MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

SECOND REGULAR SESSION-2024

Legislative Document

No. 2172

H.P. 1391

House of Representatives, January 22, 2024

An Act to Enhance Electric Utility Performance-based Ratemaking

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed.

ROBERT B. HUNT

R(+ B. Hunt

Clerk

Presented by Representative RUNTE of York. Cosponsored by Senator LAWRENCE of York and

Representative: ZEIGLER of Montville, Senator: BENNETT of Oxford.

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this legislation needs to take effect before the expiration of the 90-day period in order for the Public Utilities Commission to perform its duties under this legislation in a timely fashion so that new standards and metrics are introduced into new electricity rate cases as soon as possible to benefit ratepayers and the public and ensure alignment with the State's climate policies; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 35-A MRSA §307, sub-§6 is enacted to read:

- 6. General increase in rates; performance-based metrics; rate adjustment mechanisms. Notwithstanding any other provision of this Title, the commission may establish performance-based metrics and rate adjustment mechanisms in a proceeding for a general increase in rates.
- Sec. 2. Public Utilities Commission to conduct review of performancebased metrics and rate adjustment mechanisms.
- 1. Commission proceeding. No later than September 30, 2024, the Public Utilities Commission, referred to in this section as "the commission," shall initiate a proceeding to establish a framework enhancing the performance-based metrics in the Maine Revised Statutes, Title 35-A, section 301, subsection 1-A, paragraph A. The framework must set clear objectives benefiting ratepayers and the public.
- 2. Objectives; considerations. In conducting a proceeding to establish a framework pursuant to subsection 1, the commission shall consider, but is not limited to considering, objectives that would benefit ratepayers and the public and would achieve the following:
 - A. Promotion of efficient, cost-effective utility operations;
 - B. Increased planning and preparation for extreme weather events and climate hazards;
- C. Cost-effective and comprehensive response to outages;
- D. Increased affordability and customer empowerment and satisfaction; and
 - E. Advancement of the State's climate policies, including those described in the climate action plan update submitted pursuant to the Maine Revised Statutes, Title 38, section 577, subsection 1 and the greenhouse gas emissions reduction levels specified in Title 38, section 576-A.
- The framework must detail specific standards and metrics for assessing transmission and distribution utility performance relative to those objectives.
- The commission shall also consider performance-based metrics and rate adjustment mechanisms used in other states.

- **3. Standards and metrics development.** The development of standards and metrics for some objectives may benefit from a period of data collection and analysis. The commission may conduct such data collection and analysis.
- **4. Application of standards and metrics.** The commission shall identify how the standards and metrics in subsection 2 must be applied, including the time frame and extent. The commission may use a period of data collection and analysis to identify how to apply the standards and metrics in subsection 2.
- **5. Evaluation of performance.** The commission shall require a transmission and distribution utility, as defined in the Maine Revised Statutes, Title 35-A, section 102, subsection 20-B, to provide data necessary to determine if the transmission and distribution utility has met the objectives in subsection 2 and shall evaluate the transmission and distribution utility's performance. If a transmission and distribution utility does not meet an objective in subsection 2 and is subject to a negative financial incentive, the commission shall provide an opportunity for the transmission and distribution utility to demonstrate good cause for its failure to meet the objective and, if the commission finds good cause, the commission may modify or eliminate the negative financial incentive in accordance with its finding.
- 6. Implementation of innovative rate adjustment mechanisms. The commission shall identify specific and innovative rate adjustment mechanisms to be implemented to align transmission and distribution utility performance with the standards and metrics adopted pursuant to this section, including, but not limited to, reviewing the effectiveness of the transmission and distribution utility's revenue decoupling of utility profits from utility sales to achieve goals, use of the total of operations and capital expenses as the basis for ratemaking rather than capital expenses alone and use of cost of equity as the minimum to be recovered by utilities in rates, with any recovery above that amount determined by utility performance.
- 7. Technical policy group. The commission shall create a technical policy group to collect data, conduct analysis, develop standards and metrics, monitor performance and recommend rate adjustment based on performance. The group must also conduct the assessments of innovative rate adjustment mechanisms identified in subsection 6. The commission may hire 3 full-time employees for this purpose.
- **8. Report.** No later than January 15, 2025, the commission shall submit a report regarding its analysis of performance-based metrics and rate adjustment mechanisms in this section, including recommended legislation, to the joint standing committee of the Legislature having jurisdiction over utility matters.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

38 SUMMARY

This bill provides that the Public Utilities Commission may establish performancebased metrics and rate adjustment mechanisms in a proceeding for a general increase in rates.

The bill directs the commission to:

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- 2. Identify how the standards and metrics set out in the framework must be applied;
- 3. Identify specific and innovative rate adjustment mechanisms to be implemented to align transmission and distribution utility performance with such standards and metrics;
- 4. Establish a technical policy group within the commission to collect data, conduct analysis, develop standards and metrics, monitor performance and recommend rate adjustment based on performance. The group must also conduct the assessments of innovative rate adjustment mechanisms. The commission is authorized to hire 3 full-time employees for this purpose; and
- 5. Submit a report, including recommended legislation, to the joint standing committee of the Legislature having jurisdiction over utility matters no later than January 15, 2025.