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ENVIRONMENTAL STUDIES DEPARTMENT

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February 27, 2025

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Representative Carol McGuire, Chairperson  
House Committee on Executive Departments and Administration  
The State House, 107 N. Main Street  
Concord, NH 03301

Via submission to:

<https://gc.nh.gov/house/committees/remotetestimony/default.aspx>

Re: HB 610 (Hearing on March 5, 2025)

Dear Rep. McGuire:

I am writing regarding HB 610, which your committee will be considering in a hearing on March 5, 2025. I do so with over four decades of practical experience in state and federal utility regulatory proceedings where I have represented parties as both an expert witness and an attorney. In particular, I have worked both with and against the counsel and experts representing California ratepayers' interests through the California Public Utilities Commission's Office of Ratepayer Advocates (ORA) or Division of Ratepayer Advocates (DRA). I have also been involved in regulatory proceedings at the California Energy Commission (CEC), the California Air Resources Board (CARB), the Nevada Public Service Commission (NPSC), and Federal Energy Regulatory Commission (FERC) where ratepayer advocates played a central role in formulating good policy.

HB 610 raises serious questions about whether ratepayer interests will be adequately represented in similar proceedings in New Hampshire. It is one thing for the Governor's office to have a policy position on a utility regulatory matter that has been well-considered by the Governor's policy advisors and other relevant executive-branch representatives; it is another thing altogether to have an *advocate for ratepayer interests* involved in regulatory proceedings. The adversarial nature of the latter generally assures better attention to ratepayers' concerns.

This does not mean that those positions should always be adopted by regulators: in many cases, I have taken advocacy positions in regulatory matters that were directly opposed to the ORA/DRA position. But ORA/DRA participation has always compelled me, as an advocate, to address their concerns directly and in response to their advocacy positions. *This results in better decisions.*

I should note that I have not only participated in these regulatory proceedings: I have also studied them extensively as a scholar. In particular, my study of the deregulatory debacle that gave us the California Energy Crisis (which, by my estimate, cost the state over \$70 billion in excessive payments as the California electricity system was manipulated due to poorly-designed regulation),<sup>1</sup> was cited by the 9<sup>th</sup> Circuit Court of Appeals in litigation that went on up to the Supreme Court (which overruled the 9<sup>th</sup> Circuit on a narrower point of law that I didn't not address in my article, but supported the framework I outlined). *The absence of vigorous advocacy on the part of ratepayers was one of the reasons that California deregulation was a debacle.*

New Hampshire would do well to avoid a similar fate. The state has an important role to play in both regional governance of the Regional Transmission Organization (RTO) and before FERC on matters that affect ratepayers. Having an independent and aggressive OCA helps ensure that role to the protection of all of New Hampshire's ratepayers—which is critical to your state economy.

For these reasons, I urge you and the Committee to reject HB 610 and its elimination of the OCA.

Sincerely,

/s/ Timothy P. Duane, JD/PhD  
Professor Emeritus

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Admitted to:  
—California Supreme Court  
—9th Circuit, U.S. Court of Appeals  
—10th Circuit, U.S. Court of Appeals

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<sup>1</sup> "Regulation's Rationale: Learning from the California Energy Crisis," 19 YALE JOURNAL ON REGULATION 471-540, Summer 2002.