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Heather Sanborn
PUBLIC ADVOCATE

DATE: January 21, 2026
TO: Members of the Energy, Utilities, and Technology Committee
FROM: Heather Sanborn, Public Advocate
RE: Response to work session questions – LD 1949

Proposed OPA amendment to Sec. C-3 (2. Limitations on rates)

G. More than 50% of **rate case expenses** the costs associated with the attendance at, participation in or preparation for appeal of any contested rate case proceeding conducted before the commission, **unless the commission determines, based on the facts of a particular rate case, that recovery of more than or less than 50% of rate case expenses is required in order to produce a result that is just and reasonable.** For the purposes of this paragraph, ~~costs~~ **rate case expenses** include, but are not limited to, attorney's fees, fees for expert witnesses or consultants, the portion of public utility or affiliated interest employee salaries associated with such attendance at, participation in, preparation for or appeal of a contested proceeding and any other related costs specified by the commission by rule. This paragraph does not apply to a consumer-owned water utility, a consumer-owned transmission and distribution utility or the Casco Bay Island Transit District, created by Private and Special Law 1981, chapter 22.

Representative Runte asked whether such a limitation on cost recovery might affect the depth and quality of the analyses prepared by the utilities.

OPA Response:

We do not believe that this cost-sharing requirement would affect the quality of any rate case proceeding. The bulk of rate case expenses in recent electricity rate cases have been related to the cost of outside legal counsel and the cost of an expert witness to testify about why the utility should receive a higher return on equity (ROE) than they currently receive.

High-priced ROE experts in particular benefit the shareholders, and their costs should not be borne by the ratepayers. On the other hand, there are sometimes rate cases where detailed cost-of-service studies need to be done to recalibrate rate design details. The PUC may find that these types of studies, while costly, are particularly valuable to ratepayers. That is why the OPA is proposing the amendment above to give the PUC discretion to deviate from a 50/50 cost sharing default rule for rate case expenses, where appropriate.

Rep. Kessler asked what other states require cost sharing for rate case expenses.

OPA Response:

Many state commissions, by commission precedent, disallow recovery from ratepayers of particular rate case expenses based on the circumstances of a specific case. Some state commissions have developed rules of thumb that generally disallow certain types of expenses or impose a particular standard of cost-sharing. A few states have developed by commission precedent an algebraic formula for cost sharing based on the percentage of a utility's initial rate case request that is granted. One state bans recovery of rate case expenses entirely, by statute. A 50-state survey of how each state treats rate case expenses is provided in the attached PDF.