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Date: (Filing No. H-)

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
SECOND REGULAR SESSION**

HOUSE AMENDMENT “ ” to COMMITTEE AMENDMENT “A” to S.P. 697, L.D. 1959, “An Act To Ensure Transmission and Distribution Utility Accountability”

Amend the amendment by inserting after the title the following:

'Amend the bill by striking out the title and substituting the following:

'An Act Regarding Utility Accountability and Grid Planning for Maine's Clean Energy Future' '

Amend the amendment in section 1 in subsection 1-A in the 2nd line (page 1, line 15 in amendment) by inserting after the following: "rules" the following: 'for utilities with over 50,000 customers'

Amend the amendment in section 1 in subsection 1-A by inserting after paragraph E the following:

'F. Annually, the commission shall evaluate the data provided by a transmission and distribution utility in accordance with paragraph E for the prior calendar year to determine if the standards established by the commission pursuant to this section have been met.'

Amend the amendment in section 1 in subsection 1-A in paragraph H in the first line (page 2, line 12 in amendment) by striking out the following: "Once every 3 years, the" and inserting the following: 'The'

Amend the amendment in section 1 in subsection 1-A by inserting after paragraph H the following:

'Nothing in this subsection prohibits the commission from establishing service quality standards for transmission and distribution utilities with fewer than 50,000 customers.'

Amend the amendment in section 1 in subsection 1-A by relettering the paragraphs to read consecutively.

Amend the amendment by striking out all of section 5 and inserting the following:

'Sec. 5. 35-A MRSA §1508-A, sub-§1, ¶E is enacted to read:

E. In accordance with section 301, subsection 1-A, paragraph G, the commission shall impose an administrative penalty on a transmission and distribution utility in an amount

HOUSE AMENDMENT

1 that does not exceed \$1,000,000 or 10% of its annual gross revenue received from
2 ratepayers in the State, whichever amount is less, that fails to meet a standard
3 established by the commission pursuant to section 301, subsection 1-A in the previous
4 calendar year. Each calendar year that the transmission and distribution utility fails to
5 meet the standard constitutes a separate offense. The commission shall use the
6 proceeds from the penalty imposed under this paragraph to assist low-income
7 customers.'

8 Amend the amendment by striking out all of section 6 and inserting the following:

9 '**Sec. 6. 35-A MRSA §1513** is enacted to read:

10 **§1513. Divestiture of underperforming transmission and distribution utility**

11 The commission shall initiate an adjudicatory proceeding, on its own motion or at the
12 request of the Public Advocate, in accordance with this section to determine whether
13 divestiture of an investor-owned transmission and distribution utility is warranted if the
14 utility consistently fails to meet the service standards established in section 301, subsection
15 1-A, consistently fails to meet the requirements of section 301, subsection 1 or is unable to
16 fulfill its statutory duties as a public utility because it is financially impaired. If, at the
17 conclusion of the adjudicatory proceeding, the commission determines that divestiture of a
18 transmission and distribution utility is warranted, the commission shall order divestiture of
19 or by the utility in accordance with this section:

20 **1. Determination by the commission.** The commission shall order the owner of the
21 transmission and distribution utility to divest the utility if the acquisition of the utility from
22 a qualified buyer:

23 A. Will result, over the long term, in net benefits to ratepayers in the form of lower
24 rates or better service than the rates and service provided by the transmission and
25 distribution utility;

26 B. Is for a fair and reasonable purchase price negotiated by a qualified buyer and the
27 transmission and distribution utility or as determined by the Superior Court in
28 accordance with subsection 2;

29 C. Demonstrates that the qualified buyer has sufficient financial and technical
30 capability, expertise and experience to own and operate the utility and the ability to
31 comply with all of the legal requirements, including but not limited to achievement of
32 policies pursuant to Title 38, section 576-A and section 577, subsection 1, of a
33 transmission and distribution utility; and

34 D. Will benefit ratepayers as determined in accordance with section 708, subsection
35 2, paragraph C, subparagraph (2).

36 **2. Superior Court review.** Notwithstanding any other provision of this Title, a
37 transmission and distribution utility may apply by petition to the Superior Court of
38 Kennebec County to determine a fair and reasonable price that provides just compensation
39 for the sale of the transmission and distribution utility or its assets if the qualified buyer
40 and transmission and distribution utility are unable to negotiate a price. The court shall
41 hold a hearing on the petition in which the parties are permitted to present factual and expert
42 testimony and other evidence concerning the value of the utility or its assets and shall
43 render a decision. The decision of the Superior Court may be appealed to the Supreme

1 Judicial Court sitting as the Law Court in the same manner as an appeal taken from a
2 judgment of the Superior Court in a civil action.

3 **3. More than one buyer.** If more than one qualified buyer proposes to acquire the
4 transmission and distribution utility or its assets, the commission shall order divestiture to
5 the qualified buyer that will provide the greatest net benefits to ratepayers.'

6 Amend the amendment by striking out all of section 7 and inserting the following:

7 'Sec. 7. **35-A MRSA §3146** is enacted to read:

8 **§3146. Climate change protection plan**

9 No later than December 31, 2023, and every 3 years thereafter, a transmission and
10 distribution utility shall submit to the commission a 10-year plan that includes specific
11 actions for addressing the expected effects of climate change on the utility's assets needed
12 to transmit and distribute electricity to its customers. The commission shall provide a
13 process to allow for the input from interested parties on the transmission and distribution
14 utility's plan. The commission may use the plan and the input received from interested
15 parties in rate cases or other proceedings involving the transmission and distribution utility.'

16 Amend the amendment by striking out all of section 8 and inserting the following:

17 'Sec. 8. **35-A MRSA §3147** is enacted to read:

18 **§3147. Integrated grid planning**

19 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
20 following terms have the following meanings.

21 A. "Covered utility" means a large investor-owned transmission and distribution utility
22 as defined in section 3201, subsection 12.

23 B. "Environmental justice" means the fair treatment and meaningful involvement of
24 all persons regardless of race, color, national origin or income with respect to the
25 development, implementation and enforcement of environmental laws, rules,
26 regulations and policies.

27 C. "Grid plan" means a 10-year integrated grid plan developed in accordance with this
28 section designed to improve system reliability and resiliency and enable the cost-
29 effective achievement of the greenhouse gas reduction obligations and climate policies
30 pursuant to Title 38, section 576-A and section 577, subsection 1.

31 D. "Hosting capacity" means a threshold at a circuit at which new distributed energy
32 resources will trigger upgrades or changes to the electrical distribution system and cost
33 considerations of related upgrades and changes.

34 **2. Priorities identified; stakeholder input.** Beginning November 1, 2022, then every
35 5 years thereafter, the commission shall initiate a proceeding to identify the priorities to be
36 addressed in a filing by a covered utility regarding a grid plan that will assist in the cost-
37 effective transition to a clean, affordable and reliable electric grid. The commission shall
38 hold technical conferences or stakeholder workshops before the filing to identify priorities,
39 assumptions, goals, methods and tools that will assist the covered utility in developing a
40 grid plan.

1 **3. Commission order.** At the conclusion of the technical conferences and stakeholder
2 workshops held under subsection 2, the commission shall issue an order directing a covered
3 utility to submit a filing to the commission that addresses the priorities identified in the
4 proceeding initiated pursuant to subsection 2 and includes the additional components
5 identified in subsection 4.

6 **4. Additional components; submission.** A covered utility shall submit a filing to the
7 commission within 18 months of the issuance of an order by the commission pursuant to
8 subsection 3. In addition to addressing the priorities specified in the commission order, the
9 filing must:

10 A. Assess the electric system of the covered utility and its relationship to the regional
11 grid;

12 B. For elements of the filing related to customer energy consumption and usage
13 characteristics, reference and incorporate relevant elements of the Efficiency Maine
14 Trust triennial plan developed under section 10104, subsection 4, including all of the
15 trust's analysis of cost-effective energy efficiency potential and plans to implement
16 energy efficiency programs, demand management programs, beneficial electrification
17 programs such as heat pump and electric vehicle initiatives, energy storage initiatives
18 and analysis of nonwires alternatives;

19 C. Include at least 2 potential planning scenarios, at a minimum, a baseline scenario
20 and a scenario of high-penetration distributed energy resources and end-use
21 electrification. When applicable, the planning scenarios must incorporate mechanisms
22 for achieving the priorities established pursuant to subsection 2, including, but not
23 limited to, cost-effective policies, programs, rates, use of software or technology and
24 infrastructure planning, including nonwires alternatives;

25 D. Include, at a minimum, the following:

26 (1) Forecasts of projected load, including forecasts of end-use electrification,
27 energy efficiency and distributed energy resources;

28 (2) Baseline energy supply data and assessments, including but not limited to
29 planned generation retirements; new generation that is planned or needed,
30 including generation of electricity from renewable sources; and energy storage
31 installations;

32 (3) Analysis of hosting capacity, including locational benefits of distributed
33 energy resources and areas of existing or potential system congestion;

34 (4) Analysis of available and emerging technologies necessary to enable load
35 management and flexibility;

36 (5) An assessment of the environmental, equity and environmental justice impacts
37 of grid plans; and

38 (6) An identification of cost-effective near-term grid investments and operations
39 needed to achieve the priorities identified in subsection 2; and

40 E. Reference and incorporate, as appropriate, all relevant analysis conducted as part
41 of the State's climate action plan under Title 38, section 577 and relevant information
42 from reports and analysis completed by other state agencies and quasi-independent
43 state entities.

1 The commission shall make the filing for each covered utility available for public comment
2 for a period of no less than 60 days. The commission may order a covered utility to revise
3 the filing to address any deficiencies. The commission may use the filing and the input
4 received from interested parties in rate cases or other proceedings involving the covered
5 utility.

6 **5. Access to information.** Consistent with section 1311-A, a covered utility shall
7 ensure to the greatest extent practicable that any information related to the filing is provided
8 in a forum accessible to interested parties and all relevant data and distribution planning
9 modeling tools are available to interested parties.

10 Nothing in this section prohibits the commission from holding additional proceedings if
11 the commission determines it is necessary to meet the purposes of this section.'

12 Amend the amendment in section 9 in the 3rd line (page 8, line 39 in amendment) by
13 striking out the following: "grid plans under" and inserting the following: 'an integrated
14 grid plan as required by'

15 Amend the amendment in section 11 in the 5th line (page 9, line 12 in amendment) by
16 striking out the following: "implement" and inserting the following: 'comply with the
17 integrated grid planning provisions of'

18 Amend the amendment by striking out all of section 12 and inserting the following:

19 **'Sec. 12. Competitive procurement inquiry.** By October 1, 2022, the Public
20 Utilities Commission shall initiate an inquiry to assess the use of competitive procurement
21 methods for purchases by transmission and distribution utilities, as defined in the Maine
22 Revised Statutes, Title 35-A, section 102, subsection 20-B, of specific goods and services
23 of a quantity that in the aggregate could reasonably impose significant costs to ratepayers.
24 The inquiry must consider the activities for which competitive procurement methods may
25 apply, exceptions to competitive procurement methods, the cost-effectiveness of requiring
26 the use of competitive procurement methods and any other considerations the commission
27 finds are necessary to assess the use of competitive procurement methods. Upon the
28 conclusion of the inquiry, the commission may adopt routine technical rules as defined in
29 Title 5, chapter 375, subchapter 2-A regarding competitive procurement methods for
30 transmission and distribution utilities. On or before February 27, 2023, the commission
31 shall submit a report regarding the inquiry to the joint standing committee of the Legislature
32 having jurisdiction over energy and utilities matters. The committee may report out a bill
33 to the 131st Legislature in 2023.

34 **Sec. 13. Appropriations and allocations.** The following appropriations and
35 allocations are made.

36 **PUBLIC UTILITIES COMMISSION**

37 **Public Utilities - Administrative Division 0184**

38 Initiative: Provides allocations for one Staff Attorney position and 2 Utility Analyst
39 positions and associated All Other funding.

40 OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
41 POSITIONS - LEGISLATIVE COUNT	0.000	3.000
42 Personal Services	\$0	\$464,348
43 All Other	\$0	\$34,680

1			
2	OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$499,028
3	Public Utilities - Administrative Division 0184		
4	Initiative: Provides one-time allocation for contracted services to study similar investor-		
5	owned utilities and regulatory efforts.		
6	OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
7	All Other	\$0	\$400,000
8			
9	OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$400,000
10			
11	PUBLIC UTILITIES COMMISSION		
12	DEPARTMENT TOTALS	2021-22	2022-23
13			
14	OTHER SPECIAL REVENUE FUNDS	\$0	\$899,028
15			
16	DEPARTMENT TOTAL - ALL FUNDS	\$0	\$899,028

17 '
 18 Amend the amendment by relettering or renumbering any nonconsecutive Part letter or
 19 section number to read consecutively.

20 **SUMMARY**

21 This amendment combines the substance of Senate Amendment "A" and Senate
 22 Amendment "B," except that the provision regarding competitive procurement methods for
 23 purchases by transmission and distribution utilities includes services as well as specific
 24 goods.

26 **SPONSORED BY:** _____

27 (Representative **KESSLER, C.**)

28 **TOWN: South Portland**