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**Office of the Public Advocate Testimony in Opposition to LD 589 "An Act to Increase the Beneficial Reuse of Waste Materials and to Promote Community-based Renewable Energy"**

Senator Woodsome, Representative Dion, and members of the Energy, Utilities and Technology Committee,

The Office of the Public Advocate testifies in opposition to LD 589, "An Act to Increase the Beneficial Reuse of Waste Materials and to Promote Community-based Renewable Energy." We are concerned that the bill extends and expands the current Community-Based Renewable Energy pilot program, without any review of the problems that have thus far prevented the program from effectively encouraging construction of community based renewable energy projects.

The community-based renewable energy pilot program was established in 2009 "to encourage the sustainable development of community-based renewable energy in the State." Stated simply, the pilot program provides for payment of above market-rates, either through a fixed price contract or REC multiplier, for small (<10 MW), locally owned renewable energy generation. Consistent with its status as a pilot (and to limit costs to ratepayers), the bill caps the total amount of generation supported under the program at 50 MW, with other limits restricting the total MW of projects within a specific utility's service territory.

The Commission enacted rules creating the program in January of 2010, and since then the Commission has certified sixteen projects totaling 49.992 MW of capacity. Of that, approximately 6.8 MW is currently in operation. Because the statutory capacity is fully

subscribed, no new projects may be certified and no more contracts may be awarded. The contract prices for those projects that have not opted to take the REC multiplier range from 8.5 to 10 cents per kWh (average wholesale prices in New England for 2014 were 7.5 cents per kWh). By law the pilot program is repealed at the end of 2015, after which the Commission will no longer have authority to certify additional projects or award additional long-term contracts.

This bill proposes two changes to the CBRE statute: 1) to modify the statutory cap from installed generating capacity to net generating capacity; and 2) to allow entities that have been certified to continue to participate after the program has been repealed by statute.

The effect of the first change would be to deduct the internal or on-site use of a generator from its contribution to the statutory caps, which would presumably allow for additional projects or capacity to be certified under the statute. It is not clear how much of the certified generating capacity is being or would be used on-site, so the overall impact of this change is unclear. An alternative way to achieve this would be to increase the cap by this same amount.

The second change appears intended to allow program participants who have been certified prior to the date of expiration to continue to develop and operate. The effect of the proposed language is unclear. If it is intended to allow participants that have existing contracts to continue to receive the benefits received under the program, this change appears to offer reasonable assurance to supplement the signed contract with a T&D utility. We are concerned however that it may be interpreted as requiring the Commission to allow projects that have not entered service as of the date of expiration to continue to be developed, notwithstanding the existing limitations in those contracts and the Commission's rules. The Commission's current rules provide that Commission certification of a generating project as a community-based renewable energy project shall terminate if the generating project is not in-service within three years of certification. At least one project has already passed that deadline and been granted an extension by the Commission.

In general, we believe that pilot programs offer a useful tool to learn, on a limited scale and over a limited time, lessons that may be applied in developing larger-scale policies.

In this the CBRE Pilot Program has achieved its intended purpose. To date, the evidence indicates that even providing long term contracts at rates nearly double prevailing market prices are not sufficient to small scale, locally-owned renewable generation built in Maine. It would be consistent with the concept of a pilot program to examine the reasons for the program's failure, and use this learning to craft better policies and programs in the future. But continuing the pilot seems unlikely to yield any additional benefits, particularly at the cost of two decades of above-market costs.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Timothy R. Schneider".

Timothy R. Schneider  
Public Advocate