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Office of the Public Advocate Testimony on LD 946 "An Act to Change Laws Amended by Public Law 2013, Chapter 369, Also Known as the Omnibus Energy Act"

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

The Office of the Public Advocate testifies in OPPOSITION to LD 946, "An Act to Change Laws Amended by Public Law 2013, Chapter 369, Also Known as the Omnibus Energy Act." While the bill's proposed changes to the Efficiency Maine Trust's natural gas energy efficiency programs may be reasonable, the Committee should reject changes that would shift the cost of ocean energy contracts to residential and small business customers.

I. Costs of ocean energy contracts should be equitably allocated to all customer classes.

We oppose the statutory changes that would force residential and small business customers alone to shoulder the costs of all ocean energy contracts. The intent of the Ocean Energy Act was to promote innovative energy technologies and promote economic development goals that benefit all electricity customers. Allocating the costs of those contracts across all customer classes was a small but meaningful improvement included in the Omnibus Energy Act, and should not now be undone.

In 2010, the Commission issued an order concluding that customers that take service at transmission and subtransmission voltage—large commercial and industrial customers—would not pay the costs of long-term contracts for deep-water offshore wind energy pilot

projects or tidal energy demonstration projects. The order was necessary to resolve ambiguity in the statute, which daisy-chained contribution caps and eligibility requirements using cross references to sections of Title 35-A. ¹

The Legislature amended the Ocean Energy Act to remove these cross-references and substituted a clear statutory cap. The Act now reads:

The commission may not approve any long-term contract under this section that would result in an increase in electric rates in any customer class that is greater than \$1.45 per megawatt hour.

38 M.R.S. § 631(3)(A-6) (2013).² Though the Commission has not yet had occasion to interpret the impact of this change, by its terms it removes the limitation that prevented commercial and industrial customers from paying their share of any contracts under the Ocean Energy Act (subject, like all other customers, to the \$1.45 per MWh cap).

This change makes sense, and should not be undone.

- Whatever the initial intent of the authors of the Ocean Energy Act, the benefits sought to be achieved through long term contracts for ocean energy will be shared by all Maine ratepayers, and so the costs should be shared equally as well.
- The change enacted by the Omnibus Bill brings the costs of the Ocean Energy Act into line with other assessments that further state policy goals, such as Maine's Renewable Portfolio Standard, net metering, and the Community-Based Renewable Energy pilot program, that are paid for by all ratepayers.
- Large C&I customers are excluded from energy efficiency efforts because of the difficulty of ensuring that these customers receive benefits that match their costs.
- While the cost impact for this class of customers is potentially significant, the impact on the Maine economy of taking this money out of the hands of small business and residential customers, who represent nearly 70% of Maine's load, is at least as great if not greater.

¹ Specifically, prior to passage of the Omnibus Energy Act, the Ocean Energy Act limited the rate impact of an ocean energy contract to no greater than the amount of the assessment charged under Title 35-A, section 10110, subsection 4. That section capped expenditures for conservation for any customer class at \$1.45 per MWh. A separate section of the statute, section 10110(6) stated that transmission and subtransmission customers did not pay for conservation programs funded by subsection 4 and were not required to pay for the cost of those assessments.

² In addition, the Legislature repealed 35-A M.R.S. § 10110(4), and replaced it with a new § 10110(4-A) which among other changes, capped the expenditures on energy efficiency measures at 4% of total retail electricity transmission and distribution sales.

- If we are concerned that these costs are too great, it is a good illustration of the risk of using a surcharge on electricity rates to fund what are essentially economic development efforts. It may not make sense to allocate the costs of such programs based on electricity usage, or the ability of a group to effectively represent their interests at the Legislature or the Commission.

II. Proposed changes to the natural gas conservation fund should make clear that electricity generators are not subject to the assessment.

The bill also proposes to make the contribution to and participation in Efficiency Maine Trust's natural gas conservation efforts voluntary for large volume commercial and industrial customers. As we have seen in other utility contexts, voluntary participation is typically non-participation, and we would expect the same result here. This "voluntary participation" would reduce the potential achievable savings from natural gas energy efficiency efforts. Barring a customer who doesn't pay into the fund from receiving benefits appears to appropriately align costs and benefits in any resulting program.

The final bill should make clear that natural gas fired generators who are customers of natural gas distribution utilities are not subject to an assessment. Placing a surcharge on the consumption of gas by electric generators can only increase costs to electricity ratepayers, and such generators already have ample market-based incentives to maximize the efficiency of their operation.

The Office of the Public Advocate will be present at the work session on this bill.

Respectfully submitted,



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Public Advocate