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Date: (Filing No. S-)

ENERGY, UTILITIES AND TECHNOLOGY

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**STATE OF MAINE
SENATE
129TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 284, L.D. 994, “Resolve, To Require the Approval by the Public Utilities Commission of a Proposal for a Long-term Contract for Deep-water Offshore Wind Energy”

Amend the resolve by striking out everything after the title and inserting the following:

Preamble. Whereas, legislative power is defined by limitation, not by grant, and is absolute except as restricted by the Constitution of Maine; and

Whereas, regulation of public utilities is a function of the Legislature, or a subordinate body, in the exercise of the police powers, as an attribute of sovereignty; and

Whereas, the Legislature's delegation of authority to the Public Utilities Commission may be withdrawn, modified or superseded in whole or in part from time to time by the Legislature by specific legislative act or resolve exercising the Legislature's absolute authority; and

Whereas, in 2010, the 124th Legislature enacted An Act To Implement the Recommendations of the Governor's Ocean Energy Task Force, Public Law 2009, chapter 615, finding that development of offshore wind energy projects in the Gulf of Maine is in the public interest; and

Whereas, Public Law 2009, chapter 615, Part A, section 6 directed the Public Utilities Commission to conduct a competitive solicitation for proposals for long-term contracts to supply installed capacity and associated renewable energy and renewable energy credits from one or more deep-water offshore wind energy or tidal energy demonstration projects and further directed the commission to make every effort to effectuate any such project; and

Whereas, on July 9, 2013, the Public Utilities Commission issued a request for proposals for long-term contracts for deep-water offshore wind energy pilot projects; and

COMMITTEE AMENDMENT

1 **Whereas**, on August 30, 2013, Maine Aqua Ventus I, GP, LLC submitted a
2 responsive proposal to the Public Utilities Commission in response to the request for
3 proposals; and

4 **Whereas**, the Public Utilities Commission evaluated the Maine Aqua Ventus
5 proposal and by orders issued February 13, 2014 and February 19, 2014 in Docket No.
6 2010-00235 selected Maine Aqua Ventus as the seller to transfer to Central Maine Power
7 Company transmission and distribution capacity and associated energy produced by its
8 deep-water offshore wind energy pilot project, subject to certain terms and conditions,
9 referred to as "the term sheet," set forth in the February 13, 2014 and February 19, 2014
10 orders; and

11 **Whereas**, in its February 19, 2014 order approving the term sheet, the Public
12 Utilities Commission found that Maine Aqua Ventus had satisfied each of the 6 criteria
13 enacted by the Legislature in Public Law 2009, chapter 615, Part A, section 6, subsection
14 1, paragraphs A to F as prerequisites to ordering a transmission and distribution utility to
15 enter into a long-term contract for the purchase of energy and capacity from Maine Aqua
16 Ventus; and

17 **Whereas**, consistent with the terms and conditions set forth by the Public Utilities
18 Commission in its February 2014 orders, Maine Aqua Ventus and Central Maine Power
19 Company negotiated and drafted a long-term contract for capacity and associated energy
20 following a series of meetings involving Maine Aqua Ventus, Central Maine Power
21 Company, the Office of the Public Advocate and commission staff and legal counsel and
22 filed the final draft with the Public Utilities Commission in December 2017; and

23 **Whereas**, in January 2018, the Public Utilities Commission delayed the contract's
24 approval and solicited public comment on whether to reconsider the February 2014 orders
25 approving the term sheet; and

26 **Whereas**, on June 12, 2018, the Public Utilities Commission decided, despite
27 objections from Maine Aqua Ventus and the great majority of public commenters, to not
28 act on the long-term contract between Maine Aqua Ventus and Central Maine Power
29 Company filed with the commission in December 2017 and by order issued August 6,
30 2018 reopened the proceeding to reconsider the February 2014 orders; and

31 **Whereas**, since 2010, scientists and energy experts in the State and around the
32 world have increasingly concluded that offshore wind will make a major contribution to
33 the expansion of essential renewable energy generation, reducing reliance on fossil fuels
34 and greatly assisting in the transition to a reduced carbon future; and

35 **Whereas**, since 2010, offshore wind energy development has rapidly accelerated in
36 southern New England and other states on the Atlantic Coast, with fixed-bottom offshore
37 wind energy projects contracting to deliver thousands of megawatts of power to regional
38 electricity consumers and hundreds of millions of dollars being invested in projects and
39 related onshore logistical and construction support; and

40 **Whereas**, the finite locations available for siting fixed-bottom offshore wind energy
41 projects in the State, the United States and much of the world limit such development,
42 creating a clear need for and public interest in the prompt development of cost-effective
43 floating offshore wind energy technology, especially for regions such as the Gulf of

1 Maine that lack the shallow water and sandy ocean floor necessary for fixed-bottom
2 technologies; and

3 **Whereas**, in 2019, floating offshore wind energy technology remains essential to the
4 State to reach its carbon reduction goals in a cost-effective manner, to mitigate the
5 destructive warming of the Gulf of Maine and to benefit the economy through becoming
6 an international source of floating offshore wind energy technology and manufacturing;
7 and

8 **Whereas**, the Legislature finds that the public interest in prompt action by the State
9 to determine the feasibility of the Maine Aqua Ventus floating offshore wind energy
10 technology in the Gulf of Maine requires that the Legislature make certain findings and
11 require the Public Utilities Commission to order execution of the December 2017 long-
12 term contract between Maine Aqua Ventus and Central Maine Power Company necessary
13 to effectuate the deep-water offshore wind energy pilot project; and

14 **Whereas**, the Legislature finds that it is in the best interest of the State to approve
15 the December 2017 long-term contract between Maine Aqua Ventus and Central Maine
16 Power Company as previously negotiated and drafted except with only such revisions as
17 may be commercially necessary in light of the passage of time and the maturation of the
18 offshore wind industry so that the deep-water offshore wind energy pilot project may
19 move forward expeditiously and generate the benefits to the State and its people sought
20 by the Legislature in Public Law 2009, chapter 615 and subsequent legislation; now,
21 therefore, be it

22 **Sec. 1. Findings. Resolved:** That, notwithstanding any provision of law to the
23 contrary or prior action or failure to act by the Public Utilities Commission, in order to
24 best and most expeditiously effectuate the policies, goals and mandates set forth in the
25 Maine Revised Statutes, Title 35-A, section 3202, subsection 1 and Title 35-A, section
26 3404, subsections 1 and 2; complete the competitive solicitation initiated by enactment of
27 Public Law 2009, chapter 615, Part A, section 6; and make every effort to effectuate the
28 Maine Aqua Ventus I, GP, LLC floating deep-water offshore wind energy demonstration
29 project, the Legislature:

30 1. Finds that based on information filed by Maine Aqua Ventus I, GP, LLC, referred
31 to in this resolve as "Maine Aqua Ventus," and others in the Public Utilities Commission
32 Docket No. 2010-00235 and information otherwise in the public domain regarding the
33 rapid worldwide development of offshore wind energy since 2010 and most recently
34 offshore of the states of Massachusetts, Rhode Island, Connecticut, New York, New
35 Jersey, Maryland and Virginia, including hundreds of millions of dollars of planned
36 investment in onshore logistical support and construction, the Public Utilities
37 Commission correctly concluded in its February 19, 2014 order that Maine Aqua Ventus,
38 referred to in this subsection as "the supplier," had satisfied each of the 6 criteria enacted
39 by the Legislature in Public Law 2009, chapter 615, Part A, section 6, subsection 1,
40 paragraphs A to F, as follows:

41 A. "Supplier proposes sale of renewable energy produced by a deep-water offshore
42 wind energy pilot project or a tidal energy demonstration project as defined in this
43 RFP";

1 B. "Supplier has the technical and financial capacity to develop, construct, operate
2 and, to the extent consistent with applicable federal law, decommission and remove
3 the project in the manner provided by Title 38, section 480-HH, subsection 3,
4 paragraph G";

5 C. "Supplier has quantified the tangible economic benefits of the project to the State,
6 including those regarding goods and services to be purchased and use of local
7 suppliers, contractors and other professionals, during the proposed term of the
8 contract";

9 D. "Supplier has experience relevant to tidal power or the offshore wind energy
10 industry, as applicable, including, in the case of a deep-water offshore wind energy
11 pilot project proposal, experience relevant to the construction and operation of
12 floating wind turbines, and has the potential to construct a deep-water offshore wind
13 energy project 100 megawatts or greater in capacity in the future to provide electric
14 consumers in Maine with project-generated power at reduced rates";

15 E. "Supplier has demonstrated a commitment to invest in manufacturing facilities in
16 Maine that are related to deep-water offshore wind energy or tidal energy, as
17 applicable, including, but not limited to, component, turbine, blade, foundation or
18 maintenance facilities"; and

19 F. "Supplier has taken advantage of all federal support for the project, including
20 subsidies, tax incentives and grants, and incorporated those resources into its bid
21 price";

22 2. Finds that the development and operation of Maine Aqua Ventus technology under
23 the long-term contract will:

24 A. Meet and surpass the substantial economic and professional opportunities and
25 other societal benefits to the State anticipated by the Legislature in Public Law 2009,
26 chapter 615 and subsequent legislation;

27 B. Provide benefits to providers of supervisory control and data acquisition systems
28 and other monitoring services, systems controls providers, marine and construction
29 engineering firms, marine transport services technology apprenticeship programs and
30 other industries and service providers in the State;

31 C. Promote the public interest in development of reasonably priced, high load factor,
32 winter-peaking renewable energy at projected and stable rates to serve the State and
33 the regional power grid; and

34 D. Achieve several public purposes, including creating offshore-wind-related
35 employment in the State, decreasing reliance on fossil fuels and increasing
36 availability of renewable energy, mitigating the destructive warming of the Gulf of
37 Maine and greatly assisting the State in achieving its carbon reduction goals; and

38 3. Finds that the public interest requires that the State Government maintain
39 consistent, transparent and predictable regulatory processes and that the State
40 Government thus be known to the world to keep its word.

41 **Sec. 2. Maine Aqua Ventus to file draft contract with Public Utilities**
42 **Commission. Resolved:** That, within 15 days of the effective date of this resolve,
43 Maine Aqua Ventus shall file with the Public Utilities Commission a draft revised

1 contract, which must be the same as the contract filed with the commission on December
2 13, 2017, in Docket No. 2010-00235, except for revisions necessary for the purposes of
3 updating the previously negotiated contract in light of the passage of time and the
4 maturation of the industry and facilitating the financing, construction and operation of the
5 demonstration project in current circumstances.

6 **Sec. 3. Contract negotiations; final draft contract. Resolved:** That, within
7 60 days after the filing of the draft revised contract under section 2, the Public Utilities
8 Commission shall initiate and complete negotiations among commission staff, Maine
9 Aqua Ventus, Central Maine Power Company and the Office of the Public Advocate and
10 shall approve a final draft contract. The final draft contract must be the same as the
11 contract filed with the commission on December 13, 2017, in Docket No. 2010-00235,
12 except for revisions necessary for the purposes of updating the contract in light of the
13 passage of time and the maturation of the industry and facilitating the financing,
14 construction and operation of the demonstration project in current circumstances, within
15 the cost limitations established in Public Law 2009, chapter 615, while not increasing or
16 decreasing the annual energy production cap or, except as needed to reasonably
17 accommodate for construction inflation costs since 2014, the cost per kilowatt-hour
18 previously set in the base energy price.

19 **Sec. 4. Contract executed between Maine Aqua Ventus and Central**
20 **Maine Power Company; cost recovery. Resolved:** That, within 90 days of the
21 effective date of this resolve, the Public Utilities Commission shall order the final draft
22 contract approved under section 3 to be executed by Maine Aqua Ventus and Central
23 Maine Power Company. The commission shall permit a transmission and distribution
24 utility that it has directed to enter into a long-term contract under this section to recover
25 the full cost of the purchases made under that contract in appropriate rate-making
26 proceedings.

27 **Sec. 5. Project monitoring; contract amendments. Resolved:** That the
28 Public Utilities Commission shall monitor the deep-water offshore wind energy pilot
29 project developed by Maine Aqua Ventus and shall advise and consult with the parties to
30 the project with regard to the exploration, assessment and implementation of all
31 commercially reasonable actions to accomplish the objectives of Public Law 2009,
32 chapter 615 through the financing, construction and operation of the demonstration
33 project. The commission shall approve requested amendments to the contract executed
34 under section 4 between Maine Aqua Ventus and Central Maine Power Company that are
35 reasonably designed to accomplish the objectives of Public Law 2009, chapter 615 and to
36 facilitate the financing and operation of the deep-water offshore wind energy pilot project
37 as Maine Aqua Ventus may request from time to time, except that an amendment to the
38 contract may not modify the annual energy production cap or, except as needed to
39 reasonably accommodate for construction inflation costs since 2014, the cost per
40 kilowatt-hour set in the base energy price under the contract.

41 **Sec. 6. Authority for legislation. Resolved:** That the Joint Standing
42 Committee on Energy, Utilities and Technology may report out a bill relating to deep-
43 water offshore wind energy to the Second Regular Session of the 129th Legislature.'

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SUMMARY

This amendment adds additional specifications to the directive in the resolve to the Public Utilities Commission to approve a long-term contract for energy and capacity between Maine Aqua Ventus and Central Maine Power Company. The amendment additionally specifies and requires that:

1. Maine Aqua Ventus file a draft contract with the commission within 15 days of the effective date of the resolve;
2. The commission initiate and complete negotiations among commission staff, Maine Aqua Ventus, Central Maine Power Company and the Office of the Public Advocate and approve a contract between Maine Aqua Ventus and Central Maine Power Company within 60 days of the filing of the draft contract;
3. The final draft contract be the same as the contract filed with the commission on December 13, 2017, in Docket No. 2010-00235, except for revisions necessary for the purposes of updating the contract in light of the passage of time and the maturation of the industry and facilitating the financing, construction and operation of the demonstration project in current circumstances, within the cost limitations established in Public Law 2009, chapter 615, while not increasing or decreasing the annual energy production cap or, except as needed to reasonably accommodate for construction inflation costs since 2014, the cost per kilowatt-hour previously set in the base energy price; and
4. The commission order the final draft contract to be executed by Maine Aqua Ventus and Central Maine Power Company within 90 days of the effective date of the resolve.

The amendment also provides for the Public Utilities Commission to monitor the deep-water offshore wind energy pilot project developed by Maine Aqua Ventus and respond to requested future amendments to the contract in the context of accomplishing the objectives of Public Law 2009, chapter 615 and authorizes the Joint Standing Committee on Energy, Utilities and Technology to report out a bill related to deep-water offshore wind energy to the Second Regular Session of the 129th Legislature.

FISCAL NOTE REQUIRED
(See attached)