

# MAINE STATE LEGISLATURE

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(New Title)  
(New Draft of H.P. 1842, L.D. 1837)  
SECOND REGULAR SESSION

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ONE HUNDRED AND TENTH LEGISLATURE

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**Legislative Document**

**No. 2113**

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H. P. 2266 House of Representatives, March 30, 1982  
Reported by Report A from the Committee on Public Utilities. Sent  
up for concurrence and ordered printed under Joint Rules No. 2  
EDWIN H. PERT, Clerk

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-TWO

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**AN ACT to Provide that Corporate Re-  
organizations Affecting Public  
Utilities be Subject to Approval  
by the Public Utilities Commission.**

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

**Sec. 1.** 35 MRSA §104, sub-§1, ¶A, sub-¶¶(3) and (4),  
as enacted by PL 1977, c. 426, §1, are amended to read:

(3) Any person, 10% or more of whose voting securities are owned, directly or indirectly, by a public utility; or

(4) Any person, or group of persons acting in concert, which the commission may determine, after investigation and hearing, exercises substantial influence over the policies and actions of a public utility, provided that the person or group

1 of persons beneficially owns more than 3% of the  
2 public utility's voting securities; or

3 Sec. 2. 35 MRSA §104, sub-§1, ¶A, sub-¶(5) is enacted  
4 to read:

5 (5) Any public utility company of which any  
6 person defined in subsections 1 to 4 is an affili-  
7 ated interest.

8 Sec. 3. 35 MRSA §104, sub-§1, ¶B-1 is enacted to read:

9 B-1. "Reorganization" means any creation, organiza-  
10 tion, extension, consolidation, merger, transfer of  
11 ownership or control, liquidation, dissolution or  
12 termination, direct or indirect, in whole or in part,  
13 of an affiliated interest accomplished by the issue,  
14 sale, acquisition, lease, exchange, distribution or  
15 transfer of voting securities or property. The commis-  
16 sion may decide what other public utility actions con-  
17 stitute a reorganization to which the provisions of  
18 this section apply. Reorganizations include any reor-  
19 ganizations for which a proceeding for approval is  
20 pending before any state or federal agency or court on  
21 or after the effective date of this paragraph. For  
22 purposes of this subsection, a reorganization does not  
23 include any proceedings under the federal antitrust  
24 laws.

25 Sec. 4. 35 MRSA §104, sub-§1, ¶D is enacted to read:

26 D. "Voting security" means any security presently  
27 entitling the owner or holder thereof to vote in the  
28 direction or management of the affairs of a company or  
29 any proprietary or other interest serving the same pur-  
30 pose.

31 Sec. 5. 35 MRSA §104, sub-§3-A is enacted to read:

32 3-A. Reorganization subject to commission  
33 approval. Reorganizations shall be subject to commission  
34 approval as follows.

35 A. Unless exempted by rule or order of the commission,  
36 no reorganization may take place without the approval  
37 of the commission. No reorganization may be approved  
38 by the commission unless it is established by the  
39 applicant for approval that the reorganization is con-  
40 sistent with the interests of the utility's ratepayers  
41 and investors. The commission shall rule upon all

1 requests for approval of a reorganization within 60  
2 days of the filing of the request for approval. If it  
3 deems that the necessary investigation cannot be con-  
4 cluded within 60 days, the commission may extend the  
5 period for a further period of no more than 120 days.  
6 In granting its approval, the commission shall impose  
7 such terms, conditions or requirements as, in its judg-  
8 ment, are necessary to protect the interests of  
9 ratepayers. These conditions shall include provisions  
10 which assure the following:

11 (1) That the commission has reasonable access to  
12 books, records, documents and other information  
13 relating to the utility or any of its affiliates,  
14 except that the Public Utilities Commission shall  
15 not have access to trade secrets unless such ac-  
16 cess is essential to the protection of the inter-  
17 ests of ratepayers or investors. The commission  
18 shall afford trade secrets and other information  
19 such protection from public disclosure as is pro-  
20 vided in the Maine Rules of Civil Procedure;

21 (2) That the commission has all reasonable powers  
22 to detect, identify, review and approve, or disap-  
23 prove, all transactions between affiliated inter-  
24 ests;

25 (3) That the utility's ability to attract capital  
26 on reasonable terms, including the maintenance of  
27 a reasonable capital structure, is not impaired;

28 (4) That the ability of the utility to provide  
29 safe, reasonable and adequate service is not  
30 impaired;

31 (5) That the utility continues to be subject to  
32 applicable laws, principles and rules governing  
33 the regulation of public utilities;

34 (6) That the utility's credit is not impaired or  
35 adversely affected;

36 (7) That reasonable limitations be imposed upon  
37 the total level of investment in nonutility busi-  
38 nesses, except that the commission shall not have  
39 the authority to approve or disapprove of the  
40 nature of the nonutility business;

41 (8) That the commission has reasonable remedial  
42 power including, but not limited to, the power,

1 after notice to the utility and all affiliated  
2 entities of the issues to be determined and the  
3 opportunity for an adjudicatory proceeding, to  
4 order the divestiture of the utility in the event  
5 that divestiture is necessary to protect the  
6 interests of the utility, ratepayers or investors.  
7 A divestiture order shall provide a reasonable  
8 period within which the divestiture shall be com-  
9 pleted; and

10 (9) That neither ratepayers nor investors are  
11 adversely affected by any reorganization.

12 B. The commission may intervene on behalf of the State  
13 in any proceeding before any state or federal agency or  
14 court before which an application for approval of reor-  
15 ganization is pending. The commission may enter into  
16 any binding settlement related to any proceeding in  
17 which the commission has intervened and may exercise  
18 any powers or rights provided by that settlement and  
19 may enforce those powers or rights.

20 **Sec. 6. 35 MRSA §104, sub-§4, first sentence, as**  
21 **enacted by PL 1977, c. 426, §1, is amended to read:**

22 The commission shall may, by general rules applicable alike  
23 to all public utilities affected thereby, exempt classes of  
24 reorganizations from the requirements of subsection 3-A.  
25 The commission may, by general rules, waive the filing and  
26 necessity for approval of contracts and arrangements de-  
27 scribed in subsection 3 in cases of:

28 **Sec. 7. Transitional provision. Title 35, section**  
29 **104, as amended, applies to any reorganization pending on**  
30 **the date on which amendments to that section, adopted by the**  
31 **Second Regular Session of the 110th Legislature, enter into**  
32 **effect without regard to the date when any affected utility**  
33 **has sought appropriate regulatory sanction from the United**  
34 **States Securities and Exchange Commission or any other**  
35 **regulatory body. This includes the reorganization proposed**  
36 **by Central Maine Power Company. If the commission has**  
37 **reached a mutual agreement with any affected utility, with**  
38 **respect to any matter included in Title 35, section 104,**  
39 **prior to the effective date of this Act it shall deem such**  
40 **an agreement to constitute a partial approval of the pending**  
41 **reorganization to the extent of that mutual agreement, and**  
42 **no affected utility may be required to apply, with regard to**  
43 **such matters, for further commission approval. Nothing in**  
44 **this transitional provision may affect the commission's**  
45 **authority to approve any portion of a pending reorganization**

