



State of Maine
Office of the Public Advocate
112 State House Station, Augusta, Maine 04333-0112
(207) 624-3687 (voice) 711 (TTY) www.Maine.gov/meopa

Janet T. Mills
GOVERNOR

Barry J. Hobbins
PUBLIC ADVOCATE

March 5, 2019

Chairman Lawrence, Chairman Berry and Members of the Energy, Utilities and Technology Committee,

The Office of the Public Advocate (“OPA”) testifies in support of LD 807 “An Act Regarding the Duties of the Public Advocate” which bill removes an exception to the OPA's ability to petition to initiate, or intervene and appear in, any proceedings before the Maine Public Utilities Commission (“MPUC”), appeals from orders of the commission or proceedings before state and federal agencies and courts in which the subject matter of the action affects the customers of any utility or competitive service provider doing business in the State. The exception the bill removes is the prohibition against the OPA's intervening in any proceedings in which commission staff is representing a position substantially similar to that of the OPA.

LD 807 would delete a potentially confusing provision in the statute governing the duties of the Public Advocate. Existing law, Sec. 1702(5), appears to preclude the Public Advocate from intervening in cases where the Commission Staff is representing a “substantially similar” position.

This language was created during a time when the Commission employed an “advocacy staff” that acted as a party (i.e. one that did not advise the Commission). The advocacy staff, while still in existence in the Commission rules but very rarely used, has been replaced by the so-called “hot bench.” This is where the Commission Staff performs the functions of advising the Commission, acting as Examiners and Presiding Officers in proceedings and, at the same time, proposing substantive outcomes on issues.

Because the OPA and the “hot bench” Staff are precluded by *ex parte* rules from working collaboratively, there is no certain ability to know what position the Staff will take until its position is filed. This usually occurs on the same date that the OPA would file testimony of its expert witnesses. Thus, the existing provision in statute is outdated and probably should have been changed long ago.

Furthermore, final phrase of the existing statute gives discretion to the Public Advocate to pursue an issue that was also pursued by the advocacy staff at any rate. LD 807 would preserve for the Public Advocate the discretion to pursue issues after judging a variety of factors including likelihood of our ability to influence the outcome to ratepayers’ benefit, likelihood that Staff would pursue the issue, importance of the issue, and the expenditure of the OPA’s limited resources.

Thank you for your time, attention and consideration of this testimony. The Office of the Public Advocate looks forward to working with the Committee on LD 807, and will be present at the work session to assist the Committee in its consideration of this bill.

Respectfully submitted,



Barry J. Hobbins
Public Advocate