

**STATE OF MAINE  
PUBLIC UTILITIES COMMISSION**

**Docket No. 2024-00239**

**October 4, 2024**

**MAINE PUBLIC UTILITIES COMMISSION  
Political Activities, Charitable Contributions,  
Educational Expenditures, Institutional  
Advertising, Promotional Advertising, and  
Promotional Allowances by Public Utilities  
(Chapter 830)**

**VERSANT POWER'S  
INITIAL COMMENTS PURSUANT TO  
SEPTEMBER 4, 2024  
NOTICE OF RULEMAKING**

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Versant Power (“Versant”) hereby submits these comments in response to the Maine Public Utilities Commission’s (the “Commission”) September 4, 2024 Notice of Rulemaking.

**I. BACKGROUND**

On June 23, 2023, the Governor approved P.L. 2023, ch. 286, § 3, An Act to Require Transparency in Public Utility Advertising Expenditures (the “Act”), which amends section 302 of Title 35-A. The Act enumerates certain utility activities – including promotional efforts, charitable giving, and political activities such as lobbying, candidate contributions, and political advertising – the costs of which are prohibited from recovery in utility rates. The Act also identifies additional utility activities – including educational activities – which are prohibited from recovery in utility rates except when approved by the Commission. The Act also establishes certain new reporting requirements by the utilities and the Commission and requires the Commission to initiate a rulemaking by November 1, 2023 to implement various components of the Act.

On November 1, 2023, the Commission initiated an inquiry, seeking specific input from stakeholders regarding possible definitions of two undefined terms in the Act, “educational expenditures” and “major political activities” as well as seeking “general comments regarding the Act and its implementation by the Commission.”

Versant and other stakeholders subsequently submitted comments in response to that notice, and it appreciates the consideration that the Commission has undertaken to address several of those comments in the current proposed rule.

On September 4, 2024, the Commission initiated a rulemaking proceeding to repeal Chapter 83 of the Commission’s rules and replace it with a new Chapter 830 to implement the Act, as well as a separate law passed in 2024 clarifying the applicability of certain provisions to Consumer Owned Utilities. Versant is pleased to offer the following initial comments on the proposed rule and reserves the right to comment further, including regarding additional aspects of the proposed rule as this proceeding continues.

## **II. HISTORIC, CURRENT, AND FUTURE COMPLIANCE**

The Act, as further clarified by the Legislature in 2024, enshrines in statute a number of rules and regulatory requirements with which Versant already complies.

With few exceptions, the Act enshrines in statute certain longstanding rules, promulgated by both the Commission and the Maine Commission on Governmental Ethics & Election Practices (the “Ethics Commission”). For example, Ch. 83 of the Commission’s rules currently prohibits including or incorporating in operating expenses to be recovered in rates: contributions or gifts to political candidates, political parties, political or legislative committees or any committee or organization working to influence referendum petitions or

elections; expenditures for lobbying or grassroots lobbying; and charitable contributions, all of which are currently borne entirely by utility shareholders. Versant complies with all relevant rules and statutory requirements and has long recognized these prohibitions in practice.

Separately, the Ethics Commission's governing statutes currently require that political contributions and activities exceeding certain thresholds be publicly reported in a timely and publicly accessible fashion. Versant and its affiliates abide by all current rules and statutory requirements governing the company's participation in political activities including reporting required activity to the Ethics Commission.

The Act does include a new specific prohibition on including in rates contributions to a "trade association" or "chamber of commerce," something not previously found in statute or otherwise found in existing Commission rules. However, Versant currently and historically has treated such expenses in a way that would comply with this new requirement and will continue to do so pursuant to the requirements of the Act.

### **III. LIMITED COMMENTS**

#### **A. "Educational Expenditures that Serve a Public Interest"**

In its comments filed regarding the Commission's Inquiry into Possible Amendments to Chapter 83 of the Commission's Rules, Docket 2023-00283, Versant proposed the Commission define "educational expenditures" to closely align with the current rule and to enable utility educational efforts in certain historical, well-defined and broadly understood areas, as defined in Section 1(F) of the current rule, that serve the public interest to continue unabated.

The definition of “Educational Expenditures that Serve a Public Interest” found in the Commission’s proposed new Chapter 830 strikes an appropriate balance between providing clarity to utilities regarding the categories of customer communications that may be recoverable in rates while maintaining the Commission’s ability to evaluate individual utility activities for prudence, e.g. in the course of a general rate case.

Here, referring to a suggestion made by the Office of the Public Advocate, the Commission asks whether expenditures related communications regarding employment opportunities with a public utility, which have historically been a recoverable expense, should not be recoverable.

A utility’s ability to meet its core obligations, facilitate the accomplishment of relevant state policies, and to provide its customers with safe, reliable and affordable service is largely dependent upon its ability to attract and retain employees capable of meeting these requirements. Qualified employees are essential to a utility’s ability to serve the public interest. For these reasons, Versant strongly supports the inclusion of employment-related communications in the proposed definition of “Educational Expenditures that Serve a Public Interest,” section 1, E-5.

#### **B. “Major Political Activities”**

Versant supports the proposed definition of “Major Political Activities” insofar as it is consistent with the corresponding definition utilized by the Maine Ethics Commission to govern the same activities.

#### **C. Political Activities of a Membership Organization**

Section 3, Part A of the proposed rule requires each public utility to annually file a

report with the Commission:

*“...containing a written itemized description of any expenses that may not be included or incorporated in the public utility’s operating expenses pursuant to Section 2. The report must also include a written itemized description of the expenses that may not be included or incorporated in the utility’s operating expenses under Section 2 that are relevant to the business interests of the utility paid by a membership organization of which the utility is a member.”*

Versant suggests the Commission clarify the requirements of this section by specifying that a utility is required to include in its report qualified activities (i.e. those enumerated in Section 2 of the proposed rule) undertaken by a membership organization (as defined) of which the utility is a member, only to the extent such activities are both “relevant to the business interests of the utility” *and* undertaken “in coordination with the public utility.”

Such a clarification would ensure that the intent of the Act – ensuring the public disclosure of qualified activities undertaken by membership organizations on behalf of their utility members – is met, while also avoiding putting utilities in the untenable position of requiring them to report activities about which they may have no knowledge and over which they may have no control.

#### **D. Reports and Public Inspection**

With respect to Section 3 of the proposed rule, Reports and Public Inspection, Versant makes the following suggestions:

For the required annual and quarterly reports as proposed for advertising, political, charitable, educational, institutional, promotional advertising and promotional allowance expenses, the Commission should specifically allow for a utility to satisfy this requirement by filing PDF copies of finance reports that are submitted to the Maine Ethics Commission during the applicable timeframes that provide the same information.

If a utility has engaged in any activities required to be reported by Chapter 830 but not otherwise reported to the Maine Ethics Commission within the corresponding timeframe, a utility should be able to satisfy the reporting requirements of Chapter 830 by submitting a supplementary filing that includes only the required information not otherwise contained within the relevant Maine Ethics Commission reports.

For any report that requires information outside of the jurisdiction of the Maine Ethics Commission, Versant would encourage the Commission to develop a standard and uniform reporting format that could be used by all utilities. This would eliminate any confusion that may arise from reports of various utilities that categorize and format information differently. Alternatively, the Commission could require the utilities to propose reporting formats for approval in advance of rule implementation, which would affirm that the reporting format submitted by the utility has been approved by the Commission in advance.

#### **IV. CONCLUSION**

Versant appreciates the time and consideration that the Commission and stakeholders have brought to this rulemaking process.

Dated: October 4, 2024

Respectfully Submitted,

/s/ Arielle Silver Karsh

Arielle Silver Karsh

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