

MAINE STATE LEGISLATURE

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L.D. 1063

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DATE: June 12, 1995 (Filing No. S- 251)

UTILITIES AND ENERGY

Reported by: Senator CARPENTER of York for the Committee.

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**STATE OF MAINE
SENATE
117TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT " A" to S.P. 386, L.D. 1063, "Resolve, to Require a Study of the Structure of the Electric Utility Industry by the Public Utilities Commission"

Amend the resolve by striking out the title and substituting the following:

'Resolve, to Require a Study of Retail Competition in the Electric Industry'

Further amend the resolve by striking out everything after the title and before the statement of fact and inserting in its place the following:

'Emergency preamble. Whereas, Acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, it is immediately necessary to begin the study of an orderly transition to a competitive electric energy market to ensure that the transition is orderly and conducted in the best interests of the State; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

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2 **Sec. 1. Study. Resolved:** That the Public Utilities Commission
4 and the Work Group on Electric Industry Restructuring, which is
6 created by this resolve, shall conduct a study of the electric
8 industry in order to develop plans, consistent with the public
 interest, that establish guidelines and requirements for an
 orderly transition to a competitive market for retail purchases
 and sales of electric energy; and be it further

10 **Sec. 2. Issues. Resolved:** That the Public Utilities Commission
12 and the work group shall study the issues associated with the
 orderly transition to a competitive market for retail purchases
 and sales of electric energy, including at least the following:

14 1. How utility stranded investment is defined and
16 calculated and how it will be dealt with;

18 2. How the regional marketplace and federal law affect the
 transition;

20 3. How the State's energy policy, including policies
22 concerning conservation, use of renewable and indigenous
 resources and diversity of supply, will be affected;

24 4. How the State's environment and environmental policies
26 will be affected;

28 5. How social policies, including low-income programs and
 universal service goals, will be affected;

30 6. How ratepayers, shareholders of investor-owned electric
32 utilities, owners of consumer-owned electric utilities and other
 owners of energy resources will be affected;

34 7. How the State's economy will be affected;

36 8. How reliability of service will be affected;

38 9. How obligations of contracts will be affected;

40 10. How a system for the transmission, distribution and
42 generation of electricity should be structured; and

44 11. To what extent protections against anticompetitive
 practices can be provided; and be it further

46 **Sec. 3. Work group created. Resolved:** That the Work Group on
48 Electric Industry Restructuring, referred to in this resolve as
 the "work group," is established; and be it further

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2 **Sec. 4. Work group membership; meetings; chair. Resolved:** That
the work group consists of 18 members as follows:

4 1. Four Legislators who must be members of the Joint
Standing Committee on Utilities and Energy, appointed jointly by
6 the chairs of that committee;

8 2. One member representing the State Planning Office,
appointed by the Governor;

10 3. The Public Advocate or the Public Advocate's designee;

12 4. One member representing the Public Utilities Commission,
14 appointed by the chair of the commission;

16 5. One member representing Central Maine Power Company,
designated by the president of the company;

18 6. One member representing Bangor Hydro-electric Company,
20 designated by the president of the company;

22 7. One member representing Maine Public Service Company,
designated by the president of the company;

24 8. One member representing the consumer-owned electric
26 utilities, designated by Dirigo Electric Cooperative;

28 9. One member representing small business customers,
appointed by the Governor;

30 10. One member representing the Industrial Energy Consumer
32 Group, designated by that group;

34 11. One member representing the Conservation Law Foundation,
appointed by the foundation;

36 12. One member representing the Independent Energy Producers
38 of Maine, designated by that group;

40 13. One representative of Maine Yankee Atomic Power Company,
designated by the president of the company; and

42 14. Two members appointed by the Governor representing the
44 interests of low-income or elderly customers.

46 Appointments and designations must be made no later than 30
48 days following the effective date of this resolve. The
appointing and designating entities shall notify the Executive
Director of the Legislative Council upon making their
50 appointments or designations.

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2 When the appointment and designation of all members of the
work group is completed, the chair of the Legislative Council
4 shall call the work group together for its first meeting no later
than July 30, 1995. The work group shall select a legislative
6 member as chair; and be it further

8 **Sec. 5. Work group study; duties. Resolved:** That the work group
shall examine at least the issues listed in section 2 of this
10 resolve. To the extent the work group can reach agreement on how
the issues should be dealt with, the work group shall develop a
12 plan for the orderly transition to a competitive market for
retail purchases and sales of electric energy. The plan must
14 identify all necessary regulatory and statutory changes. Any
plan developed by the work group must be supported by at least 12
16 members of the work group. The work group shall identify all
issues on which the work group can not come to agreement; and be
18 it further

20 **Sec. 6. Staff. Resolved:** That the work group may request
staffing assistance from the Legislative Council. The work group
22 may also request clerical assistance from the Legislative
Council; and be it further

24 **Sec. 7. Resources; procedures. Resolved:** That the work group may:

26 1. Seek and receive funding from governmental entities or
28 from nonprofit organizations for all or portions of the costs of
conducting the study. The work group may accept and spend funds
30 only if approved by the Legislative Council and a majority of the
work group members approve of the funding source. The Executive
32 Director of the Legislative Council shall administer the work
group's budget;

34 2. Collect and analyze relevant information and data;

36 3. Conduct literature searches;

38 4. Conduct legal research and prepare legal opinions on
40 questions within the scope of the study;

42 5. Hold meetings at convenient times and locations; and

44 6. Seek and receive assistance and information from any
agency of State Government; and be it further

46 **Sec. 8. Compensation. Resolved:** That the members of the work
48 group who are Legislators are entitled to the legislative per
diem as defined in the Maine Revised Statutes, Title 3, section

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2, for each day's attendance at the work group's meetings; and be
2 it further

4 **Sec. 9. Work group report. Resolved:** That, unless an extension
is approved by the Legislative Council, the work group shall
6 present its findings in a report to the Second Regular Session of
the 117th Legislature, the Joint Standing Committee on Utilities
8 and Energy and the Public Utilities Commission no later than
November 1, 1995; and be it further

10 **Sec. 10. Public Utilities Commission investigation. Resolved:** That
12 the Public Utilities Commission shall conduct a study to develop
at least 2 plans for the orderly transition to a competitive
14 market for retail purchases and sales of electric energy as
follows:

16 1. A plan to achieve full retail market competition for
18 purchases and sales of electric energy by the year 2000. The
plan must identify all necessary regulatory and statutory
20 changes. The plan must be accompanied by a detailed critique of
the plan addressing at least the issues identified in section 2
22 of this resolve; and

24 2. A plan to achieve retail market competition for purchases
and sales of electric energy wherever effective competition is
26 likely and to maintain appropriate regulation in areas where it
is determined to be necessary. The plan must identify all
28 necessary regulatory and statutory changes. The plan must be
accompanied by a detailed critique addressing at least the issues
30 identified in section 2 of this resolve.

32 In each plan, the commission shall provide a range of
estimates of the costs of each affected utility's stranded
34 investment.

36 The commission shall incorporate into at least one of the
plans it develops all portions of any plan developed by the work
38 group that was supported by at least 12 members of the work group.

40 The commission shall identify the plan which the commission
believes to be in the best interests of the State; and be it
42 further

44 **Sec. 11. Commission process. Resolved:** That in conducting its
study, the Public Utilities Commission:

46 1. Shall begin no later than January 1, 1996;

48 2. Has discretion to distinguish issues of policy, to be
50 resolved by discussion and briefing, from issues of fact, to be

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resolved by normal evidentiary proceedings, including by stipulation. With respect to any issue of fact, or otherwise as the commission determines necessary, consistent with the time deadlines contained in this resolve, the commission may streamline the discovery and the hearing process to efficiently utilize the resources of the commission and the parties while ensuring the determination of facts necessary for its decision-making and for substantiating recommendations to the Legislature;

3. Shall examine information related to the issues listed in section 2 of this resolve that is available from other states and other countries on electric utility restructuring;

4. Shall examine information related to the issues listed in section 2 of this resolve that is available on transitions in other industry sectors from a highly regulated market to a competitive market;

5. To the extent possible, pursuant to its authority under the Maine Revised Statutes, Title 35-A, section 118 and any other provision of law, shall seek input from and share information with regulatory bodies and other entities in the other New England states and other states of the northeastern United States; and

6. Shall conduct a minimum of 4 hearings at different locations throughout the State to receive public comment; and be it further

Sec. 12. Legal effect. Resolved: That none of the findings of the Public Utilities Commission has legal effect. The purpose of the study is to provide information to the commission in order to allow it to make informed decisions in developing its plans and to provide information to the Legislature in order to allow the Legislature to make informed decisions when it evaluates those plans; and be it further

Sec. 13. Report. Resolved: That no later than January 1, 1997, the Public Utilities Commission shall complete its study and submit a report of its findings, including the required plans and critiques, to the First Regular Session of the 118th Legislature and to the joint standing committee of the Legislature having jurisdiction over utilities matters; and be it further

Sec. 14. Committee authority. Resolved: That the joint standing committee of the Legislature having jurisdiction over utilities matters may, by unanimous or majority vote of the committee, report out legislation to the First Regular Session of the 118th Legislature on electric industry restructuring; and be it further

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2 **Sec. 15. Appropriation. Resolved:** That the following funds
4 are appropriated from the General Fund to carry out the purposes
of this resolve.

6 1995-96

8 **LEGISLATURE**

10 **Work Group on Electric Industry**
12 **Restructuring**

12 Personal Services \$1,100
14 All Other 1,500

16 Provides funds for the per diem and expenses
18 of legislative members and miscellaneous
costs of the Work Group on Electric Industry
Restructuring.

20 **LEGISLATURE**
22 **TOTAL** \$2,600

24 **Emergency clause.** In view of the emergency cited in the
26 preamble, this resolve takes effect when approved.'

28 Further amend the resolve by inserting at the end before the
statement of fact the following:

30 **FISCAL NOTE**

32 1995-96

34 **APPROPRIATIONS/ALLOCATIONS**

36 General Fund \$2,600

38 This resolve includes a General Fund appropriation of \$2,600
40 in fiscal year 1995-96 for the Legislature for the per diem and
expenses of legislative members and for miscellaneous costs of
42 the Work Group on Electric Industry Restructuring.

44 The additional costs to provide staff assistance to the work
group can be absorbed by the Legislature utilizing existing
46 budgeted resources.

48 The Public Utilities Commission will incur some minor
additional costs to conduct a certain study and to participate in
the Work Group on Electric Industry Restructuring. These costs

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2 can be absorbed within the commission's existing budgeted
resources.

4 The State Planning Office and the Public Advocate will incur
6 some minor additional costs to participate in the Work Group on
Electric Industry Restructuring. These costs can be absorbed
8 within the agencies' existing budgeted resources.'

10 **STATEMENT OF FACT**

12 This amendment replaces all the provisions of the resolve.
The amendment:

14 1. Creates a 2-part study designed to develop plans for an
16 orderly transition to a competitive market for retail purchases
and sales of electric energy;

18 2. Creates the Work Group on Electric Industry
20 Restructuring, composed of 18 members, to study the transition
and to develop a consensus on as many of the relevant issues as
22 possible;

24 3. Directs the Public Utilities Commission to conduct a
study of the transition and to develop at least 2 plans for the
26 transition as follows:

28 A. A plan to achieve full retail market competition for
purchases and sales of electric energy by the year 2000; and

30 B. A plan to achieve retail competition wherever effective
32 competition is likely and to maintain regulation in areas
where necessary.

34 The plans must be accompanied by detailed critiques based on
36 certain issues and the commission shall identify the plan it
believes to be in the best interests of the State. The
38 commission shall incorporate in its plans all portions of any
plan developed by the work group on which the work group reached
40 agreement. The commission shall submit its report to the
Legislature by January 1, 1997;

42 4. Establishes a list of issues that must be examined by the
44 work group and the commission. This list of issues was developed
in tandem with another list that has come to be known as the "Ad
46 Hoc Committee List." The Ad Hoc Committee List includes a
considerable number of issues identified by various stakeholders
48 and is organized around the 11 issues identified in this
resolve. This list provides a more complete compilation of the
50 issues raised by electric industry restructuring and constitutes

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an important part of the legislative history of this resolve;

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5. Authorizes the joint standing committee of the Legislature having jurisdiction over utilities matters to report out legislation to the First Regular Session of the 118th Legislature on electric industry restructuring;

6. Establishes that none of the findings of the commission has legal effect;

7. Adds an emergency preamble and an emergency clause to the resolve; and

8. Adds an appropriation section and a fiscal note to the resolve.

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