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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 1560 “An Act Regarding Utility Reorganizations” which provides that a reorganization of a utility may not be approved by the Public Utilities Commission (“PUC”) unless it is established by the applicant for approval that the reorganization provides net benefits to the utility's ratepayers and is consistent with the interests of the utility's investors. In determining whether a utility reorganization provides net benefits to the utility's ratepayers, the commission at a minimum must examine whether the reorganization will result in a rate increase for the utility's ratepayers and whether the reorganization will result in a loss of local control of the utility's management and operations in a manner that limits the ability of local management to protect the interests of the utility's ratepayers in this State.

The OPA recently prepared and distributed a letter of which all members of the 129<sup>th</sup> Legislature received in which the need for the emergency preamble was explained.

Under the current statutory language in 35-A M.R.S. 708(2), the PUC may approve the “reorganization” of a public utility, *i.e.*, a merger or acquisition involving a public utility, if the PUC finds the reorganization to be “consistent with the interests of the utility’s ratepayers.” The PUC has interpreted this language as what is commonly referred to as a “no net harm” standard, under which the PUC will approve a reorganization if the anticipated benefits are at least equal to any risks.

The “no net harm standard” does not serve Maine’s ratepayers because it does

not require that the Commission conclude that ratepayers would be better off as a result of the transaction. The current standard makes it difficult to show in a quantifiable way that any potential harm outweighs the benefits asserted by the utility. Changing the standard of review to require that the PUC only approve a reorganization if it finds a “net benefit” for ratepayers would reverse this dynamic by requiring utilities to show that any potentially harmful effects of a reorganization are outweighed by the expected benefits. Without this standard, approval for a reorganization would be denied.

One of the potentially harmful effects of utility reorganizations that is hard to quantify is the loss of local control critical resources and infrastructure. As a result of reorganizations that have taken place in the past several years, Maine public utilities are now commonly owned by entities that are no longer located in Maine, New England, or even the United States. As a result, there is a danger that decisions over resource allocation, infrastructure development, and workforce size are being made by management that is not present in Maine and thus not familiar with local needs, goals, and values. To prevent this trend from continuing, LD 1560 specifically adds the issue of whether there would be a loss of local control that would limit local management’s ability to protect Maine ratepayers to what the PUC must consider in determining whether a reorganization would provide a net benefit to ratepayers.

Finally, LD 1560 should be afforded emergency treatment because Maine’s largest privately owned water utility and second largest electric utility have signaled that they will be filing for approval of reorganizations in the coming weeks. If approved, these reorganizations will affect a significant number of Maine ratepayers, and result in control of these utilities being far removed from Maine. It is critical that the standard of review be changed so that these reorganizations are required to produce “net positive benefits” for Maine ratepayers.

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 1560, and will be present at the work session to assist the Committee in its consideration of this bill.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Barry J. Hobbins". The signature is written in a cursive, flowing style.

Barry J. Hobbins  
Public Advocate