STATE OF MAINE
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Final Report of the COMMISSION TO STUDY ENERGY INFRASTRUCTURE

December 2009

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Executive Summary

Public Law 2009, chapter 372, Section F-4 established the Commission to Study Energy Infrastructure to examine and make recommendations regarding energy infrastructure development, with particular attention to agreements for the lease or use of state-owned land and assets for such development. Specifically, the commission was charged with the following duties:

1. Examining the feasibility and effects of the State entering agreements for leasing or otherwise allowing the use of state-owned land or assets for energy infrastructure, including submerged lands, the rights-of-way of the state highway system, the federal interstate highway system, state-owned or state-controlled rail corridors or other state transportation corridors, for the installation of lines, cables, pipelines or other structures for the transmission of energy resources, communication transmission systems or related facilities.

2. Developing a plan governing agreements for the lease or use of state-owned lands or assets for energy infrastructure that addresses at least the following:

    a. Valuation, pricing and allocation methodologies to maximize the long-term public value through the most efficient and effective use of the state-owned lands and assets;
    b. The potential effect of such agreements on renewable energy development in the State, the development of other energy projects in the State, including but not limited to liquefied natural gas terminals, energy consumers and ratepayers and natural resources and the environment.

3. Examining the policy issues relating to the construction or installation in this State of energy facilities greater than 75 miles in length.

4. Evaluating the need for changes in methods of taxation to ensure protection of the public health, safety and welfare.

In carrying out the above duties, the commission was charged with reviewing and analyzing relevant reports and information and monitoring proposed federal energy legislation that may significantly affect energy policy in this State. The enabling legislation also authorized the commission to consider ways in which the development of electric transmission systems or natural gas systems can help the State achieve its energy goals.

The 13-member commission included 3 members of the Senate appointed by the President of the Senate, 5 members of the House of Representatives appointed by the Speaker of the House of Representatives and 5 members appointed by the Governor. The commission convened on September 9, 2009 and held a total of 7 meetings to fulfill its duties. The final meeting was held on December 4, 2009.

Summary of Commission Recommendations

The commission concluded its work with a three-way report. The Majority Report A was supported by 7 members; Minority Report B was supported by 5 members and Minority Report C was supported by 1 member.

Majority Report A

The members who voted for Majority Report A recommend that policies and decisions regarding energy infrastructure development in the State be guided by principles that enhance opportunities for energy generation within the State; reduce electricity rates or other relevant energy costs; maximize long-term economic benefits for the State; ensure efficient utilization of the energy corridor; minimize conflict with the public purposes and management plans for the public land and mitigate any unavoidable impacts; limit and mitigate impacts of energy infrastructure on the landscape; increase energy reliability, security and independence; reduce greenhouse gases; avoid the use of lands subject to the provisions of Article IX, section 23 of the Maine Constitution; and maximize the benefit realized from the State's strategic location within New England and the northeastern region.

The majority recommends amending the law governing energy infrastructure corridors to designate several state-owned energy infrastructure corridors as "statutory corridors" and to continue a petition process for "petitioned corridors." They recommend establishing a process for the State to use when entering into occupancy agreements for construction and development of energy infrastructure within statutory corridors. They support establishing an interagency review panel to oversee the use of the statutory corridors, including soliciting, accepting and evaluating proposals for use and establishing standards for approval of use of statutory to ensure that their use is in the long-term best interests of the State. They recommend the use of long-term occupancy agreements, a consolidated environmental permit from the Department of Environmental Protection and, if the project is a transmission line, a certificate of public convenience and necessity from the Public Utilities Commission.

The majority recommends establishing standards for the use of a petitioned corridor, requiring all projects to obtain a corridor use certificate from the Public Utilities Commission, and requiring the Public Utilities Commission to deny projects that do not (a) enhance opportunities for energy generation in the State and (b) significantly and measurably reduce electricity rates or other relevant energy costs for electricity ratepayers and energy consumers in the State.

The majority recommends that, except when prohibited by law or the State Constitution, all revenues generated from the use of state-owned land and assets within energy infrastructure corridors be deposited in an energy infrastructure benefits fund and from there transferred to the Efficiency Maine Trust and used on a competitive basis to ensure the steady transition to energy independence and security. Efficiency Maine Trust would be required to give preference to proposals in three categories, with no more than 50 percent of expenditures in any one fiscal year devoted to any one category.

The majority recommends that the existing "sunset" on the energy infrastructure corridor laws be extended by 4 years from July 30, 2011, to July 30, 2015.

The majority recommends requiring annual reports to the Joint Standing Committee on Utilities and Energy from the interagency review panel regarding the activities of the panel in overseeing use of the statutory corridors and from the Efficiency Maine Trust regarding expenditure of funds from the energy infrastructure benefits fund. In addition, the Department of Transportation would be required to report by January 15, 2011, regarding current and potential uses of abandoned railroad corridors for energy infrastructure development. Finally, the majority recommends that, during the 125th Legislature, the Joint Standing Committee on Utilities and Energy be required to review the implementation of any legislation resulting from the recommendations of the commission.

Minority Report B

The members who voted for Minority Report B recommend all of the provisions in Majority Report A and several additional provisions. These minority members recommend that the proposed standards and criteria to be applied by the interagency review panel for use of a statutory corridor also apply to the use of a petitioned corridor and to all electric transmission line projects, subject to a certificate of public convenience from the Public Utilities Commission. They recommend requiring the developer of a natural gas pipeline or an oil pipeline to obtain a certificate of public convenience and necessity and that the process for obtaining an oil and gas pipeline certificate of public convenience and necessity incorporate, as closely as possible, the standards, criteria and procedures for electric transmission lines.

These minority members recommend that the moratorium on energy infrastructure development that was established in Public Law 2009, chapter 372, section F-5 be extended beyond its current end date for a maximum of 1 year to provide sufficient time for the Public Utilities Commission to implement new certificate of public convenience of necessity requirements for electric transmission lines and to establish the certificate of public convenience and necessity standards for oil and natural gas pipelines.

Minority Report C

One member of the commission voted in favor of Minority Report C. This member recommends that the State of Maine assert its own interests for the development of energy transmission corridors so that companies with the requisite capital and engineering capacity can proceed with proposals to build energy transmission corridors without having to encounter unnecessary contingencies. This member recommends that policies and decisions regarding energy infrastructure development be designed to support the following three interests of the State: (1) generating power within Maine for the New England market; (2) producing low-cost power within Maine for purchase by Maine consumers; and (3) enhancing Maine's bargaining position within the regional energy market, including overcoming Canadian resistance to liquefied natural gas terminals in Maine.

On the basis of these three identified interests, this member recommends the establishment of an interagency review panel to approve or deny proposals for "energy supercorridors," which are defined as any new energy transmission lines or pipelines, regardless of type, the primary purpose of which is the transmission of energy from sources outside of Maine to users outside of Maine. The review panel would not have jurisdiction over energy infrastructure corridors created primarily to serve generators within the State or to lower costs or enhance reliability for Maine consumers. The review panel would be authorized to approve a proposal for an energy supercorridor only if it finds that the supercorridor: (1) is in the long-term public interest of the State; (2) will enhance opportunities to generate energy within the State <u>or</u> significantly and measurably reduce costs for energy consumers in the State; and (3) will not impede opportunities to develop new sources of energy supply in the State including a liquefied natural gas facility on the coast. The review panel would also be authorized to lease or convey property rights belonging to the public in a proposed supercorridor. Proceeds from the lease or conveyance of property rights in a supercorridor would be deposited in the energy infrastructure benefits fund for use by the Efficiency Maine Trust in accordance with the provisions regarding this fund which are included in Majority Report A and Minority Report B.

I. INTRODUCTION

The Commission to Study Energy Infrastructure was created pursuant to Public Law 2009, chapter 372 (LD 1485), An Act Regarding Maine's Energy Future. This law was enacted as a result of the work of the Joint Select Committee on Maine's Energy Future to address a broad range of energy issues, including energy independence, energy efficiency and conservation, renewable energy resources, weatherization, energy-based workforce development and energy infrastructure development. The provisions regarding energy infrastructure development, contained in Part F of the law, include the creation of the commission, time-limited prohibitions on state permitting of large-scale energy infrastructure and on the sale, lease or use of state-owned or assets for energy infrastructure and the establishment of a fund for state revenues derived from the use of state assets for energy transmission systems. A copy of the enabling legislation is provided in Appendix A.

Public Law 2009, chapter 372, Section F-4 establishes the Commission to Study Energy Infrastructure to examine and make recommendations regarding energy infrastructure development, with particular attention to agreements for the lease or use of state-owned land and assets for such development. Specifically, the commission was charged with the following duties:

1. Examining the feasibility and effects of the State entering agreements for leasing or otherwise allowing the use of state-owned land or assets for energy infrastructure, including submerged lands, the rights-of-way of the state highway system, the federal interstate highway system, state-owned or state-controlled rail corridors or other state transportation corridors, for the installation of lines, cables, pipelines or other structures for the transmission of energy resources, communication transmission systems or related facilities.

2. Developing a plan governing agreements for the lease or use of state-owned lands or assets for energy infrastructure that addresses at least the following:

    a. Valuation, pricing and allocation methodologies to maximize the long-term public value through the most efficient and effective use of the state-owned lands and assets;
    b. The potential effect of such agreements on renewable energy development in the State, the development of other energy projects in the State, including but not limited to liquefied natural gas terminals, energy consumers and ratepayers and natural resources and the environment.

3. Examining the policy issues relating to the construction or installation in this State of energy facilities greater than 75 miles in length.

4. Evaluating the need for changes in methods of taxation to ensure protection of the public health, safety and welfare.

In carrying out the above duties, the commission was charged with reviewing and analyzing relevant reports and information and monitoring proposed federal energy legislation that may significantly affect energy policy in this State. The enabling legislation also authorized the commission to consider ways in which the development of electric transmission systems or natural gas systems can help the State achieve its energy goals.

This report fulfills the commission's requirement to submit a report that includes its findings and recommendations, including suggested legislation, for presentation to the Second Regular Session of the 124th Legislature. Following receipt and review of the report, the Joint Standing Committee on Utilities and Energy is authorized to submit a bill to the Second Regular Session of the 124th Legislature.

II. COMMISSION PROCEEDINGS

The members of the Commission to Study Energy Infrastructure were appointed during the summer of 2009. The 13-member commission included 3 members of the Senate appointed by the President of the Senate, 5 members of the House of Representatives appointed by the Speaker of the House of Representatives and 5 members appointed by the Governor. A list of commission members is attached as Appendix B.

The commission convened its first meeting on September 9, 2009, held five additional meetings during September, October and November, and had its final meeting on December 2, 2009. The agenda for each meeting is included in Appendix C.

A. First meeting

The first meeting of the commission focused on providing background information to prepare the commission for its work. The meeting included a discussion of the commission's duties and a review of recent legislation. The meeting also included a series of presentations regarding the state and regional policy context and the current landscape with regard to energy infrastructure development. Presentations regarding the state policy and regulatory landscape, including agency roles, policies and perspectives, were provided by:

- Beth Nagusky of the Department of Environmental Protection,
- Marcia Spencer-Famous of the Department of Conservation, Maine Land Use Regulation Commission,
- Mitchell Tannenbaum of the Public Utilities Commission,
- Bruce Van Note of the Department of Transportation and
- John Kerry of the Governor's Office of Energy Independence and Security.

The commission also received presentations regarding regional energy planning and analysis, including the development of the 2009 New England Governors' Renewable Energy Blueprint, the ISO New England Economic Study and the ISO New England Regional System Plan. Finally, commission members heard from representatives of 9 different energy

infrastructure projects, who introduced their specific projects and answered questions from commission (the meeting agenda, found in Appendix C, lists the individual projects that presented).

B. Second meeting

The second meeting of the commission was held on September 21, 2009. At this meeting, the committee received follow-up information and presentations regarding several of the regulatory and policy issues introduced at the first meeting. John Kerry of the Governor's Office of Energy Independence and Security presented the final 2009 New England Governors' Renewable Energy Blueprint to the commission and discussed the 33rd Conference of New England Governors and Eastern Canadian Premiers, which had been held on September 14-15, 2009. The commission also heard from:

- The Department of Environmental Protection regarding environmental permitting of energy infrastructure including permitting of ocean energy developments, liquefied natural gas and pipelines, energy transmission and wind energy projects, with presentations by Beth Nagusky, James Dusch and James Cassida;
- The Department of Conservation, Bureau of Parks and Lands regarding state submerged lands leasing, with presentations by Dan Prichard and Will Harris; and
- The Maine Turnpike Authority regarding the Maine Turnpike and transportation corridor use, with a presentation by Conrad Welzel.

To supplement the information on state submerged lands, commission staff provided a brief overview of federal regulation of renewable energy development on federal offshore lands. Following the presentations, commission members discussed the scope and direction of their remaining work and plans for subsequent meetings.

C. Third meeting

The third meeting of the commission was held on September 28, 2009. Like the second meeting, this meeting included presentations from state agencies to provide additional information regarding regulatory and policy issues that had been introduced earlier. At the third meeting, the commission heard from:

- The Department of Conservation, Maine Land Use Regulation Commission regarding the update of the Comprehensive Land Use Plan and the measurement of tangible benefits from energy development, with a presentation by Marcia Spencer-Famous;
- The Department of Transportation regarding transportation corridor valuation and pricing, including a draft valuation report, and access to and allocation of uses in a transportation corridor, with a presentation by Bruce Van Note; and
- The Department of Environmental Protection regarding that department's involvement with the regulation of energy infrastructure development and large scale energy infrastructure projects pending before or recently permitted by the department, with a presentation by Commissioner David Littell.

In addition to hearing from these state agencies, the commission provided the opportunity at this meeting for interested parties and stakeholders to speak to the commission about their interests, as well as potential opportunities for collaboration in the development of energy infrastructure corridors. Subsequently, the commission held a work session, during which members discussed priorities for the commission's remaining work and offered some initial ideas for recommendations of the commission in the areas of: (1) guiding principles for energy infrastructure development; (2) regulatory requirements, processes and approval of energy infrastructure projects and (3) methods of valuation and compensation for the use of state-owned land and assets for energy infrastructure.

D. Fourth meeting

The fourth meeting of the commission was held on October 19, 2009. At this meeting, the commission completed the information gathering phase of its work with the following presentations:

- Beth Nagusky and Dan Prichard of the Ocean Energy Task Force, Regulatory Subcommittee presented information regarding their work on options and recommendations for leasing of public submerged lands within state waters for offshore energy development, including wind, wave and tidal energy;
- Steven Rourke of ISO-New England briefed the commission on regional transmission planning issues, including a review of the highlights of the 2009 Regional System Plan and the Economic Study for the New England Governors, Renewable Development Scenario Analyses; and
- John Kerry of the Governor's Office of Energy Independence and Security briefed the commission on major federal energy legislation pending in the United States Congress, with a focus on those provisions related to energy transmission.

The commission spent the balance of the fourth meeting discussing possible recommendations of the commission. As background for that discussion, commission staff provided an overview of current state law governing (1) regulatory approvals for energy infrastructure projects and (2) use of state-owned land and assets for energy infrastructure (a copy of this information is provided in Appendix D). The commission then reviewed and discussed a draft proposal offered for discussion by commission member Karin Tilberg. This proposal included a statement of guiding principles for energy infrastructure development and draft legislation to designate several state-owned energy infrastructure corridors in law and establish a process for the State to enter into agreements for the development of energy infrastructure within those corridors. At the close of the meeting, commission members agreed to submit comments, suggestions and proposed alternatives to the draft proposal in advance of the fifth meeting.

E. Fifth meeting

The fifth meeting of the commission was held on November 4, 2009. This meeting was devoted to further consideration of the draft proposal that had been presented on October 19 and consideration of the comments and proposed revisions to that draft submitted by commission

members between the fourth and fifth meetings. The commission reviewed and discussed the revised draft proposal and made a number of decisions and further refinements to it. The commission then invited stakeholders to provide comments on the draft proposal and heard from representatives of the Maine Turnpike Authority, the Department of Conservation, the Bureau of Parks and Lands, the Department of Transportation and Loring Bioenergy, LLC. The commission also requested and received information from the Department of Administrative and Financial Services, Bureau of General Services regarding procurement policies that might apply to the sale or lease of state-owned land or assets to energy infrastructure. By the close of the meeting, the commission had identified a handful of outstanding issues requiring additional review and revision in preparation for the next meeting.

F. Sixth meeting

The sixth meeting of the commission was held on November 18, 2009. At this meeting, the commission reviewed and discussed the working draft proposal for legislation that had been considered and revised at the fifth meeting, including further proposed revisions submitted by commission members between the fifth and sixth meetings. Specific areas of discussion included:

- Areas to be included as statutory corridors, with particular attention to issues related to the inclusion of the Maine Turnpike corridor and the Loring to Searsport corridor;
- Requiring a showing that existing energy corridors and certain abandoned railroad corridors cannot be used prior to designating a new corridor by petition to the Public Utilities Commission;
- Adding several threshold criteria to be absolute conditions that, if not met, will result in denial of any energy infrastructure proposal for use as a statutory corridor or a petitioned corridor;
- Requiring a corridor use certificate for all projects in a petitioned corridor; and
- The allocation of revenues generated by the use of state-owned land or assets for energy infrastructure for specific energy related purposes.

After discussion and decision-making on a number of issues in the working draft, the commission took up an alternative proposal presented by commission member Keith Van Scotter. This proposal differed from the commission's working draft in a number of respects, including: (a) the addition of an extension of the temporary prohibitions on certain energy infrastructure development, commonly referred to as the "moratorium;" (b) the breadth and scope of key concepts in the proposed legislation, including "energy infrastructure" and "energy infrastructure corridor," (c) the addition of requirements for any energy infrastructure development that crosses or occupies any State land; (d) the criteria that must be satisfied for issuance of a corridor use certificate and (e) studies to be conducted.

At the close of the sixth meeting, commission members determined that a seventh meeting would be necessary to conclude their work and set a date of December 2 for the final meeting.

G. Seventh meeting

The seventh and final meeting of the commission was held on December 2, 2009. At this meeting, commission members received a letter from Beth Nagusky, co-chair of the Ocean Energy Task Force, and draft findings and recommendations from the task force. The commission reviewed its working draft proposal for legislation, as amended by the decisions of the commission on November 18th, and also reviewed additional proposals and comments presented by Representative Martin, Representative Fletcher, Senator Mills and Karin Tilberg.

After consideration, discussion and voting on several motions, the commission concluded its work with a three-way report: the Majority Report (Report A) was supported by seven members; Minority Report B was supported by five members; and Minority Report C was supported by one member. The substance of Reports A, B and C is summarized in Part III of this report and the proposed draft legislation associated with each report is presented in Appendix E.

III. RECOMMENDATIONS

A. New developments in the state energy landscape

Since Public Law 2009, chapter 372 was enacted in June 2009, establishing the commission and framing its duties, and since the commission commenced its work in September 2009, there have been several significant developments with respect to the energy landscape in the State and the region. In particular,

- Irving Oil Terminals, Inc. has reached an agreement with ExxonMobil to purchase 2 terminals in South Portland and Bangor and the 124-mile pipeline that connects the terminals; and

- Hydro-Quebec, a Canadian corporation that is wholly owned by the Province of Quebec, has entered into an agreement to purchase New Brunswick Power Holding Corporation, a Canadian corporation that is wholly owned by the Province of New Brunswick.

These developments are of great significance to the energy industry and energy consumers and ratepayers in the State, and warrant thorough review by the Joint Standing Committee on Utilities and Energy during the Second Regular Session of the 124th Legislature in 2010. The commission recommends that the joint standing committee specifically take these new developments into consideration when the committee reviews the commission's recommendations and proposed legislation.

B. Energy infrastructure development framework common to Reports A and B

The Majority Report A and Minority Report B, supported by 7 and 5 members of the commission respectively, both recommend that policies and decisions regarding energy infrastructure development in the State be guided by the following principles:

A. Enhancing opportunities for energy generation within the State, including access to the proposed energy infrastructure for renewable energy generation;

B. Significantly and measurably reducing electricity rates or other relevant energy costs for residents and businesses within the State;

C. Maximizing long-term economic benefits for the State, including but not limited to direct financial benefits, employment opportunities and economic development;

D. Ensuring efficient utilization of the corridor through colocation of energy infrastructure, collaboration between energy infrastructure developers and the preservation of options for future uses;

E. Minimizing conflict with the public purposes for which the land or asset is owned and any management plans for the land within the corridor, and, where necessary, mitigating any unavoidable impacts;

F. Limiting and mitigating impacts of energy infrastructure on the landscape, including but not limited to utilizing underground installation, where economically and technically feasible;

G. Increasing the state's energy independence, reliability and security;

H. Reducing the release of greenhouse gases;

I. Avoiding wherever possible the use of lands subject to the provisions of Article IX, section 23 of the Maine Constitution; and

J. Maximizing the benefit realized from the State's strategic location within New England and the northeastern region.

These principles provide the basis for the specific policy recommendations contained in Reports A and B, which are summarized below.

C. Specific policy recommendations common to Reports A and B

The Majority Report A and Minority Report B of the commission recommend amending the law governing energy infrastructure corridors by enacting new provisions to designate, in law, several state-owned energy infrastructure corridors as "statutory corridors" and to establish a

process for the State to use when entering into occupancy agreements for the construction and development of energy infrastructure within those statutory corridors. The members supporting Reports A and B also recommend several changes to exiting law governing energy infrastructure corridors designated by the Public Utilities Commission upon petition, or "petitioned corridors." A detailed summary of the recommendations common to Report A and Report B is provided below. The proposed legislation to implement these recommendations is presented in Appendix E.

1. Energy infrastructure corridors established in law

The members of the commission supporting Majority Report A and Minority Report B recommend designating in law the following areas as statutory corridors:

- The Interstate 95 corridor, including that portion of the Interstate 95 corridor designated as the Maine Turnpike;
- The Interstate 295 corridor; and
- The Searsport to Loring corridor

With respect to the Maine Turnpike, these members recommend that the Joint Standing Committee on Utilities and Energy seek the opinion of the Attorney General regarding the designation of the Maine Turnpike as a statutory corridor and the expenditure of revenues from the use of the Maine Turnpike as a corridor for energy infrastructure purposes.

With regard to designation of the Searsport to Loring corridor as a statutory corridor the commission recommends that such a designation take effect at a later date, giving full effect to any leases, easements or other agreements in effect on the effective date of the legislation recommended in Reports A and B during the duration of those leases, easements or other agreements.

2. Interagency review panel and process for use of statutorily established corridors.

The members of the commission supporting Majority Report A and Minority Report B recommend establishing an interagency review panel, or review panel, to oversee the use of the statutory corridors.

- **Composition of the interagency review panel.** The review panel would consist of the director of the Governor's Office of Energy Independence and Security and commissioners or their designees from state agencies having responsibility for administrative and financial services, transportation, and economic development and the commissioner of the state agency that owns or controls the state land or asset.
- **Interagency review panel process.** The review panel would establish a regular process for soliciting, accepting and evaluating proposals for use of a statutory

corridor. As part of this process, the review panel would provide public notice of the availability of the corridor for energy infrastructure development and would provide a description of the type of development anticipated in the corridor and an opportunity for interested persons to submit proposals for use. The review panel would review submitted proposals based on a set of specific criteria to ensure that the project is in the long-term public interest of the State. The review panel would then select one or more proposals and negotiate a long-term occupancy agreement for use of the corridor with the person or persons who submitted the selected proposal. As part of the process, certain proprietary information would be designated as confidential.

- **Threshold criteria.** The review panel would be required to deny any energy infrastructure proposal for a statutory corridor that does not (a) enhance opportunities for energy generation in the State and (b) significantly and measurably reduce electricity rates or other relevant energy costs for electricity ratepayers and energy consumers in the State.

- **Occupancy agreement and compensation.** The review panel would negotiate a long-term occupancy agreement that would provide compensation to the State, based on at least one independent appraisal by a professional appraiser. This compensation could be in the form of annual payments or the functional or financial equivalent, partial ownership in the energy infrastructure or another appropriate form of compensation. In addition, this compensation could include provisions for periodic adjustment of compensation over time and reimbursement of costs to the state agency or agencies that own or control the corridor.

- **Professional appraiser assistance and costs.** The review panel would contract with a professional appraiser with specific qualifications and certifications to assist the panel with its duties. The cost of the services of any appraisal would be paid by interested persons who submitted proposals, in proportion to the amount of time spent on that person's proposal.

3. Corridors designated upon petition

With respect to current law governing the designation of energy infrastructure corridors by the Public Utilities Commission upon petition, referred to as "petitioned corridors," the members of the commission supporting Majority Report A and Minority Report B recommend the following changes.

- **Additional findings required.** In addition to the findings required under current law prior to designation of a petitioned corridor, the Public Utilities Commission would be authorized to designate a petitioned corridor only if it finds that a statutory corridor, a previously designated petitioned corridor or an abandoned railroad corridor owned or controlled by the Department of Transportation cannot meet the needs of the proposed energy infrastructure.

- **Additional consultation required.** In addition to the consultations required under current law, the Public Utilities Commission would be required, prior to designation of a petitioned corridor, to consult with: (1) any state agency or agencies that owns or controls land within the proposed corridor, a statutory corridor or an existing petitioned corridor, and with the Department of Transportation regarding potential abandoned railroad corridors and, (2) if the proposed corridor or a portion of it is in the unorganized or deorganized areas of the state, the counties in which the corridors would be located.

4. Requirements for use of energy infrastructure corridors

The members of the commission supporting Majority Report A and Minority Report B recommend that, prior to construction or development within a statutory corridor, a developer of energy infrastructure be required to obtain a long-term occupancy agreement with the State, a consolidated environmental permit from the Department of Environmental Protection and, if the project is a transmission line, a certificate of public convenience and necessity from the Public Utilities Commission.

These members also recommend amending current law regarding the requirements for use of a petitioned corridor so that all projects would be required to obtain a corridor use certificate from the Public Utilities Commission (under current law, transmission projects are not subject to this requirement) and to align the criteria used by the Public Utilities Commission in determining whether to issue a corridor use certificate in a petitioned corridor with the criteria used by the interagency review panel in evaluating proposals for use of a statutory corridor. Specifically, the Public Utilities Commission would be required to deny any energy infrastructure proposal for a petitioned corridor that does not (a) enhance opportunities for energy generation in the State and (b) significantly and measurably reduce electricity rates or other relevant energy costs for electricity ratepayers and energy consumers in the State.

5. Revenues generated from use of state-owned land or assets within corridors

The members of the commission supporting Majority Report A and Minority Report B recommend that, except when prohibited by law or the State Constitution, all revenues generated from the use of state-owned land and assets within energy infrastructure corridors be deposited in an energy infrastructure benefits fund and from there transferred to the Efficiency Maine Trust and used on a competitive basis to ensure the steady transition to energy independence and security. In the expenditure of these funds, the Efficiency Maine Trust would be required to give preference to proposals in three categories in a specified following order, with no more than 50% of expenditures in any one fiscal year devoted to any one category. The three categories and order of preference are:

A. Grants and loans to manufacturing entities for energy efficiency;

B. Grants and loans to increase efficiency in the ways homes and businesses are heated, energy is used and people and cargo are transported; and

C. Economic incentives for the development of renewable energy resources.

6. Repeal date on the energy infrastructure corridor laws

The members of the commission supporting Majority Report A and Minority Report B recommend that the "sunset" on the energy infrastructure corridor laws be extended by 4 years from July 30, 2011, to July 30, 2015.

7. Legislative oversight and reports

The members of the commission supporting Majority Report A and Minority Report B recommend that the interagency review panel be required to provide an annual report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters regarding the activities of the panel in overseeing use of the statutory corridors and that the Efficiency Maine Trust be required to provide an annual report to the committee regarding expenditure of funds from the energy infrastructure benefits fund. These members also recommend that the Department of Transportation be required to report to the joint standing committee by January 15, 2011, regarding current and potential uses of abandoned railroad corridors for energy infrastructure development. Finally, these members recommend that, during the 125th Legislature, the joint standing committee of the Legislature having jurisdiction over utilities and energy matters be required to review the implementation of any legislation resulting from the recommendations of the commission.

D. Specific policy recommendation unique to Majority Report A

The members supporting Majority Report A oppose extending the temporary moratorium on energy infrastructure development passed in Public Law 2009, chapter 372, section F-5 beyond its established termination date. These members are convinced that the present moratorium should expire as it has served its purpose. The members are concerned that extension of the moratorium for an additional year or more could: (1) operate as a barrier to needed energy infrastructure, commercial and industrial development, (2) hurt residential and business energy consumers and (3) hinder employment. These members believe that Maine should adopt policies that further energy infrastructure development that is in the long-term public interest of the State and that is consistent with the principles outlined in section III.B above.

E. Specific policy recommendations unique to Minority Report B

In addition to the provisions summarized in Section III.C above, which are common to Majority Report A and Minority Report B, the members supporting Minority Report B also favored the following additional provisions which are unique to their report:

1. Certificate of Public Convenience and Necessity for Electric Transmission Line

The members supporting Minority Report B recommend that any electric transmission line that requires a certificate of public convenience and necessity from the Public Utilities Commission be required to meet the proposed standards and criteria to be applied by the interagency review panel for use of a statutory corridor and to be applied by the Public Utilities Commission for the use of a petitioned corridor.

2. Certificate of Public Convenience and Necessity for Oil and Gas Pipelines

The members supporting Minority Report B recommend establishing a statutory requirement that the developer of a natural gas pipeline or an oil pipeline in the State obtain a certificate of public convenience and necessity from the Public Utilities Commission. These members recommend that the process for obtaining a certificate of public convenience and necessity for oil and gas pipelines incorporate, as closely as possible, the standards, criteria and procedures for electric transmission lines, including the recommended changes to those standards as described in E.1 above.

3. Moratorium extension

The members supporting Minority Report B recommend that the moratorium on energy infrastructure development that was established in Public Law 2009, chapter 372, section F-5 be extended beyond its current end date for a maximum of 1 year to provide sufficient time for the Public Utilities Commission to implement the proposed changes to the certificate of public convenience of necessity for electric transmission lines (see E.1 above) and to establish standards and procedures for the new certificate of public convenience and necessity requirements for oil and natural gas pipelines (see E.2 above).

F. Policy recommendations contained in Report C

One member of the commission voted in favor of Minority Report C. The member supporting Minority Report C recommends that the State of Maine clearly and directly assert its own interests for the development of energy transmission corridors so that companies with the requisite capital and engineering capacity can proceed with proposals to build energy transmission corridors without having to encounter unnecessary contingencies. This member recommends that policies and decisions regarding energy infrastructure development be designed to support the following three interests of the State:

- Generating power within Maine for the New England market;
- Producing low-cost power within Maine for purchase by Maine consumers; and
- Enhancing Maine's bargaining position within the regional energy market, including overcoming Canadian resistance to liquefied natural gas terminals in Maine

On the basis of these three identified interests, the member supporting Minority Report C recommends the establishment of an interagency review panel to approve or deny proposals for

"energy supercorridors." These energy supercorridors are defined as any new energy transmission line or pipeline, regardless of type, whose primary purpose is to transmit energy from sources outside of Maine to users outside of Maine. The review panel would not have jurisdiction over energy infrastructure corridors created primarily to serve generators within the State or to lower costs or enhance reliability for Maine consumers.

Under Minority Report C, the review panel would be authorized to approve a proposal for an energy supercorridor only if it finds that the supercorridor:

- Is in the long-term public interest of the State;
- Will enhance opportunities to generate energy within the State <u>or</u> significantly and measurably reduce costs for energy consumers in the State; and
- Will not impede opportunities to develop new sources of energy supply in the State including a liquefied natural gas facility on the coast.

The review panel would also be authorized to lease or convey property rights belonging to the public in a proposed supercorridor. Proceeds from the lease or conveyance of property rights in a supercorridor would be deposited in the energy infrastructure benefits fund for use by the Efficiency Maine Trust in accordance with the provisions regarding this fund which are included in Majority Report A and Minority Report B.

APPENDIX A

Authorizing Legislation

PART F

Sec. F-1. 5 MRSA §282, sub-§7, as amended by PL 2001, c. 333, §2, is further amended to read:

7. **Value of fringe benefits.** To ensure that all publications that state the salary of an employee or of a position in State Government also include a statement of the dollar value of the fringe benefit package provided. For purposes of this subsection, "fringe benefits" includes an employer's cost of an employee's health insurance, dental insurance and retirement but does not include the amount paid to cover any unfunded liability; ~~and~~

Sec. F-2. 5 MRSA §282, sub-§8, as enacted by PL 2001, c. 333, §3, is amended to read:

8. **Serve as director of Clean Government Initiative.** To serve as a director, along with the Commissioner of Environmental Protection, of the Clean Government Initiative established in Title 38, section 343-H~~.~~; and

Sec. F-3. 5 MRSA §282, sub-§9 is enacted to read:

9. **Energy independence fund; revenues from occupancy of state assets.** To establish an energy independence fund for revenues derived from the use of state assets for energy transmission systems. Each fiscal year, the first $50,000,000 in revenues collected from such use must be transferred by the Treasurer of State to the Efficiency Maine Trust for deposit by the trust in program funds pursuant to Title 35-A, section 10103, subsection 4. After the initial transfer each fiscal year, the Treasurer shall deposit additional revenues received into an energy independence fund, which must be used for the following purposes:

A. To ensure the methodical transition to energy independence and security for the people, communities, economy and environment of the State;

B. To invest in and transform the ways homes and businesses are heated, energy is used and people and cargo are transported;

C. To gain independence from foreign oil and to maximize energy efficiency, to enhance renewable energy sources and to invest in an economic development strategy to ensure a vibrant, environmentally sound and prosperous future; and

D. To reduce energy costs statewide.

Sec. F-4. Commission established. The Commission to Study Energy Infrastructure, referred to in this section as "the commission," is established.

1. Membership. The commission consists of 13 members appointed as follows:

A. Three members of the Senate appointed by the President of the Senate, including members from each of the 2 parties holding the largest number of seats in the Legislature;

B. Five members of the House of Representatives appointed by the Speaker of the House, including members from each of the 2 parties holding the largest number of seats in the Legislature; and

C. Five members appointed by the Governor.

2. Chairs. The first-named Senate member is the Senate chair and the first-named House of Representatives member is the House chair of the commission.

3. Appointments; convening. All appointments must be made no later than 30 days following the effective date of this section. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. Within 15 days after appointment of all members, the chairs shall call and convene the first meeting of the commission.

4. Duties; corridors; plan. The commission shall examine the feasibility and effects of the State entering into agreements for leasing or otherwise allowing the use of state-owned lands or assets, including submerged lands, the rights-of-way of the state highway system, the federal interstate highway system, state-owned or state-controlled rail corridors or other state transportation corridors, for the installation of lines, cables, pipelines or other structures for the transmission of energy resources, communication transmission systems or related facilities. The commission shall develop a plan governing such agreements that addresses at least the following:

A. Appropriate valuation, pricing and allocation methodologies to maximize the long-term public value through the most efficient and effective use of the state-owned lands and assets; and

B. The potential effect of such agreements on renewable energy development in the State, on the development of other energy projects in the State, including but not limited to liquefied natural gas terminals, on energy consumers and ratepayers and on natural resources and the environment.

The commission shall also examine the policy issues relating to the construction or installation in this State of energy facilities greater than 75 miles in length. The commission shall evaluate the need for changes in methods of taxation to ensure protection of the public health, safety and welfare.

In developing the plan, the commission shall review and analyze relevant reports and information, including but not limited to the information, analysis and results of the New England States Regional Energy Blueprint being prepared by ISO-NE for the New England Governors and the New England States' Committee on Electricity. The commission shall also examine and monitor proposed or pending federal energy legislation that may significantly affect energy policy in this State. The commission may also consider ways in which the State's electric transmission systems, including new lines, system upgrades or the development of a smart-grid, or the development of natural gas systems, including pipelines and liquefied natural gas terminals, can help the State achieve its energy goals.

5. Staff; consultants; other assistance. The Legislative Council shall provide staffing services to

the commission. The commission shall seek input from relevant agencies, stakeholders and persons with expertise. All agencies with relevant expertise shall provide technical or other assistance requested by the commission. The commission may retain consultants and other experts to assist the commission in its work.

6. Report. No later than December 2, 2009, the commission shall submit a report that includes its findings and recommendations, including suggested legislation, for presentation to the Second Regular Session of the 124th Legislature. The Joint Standing Committee on Utilities and Energy may submit a bill related to the subject matter of the report to the Second Regular Session of the 124th Legislature after receipt of the report.

Sec. F-5. Legislative review of corridor plans.

1. Definitions. For purposes of this section, the following terms have the following meanings:

A. "Energy facilities" means lines, cables, pipelines or other structures for the transmission of energy resources, including but not limited to electricity, natural gas or oil.

B. "Significant occupancy agreement" means an occupancy agreement that:

(1) Involves a high-voltage direct current electric transmission line;

(2) Involves energy facilities greater than 75 miles in length; or

(3) Is substantially different from any previous occupancy agreement entered into by a state authority, including, but not limited to, with respect to the type of transportation corridors to be occupied, the manner of occupancy by energy facilities, the physical extent of occupancy by energy facilities, the type of energy facilities involved or the amount or calculation of any required consideration.

C. "State authority" includes but is not limited to the Governor, the Department of Transportation, the Maine Turnpike Authority or any other state entity, agency or authority.

D. "Transportation corridors" means the state highway system, the federal interstate highway system, state-owned or state-controlled rail corridors or other state transportation corridors.

2. Prohibition. A state authority may not enter into a significant occupancy agreement allowing the installation of energy facilities in state transportation corridors until a law approving a plan governing such agreements is enacted. A state authority may not issue a permit for an energy facility greater than 75 miles in length on land other than the submerged lands of this State or outside the territorial waters of this State as defined in the Maine Revised Statutes, Title 12, section 6001, subsection 48-B until this section is repealed, except that:

A. An application from such an energy facility may be processed by a state authority up to, but not including, final decision on the application;

B. Any applications processed by the Department of Environmental Protection or the Public Utilities Commission that may require adjudicatory proceedings or permit application review may not proceed beyond creation of the evidentiary record; and

C. Any action, proceeding or decision by a state authority pertaining to such an application is governed by any law enacted pursuant to section 4, subsection 6.

A state authority may not sell or lease public lands as that term is used in Title 35-A, section 3132, subsection 13 for the installation of an energy facility greater than 75 miles in length until a law approving a plan governing the sale or lease of state lands for such installations is enacted or until the energy facility receives a certificate of public convenience and necessity pursuant to Title 35-A, section 3132. Notwithstanding any other statutory provision or exemption, any person proposing to construct a transmission line greater than 75 miles in length and operating at greater than 69 kilovolts must obtain a certificate of public convenience and necessity as required by Title 35-A, section 3132.

3. Limitations; exceptions. Nothing in this section prohibits a state authority from undertaking feasibility studies or exploratory negotiations for a significant occupancy agreement. Nothing in this section prohibits a state authority from entering into a limited agreement to engage in further negotiations regarding a significant occupancy agreement after enactment of law approving a plan governing such agreements, provided that any such limited agreement is subject to the express condition that all such further negotiations will occur only if permitted by and only in accordance with all provisions, terms, conditions and limitations of that plan. A state authority shall ensure that any study, negotiation or preliminary agreement is undertaken or entered into with the full awareness of all parties of the provisions of this section. Nothing in this section prohibits a state authority from entering into an agreement allowing occupancy of state transportation corridors by energy facilities for which an application for a certificate of public convenience or necessity was pending before the Public Utilities Commission on April 1, 2009, provided the occupancy agreement does not involve substantially different terms or conditions from any previous occupancy agreement entered into by a state authority with respect to the type of transportation corridors to be occupied, the manner of occupancy, the physical extent of occupancy or the amount or calculation of any required consideration. Nothing in this section prohibits a state authority from issuing permits for energy facilities for which an application for a certificate of public convenience or necessity was pending before the Public Utilities Commission on April 1, 2009. Nothing in this section is intended to apply to the operation, maintenance or alteration of licensed or permitted operating pipeline facilities or their appurtenances, including but not limited to tanks, piers, pumps and valves, that were installed prior to the effective date of this Act, even if such operation, maintenance or alteration activity requires a permit from a state authority. Nothing in this section prohibits any state authority from entering into a submerged lands lease for any pier and appurtenances related to a licensed marine oil terminal facility, as long as the application for such lease was pending prior to the effective date of this Act. Nothing in this section amends or alters the jurisdiction of any state authority or agency, including but not limited to the Public Utilities Commission and the Board of Environmental Protection, regarding the siting or determination of need for any energy facilities that may be the subject of a significant occupancy agreement or exempts any energy facilities from obtaining approvals required by applicable law. Nothing in this section prohibits a state authority from issuing a permit or license pursuant to authority delegated to the State by federal law. This section does not apply to an energy facility that is an eligible project under Title IV of the federal American Recovery and Reinvestment Act of 2009 if that project has received notification from the United States Department of Energy or its agents that the energy facility has been granted a federal loan guarantee under that Act.

4. Repeal. This section is repealed upon the effective date of a law approving plans in accordance with subsection 2 that specifically indicates legislative intent to repeal this section or 90 days after the adjournment of the Second Regular Session of the 124th Legislature, whichever is earlier.

Sec. F-6. Transfers from Public Utilities Commission for legislative study. The State Controller shall transfer $200,000 from the Public Utilities - Administrative Division, Other Special Revenue Funds program in the Public Utilities Commission to the Study Commissions - Funding, Other Special Revenue Funds program in the Legislature on the effective date of this Act.

Sec. F-7. Appropriations and allocations. The following appropriations and allocations are made.

LEGISLATURE

Study Commissions - Funding 0444

Initiative: Allocates funds transferred from the Public Utilities Commission for the Commission to Study Energy Infrastructure.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
Personal Services	$2,640	$0
All Other	$197,360	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$200,000	$0

APPENDIX B

Membership List

COMMISSION TO STUDY ENERGY INFRASTRUCTURE
MEMBERSHIP LIST

Sen. Barry J. Hobbins – ***Senate Chair***
22 Glenhaven Circle
Saco, ME 04072

Sen. S. Peter Mills
PO Box 9
Skowhegan, ME 04976

Sen. Seth A. Goodall
5 Church Street
Richmond, ME 04357

Rep. John L. Martin – ***House Chair***
PO Box 250
Eagle Lake, ME 04739

Rep. Kenneth C. Fletcher
382 Garland Road
Winslow, ME 04901

Rep. Jon Hinck
142 Pine Street
Portland, ME 04102

Rep. Sharon Anglin Treat
22 Page Street
Hallowell, ME 04347

Rep. Stacey Allen Fitts
180 Lancey Street
Pittsfield, ME 04967

Jack Cashman
Public Utilities Commission, SHS #18
Augusta, ME 04333

Karin Tilberg
Office of the Governor, SHS #1
Augusta, ME 04333

Samuel Collins
PO Box 70, 6 Washburn Street
Caribou, ME 04736

Christopher Gardner
Washington Cty Comm, P.O. Box 297
Machias, ME 04654

Keith Van Scotter
PO Box 693
Portsmouth, NH 03802

APPENDIX C

Meeting Agendas

Commission to Study Energy Infrastructure

Meeting 1 - Wednesday, September 9, 2009
Cross Office Building, Room 211
AGENDA

10:00am **Convening of the Commission**
- Welcome and introduction of Commission members

10:15am **Overview of the Commission's Work** (staff)
- Organizational items (freedom of access law; legislative confidentiality policy)
- Overview of commission duties & enabling legislation
- Commission schedule (planning calendar)
- Discussion: objectives and desired end product

10:45am **Legislative Context – Relevant Provisions of Recent Legislation** (staff)
- An Act To Protect Maine's Energy Sovereignty through the Designation of Energy Infrastructure Corridors and Energy Plan Development (PL 2007, c.656)
- An Act To Implement Recommendations of the Governor's Task Force on Wind Power Development (PL 2007, c.661)
- An Act To Facilitate Testing and Demonstration of Renewable Ocean Energy Technology (PL 2009, c.270)
- An Act Regarding Requirements for Approval of a Transmission Line (PL 2009, c.309)

11:00am **Policy Landscape: State Agency Roles & Perspectives - Part I**
State agency roles, policies, and perspectives re: energy infrastructure development
- Department of Environmental Protection (Beth Nagusky)
- Maine Land Use Regulation Commission (Marcia Spencer-Famous)
- Public Utilities Commission (Mitch Tannenbaum)

12:00n ***Lunch Break***

1:00pm **Policy Landscape: State Agency Roles & Perspectives – Part II**
State agency roles, policies and perspectives re: energy infrastructure development
- Department of Transportation (Bruce Van Note)
- Governor's Office of Energy Independence and Security (John Kerry)

1:45pm **Regional Context: Introduction to Regional Planning & Analysis**
- New England State's Renewable Energy Blueprint & the ISO-NE Economic Study (John Kerry)
- ISO-NE Regional System Plan 2009 (Bill Ferdinand)

2:45pm **Development Landscape: Energy Infrastructure Projects**
- Project Introductions *(see attached list)*

4:15pm **Wrap-up and planning for next meeting**

4:30pm **Adjourn**

Development Landscape: Energy Infrastructure Projects

Project Introductions (2:45pm-4:15pm)

- Northeast Energy Corridor (Jeff Landry & Daniel Goodwin, Fort Reliance/Irving Oil)
- Greenline Consortium (Stephen Conant, New England Independent Transmission Co.)
- Northeast Energy Link (Gerry Chasse, Bangor Hydro Electric Co.)
- Loring Energy Projects (Hayes Gahagan, Loring Holdings, LLC)
- Calais LNG (Tony Buxton, Esq., Preti, Flaherty and Beliveau)
- Downeast LNG (Dean Girdis)
- Maritimes and Northeast Pipeline (Marylee Hanley)
- Maine Power Reliability Program (Jared desRosiers, Pierce Atwood)
- Maine Power Connection

Other Projects Invited

- The Maine Express HVdc Project
- Northeast Utilities / NSTAR / Hydro-Quebec Proposal

Commission Meeting Schedule

Dates:
Wednesday, September 9
Monday, September 21
Thursday, October 1
Monday, October 19
Friday, November 6
Wednesday, November 18

Time: 10:00am–4:30pm (all meetings)

Location: Room 211, Cross Office Building, Augusta, ME

Current information posted at: http://www.maine.gov/legis/opla/energyinfrastructure.htm

Staff Contacts:
Lucia Nixon / Jane Orbeton
Office of Policy and Legal Analysis
(207) 287-1670

Commission to Study Energy Infrastructure

Meeting 2 - Monday, September 21, 2009
Cross Office Building, Room 211
AGENDA

Charge to the commission: To develop a plan for the lease or use of state-owned lands or assets for energy infrastructure and for the development of energy infrastructure projects greater than 75 miles in length.

10:00 a.m. **Welcome and Introductions**

10:15 a.m. **Energy Infrastructure Permitting / Department of Environmental Protection**
- Ocean energy permitting - Beth Nagusky
- LNG & pipelines - Jim Dusch
- Transmission & wind - Jim Cassida

11:30 a.m. **Update on "New England Governors' Renewable Energy Blueprint" and the 33rd Conference of New England Governors and Eastern Canadian Premiers**
- John Kerry, Governor's Office of Energy Independence and Security

12:00 noon ***LUNCH***

1:00 p.m. **Submerged Lands Leasing**
- Dan Prichard and Will Harris, Dept of Conservation, Bureau of Parks and Lands
- Brief overview (staff) re:renewable energy development on federal offshore lands
- *Note: Ocean Energy Task Force presentation regarding submerged lands leasing scheduled for next meeting.*

1:45 p.m. **Transportation Corridor Use**
- Conrad Welzel, Maine Turnpike Authority
- *Note: Maine Department of Transportation follow-up presentation regarding transportation corridor use scheduled for next meeting.*

2:15 p.m. ***Break***

2:30 p.m. **Work Session / Discussion**
- Identify the specific scope, focus and direction for remaining work
- Adopt concrete work plan

4:00pm **Adjourn**

Commission to Study Energy Infrastructure

Meeting 3 – Monday, September 28, 2009
Cross Office Building, Room 211
AGENDA

10:00am **Welcome and Introductions**

10:15am **Maine Land Use Regulation Commission, Marcia Spencer-Famous**
- Follow-up on LURC issues from 9/9/09 meeting
- Update of the Comprehensive Land Use Plan
- Measurement of tangible benefits from energy development

11:00am **Common Interests and Opportunities**
- Stakeholder comments
- Commission member discussion

12:15 *Lunch*

1:15pm **Maine Department of Transportation, Bruce Van Note**
- Follow-up on transportation corridor issues from 9/9/09 meeting
- Corridor value and pricing (draft report of consultant)
- Access to and allocation of transportation corridor

2:00pm **Maine Department of Environmental Protection, David Littell, Commissioner**
- DEP consideration of energy infrastructure

2:30pm *Break*

2:45pm **Work Session**
- Follow-up on information requests
- Commission discussion
- Planning for next meeting

4:00pm **Adjourn**

Commission to Study Energy Infrastructure

Meeting 4 – Monday, October 19, 2009
Cross Office Building, Room 211

10:00am **Welcome and Introductions**

10:15am **Submerged Lands Leasing**
- Beth Nagusky & Dan Prichard, Ocean Energy Task Force, Regulatory Subcommittee

11:00am **Regional Transmission Planning**
- Steve Rourke, ISO New England

12:00noon **Brief Overview of Pending Legislation in Congress**
- John Kerry, Office of Energy Independence and Security

12:30pm **Lunch**

1:30pm **Work Session**
- Discussion of possible recommendations and proposals
- *OPLA handouts:*
  - *Issues identified at 9/28/09 Work Session*
  - *Regulatory approvals for energy infrastructure projects ~ current law*
  - *Requirements for use of State-owned land and assets ~ current law*

4:00pm **Adjourn**

Future Meetings of the Commission

Wednesday, November 4, 2009
Work session ~ findings and recommendations

Wednesday, November 18, 2009 - *Final meeting*
Review and discussion of DRAFT report

Commission to Study Energy Infrastructure

Meeting 5 – Wednesday, November 4, 2009
Cross Office Building, Room 211, 10am to 4pm

10:00am **Welcome and Introductions**

10:15am **Work Session**
- Consideration of discussion draft & decisions on recommendations

12:00pm **Lunch**

1:00pm **Work Session**
- Consideration of discussion draft & decisions on recommendations

4:00pm **Adjourn**

Final Meeting of the Commission
Wednesday, November 18, 2009
Review and discussion of DRAFT report

Commission to Study Energy Infrastructure

Meeting 6 – Wednesday, November 18, 2009
Cross Office Building, Room 211, 10am to 4pm

10:00am **Welcome and Introductions**

10:15am **Work Session**
- Review of drafts and decisions on final report of the Commission

12:00pm **Lunch**

1:00pm **Work Session**
- Review of drafts and decisions on final report of the Commission

4:00pm **Adjourn**

Commission to Study Energy Infrastructure

Meeting 7 – Wednesday, December 2, 2009
Cross Office Building, Room 211, 1pm to 4pm
AGENDA

1:00pm **Work Session**

- Review of drafts and decisions on final report of the Commission

4:00pm **Adjourn**

Meeting Materials Packet

- Proposed Legislation **(green)**
- Draft Final Report **(buff)**
- Commission Member Submissions and Proposed Language **(blue)**
  - Rep. Martin proposed language (P1)
  - Rep. Fletcher email (P3)
  - Karin Tilberg email and proposed language (P5)
  - Rep. Fitts letter re:12/2 Meeting (P7)
  - Requested Loring-Searsport language (P8)
  - Email from Horizon Wind forward by Karin Tilberg (P9)

Other handouts anticipated from interested parties

- Ocean Energy Task Force Letter, submitted by Beth Nagusky, Chair OETF, 12/2/09
- Summary of Rep. Martin Proposal, submitted by Steve Hudson, IECG, 12/1/09
- Memo regarding 11/18 Draft, submitted by Tony Buxton, IECG, 12/1/09
- Memo regarding new legislative proposals, submitted by David Allen, CMP, 12/2/09

APPENDIX D

Current Law Regarding Regulatory Approvals and Use of State-owned Lands

Requirements for use of State-owned land and assets ~ current law

State Land/asset	Agency	Scope/definition	Requirements for use	Pricing/fees/use of revenue
Controlled Access Highways	DOT	A controlled access highway is a highway on which, in the interest of safety and efficiency of operation, abutting property owners have no right of direct access and on which the type and location of all access connections are determined and controlled by the department.	No commercial enterprise or activity shall be authorized or conducted by the department or any agency or officer of the State within or on the property or right-of-way acquired for any controlled access highway under this chapter, except that the department may permit the erection or installation of electric power, telegraph, telephone or pipeline facilities within the controlled area.	No statutory provisions.
Maine Turnpike	MTA	"Turnpike" means the roadway constructed between Kittery in York County and Augusta in Kennebec County pursuant to Private and Special Law 1941, chapter 69, sections 1 to 20, as amended.	The authority may not lease, sell or otherwise convey, or allow to be used, any of its real or personal property or easements in that property, franchises, buildings or structures, with access to any part of the turnpike or its approaches, for commercial purposes, except that the authority may permit the erection or installation of electric power, telegraph, telephone, communications, water, sewer or pipeline facilities.	•Permitted uses of turnpike revenue: Turnpike maintenance, repair, operation, construction and reconstruction; establishment of reserves; payment of debt; payments to reserve or sinking funds to meet anticipated future costs of constructing or reconstructing designated interchanges or other designated purposes for issuing bonds; payment to the Federal Government for grants or loans and any charges, taxes or other payments required by law.
Railroads	**DOT**	"Railroad line" means the right-of-way, track, track appurtenances, ties, bridges, station houses, sidings, terminals and other appurtenant structures of a railroad	•The DOT may lease, or otherwise contract for operation of a state-acquired railroad line, to a railroad operator who is a financially responsible person, or it may hold and manage the railroad line for future transportation use. •The statute does not have any provisions for energy infrastructure development in state-acquired railroad corridors.	No statutory provisions applicable to energy infrastructure development. •According to the DOT Legal Services Department, DOT already does enter into License Agreements with utilities which allow them to place utility facilities in state-owned rail corridors on the condition that these installations will not interfere in any way with current or future rail uses. This same limitation would have to apply if some or all of the state-owned rail corridors are designated as energy infrastructure corridors. • The rail corridors the DOT has acquired from Maine Central Railroad (now Pan Am Railway) are subject to a retained fiber optic easement. These are the Rockland Branch, the Mountain Division, the Lewiston and Augusta Lower Roads, and the Calais Branch. The DOT is not aware that any fiber optic facilities are in place at this time.

Requirements for use of State-owned land and assets ~ current law

State Land/asset	Agency	Scope/definition	Requirements for use	Pricing/fees/use of revenue
Submerged Lands	DOC, BPL	Submerged Lands include: Sea: Land from mean low water mark to the 3-mile territorial limit Rivers: Land below mean low-water mark of tidal rivers Ponds: Land below mean water mark of ponds 10 or more acres Boundary rivers: bed of international boundary rivers	•Private use of submerged lands requires a lease or easement from BPL; maximum term of 30 years. •Size and nature of project determines whether a lease (annual fee) or easement (registration fee) is required; easement is for smaller projects (in the case of pipelines and cables: <500 ft length and less than 1 ft in width); lease is for the larger projects. •May refuse to lease or grant an easement for the use of submerged lands if BPL determines that the lease will unreasonably interfere with customary or traditional public access ways to or public trust rights in, on or over the intertidal or submerged lands and the waters above those lands. •Submerged lands lease not required for aquaculture facility if operator has obtained lease from DMR.	•Standard lease for structures requires "annual rental" fee which is a function of the "fair market rental value of the submerged land"; FMV is defined as the municipally assessed value per square foot of the adjacent upland multiplied by a reduction factor plus a base rate based on the use of the leased land. •For dredging and for underwater cables and pipelines, director shall develop terms and conditions of lease. •Easement: admin fee of $100 per easement and registration fee of $50 every five years. •All revenues credited to the Submerged Lands Fund. •Permitted uses of Fund: money may be used to manage submerged lands, provide grants to municipalities and remove abandoned watercraft.
Designated Lands	DOC, BPL	"Designated Lands" include: •Public reserved lands •Nonreserved public lands •State parks and historic sites •IFW wildlife management areas, public access sites and state game farms •Allagash Wilderness Waterway lands •Lands for public boat facilities •Baxter State Park Authority lands •Lands gifted to the State •Lands acquired through the Land for Maine's Future Board	•The Maine Constitution requires that any substantial alterations to designated lands must be approved by the Legislature through a super-majority 2/3 vote. •Private use of public reserved lands and nonreserved public lands for utilities and rights-of-way requires a lease (maximum 25 years). •Permitted uses of leased public reserved lands and nonreserved public lands: (1) Set/maintain/use poles, electric power transmission and telecommunication transmission facilities, roads, bridges and landing strips (2) Lay/maintain/use pipelines and railroad tracks (3) Establish and maintain or use other rights-of-way. •PUC may not designate an "energy infrastructure corridor" that is located on state park lands or Baxter State Park. •Prior to lease or sale of public lands for the purposes of constructing a transmission line, transmission line developer must have received a certificate of public convenience and necessity from the PUC.	•All revenue from public reserved lands and nonreserved public lands must be credited to the Public Reserved Lands Management Fund and Nonreserved Public Lands Management Fund, respectively; funds restricted to land management. •Expenditures from the Public Reserved Lands Management Fund and Nonreserved Public Lands Management Fund must be approved by the Legislature in the same manner as appropriations from the General Fund.

Regulatory approvals for energy infrastructure projects - current law

Permit/Certificate	Agency	Required of:	Statutory Requirements for Approval/Issuance
Certificate of Public Convenience and Necessity (CPCN)	PUC	Any person who proposes to erect within this State a transmission line capable of operating at 69 kilovolts or more.	•Requires finding by PUC that a "public need" exists. •In determining public need, the PUC shall, at a minimum, take into account economics, reliability, public health and safety, scenic, historic and recreational values, the proximity of the proposed transmission line to inhabited dwellings and alternatives to construction of the transmission line, including energy conservation, distributed generation or load management. •PUC may deny a CPCN upon a finding that the transmission line is reasonably likely to adversely affect any T&D utility or its customers. •PUC may not issue a CPCN that has the effect of eliminating NMISA or eliminating or materially modifying NMISA scope of responsibilities. unless CPCN is subject to a requirement for the full compensation for net adverse effects on ratepayers as determined by the PUC.
Site Location of Development Permit	DEP	Any person who proposes to construct, operate, sell or lease a development that occupies a land or water area in excess of 20 acres or qualifies as a "structure" (building, road or paved area that occupies a ground area in excess of 3 acres).	Requires DEP finding that the development proposal meets the following criteria: •Developer has the financial capacity and technical ability to develop the project consistent with state environmental standards. •Does not adversely affect existing uses, scenic character, air quality, water quality or other natural resources. •Soil types of development site are suitable. •Meets stormwater management (420-D) and sedimentation control (420-C) standards. •Will not pose an unreasonable risk to a significant ground water aquifer. •Will not unreasonably cause/increase flooding of the alteration area or adjacent areas nor create an unreasonable flood hazard. •Blasting will be conducted in accordance with standards set forth in law . •Specific requirements for grid-scale wind energy development: (1) designed/sited to avoid unreasonable adverse shadow flicker effects; (2) setbacks adequate for public safety; (3) significant tangible benefits (for expedited wind energy development).
Natural Resources Protection Act (NRPA) Permit	DEP	Any person who proposes to conduct certain activities in, on or over any protected natural resource or adjacent to a coastal wetland, great pond, river, stream or brook or significant wildlife habitat contained within a freshwater wetland or freshwater wetlands. Activities requiring a permit: A. dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials; B. draining; C. filling, including adding sand or other material to a sand dune; D. any construction, repair or alteration of any permanent structure.	Proposals must meet the following criteria: •Does not unreasonably interfere with existing scenic, aesthetic, recreational or navigational uses. •Does not cause unreasonable soil erosion nor inhibit the natural transfer of soil. •Does not unreasonably harm any significant habitats or fisheries. •Does not interfere with natural surface or subsurface water flow; violate any state water quality law; cause or increase flooding. •Does not interfere with the natural supply or movement of sand/gravel within or to the sand dune system or increase erosion. •If crossing an outstanding river segment, must demonstrate that no reasonable alternative exists which would have less adverse effect. •If dredging, must demonstrate that the transportation route minimizes adverse impacts on the fishing industry; and that the disposal site is geologically suitable. •If significant groundwater well, must not have an undue unreasonable effect on waters of the State, water-related resources and existing uses.

Regulatory approvals for energy infrastructure projects - current law

Permit/Certificate	Agency	Required of:	Statutory Requirements for Approval/Issuance
General Permit for Offshore Wind Energy	DEP	Any person who proposes to develop an "offshore wind energy demonstration project"; by definition, such a project may employ no more than 2 turbines and may include up to 3 meteorological towers per turbine, one submerged utility line and one wave energy test project. Note: If an offshore wind energy permit is granted by DEP, a NRPA permit is not required for the project.	Applications must meet the following criteria: •Project, other than any submerged utility line, will be located wholly within an offshore wind energy test area. •Site plan including narrative description of the proposed activities and methods for project construction, operation and removal. •Report, prepared in consultation with the Department of Marine Resources, describing existing commercial fishing and other uses and marine resources (based on a field investigation) in the project area. •Fish and wildlife monitoring plan and navigation safety plan. •Consultation with the DMR, IFW, DOC, LURC and SPO; the U.S. Army Corps of Engineers, U.S. Coast Guard, National Marine Fisheries Service, National Park Service and the U.S. Fish and Wildlife Service; the lobster management policy council; each municipality in which or adjacent to which the project is proposed; and any other appropriate local, state or federal agencies. •Applicant has technical and financial capacity to construct and operate the project. •No other applicant holds a permit or has a pending application for a project within the same offshore wind energy test area as the proposed project. •Project will be undertaken by or in cooperation with the U of Maine System (projects within the Maine Offshore Wind Energy Research Center).
Corridor Use Certificate	PUC	Any person who proposes to develop or construct energy infrastructure within an "energy infrastructure corridor" that has been designated by the PUC, except for a T&D utility that proposes a transmission line that is subject to CPCN requirements.	•Requires finding by the PUC that the project is: A. In the public interest; and B. Reasonably likely to: (1) Minimize utility rates or increase the reliability of utility service; (2) Have the net effect of reducing the release of greenhouse gases; or (3) Enhance economic development within the State.
Consolidated Environmental Permit	DEP	Any person who proposes to develop or construct energy infrastructure within an "energy infrastructure corridor" that has been designated by the PUC. Note: A consolidated environmental permit issued by DEP takes the place of any other permits or licenses that DEP would otherwise require for the proposed project.	•The department shall adopt by rule a process for the review of applications and the issuance of the consolidated environmental permit in accordance with this subsection. •*To the best of our knowledge this rule has not yet been adopted.*

Regulatory approvals for energy infrastructure projects - current law

Permit/Certificate	Agency	Required of:	Statutory Requirements for Approval/Issuance
LURC Permit	LURC	Any person who proposes to construct or modify a structure, commence construction or development or sell land within an unorganized or deorganized area. Exceptions: •Exemption from permit requirement for projects approved by DEP under Title 38 (NRPA, Site Location) if LURC determines that the project is an allowed use within proposed area. •Energy infrastructure projects that have received a certificate from the PUC for development within a designated energy infrastructure corridor may be exempted when, upon petition, the PUC finds the exemption necessary or desirable for the public welfare.	Projects must meet the following permitting criteria: •Adequate provision (technical and financial) to comply with State air/water pollution control and other environmental laws. •Adequate provision for solid waste/sewage disposal, controlling offensive odors and securing/maintenance of sufficient healthful water supplies. •Adequate provision for loading, parking and circulation of land, air and water traffic and assurance that proposal will not cause congestion or unsafe transportation conditions. •Adequate provision to assure no undue adverse effect on existing uses, scenic character and natural and historic resources. •Will not cause unreasonable soil erosion or reduction in capacity of land to absorb/hold water; suitable soils available for sewage disposal system Specific requirements for wind projects greater than 100 kW: (1) Meets BEP noise control rules; (2) designed/sited to avoid unreasonable adverse shadow flicker effects; (3) setbacks adequate for public safety; (4) significant tangible benefits (for expedited wind energy development).
LURC Exemption Petition	PUC	A public utility or energy infrastructure developer seeking exemption from municipal zoning ordinances or LURC regulations who has had a request for a permit or request for exemption denied or granted with conditions by LURC or a municipal planning board.	•The PUC must find that the exemption from the municipal ordinance or LURC regulation is necessary or desirable for public welfare and convenience. Petitions must meet the following criteria: •Have received CPCN or corridor use certificate from PUC. •Request for exemption has been denied or granted with conditions that will prohibit project development, render the project uneconomic and significantly increase project costs. •Exemption from municipal ordinance or LURC regulation is necessary or desirable for public welfare and convenience.

APPENDIX E

Recommended Legislation
Report A
Report B
Report C

MAJORITY REPORT (A) - PART A

Sec. A-1. 35-A MRSA sec. 122 is amended to read:

§122. Energy infrastructure corridors

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Department" means the Department of Environmental Protection.

B. "Energy infrastructure" includes electric transmission and distribution facilities, generation interconnection transmission facilities, natural gas transmission lines, carbon dioxide pipelines and other energy transport pipelines or conduits. "Energy infrastructure" does not include ~~generation interconnection transmission facilities or~~ energy generation facilities.

C. "Energy infrastructure corridor" or "corridor" means a geographic area within the State designated in subsection 1-A or designated by the commission in accordance with ~~this section~~ subsection 1-B for the purposes of siting energy infrastructure. Energy infrastructure corridors include statutory corridors and petitioned corridors.

D. "Generation interconnection transmission facility" has the same meaning as in section 3132, subsection 1-B.

E. "~~Interested person~~ Potential developer" means a person that can demonstrate to the commission the financial and technical capability to engage in the development and construction of energy infrastructure.

E-1. "Petitioned corridor" means an energy infrastructure corridor designated by the commission in accordance with subsection 2.

F. "Project" means the development or construction of energy infrastructure within an energy infrastructure corridor.

F-1. "Proprietary information" means information that is a trade secret or production, commercial or financial information the disclosure of which would impair the competitive position of the person who submitted the information and would make available information not otherwise publicly available.

F-2. "Statutory corridor" means an energy infrastructure corridor designated under subsection 1-A, paragraph A.

F-3. "Searsport-Loring corridor" means the real estate, real property rights and easements and infrastructure associated with the existing pipeline and associated easement corridor extending from Searsport to the former Loring Air Force Base in Limestone, Maine, as granted and conveyed by the United States Air Force to the Loring Development Authority of Maine in 2005, together with such additional

rights, property, easement scope, and physical rights of way as may have been, or may be acquired, as are necessary to effectuate the intent of the parties to the leases, easements and agreements existing on the effective date of this paragraph, and as may be reasonably necessary or desirable to further develop the Searsport-Loring corridor as an energy infrastructure corridor.

G. "Tribe" includes the Penobscot Nation, as defined in Title 30, section 6203, subsection 10; the Passamaquoddy Tribe, as defined in Title 30, section 6203, subsection 7; the Houlton Band of Maliseet Indians, as defined in Title 30, section 6203, subsection 2 and the Aroostook Band of Micmacs, as defined in Title 30, section 7202, subsection 1.

1-A. Statutory corridors designated. The following areas are designated as statutory corridors:

A. The Interstate 95 corridor, including that portion of Interstate 95 designated as the Maine Turnpike in accordance with the provisions of subsection 1-C;

B. The Interstate 295 corridor; and

C. The Loring to Searsport corridor, subject to the provisions of subsection 8-A.

1-B. Use of statutory corridors; interagency review panel. The interagency review panel, as defined in paragraph A, shall oversee the use of statutory corridors in accordance with this section.

A. As used in this subsection, unless the context otherwise indicates, "interagency review panel" includes:

(1) The director of the Governor's Office of Energy Independence and Security or the director's designee;

(2) The commissioner of the state agency responsible for administrative and financial services or the commissioner's designee;

(3) The commissioner of the state agency responsible for economic development or the commissioner's designee; and

(4) The commissioner of each state agency that owns or controls land or assets within the statutory corridor or the commissioner's designee.

B. The interagency review panel shall identify an initial range of value for the use of state-owned land or assets within a statutory corridor. The initial range of value must be determined by a professional appraiser who meets the qualifications of paragraph G.

C. The interagency review panel shall establish and implement a regular process for soliciting, accepting and evaluating energy infrastructure proposals for use of a statutory corridor. As part of this process, the panel shall provide public notice of the availability of the corridor for energy infrastructure development, a description of the type of

development anticipated in the corridor and the opportunity for interested persons to submit proposals for use of the corridor.

D. The interagency review panel shall evaluate and render a decision on any energy infrastructure proposal for use of the corridor on the basis of the long-term public interest of the State in accordance with this paragraph.

(1) The panel shall deny any energy infrastructure proposal that does not:

(a) Enhance opportunities for energy generation within the State; and

(b) Significantly and measurably reduce electricity rates or other relevant energy prices or costs for residents and businesses within the State.

(2) The panel may accept an energy infrastructure proposal only if the panel finds that the proposal is in the long-term public interest of the State. In determining whether the proposal is in the long-term public interest the panel shall, at a minimum, consider the extent to which the proposal:

(a) Enhances opportunities for energy generation within the State, including access to the proposed energy infrastructure for renewable energy generation;

(b) Significantly and measurably reduces electricity rates or other relevant energy prices or costs for residents and businesses within the State;

(c) Maximizes long-term economic benefits for the State, including but not limited to direct financial benefits, employment opportunities and economic development;

(d) Ensures efficient utilization of the corridor through colocation of energy infrastructure, collaboration between energy infrastructure developers and the preservation of options for future uses;

(e) Minimizes conflict with the public purposes for which the land or asset is owned and any management plans for the land within the corridor, and, where necessary, mitigating any unavoidable impacts;

(f) Limits and mitigates impacts of energy infrastructure on the landscape, including but not limited to utilizing underground installation, where economically and technically feasible;

(g) Increases energy reliability, security and independence of the State; and

(h) Reduces the release of greenhouse gases.

E. If a proposal is accepted pursuant to paragraph D, the interagency review panel may enter into negotiations with the person or persons who submitted the proposal regarding a

long-term occupancy agreement with the State for the use of the corridor, in accordance with this paragraph.

(1) The interagency review panel shall negotiate the terms of the occupancy agreement including, but not limited to the length of the agreement and compensation to the State for use of the corridor. In negotiating the occupancy agreement, the panel shall take into account existing legal commitments, contractual obligations, reasonable investment-backed expectations and relevant prior state investments, where applicable; and

(2) Compensation to the State may be in the form of payments made on an annual basis or the functional or financial equivalent; discounted price for energy products or services; partial ownership by the State in the energy infrastructure on the basis of the value of the corridor in proportion to the energy infrastructure project as a whole; or other appropriate form. The terms of compensation may include provisions for periodic adjustment of the compensation to the State over time and reimbursement of costs to the state agency or agencies that own or control the corridor.

(3) Negotiation of compensation to the State must be based on at least one independent appraisal performed by certified appraiser in accordance with paragraph F. An independent appraisal performed under this subparagraph must, at a minimum, consider the costs that will be avoided by the interested person, including but not limited to, the costs of acquisition, lease or rental of private land, the costs of property taxes on private land, the costs of surveying, appraisal, environmental, engineering and other work necessary for use of private land, the costs of time and potential conflict regarding the use of private land, the unique and limited nature of public assets, the revenues estimated to be generated by the use of the public asset and other relevant factors.

F. The interagency review panel shall contract for the services of a professional appraiser or appraisers to assist the panel in its duties under this subsection. The professional appraiser contracted under this paragraph must:

(1) Have demonstrated experience in the valuation and evaluation of utility corridors or transportation corridors;

(2) Hold a professional designation from a nationally recognized organization of appraisers; and

(3) Be licensed by the State of Maine as a certified general real property appraiser, in accordance with Title 32, section 14035, or hold a comparable license from another state.

The cost of the services of a certified appraiser who provides services in accordance with this paragraph must be paid by interested persons submitting proposals for use of the corridor under this subsection in proportion to the amount of time spent by the appraiser on that person's proposal.

G. The following proprietary information, as it pertains to the sale, lease or use of state-owned land or assets under the provisions of this subsection or activities in preparation for such sale, lease or use is confidential within the meaning of Title 1, section 403, subsection 3, paragraph A, is not a public record within the meaning of Title 1, section 403, subsection 3 and may not be released by the interagency review panel or applicable state agency:

(1) Proprietary information in the possession of the applicable state agency; and

(2) Proprietary information in the possession of the interagency review panel or a professional appraiser assisting the panel.

H. No later than February 1st of each year, the interagency review panel shall provide a written report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters that documents activities of and actions taken by the panel under this subsection during the previous calendar year.

1-C. Maine Turnpike Authority easement; Interstate 95 corridor. The Maine Turnpike Authority shall grant an easement to the Department of Transportation along that portion of Interstate 95 designated as the Maine Turnpike to allow its use as part of the Interstate 95 statutory corridor. The Maine Turnpike Authority and the Department of Transportation shall negotiate the terms, size and location of the easement consistent with Maine Turnpike engineering standards and consideration, which may be no greater than the administrative costs associated with the transfer of this easement. Notwithstanding Title 23, Chapter 24, any revenues generated from the use of the easement as part of the Interstate 95 statutory corridor, including use under an occupancy agreement pursuant to subsection 1-B, must be deposited in the energy infrastructure benefits fund.

2. Designation of ~~energy infrastructure~~ petitioned corridors. The commission may, upon petition, designate ~~energy infrastructure~~ petitioned corridors in accordance with this subsection.

A. The commission may designate ~~an energy infrastructure~~ a petitioned corridor only by rule. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

(1) The rulemaking to designate ~~an energy infrastructure~~ a petitioned corridor must include a public hearing in which any member of the public may submit oral or written testimony or comments, which must be incorporated into the rule-making record in accordance with Title 5, section 8052, subsection 1. The commission shall provide an opportunity for examination of the petitioner at a rule-making hearing. The commission shall allow for written comments by any member of the public up to 7 days prior to the hearing. The commission shall allow a second round of written comments to be filed within 10 days of the hearing or within such longer time as the commission may direct.

(2) In any rulemaking regarding the designation of ~~an energy infrastructure~~ a petitioned corridor, the commission shall address all written comments, including

those submitted pursuant to subsection 3, and state its rationale for adopting or rejecting any proposals or recommendations contained in those written comments.

(3) A designation of ~~an energy infrastructure~~ petitioned corridor must be based on substantial evidence in the record of the rule-making hearing.

B. The commission may commence a proceeding to designate ~~an energy infrastructure~~ a petitioned corridor only upon the filing of a petition for the designation of a petitioned corridor by the Office of the Public Advocate, the Executive Department, Governor's Office of Energy Independence and Security or ~~an interested person~~ a potential developer.

C. The commission shall dismiss a petition for the designation of ~~an energy infrastructure~~ a petitioned corridor filed under this subsection ~~if, after~~ on the basis of a preliminary review, if, on the basis of that review, the commission determines that the petition:

(1) Does not contain sufficient information to support the designation of ~~an energy infrastructure~~ a petitioned corridor; or

(2) Was filed by a person other than ~~the Office of the Public Advocate, Executive Department, Governor's Office of Energy Independence and Security or an interested person as defined by subsection 1, paragraph E~~ a person listed in paragraph B.

D. The commission may designate ~~an energy infrastructure~~ a petitioned corridor only if the commission finds, after consultation with state agencies and other entities as required under subsection 3, that a statutory corridor, a previously designated petitioned corridor or an abandoned railroad corridor owned or controlled by the Department of Transportation cannot meet the needs of the proposed energy infrastructure and that the future development of energy infrastructure within the petitioned corridor is reasonably likely to be:

(1) In the public interest, including, but not limited to, consideration of:

(a) Encouraging colocation of energy infrastructure;
(b) Enhancing the efficient utilization of existing energy infrastructure; and
(c) Limiting impacts on the landscape; and

(2) Consistent with environmental and land use laws and rules of the State. A finding that the future development of energy infrastructure within the petitioned corridor is reasonably likely to be consistent with environmental and land use laws and rules of the State under this paragraph has no evidentiary value in a subsequent consolidated environmental permit proceeding undertaken by the department pursuant to subsection 6.

E. In ~~designated~~ ~~a geographic area as an energy infrastructure~~ designating a petitioned corridor, the commission shall limit the geographic area of the petitioned corridor to an

area no greater in breadth and scope than is necessary to achieve the purposes of this section.

F. The commission may not designate ~~an energy infrastructure~~ a petitioned corridor that is located on any of the following lands:

(1) Houlton Band Trust Land, as defined in Title 30, section 6203, subsection 2-A;
(2) Passamaquoddy Indian territory, as defined in Title 30, section 6203, subsection 6;
(3) Penobscot Indian territory, as defined in Title 30, section 6203, subsection 9;
(4) Aroostook Band Trust Land, as defined in Title 30, section 7202, subsection 2;
(5) Lands that constitute a park as defined in Title 12, section 1801, subsection 7 and Baxter State Park; and
(6) Federally owned land.

3. ~~Consultation and notification required; comments~~ Petitioned corridors; notification and consultation prior to designation. Prior to designating ~~an energy infrastructure~~ a petitioned corridor under subsection 2, the commission shall, at a minimum, notify, consult with and accept comments from:

A. The department;

A-1. Any state agency or agencies that own or control land within the proposed corridor, within a statutory corridor or within a previously designated petitioned corridor;

A-2. The Department of Transportation regarding potential use of abandoned railroad corridors owned or controlled by the department;

B. Appropriate state and federal energy and natural resources protection agencies, as specified by rules adopted pursuant to subsection 9;

C. The municipalities in which the proposed corridor would be located;

D. The Maine Land Use Regulation Commission and the counties in which the proposed corridor would be located, if the proposed ~~energy infrastructure~~ corridor, or any portion of the proposed corridor, is located within unorganized or deorganized territories of the State; and

E. A tribe, if the proposed energy infrastructure corridor, or any portion of the corridor, is located on land of a tribe other than those lands specified in subsection 2, paragraph F.

~~**4. Use of corridors; certificate and permit required.** Development or construction of energy infrastructure within an energy infrastructure corridor is governed by this subsection.~~

~~A. A transmission and distribution utility may not engage in development or construction of a transmission line covered by section 3132 within an energy infrastructure corridor, unless:~~

~~(1) The commission has issued a certificate of public convenience and necessity approving the transmission line in accordance with section 3132; and~~

~~(2) The department has issued a consolidated environmental permit approving the~~

~~project in accordance with subsection 6.~~

~~B. A transmission and distribution utility may not engage in development or construction of energy infrastructure other than a transmission line covered by section 3132 within an energy infrastructure corridor, unless:~~

~~(1) The commission has issued a corridor use certificate approving the project in accordance with subsection 5; and~~

~~(2) The department has issued a consolidated environmental permit approving the project in accordance with subsection 6.~~

~~C. A person that is not a transmission and distribution utility may not engage in development or construction of energy infrastructure within an energy infrastructure corridor, unless:~~

~~(1) The commission has issued a corridor use certificate approving the project in accordance with subsection 5; and~~

~~(2) The department has issued a consolidated environmental permit approving the project in accordance with subsection 6.~~

4-A. Use of energy infrastructure corridors; requirements. Development or construction of energy infrastructure within an energy infrastructure corridor is governed by this subsection.

A. A person may not engage in development or construction of energy infrastructure within a statutory corridor, unless:

(1) The person has entered an occupancy agreement with the State in accordance with subsection 1-A, in compliance with applicable state and federal regulations and laws consistent with this section;

(2) The department has issued a consolidated environmental permit approving the project in accordance with subsection 6; and

(3) If the project is a transmission line that requires a certificate of public convenience and necessity under section 3132, the commission has issued a certificate of public convenience and necessity approving the transmission line.

B. A person may not engage in development or construction of energy infrastructure within a petitioned corridor, unless:

(1) The department has issued a consolidated environmental permit approving the project in accordance with subsection 6;

(2) The commission has issued a corridor use certificate approving the project in accordance with subsection 5; and

(3) If the project is a transmission line that requires a certificate of public convenience and necessity under section 3132, the commission has issued a certificate of public convenience and necessity approving the transmission line.

5. Corridor use certificate. Whenever a person proposes to develop or construct energy infrastructure within ~~an energy infrastructure~~ a petitioned corridor, ~~except for a transmission and distribution utility that proposes a transmission line subject to the requirements of section 3132~~ that person shall file with the commission a petition for a corridor use certificate. The petition for the corridor use certificate must contain such information as the commission by rule requires. The commission shall process a petition for a corridor use certificate in an adjudicatory proceeding. The commission shall ~~issue a corridor use certificate upon a finding that the project is~~ evaluate and render a decision on any petition for a corridor use certificate on the basis of the long-term public interest of the State in accordance with this subsection.

~~A. In the public interest; and~~

~~B. Reasonably likely to:~~

~~(1) Minimize utility rates or increase the reliability of utility service;~~

~~(2) Have the net effect of reducing the release of greenhouse gases; or~~

~~(3) Enhance economic development within the State.~~

A. The commission shall deny any petition for a corridor use certificate upon a finding that the energy infrastructure proposal does not:

(1) Enhance opportunities for energy generation within the State; and

(2) Significantly and measurably reduce electricity rates or other relevant energy costs for residents and businesses within the State.

B. The commission may issue a corridor use certificate for an energy infrastructure proposal only if the commission finds that the proposal is in the long-term public interest of the State. In determining whether the proposal is in the long-term public interest the commission shall, at a minimum, consider the extent to which the proposal:

(1) Enhances opportunities for energy generation within the State, including access to the proposed energy infrastructure for renewable energy generation;

(2) Significantly and measurably reduces electricity rates or other relevant energy costs for residents and businesses within the State.

(3) Maximizes long-term economic benefits for the State, including but not limited to direct financial benefits, employment opportunities and economic development;

(4) Ensures efficient utilization of the corridor through colocation of energy infrastructure, collaboration between energy infrastructure developers and the preservation of options for future uses;

(5) Minimizes conflict with the public purposes for which the land or asset is owned and any management plans for the land within the petitioned corridor, and, where necessary, mitigating any unavoidable impacts;

(6) Limits and mitigates impacts of energy infrastructure on the landscape, including but not limited to utilizing underground installation, where economically and technically feasible;

(7) Increases energy reliability, security, and independence of the State; and

(8) Reduces the release of greenhouse gases.

The commission shall by rule establish procedures to minimize duplicative filing and review requirements for the corridor use certificate for any transmission line that requires a certificate of public convenience and necessity under section 3132.

6. Environmental review; consolidated environmental permit. Whenever a person proposes to develop or construct energy infrastructure within an energy infrastructure corridor, that person shall file with the department an application for a consolidated environmental permit. The department shall adopt by rule pursuant to subsection 9 a process for the review of applications and the issuance of the consolidated environmental permit in accordance with this subsection. The department may request comments from and consult with other agencies and programs that are required by law to issue separate approvals for some or all projects.

A. A consolidated environmental permit issued by the department takes the place of any other permits or licenses that the department would otherwise require for the proposed project.

B. The application for a consolidated environmental permit must contain such information as the department requires, including, but not limited to, all studies and documentation necessary to determine whether the proposed project is in compliance with the environmental laws of the State administered by the department.

C. The applicant for a consolidated environmental permit shall pay a fee specified by rule and reimburse the department for any additional costs of regulatory review, including expenses for outside peer review or other consultants or experts assisting the department in its review. Outside review of applications under this subsection is governed by Title 38, section 344-A, except that the Commissioner of Environmental Protection is not required to obtain the consent of the applicant to enter into an agreement with an outside reviewer or require that the costs of the outside review be reimbursed by the applicant.

D. The department shall issue its decision on an application for a consolidated environmental permit within a timeframe specified by department rule or guideline. The decision may specify approval, denial or approval in part and denial in part. A proposed project may not be undertaken if it is denied in whole or in part by the department.

E. Upon issuance of a consolidated environmental permit, the department shall certify to the commission that the permit has been issued and whether the proposed project complies, in part or in whole, with the environmental laws of the State administered by the department and whether other agencies and programs that are required by law to issue separate approvals for some or all aspects of the project have taken final agency action on those matters requiring their separate approval.

F. The department shall enforce the terms of the consolidated environmental permit.

G. The terms of the consolidated environmental permit may require additional submissions by the permit holder, studies and approvals with conditions.

If the department receives an application for a permit to develop or construct energy infrastructure within an energy infrastructure corridor prior to adopting a rule to implement this subsection, the department shall process the application in accordance with the department's existing review and permitting procedures.

6-A. Revenues. Except as otherwise provided by law or the Constitution of Maine, revenues generated from the use of state-owned land and assets within energy infrastructure corridors must be deposited in the Energy Infrastructure Benefits Fund established in Title 5, section 282, subsection 9.

7. Eminent domain. This subsection grants and limits certain rights of eminent domain with respect to energy infrastructure corridors.

A. The eminent domain authority of a transmission and distribution utility within an energy infrastructure corridor is governed by section 3136.

B. Subject to approval by the commission, a person that is not a transmission and distribution utility that receives a certificate of public convenience and necessity under section 3132 or a corridor use certificate under subsection 5 to develop energy infrastructure, other than generation interconnection transmission facilities, within an energy infrastructure corridor may take and hold by right of eminent domain lands and easements within that corridor necessary for the proper location of the energy infrastructure covered by the certificate of public convenience and necessity or the corridor use certificate in the same manner and under the same conditions as set forth in chapter 65. The right of eminent domain granted in this paragraph does not apply to:

(1) Lands or easements located within 300 feet of an inhabited dwelling;

(2) Lands or easements on or adjacent to any developed or undeveloped water power;

(3) Lands or easements so closely paralleling existing wire lines of other utilities that the proposed energy infrastructure would substantially interfere with service rendered over the existing lines, except with the consent of the owners;

(4) Lands or easements owned or used by railroad corporations, except as authorized pursuant to section 2311;

(5) Lands or easements owned by the State; and

(6) Transmission and distribution plant that is owned, controlled, operated or managed by a transmission and distribution utility on the effective date of this section.

C. The commission may take and hold by right of eminent domain lands and easements within an energy infrastructure corridor in accordance with this paragraph, notwithstanding any transmission and distribution utility ownership of the lands or easements.

(1) The commission may exercise the authority under this paragraph only in an adjudicatory proceeding upon a petition by the Office of the Public Advocate or the Executive Department, Governor's Office of Energy Independence and Security demonstrating that such action is urgently needed to avoid substantial harm to electricity consumers regarding anticipated activity associated with an energy infrastructure corridor. A determination by the commission that the exercise of eminent domain under this paragraph is urgently needed to avoid substantial harm to electricity consumers regarding anticipated activity associated with an energy infrastructure corridor constitutes reviewable final agency action.

(2) The amount of any lands or easements taken by the commission pursuant to this subsection may be no greater than is required to avoid the harm to electricity consumers identified under subparagraph (1).

(3) The right of eminent domain granted in this paragraph does not apply to personal property, fixtures or improvements that constitute transmission and distribution plant.

(4) The commission may exercise the right of eminent domain for the purposes of this paragraph in the same manner and under the same conditions as set forth in chapter 65. For the purposes of the exercise of eminent domain authorized by this paragraph, the commission is both a person and the State.

(5) The commission is authorized to assess transmission and distribution utilities to the extent necessary to obtain sufficient funds to pay for lands and easements taken pursuant to this subsection.

(6) The commission, in an adjudicatory proceeding upon petition by the Office of the Public Advocate or the Executive Department, Governor's Office of Energy Independence and Security, may transfer or convey to any person or state agency lands and easements once acquired, except that a transmission and distribution utility whose lands or easements were taken pursuant to this paragraph must be given the first opportunity to acquire the lands or easements to the extent necessary or useful in the performance of its duties as a transmission and distribution utility.

(7) The commission shall report on the circumstances of any taking by eminent domain to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters during the next regular session of the Legislature following the acquisition of lands or easements by eminent domain.

8. Utility service territory. Nothing in this section modifies existing restrictions on entities providing service within a public utility's service territory provided under chapter 21.

8-A. Searsport-Loring corridor. The following provisions apply to the Searsport-Loring corridor.

A. The Searsport-Loring corridor exists on the effective date of this subsection as an existing energy infrastructure corridor, may be used, further developed and expanded for new energy infrastructure consistent with any leases, easements or other agreements in effect on the effective date of this subsection, and is not a statutory corridor until the expiration or termination of such leases, easements or other agreements.

B. The Searsport-Loring corridor shall be designated by the Governor as a statutory corridor upon notification to the Governor by the director of the Loring Development Authority that any leases, easements or other agreements in effect on the effective date of this subsection affecting or otherwise pertaining to the Searsport-Loring corridor have expired or terminated prior to the end of their terms. In making a designation under this subsection the Governor shall issue a statement designating the Searsport-Loring corridor as a statutory corridor and shall provide a copy of the statement to the director of the Loring Development Authority and the chair of the Public Utilities Commission.

9. Rules. The commission and the department, as appropriate, shall adopt by rule standards and procedures to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A, except that rules adopted by the commission for the designation of ~~an energy infrastructure~~ petitioned corridor, pursuant to subsection 2, paragraph A, are major substantive rules.

10. Repeal. This section is repealed July 30, ~~2011~~ 2015.

MAJORITY REPORT (A) - PART B

Sec. B-1. 5 MRSA sec. 282, subsection 9 is amended to read:

9. Energy ~~independence~~ infrastructure benefits fund~~; revenues from occupancy of state assets~~. To establish an energy ~~independence~~ infrastructure benefits fund ~~for~~, referred to in this section as "the fund." Except as otherwise provided by law or the Constitution of Maine, the fund consists of any revenues derived from the use of state-owned land and assets for energy ~~transmission systems~~ infrastructure development. Each fiscal year, ~~the first $50,000,000 in~~ all revenues collected ~~from such use~~ in the fund must be transferred by the Treasurer of State to the Efficiency Maine Trust for deposit by the trust in program funds pursuant to Title 35-A, section 10103, subsection 4 and use by the trust in accordance with Title 35-A, section 10103, subsection 4-A. For the purposes of this subsection "energy infrastructure" has the same meaning as in Title 35-A, section 122. ~~After the initial transfer each fiscal year, the Treasurer shall deposit additional revenues received into an energy independence fund, which must be used for the following purposes:~~

~~A. To ensure the methodical transition to energy independence and security for the people, communities, economy and environment of the State;~~

~~B. To invest in and transform the ways homes and businesses are heated, energy is used~~

~~and people and cargo are transported;~~

~~C. To gain independence from foreign oil and to maximize energy efficiency, to enhance renewable energy sources and to invest in an economic development strategy to ensure a vibrant, environmentally sound and prosperous future; and~~

~~D. To reduce energy costs statewide.~~

Sec. B-2. 35-A MRSA §10103, sub§4 is amended to read:

4. Program funding. The board may apply for and receive grants from state, federal and private sources for deposit into appropriate program funds. The board may deposit in appropriate program funds the proceeds of any bonds issued for the purposes of programs administered by the trust. The board may receive and shall deposit in appropriate program funds revenue resulting from any forward capacity market or other capacity payments from the regional transmission organization that may be attributable to projects funded those by funds. The board shall deposit into appropriate program funds revenue transferred to the trust from the energy infrastructure benefits fund pursuant to Title 5, section 282, subsection 9, for use in accordance with subsection 4-A. The board may also deposit any grants or other funds received by or from any entity with which the trust has an agreement or contract pursuant to this chapter if the board determines that receipt of those funds is consistent with the purposes of this chapter.

Sec. B-3. 35-A MRSA §10103, sub§4-A is enacted to read:

4-A. Use of energy infrastructure benefits funds. Revenues transferred to the trust from the energy infrastructure benefits fund pursuant to Title 5, section 282, subsection 10, must be used by the trust on a competitive basis to ensure the steady transition to energy independence and security for the people, communities, economy and environment of the State. In the expenditure of energy infrastructure benefits funds pursuant to this subsection, the board shall give preference to proposals in the following categories in the following order, with a maximum of 50% of expenditures in any fiscal year in any one category:

A. Grants and loans to manufacturing entities for energy efficiency initiatives;

B. Grants and loans to increase efficiency in the way homes and businesses are heated, energy is used and people and cargo are transported; and

C. Economic incentives for the development of renewable energy resources.

The director shall provide a report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters annually by January 15th regarding the use of energy infrastructure benefits funds. The report must document the revenues transferred from the energy infrastructure benefits fund to the trust during the most recently completed fiscal year and the current fiscal year and amounts and uses of money expended by the trust in accordance with this subsection during the most recently completed and the current fiscal year.

MAJORITY REPORT (A) - PART C

Sec. C-1. 2 MRSA §9 sub§3 paragraph C is amended to read:

C. In consultation with the Efficiency Maine Trust Board, established in Title 5, section 12004-G, subsection 10-C, prepare and submit a comprehensive state energy plan the Governor and the Legislature by January 15, 2009 and submit an updated plan every 2 years thereafter. Within the comprehensive state energy plan, the director shall identify transmission capacity and infrastructure needs and recommend appropriate actions to facilitate the development and integration of new renewable energy generation within the State and support the State's renewable resource portfolio requirements specified in Title 35-A section 3210 and wind energy development goals specified in Title 35-A, section 3404;

Sec. C-2. 2 MRSA §9, subsection 4 is enacted to read:

4. Advice to state agencies. The director shall advise state agencies regarding energy-related policy principles for agencies to consider, along with the laws and policies governing those agencies, in conjunction with sale, lease or other allowance for use of state-owned land or assets for the purpose of energy infrastructure, as defined by Title 35-A, section 122. At a minimum, the director shall consider the following principles in advising state agencies under this subsection:

A. Enhancing opportunities for energy generation within the State, including access to the proposed energy infrastructure for renewable energy generation;

B. Significantly and measurably reducing electricity rates or other relevant energy costs for residents and businesses within the State;

C. Maximizing long-term economic benefits for the State, including but not limited to direct financial benefits, employment opportunities and economic development;

D. Ensuring efficient utilization of the corridor through colocation of energy infrastructure, collaboration between energy infrastructure developers and the preservation of options for future uses;

E. Minimizing conflict with the public purposes for which the land or asset is owned and any management plans for the land within the corridor, and, where necessary, mitigating any unavoidable impacts;

F. Limiting and mitigating impacts of energy infrastructure on the landscape, including but not limited to utilizing underground installation, where economically and technically feasible;

G. Increasing the state's energy independence, reliability and security;

H. Reducing the release of greenhouse gases;

I. Avoiding wherever possible the use of lands subject to the provisions of Article IX, section 23 of the Maine Constitution; and

J. Maximizing the benefit realized from Maine's strategic location within New England and northeastern region.

Sec. C-3. 35-A MRSA §3132, sub-§13, is amended to read:

13. Public lands. The State, any agency of the State or any political subdivision of the State may not sell, lease or otherwise convey any interest in public land, other than a future interest or option to purchase an interest in land that is conditioned on satisfaction of the terms of this subsection, to any person for the purpose of constructing a transmission line subject to this section, unless the person has received a certificate of public convenience and necessity from the commission pursuant to this section.

A person who has bought, leased or otherwise been conveyed any interest in public land for the purpose of constructing a transmission line may not undertake construction of that line except under the terms of the certificate of public convenience and necessity as originally issued for that transmission line by the commission or as modified by order of the Department of Environmental Protection under subsection 7; or under the terms of an amended certificate of public convenience and necessity issued by the commission or deemed to have been issued by the commission under subsection 11-A.

As used in this subsection, "public land" means land that is owned or controlled by the State, by an instrumentality of the State or by a political subdivision of the State.

As used in this subsection, "future interest or option to purchase an interest in land" includes an option, purchase and sale agreement or other equivalent legal instrument that conveys the intent to pursue a future sale, lease or other conveyance of land.

Sec. C-4. Legislative review; implementation. The joint standing committee of the Legislature having jurisdiction over utilities and energy matters shall review the implementation of this Act during the First Regular Session of the 125th Legislature. Based on its review, the joint standing committee may report out legislation relating to this Act.

Sec. C-5. Department of Transportation report. By January 15, 2011, the Department of Transportation shall report to the joint standing committee having jurisdiction over utilities and energy matters regarding current and potential uses of abandoned railroad corridors owned or controlled by the department for energy infrastructure development.

MINORITY REPORT (B) – PART A

- **Include all suggested legislation in "MAJORITY REPORT (A) – PART A"**

MINORITY REPORT (B) – PART B

- **Include all suggested legislation in "MAJORITY REPORT (A) – PART B"**

MINORITY REPORT (B) – PART C

- **Include all suggested legislation in "MAJORITY REPORT (A) – PART C"**

MINORITY REPORT (B) – PART D

Sec. D-1. 35-A MRSA sec. 3132 subsection 6 is amended to read:

6. Commission order; certificate of public convenience and necessity. In its order, the commission shall make specific findings with regard to the public need for the proposed transmission line and whether the proposed transmission line is in the long-term public interest of the State. The commission shall deny a certificate of public convenience and necessity for a transmission line that does not enhance opportunities for energy generation within the State and significantly and measurably reduce electricity rates for residents and businesses within the State. ~~If the commission finds that a public need exists, it shall~~ The commission may issue a certificate of public convenience and necessity for the transmission line, only if it finds that a public need exists and that the transmission line is in the long-term public interest of the State. In determining public need, the commission shall, at a minimum, take into account economics, reliability, public health and safety, scenic, historic and recreational values, the proximity of the proposed transmission line to inhabited dwellings and alternatives to construction of the transmission line, including energy conservation, distributed generation or load management. The commission shall determine whether the transmission line is in the long-term public interest of the State in accordance with subsection 6-A. If the commission orders or allows the erection of the transmission line, the order is subject to all other provisions of law and the right of any other agency to approve the transmission line. The commission shall, as necessary and in accordance with subsections 7 and 8, consider the findings of the Department of Environmental Protection under Title 38, chapter 3, subchapter 1, article 6, with respect to the proposed transmission line and any modifications ordered by the Department of Environmental Protection to lessen the impact of the proposed transmission line on the environment. A person may submit a petition for and obtain approval of a proposed transmission line under this section before applying for approval under municipal ordinances adopted pursuant to Title 30-A, Part 2, Subpart 6-A; and Title 38, section 438-A and, except as provided in subsection 4, before identifying a specific route or route options for the proposed transmission line. Except as provided in subsection 4, the commission may not consider the petition insufficient for failure to provide identification of a route or route options for the proposed transmission line. The issuance of a certificate of public convenience and necessity establishes that, as of the date of issuance of the certificate, the decision by the person to erect or construct was prudent. At the time of its issuance of a certificate of public convenience and necessity, the commission shall send to each municipality through which a proposed corridor or corridors for a transmission line extends a

separate notice that the issuance of the certificate does not override, supersede or otherwise affect municipal authority to regulate the siting of the proposed transmission line. The commission may deny a certificate of public convenience and necessity for a transmission line upon a finding that the transmission line is reasonably likely to adversely affect any transmission and distribution utility or its customers.

Sec. D-2. 35-A MRSA sec. 3132 subsection 6-A is enacted to read:

6-A. Determination of long-term public interest. In determining whether the transmission line is in the long-term public interest of the State, the commission shall, at a minimum, consider the extent to which the proposed transmission line:

A. Enhances opportunities for energy generation within the State, including access to the proposed energy infrastructure for renewable energy generation;

B. Significantly and measurably reduces electricity rates or other relevant energy prices or costs for residents and businesses within the State.

C. Maximizes long-term economic benefits for the State, including but not limited to direct financial benefits, employment opportunities and economic development;

D. Ensures efficient utilization of the corridor through colocation of energy infrastructure, collaboration between energy infrastructure developers and the preservation of options for future uses;

E. Minimizes conflict with the public purposes for which the land or asset is owned and any management plans for the land within the corridor, and, where necessary, mitigating any unavoidable impacts;

F. Limits and mitigates impacts of energy infrastructure on the landscape, including but not limited to utilizing underground installation where economically and technically feasible;

G. Increases the state's energy independence, reliability and security; and

H. Reduces the release of greenhouse gases.

Sec. D-3. 35-A MRSA c. 45 will be amended to do the following with respect to Natural Gas Pipelines:

- Subject to requirements of federal law, require a natural gas pipeline utility to obtain a certificate of public convenience and necessity (CPCN) from the Public Utilities Commission prior to construction of a natural gas pipeline within the State.
- Incorporate, as closely as possible, the standards, criteria and procedures for the CPCN for electric transmission lines, under section 3132 as amended, into the CPCN for natural gas pipelines.

Sec. D-4. 35-A MRSA c. 49 will be enacted to do the following with respect to oil pipelines:

- Require the developer or operator of an oil pipeline within the State to obtain a certificate of public convenience and necessity (CPCN) from the Public Utilities Commission prior to construction or operation of the pipeline within the State.
- Incorporate, as closely as possible, the standards, criteria and procedures for the CPCN for electric transmission lines, under section 3132 as amended, into the CPCN for oil pipelines.

Sec. D-5. Public Law 2009, chapter 372, section F-5, subsection 4 is amended to read:

4. Repeal. This section is repealed upon the effective date of ~~a law approving plans in accordance with subsection 2 that specifically indicates legislative intent to repeal this section~~ rules adopted by the commission pursuant to law to amend the standards for issuance of a certificate of public convenience and necessity for electric transmission lines and to implement certificate for public convenience and necessity requirements for natural gas pipelines and oil pipelines or 90 days after the adjournment of the ~~Second~~ First Regular Session of the ~~124th~~ 125th Legislature, whichever is earlier.

Sec. D-6. Rulemaking. The Public Utilities Commission shall by rule adopt standards and procedures to implement Sec. D-1, Sec. D-2, Sec. D-3 and Sec. D-4 of this Act. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

MINORITY REPORT (C) – Part A

Sec. A-1. 35-A MRSA sec. 122, subsection 1, paragraph C-1 is enacted to read:

C-1. "Energy supercorridor" or "supercorridor" means any new transmission line or other energy transport pipeline or conduit that runs through the State and has, as its primary function, the transmission of energy or energy products from sources outside of this State to users outside of this State.

Sec. A-2. 35-A MRSA sec. 122, subsection 1, paragraph D-1 is enacted to read:

D-1. "Panel" means the interagency review panel established in Section 1-B.

Sec. A-3. 35-A MRSA sec. 122, subsection 1-B, is enacted to read:

1-B. Interagency review panel. The interagency review panel as specified in paragraph A shall review and shall approve or deny energy supercorridors in accordance with this section.

A. The interagency review panel consists of the following directors and commissioners or their respective designees:

(1) The director of the Governor's Office of Energy Independence and Security;
(2) The commissioner of the state agency responsible for administrative and financial services;
(3) The commissioner of the state agency responsible for economic development; and
(4) The commissioner of each state agency that owns or controls land or assets within the proposed supercorridor.

B. When a proposed supercorridor includes property rights belonging to the public, the panel may lease or convey such rights upon terms, prices and conditions that are in the best interests of residents of this State. Proceeds from the lease or conveyance of public rights must be deposited in the energy infrastructure benefits fund established in Title 5, section 282, subsection 9.

C. The panel may accept a supercorridor proposal only if the panel finds that the supercorridor:

(1) Is in the long-term public interest of the State;

(2) Will either enhance energy generation within the State or significantly and measurably reduce costs for those who consume energy within the State; and

(3) Will not impede development of new sources of State energy supply including a liquefied natural gas facility on the coast.

D. The panel may require that the person or persons proposing a supercorridor pay such fees as are reasonable and necessary to defray actual costs incurred to evaluate the proposal.

MINORITY REPORT (C) – PART B

- **Include suggested legislation in MAJORITY REPORT (A) – PART B ("Energy infrastructure benefits fund")**