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**Testimony In Support of  
LD 177, “An Act to Amend the Authority of the Public Utilities Commission  
Regarding Special Rate Contracts”**

January 31, 2023

Senator Lawrence, Representative Zeigler and distinguished members of the Joint Standing Committee on Energy, Utilities, and Technology,

My name is William Harwood, the Public Advocate, here today to testify in support of LD 177, “An Act to Amend the Authority of the Public Utilities Commission Regarding Special Rate Contracts.” Special thanks to Representative Foster for bringing this bill forward.

As you can see, the bill is short and the proposed language to be added to the public utilities statute is only a few words. However, to fully understand the bill, it is necessary to first understand the role of special rate contracts (SRCs) in utility regulation. For the first 75 years of utility regulation in Maine, all ratepayers paid the identical rate as every other ratepayer assigned to their rate class – residential ratepayers all paid the residential rate; small commercial customers all paid the small commercial rate; and large industrial customer all paid the large industrial rate.

In the last 30 years, the concept of special rate contracts or SRCs emerged as an exception to the rule of uniform rates for each rate class. The exception acknowledges that for some large industrial customers, the industrial rate was too high for them to remain in business. They simply could not pay the rate and make a profit. However, the PUC recognized that some of them could pay a substantial portion of the rate. If the utility could offer these customers a discounted rate, the customer could stay in business. Following the old adage that “half of a loaf is better than none,” the PUC adopted a policy of allowing the utility and the customer to negotiate a rate discount and enter into a Special Rate Contract. If



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the Contract is acceptable to the PUC, the amount of the discount is then added to the approved rates for all the other ratepayers. Essentially, the residential and small commercial customers and the other industrial customers paying the full rate all subsidize the cost of serving the few SRC customers.

As you can imagine there is a lot of money at stake in the SRC negotiation between utilities and SRC customers and the negotiations can be intense. Under the PUC's policy, the utilities are required to negotiate the smallest discount necessary to keep the customer in business.

Finally, this brings us to LD 177. Recently, the attorneys who frequently represent SRC customers have started appearing at the PUC when the PUC is reviewing one of these SRC contracts. To protect the confidentiality of the SRC negotiation, these reviews are typically done in private, behind closed doors. Recently some attorneys have challenged that practice and claimed they have a right under Section 1311-A to attend and listen to the PUC review; even though they do not represent either the utility or the customer that is a party to the SRC under review. The apparent motive for taking this position is to allow the attorney to learn as much as possible about the utility's confidential negotiating strategy so it can be used in future SRC negotiations with the utility on behalf of other potential SRC customers of the utility, ultimately to the detriment of the utility and its other customers.

This bill allows, but does not mandate, the PUC to exclude parties and their attorneys from the review of SRC contracts when they are not involved in the contract under review and it appears their proposed attendance is motivated by a desire to use the confidential information in future SRC negotiations on behalf of a different SRC customer.

Essentially this bill makes sure that the PUC has all the regulatory tools in its toolbox needed to protect those ratepayers who do not qualify for SRC and must pay the full approved rate.



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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 177 and will be available for the work session to assist the Committee in its consideration of this bill.

Respectfully submitted,

William S. Harwood  
Public Advocate