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

My name is Barry Hobbins and I am the Public Advocate with the Office of the Public Advocate. For the reasons described in this testimony the OPA urges the Committee to vote LD 487 “Ought to Pass.”

We have asked Senator Lawrence to introduce LD 487 to address two items both of which are related to the administration and operation of the Office of the Public Advocate: one to modify the title and functions of an existing position of the Office; and one to clarify its potential acceptance of funds from outside sources such as grants and settlements.

I will start with Section 2 of the bill, which renames the existing statutory established position of “Business Services Manager” to “Senior Assistant to the Public Advocate. This change in title reflects changes in the duties performed by the position, with no change in pay range.

The OPA has now engaged the Department of Administrative and Financial Services to assist it with business functions. This position, as revised, would

deemphasize business related functions, most of which have now been assumed by DAFS, to focus on its other existing functions – legislative support, administrative support to the Office, and public outreach – in support our statutory mission to assist Maine utility ratepayers.

Section 1 of the would allow the OPA to receive funding from sources other than its regulatory assessment, such as grants and settlement funds. The bill would not involve use of any use of funding from General Fund.

The reason for the bill arises from a recent ruling of the Maine Public Utilities Commission involving a proposed settlement in which, among other settlement terms, Electricity Maine would have provided the OPA \$150,000 to conduct a customer education program relating to competitive energy markets. A copy of the Stipulation is included as an attachment to this testimony. The PUC rejected the settlement in part because it found that the OPA lacked statutory authority to accept such funds. A copy of the PUC's January 5 Order rejecting this settlement is also included as an attachment. In its final order, the PUC imposed only a \$500,000 penalty on Electricity Maine, an outcome worse than the settlement to which Electricity Maine had agreed. A copy of the PUC's February 26 final Order is also included as an attachment. Not only would the settlement resulted in making an additional payment of \$150,000, for payments totaling \$650,000 rather than the \$500,000 order by the Commission, it would have provided customers with more and

better information about competitive supply options. Last session, this Committee recognized the lack of information as contributing to various violations by competitive suppliers that were under investigation at that time.

As an aside, the OPA's litigation position in the proceeding argued that Electricity Maine should be required to pay \$1 million in administrative penalties, representing \$500,000 for willful violations of law prior to being notified by the PUC to cease its anticompetitive actions, and a further \$500,000 for continued violations following receipt of such notice. In the OPA's view, these were two separate series of violations, each subject to a maximum penalty of \$500,000. A copy of the OPA's Exception to the Examiners' Report, detailing this argument, is included as an attachment to this testimony. The PUC rejected this recommendation and imposed only a single penalty of \$500,000. This rejection is particularly unfortunate given Electricity Maine's prior willingness to pay \$650,000, which the PUC could have imposed as the collective value of two penalties on the basis that the company's conduct constituted two separate series of violations.

Periodically, the OPA has had the opportunity to receive funds from outside sources that it could use to advance its mission of advocating for, assisting and educating Maine utility customers. For instance, other similar provisions have been included in past stipulations and approved by the Commission. For instance, as part of the Stipulation approved by the Commission in the proceeding to review Central

Maine Power Company's request to develop the NECEC project, Docket No. 2017-00232, CMP and Hydro Quebec collectively agreed to make \$260 million in community and customer benefit payments, including a \$50 million Low-Income Customer Benefits Fund and a \$140 million general Rate Relief Fund. With respect to the Low-Income Relief Fund, Stipulation in that proceeding stated that:

NECEC LLC will establish a \$50,000,000 NECEC Low-Income Customer Benefits Fund to fund one or more programs that benefit low-income energy customers in Maine *in a manner designated by the OPA*, in consultation with the Efficiency Maine Trust ("EMT") and the Governor's designee(s).

This NECEC Stipulation was approved by the Commission, clearly indicated that the OPA had the statutory authority to manage this fund.

Similarly, the Stipulation entered in the proceeding to consider CMP's MPRP transmission project, Docket No. 2008-255, provided that CMP, the OPA, IECG, CLF and GridSolar would form a transmission planning working group open to all Maine stakeholders, that CMP would provide \$1.5 million in funding to the group, and that "funds for this grant shall be payable to the OPA to be distributed consistent with Maine law." This Stipulation was also approved by the PUC, again indicating that the OPA had the statutory authority to manage this fund.

Given the PUC's more recent rejection of a settlement that would have created a fund for customer education to be administered by OPA on the grounds that it was prohibited by law, however, it is now necessary to ask the Legislature to clarify existing law to ensure that in the future, the OPA can accept similar amounts as part

of any settlement agreement, as well as accepting grants and funds from sources that place no burden on Maine taxpayers or utility ratepayers.

Wherefore, approving LD 487 will allow the OPA to better fulfill its statutory mission without requiring additional taxpayer or ratepayer support.

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 487, 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