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Office of the Public Advocate Testimony on LD 1107 “An Act to Improve the Laws Governing the Purchasing of Power”

Chairman Dion, Chairman Woodsome and Members of the Energy, Utilities and Technology Committee,

The Office of the Public Advocate testifies in opposition to LD 1107, An Act to Improve the Laws Governing the Purchase of Power. The specific pricing proposals included in the bill, while well-intentioned, appear intended to dictate outcomes that the competitive electricity market is not currently providing. Doing so is a step toward re-regulation of electricity supply and would likely require subsidies, cost-shifting or both, and could have the unintended effect of chilling retail competition in Maine. However, the Cost of Electricity Study Commission proposed by the bill would provide additional public attention, education and scrutiny regarding the drivers of electricity costs that could prove valuable in charting the state’s energy policy.

Sections 1 and 3 of the bill appear intended to dictate outcomes that the competitive electricity market is not currently providing.¹ For example, competitive electricity providers and standard offer providers would be required to offer customers off-peak pricing at a 40%

¹ Section 2 directs the Commission to establish discounted distribution rates to create incentives for the purchase of energy generated by new renewable capacity resources. If the price of these resources was in fact lower than other resources, no such incentive would be necessary. Again, to achieve an outcome that the market is not providing, the bill proposes cost shifting from distribution rates to subsidize these generators.

discount to on-peak pricing.² Wholesale market prices are sometimes 40% lower off-peak than on, but that relationship varies day to day, month to month, and year to year. Dictating that outcome when the electricity markets do not provide it will require subsidies, cost-shifting or both. Moreover, requiring a 40% differential does not automatically mean that the off-peak price goes down while the on-peak is static; we could well see the opposite occurring where the on-peak price goes up while the off-peak price is static or goes down some.³ Overall customer bills may not go down.

The requirement that suppliers offer specific prices or structure their products in a certain way is a step backward from efforts to de-regulate electricity supply, and could have the unintended effect of chilling retail competition in Maine. We share the frustration, expressed previously before this committee, that widespread adoption of advanced metering technology in Maine⁴ has not yet yielded benefits like innovations in pricing, because of the delay in implementing back-end billing systems. Still, while progress is slow, it is happening: CEPs and customers have more detailed usage information than ever before; billing system upgrades are planned or underway; and the retail electricity market is maturing. We encourage the Committee to allow the retail electricity supply market to continue to mature and to refrain from the type of price regulation proposed by this bill. As suppliers and customers become more accustomed to the retail electricity market, as utilities' meters and

² For standard offer suppliers, this would be accomplished by rule; for all other suppliers, it would be a condition of licensing.

³ In CMP's 2013 dynamic pricing pilot, the on-peak price was higher than the standard fixed rate while the off-peak price was lower. Very few customers elected to participate.

⁴ Pricing electricity supply in the manner contemplated by the bill requires T&D utilities to have a meter and billing system capable of measuring power in intervals. While specific capabilities vary from utility to utility, the Maine Public District of Emera Maine, and Maine's smaller consumer owned utilities do not currently have meters that are capable of recording interval data, thus time-of-use rates could not be offered to any of these customers.

billing systems are better able to facilitate time of use products in the market, and as prices for renewable energy drop, we may see pricing emerge organically that is similar in concept to the pricing mandated by this bill.

Section 4 of the bill would establish a legislative commission that would study electricity pricing in Maine as compared to other areas of the country, and that would examine the profits of Central Maine Power and Emera Maine. While we have no specific position on this portion of the bill, we would note that the proposed Commission in some ways mirrors the work of the Public Utilities Commission and this Committee. The Commission, in recent rate cases set rates based on its determination of an appropriate return on equity for both CMP and Emera Maine, which is a measure of profit. (Under applicable legal precedent, determining the rate of return requires the Commission to balance the interests of ratepayers, who are entitled to the lowest reasonable cost of service, and the utility, which is entitled to a rate of return that allows it to attract capital at a reasonable cost.) Similarly, legislators learning about the drivers of Maine's electricity costs and considering proposals to reduce those costs, as contemplated by the bill's Study Commission, is a reasonable description of what this Committee will do this session and next. Nonetheless, there may be value in the additional scrutiny and increased profile of a dedicated legislative Commission focused exclusively on electricity costs.

We will be present at the work session, and look forward to working with the Committee on this bill.

Respectfully submitted,



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