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**Office of the Public Advocate Testimony NEITHER FOR NOR AGAINST LD 796
"An Act to Allow a Municipality to Choose Its Power Provider"**

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

The Office of the Public Advocate testifies neither for nor against LD 796. "An Act to Allow a Municipality to Choose Its Power Provider." The bill raises a number of potential concerns that could result in increased costs to ratepayers, but the central role of a municipality in choosing its transmission and distribution utility is a policy issue for the Committee and the Legislature's determination.

This bill proposes to amend 35-A 2102 to allow a referendum for customers to choose a T&D utility to furnish service in the entire municipality where there are currently 2 utilities furnishing service. Based on our preliminary analysis, there are at least 45 municipalities in addition to Kennebunk that would be eligible to conduct such a referendum if this bill were to become law.

We expect that representatives from the affected utilities will offer insight into the potential costs associated with introducing uncertainty into the previously fixed service territory of a transmission and distribution utility. In general, increased risk or costs for a utility are passed on to ratepayers.

The countervailing interest offered by the bill is that it affords a municipality and its voters the opportunity to determine which utility will provide its electric delivery service. There may be some benefit to customers associated with allowing a municipality to

determine through referendum which transmission and distribution utility provides service within its borders. With deregulation, the Legislature introduced some measure of consumer choice (of electricity suppliers) to electricity regulation, but transmission and distribution service remains, for now, a natural monopoly. However, whether home rule or some other principle requires that customers have the right to choose their transmission and distribution utility by referendum is a policy question for the Legislature.

The bill raises a number of practical implementation issues that we wish to bring to the Committee's attention:

- The bill directs the Commission to determine a “fair and reasonable price” for a utility’s assets, but does not provide any guidelines for the Commission in determining that price. The valuation of a utility’s assets for ratemaking purposes is a complex undertaking, which this language largely glosses over. Would this price be the book value of a utility’s assets? Replacement value? Some other “fair market value”? How would this be determined?
- How would the Commission’s valuation account for a transmission and distribution utility’s investment outside of the municipality’s borders constructed for the purpose of serving that municipality? Some or all of these assets would no longer be “used and useful” for service to the utility’s remaining ratepayers, but the utility would remain entitled to recover the costs of these facilities. Who should appropriately bear these costs? The bill might result in duplication of services if competing utilities invest in infrastructure to serve the same customers (*e.g.* before and after a referendum and transfer).
- The bill could create incentives for a utility to neglect service quality in areas or for customers that are undesirable to serve (for example, due to high customer arrearages) to encourage those customers to seek service from another utility.

The Office of the Public Advocate looks forward to working with the Committee on LD 796, and will be present at the work session to assist the Committee in its consideration of this bill.

Respectfully submitted,



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