energy project for the energy produced by that project or to certify the generating facility as a Class 1 or Class 1A resource. Certification would allow the renewable energy credits (REC) generated from the facility to be sold in REC market.

The Commission is also specifically concerned with the enforcement provisions of the sponsor's amendment. While the language is discretionary, the penalties that would likely provide the biggest incentive to ensure compliance have very complex implications if imposed on an entity. For example, an entity that has received certification from the Commission may have sold RECs to a competitive electricity provider (CEP) who relies on those RECs to meet a state's renewable portfolio standards. If the Commission revokes that entity's certification, how would that impact that CEP? Would those REC's purchased no longer be valid? These are just a few questions that this raises, and represent a complex market, where there could be numerous implications to parties that are not involved in the compensation provided to workers.

We are also concerned with the amendment's impact on staff resources. There are many projects that are proposed to be constructed over the next few years. This could result in a significant number of reports for the Commission to receive, review and consider enforcement actions for noncompliance. This may result in the need to hire additional staff to proactively ensure compliance with these wage and benefit requirements.

The Commission does not have any issue with the additional considerations of whether the project has entered into a project labor agreement or the entity is employee-owned when determining the benefits of proposals received when conducting a competitive solicitation for Class 1A resources, unless the intent of the amendments to section 10 of the amendment is to direct the Commission to conduct additional solicitations for Class 1A resources.

The Commission looks forward to continuing to discuss this amendment with stakeholders, including the sponsor, Representative Cuddy and the Department of Labor. I would be happy to answer any questions or provide additional information for the work session.

Sincerely,



Deirdre Schneider
Legislative Liaison
Maine Public Utilities Commission

cc: Steve Langlin, Legislative Analyst