

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

SECOND REGULAR SESSION-2000

Legislative Document

No. 2508

H.P. 1788

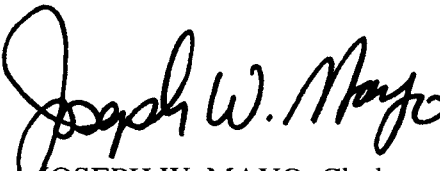
House of Representatives, January 21, 2000

An Act Relating to Electric Industry Restructuring.

(EMERGENCY)

Reported by Representative DAVIDSON for the Joint Standing Committee on Utilities and Energy pursuant to Public Law 1997, chapter 316, section 12.

Reference to the Joint Standing Committee on Utilities and Energy suggested and printing ordered under Joint Rule 218.


JOSEPH W. MAYO, Clerk

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

4
6 **Whereas,** retail choice in the State's electricity market is
scheduled by law to occur on March 1, 2000; and

8 **Whereas,** changes to various laws are necessary to bring the
laws into conformity with the restructuring of the electric
10 industry; and

12 **Whereas,** these changes must occur contemporaneously with the
start of retail choice; and

14
16 **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
18 necessary for the preservation of the public peace, health and
safety; now, therefore,

20
22 **Be it enacted by the People of the State of Maine as follows:**

24 **Sec. 1. 5 MRSA §1766, 2nd ¶,** as enacted by PL 1983, c. 803, is
amended to read:

26 The private party undertaking the installation, erection,
ownership, development or operation of such an improvement may
28 cogenerate thermal energy and electricity and may sell thermal
energy to a state facility located at or near the site of the
30 improvement. The private party may sell thermal energy in excess
of the requirements of the state facility to any other customer
32 and may sell cogenerated electricity to the state facility ~~or to~~
~~an electric public utility, subject to the provisions of Title~~
34 ~~35, chapter 172.~~

36 **Sec. 2. 10 MRSA §963-A, sub-§7-A,** as enacted by PL 1993, c.
712, §1, is amended to read:

38 **7-A. Electric rate stabilization project.** "Electric rate
40 stabilization project" means an agreement by ~~an electric~~ a
transmission and distribution utility with a qualifying facility,
42 as defined in Title 35-A, section 3303, that will result in the
reduction of costs to the ~~electric~~ transmission and distribution
44 utility and that has been certified by the Public Utilities
Commission to meet the standards established under Title 35-A,
46 section 3156.

48 **Sec. 3. 10 MRSA §1041, sub-§17,** as amended by PL 1989, c. 585,
Pt. C, §10, is further amended to read:

50

2 **17. Electricity.** Provide financial assistance for
3 electricity generation projects, ~~Any municipality, firm or~~
4 ~~corporation producing electricity by means of projects described~~
5 ~~in section 1044, subsection 12, or by means of a~~
6 ~~pollution control project, recreational project, multi-level~~
7 ~~parking facility or combined project may, without the approval of~~
8 ~~and regulation by the Public Utilities Commission, generate and~~
9 ~~distribute electricity solely for its own use or the use of its~~
10 ~~tenant, but may not, without proper approval, sell electricity to~~
11 ~~other than an electric public utility corporation or cooperative~~
12 ~~authorized to make, generate, sell and distribute electricity; and~~

13 **Sec. 4. 10 MRSA §1415-H, sub-§§1 to 4,** as enacted by PL 1993,
14 c. 329, §1, are amended to read:

15 **1. Certification.** Before installing permanent service to a
16 commercial or institutional building, ~~an electric~~ a transmission
17 and distribution utility, as defined in Title 35-A, section 102,
18 shall obtain from the owner of the building or from the owner's
19 legal agent, on a form provided by the utility, a signed
20 certification that the building complies with the requirements of
21 section 1415-D. A copy of the signed certification must be
22 provided by the ~~electric~~ transmission and distribution utility to
23 the Department of Economic and Community Development, Energy
24 Conservation Division or a successor agency charged with
25 administering energy building standards.

26 **2. Form.** The Commissioner of Economic and Community
27 Development shall develop a model certification form to be used
28 by ~~electric~~ transmission and distribution utilities under
29 subsection 1.

30 **3. Fee.** ~~An electric~~ A transmission and distribution
31 utility may charge a reasonable fee to cover its costs of
32 processing certificates under this section.

33 **4. Penalties.** ~~An electric~~ A transmission and distribution
34 utility that knowingly violates subsection 1 commits a civil
35 violation for which a forfeiture of not less than \$100 nor more
36 than \$500 must be adjudged. An owner of a building who falsely
37 certifies that a building complies with the standards established
38 under section 1415-D commits a civil violation for which a
39 forfeiture of not less than \$100 and not more than 5% of the
40 value of the construction must be adjudged.

41 **Sec. 5. 12 MRSA §685-A, sub-§11,** as amended by PL 1973, c.
42 569, §10, is further amended to read:

43 **11. Public utility exemptions.** Real estate used or to be
44 used by a public service ~~corporation~~ utility, as defined in Title

2 35-A, section 102, subsection 13, may be wholly or partially
4 exempted from regulation to the extent that the commission may
6 not prohibit such use but may impose terms and conditions for use
8 consistent with the purpose of this chapter, when, upon timely
petition to the Public Utilities Commission and after a hearing,
the ~~said-commission~~ Public Utilities Commission determines that
such exemption is necessary or desirable for the public welfare
or convenience.

10 **Sec. 6. 14 MRSA §6045,** as enacted by PL 1993, c. 183, §1, is
12 amended to read:

14 **§6045. Disclosure of transmission and distribution utility costs**

16 Upon request, ~~an electric~~ a transmission and distribution
18 utility, as defined in Title 35-A, section 102, shall provide
20 free of charge to current or prospective customers, tenants or
22 property owners residential electric energy consumption and cost
24 information for a dwelling unit for the prior 12-month period or
26 figures reflecting the highest and lowest electric energy
consumption and cost for the previous 12 months. The cost must
include and separately identify the cost of the transmission and
distribution utility's services and the cost of electricity. If
a unit has been occupied for a period of less than 12 months or
for any other reasons the utility does not have information
regarding electricity consumption or costs for a period of 12
months, the electric utility shall estimate the unit's annual
kilowatt-hour consumption and or cost. The estimated cost must
be based on the applicable standard-offer service price or
default service price established by the Public Utilities
Commission. Provision of this information is neither a breach of
customer confidentiality nor a guarantee or contract by the
utility as to future consumption levels for or the cost of the
provision of electricity to that unit. For purposes of this
section, "dwelling unit" includes mobile homes, apartments,
buildings or other structures used for human habitation.

38 **Sec. 7. 17 MRSA §3204, 2nd ¶,** as amended by PL 1991, c. 315,
40 is further amended to read:

42 This section does not apply to: The operation or maintenance
44 of common, contract and private carriers; taxicabs; airplanes;
46 newspapers; radio and television stations; hotels, motels,
rooming houses, tourist and trailer camps; restaurants; garages
and motor vehicle service stations; retail monument dealers;
automatic laundries; machines that vend anything of value,
including, but not limited to, a product, money or service; a
satellite facility approved by the Superintendent of Banking
under Title 9-B; or comparable facility approved by the
appropriate federal authority; pharmacies; greenhouses; seasonal

stands engaged in sale of farm produce, dairy products, sea-feed
2 seafood or Christmas trees; public utilities; industries normally
kept in continuous operations, including, but not limited to,
4 electric generation plants, pulp and paper plants and textile
plants; processing plants handling agricultural produce or
6 products of the sea; ship chandleries; marinas; establishments
primarily selling boats, boating equipment, sporting equipment,
8 souvenirs and novelties; motion picture theatres; public dancing;
sports and athletic events; bowling alleys; displaying or
10 exploding fireworks, under Title 8, chapter 9-A; musical
concerts; religious, educational, scientific or philosophical
12 lectures; scenic, historic, recreational and amusement
facilities; real estate brokers and real estate sales
14 representatives; mobile home brokers and mobile home sales
representatives; provided that this section does not exempt the
16 businesses or facilities specified in sections 3205 and 3207 from
closing in any municipality until the requirements of those
18 sections have been met; stores wherein no more than 5 persons,
including the proprietor, are employed in the usual and regular
20 conduct of business; stores which have no more than 5,000 square
feet of interior customer selling space, excluding back room
22 storage, office and processing space; and stores with more than
5,000 square feet of interior customer selling space which engage
24 in retail sales and which do not require, as a condition of
employment, that their employees work on Sundays. If an employer
26 decreases the average weekly work hours of an employee who has
declined to work on Sundays, it is prima facie evidence that the
28 employer has required Sunday work as a condition of employment in
violation of this section, unless the employer and employee
30 agreed that the employee would work on Sundays when the employee
was initially hired. In no event, however, may any store having
32 more than 5,000 square feet of interior customer selling space be
open on Easter Day, Thanksgiving Day and Christmas Day.

34
36 **Sec. 8. 17-A MRSA §357, sub-§5**, as enacted by PL 1993, c. 106,
§1, is amended to read:

38 5. Proof that utility services have been improperly
diverted or that devices belonging to the utility and installed
40 for the delivery, regulation or measurement of utility services
have been interfered with constitutes prima facie evidence that
42 the person to whom the utility service is being delivered or
diverted knowingly created or caused to be created the improper
44 diversion or interference with the devices of the utility. For
46 purposes of this subsection, the term "utility" includes a public
48 utility, a sewer service provider, a competitive electricity
provider licensed by the Public Utilities Commission and an
entity lawfully providing electric metering or billing services
in accordance with Title 35-A or rules adopted by the Public
50 Utilities Commission.

2 This inference does not apply unless the person to whom the
utility service is being delivered has been furnished the service
4 for at least 30 days.

6 **Sec. 9. 20-A MRSA §8354, sub-§1, ¶A**, as amended by PL 1991, c.
716, §7, is further amended to read:

8
A. Adding the amounts paid by the center, satellite program
10 or region during the previous fiscal year for:

- 12 (1) Teachers' salaries;
- 14 (2) Fuel;
- 16 (3) Janitorial services;
- 18 (4) Textbooks;
- 20 (5) Reference books;
- 22 (6) School supplies for desk and laboratory use;
- 24 (7) Public utility services;
- 26 (8) Replacement of instructional equipment;
- 28 (9) Insurance;
- 30 (10) Compensation for the applied technology director
and the applied technology director's assistants; and
- 32 (11) Employee fringe benefits; and
- 34 (12) Electricity services provided by competitive
36 electricity providers or other entities authorized by
38 the Public Utilities Commission to provide electricity
services;

40 **Sec. 10. 20-A MRSA §8354, sub-§2**, as amended by PL 1991, c.
518, §10, is further amended to read:

42
2. **Alternate method.** When the cost of fuel, janitorial
44 services, public utility services, electricity services or
insurance for facilities used to provide vocational education can
46 not be separated from similar costs for other facilities not used
to provide vocational education, the costs of facilities used to
48 provide vocational education are determined by prorating the
square footage of floor space used to provide vocational
50 education to the total amount of floor space at the facilities.

2 **Sec. 11. 30-A MRSA §2252**, as amended by PL 1989, c. 104, Pt.
C, §§8 and 10, is further amended to read:

4 **§2252. "Political subdivision" defined**

6 "Political subdivision" means any municipality, plantation,
8 county, quasi-municipal corporation and special purpose district,
including, but not limited to, any water district, sanitary
10 district, hospital district, municipal ~~electric~~ transmission and
distribution utility and school administrative unit. "School
12 administrative unit" has the same meaning as found in Title 20-A,
section 1, subsection 26.

14 **Sec. 12. 30-A MRSA §4152, sub-§2**, as amended by PL 1989, c.
16 104, Pt. C, §§8 and 10, is further amended to read:

18 **2. Public utilities.** The electrical work and equipment
employed in connection with the construction, installation,
20 operation, repair or maintenance of any utility facility by a
public utility corporation, as defined in Title 35-A, section
22 102, or by a sewer district or sanitary district in providing its
authorized service, or in any way incidental to providing that
24 service;

26 **Sec. 13. 32 MRSA §1102, sub-§1-A**, as amended by PL 1997, c.
28 576, §1, is further amended to read:

30 **1-A. Public service corporations.** A public service
corporation or an employee of a public service corporation making
electrical installations in the course of the employee's
32 employment, including installations of conductors and equipment
that are not under the exclusive control of the ~~electric~~
34 utilities public service corporation and are used to connect the
~~electric-utility~~ public service corporation supply system to the
36 service entrance conductors of the premises served, including
such installations of conductors and equipment that are outside a
38 building or terminate immediately inside a building. This
exception does not apply to the installation of mobile home
40 service equipment;

42 **Sec. 14. 32 MRSA §1104, first ¶**, as amended by PL 1995, c. 325,
44 §8, is further amended to read:

46 State electrical inspectors, upon an oral complaint of
imminent danger or upon written complaint of any owner, lessee or
tenant of a building, state fire inspector, fire chief, fire
48 department inspector, personnel of an ~~electric~~ a transmission and
distribution utility or local electrical inspector or whenever
50 they determine it necessary at all reasonable hours, for purposes

2 of examination, may enter into and upon all buildings or premises
3 within their jurisdiction and inspect the same. They may enter
4 any building only with the permission of the person having
5 control thereof, or after hearing, upon order of court. Whenever
6 any state electrical inspector finds any electrical installation
7 in any building or structure that does not comply with this
8 chapter, the inspector shall order the same to be removed or
9 remedied and the owner or occupant of the premises or buildings
10 shall immediately comply with the order. Whenever any state
11 electrical inspector finds any electrical installation in any
12 building or structure that creates a danger to other property or
13 to the public, the inspector may forbid use of the building or
14 structure by serving a written order upon the owner and the
15 occupant, if any, to vacate within a reasonable period of time to
16 be stated in the order.

17 **Sec. 15. 32 MRSA §2315, sub-§1**, as enacted by PL 1999, c. 386,
18 Pt. J, §8, is amended to read:

19 **1. Inspection.** State oil and solid fuel compliance
20 officers, upon written complaint of any owner, lessee or tenant
21 of a building, state fire inspector, fire chief, fire department
22 inspector, personnel of an---electric a transmission and
23 distribution utility or local electrical inspector, or whenever
24 they consider it necessary, for purposes of examination of the
25 burner, chimney or fireplace installation, may at all reasonable
26 hours enter into and upon all buildings or premises within their
27 jurisdiction and inspect the buildings or premises. The
28 inspectors may enter any building only with the permission of the
29 person having control of the building or, after hearing, upon
30 order of the court. Whenever any such compliance officer finds
31 any burner, chimney or fireplace installation in any building or
32 structure that does not comply with the requirements of this
33 chapter, that officer shall order the burner, chimney or
34 fireplace to be removed or remedied, and the order must forthwith
35 be complied with by the owner or occupant of that building or
36 structure or the installer of the equipment. If the compliance
37 officer finds an installation, which falls under the compliance
38 officer's jurisdiction in any building or structure that creates
39 a danger to other property or to the public, the compliance
40 officer may forbid the use of the building or structure by
41 serving a written order upon the owner and the occupant, if any,
42 to vacate within a reasonable period of time to be stated in the
43 order.
44

45 **Sec. 16. 33 MRSA §1952, sub-§3-A** is enacted to read:

46 **3-A. Competitive electricity provider.** "Competitive
47 electricity provider" has the same meaning as defined in Title
48 35-A, section 3201, subsection 5.
49
50

2 **Sec. 17. 33 MRSA §1953, sub-§1, ¶M**, as enacted by PL 1997, c.
508, Pt. A, §2 and affected by §3, is amended to read:

4
6 M. A deposit or refund owed to a subscriber by a utility or
by a competitive electricity provider, one year after the
8 deposit or refund becomes payable;

10 **Sec. 18. 36 MRSA §1760, sub-§9-B**, as amended by PL 1999, c.
414, §19, is further amended to read:

12 **9-B. Residential electricity.** Sale and delivery of the
14 first 750 kilowatt hours of residential electricity per month.
16 For the purpose of this subsection, "residential electricity"
18 means electricity furnished to homes, mobile homes, boarding
20 homes and apartment houses, with the exception of hotels and
22 motels. Where residential electricity is furnished through one
24 meter to more than one residential unit and where the ~~electric~~
transmission and distribution utility applies its tariff on a per
unit basis, the furnishing of electricity is considered a
separate sale for each unit to which the tariff applies. For
purposes of this subsection, "delivery" means transmission and
distribution;

26 **Sec. 19. 38 MRSA §353-A, sub-§6**, as amended by PL 1993, c.
412, §3, is repealed.

28 **Sec. 20. 38 MRSA §487-A, sub-§2**, as amended by PL 1997, c. 72,
§1, is further amended to read:

30 **2. Power generating facilities.** In case of a permanently
32 installed ~~power-generating facility of more than 1,000 kilowatts~~
~~or~~ a transmission line carrying 100 kilovolts, or more, proposed
34 to be erected within this State by ~~an electric~~ a transmission and
distribution utility or utilities, the proposed development, in
36 addition to meeting the requirements of section 484, must also
38 have been approved by the Public Utilities Commission under Title
35-A, section 3132.

40 In the event that ~~an electric~~ a transmission and distribution
42 utility or utilities file a notification pursuant to section
44 485-A before they are issued a certificate of public convenience
46 and necessity by the Public Utilities Commission, they shall file
48 a bond or, in lieu of that bond, satisfactory evidence of
50 financial capacity to make that reimbursement with the
department, payable to the department, in a sum satisfactory to
the commissioner and in an amount not to exceed \$50,000. This
bond or evidence of financial capacity must be conditioned to
require the applicant to reimburse the department for its cost
incurred in processing any application in the event that the

2 applicant does not receive a certificate of public convenience
and necessity.

4 **Sec. 21. 38 MRSA §603-A, sub-§2**, as amended by PL 1989, c.
501, Pt. CC, §1, is further amended by amending the first
6 paragraph to read:

8 **2. Prohibitions.** Except as provided in subsections 4,--4-A
and 5, no person may use any liquid fossil fuel with a sulfur
10 content exceeding the limits in paragraph A or any solid fossil
fuel with a sulfur content to heat content ratio exceeding the
12 limits of paragraph B.

14 **Sec. 22. 38 MRSA §603-A, sub-§4-A**, as enacted by PL 1989, c.
501, Pt. CC, §3, is repealed.

16 **Sec. 23. 38 MRSA §1304-B, sub-§5-A, ¶D**, as enacted by PL 1997,
18 c. 602, §2 and affected by §3, is amended to read:

20 D. Notwithstanding any limitation imposed by Title 30-A,
chapter 223, subchapter III-A, or any other limitation on
22 investments imposed on a member pursuant to state law, each
member may invest its funds in and participate in the
24 ownership of:

26 (1) One or more solid waste disposal facilities;

28 (2) An entity that owns one or more solid waste
disposal facilities;

30 (3) ~~An--electric--utility--or~~ A transmission and
32 distribution utility that has a power purchase
agreement with the owners of a solid waste disposal
34 facility that, in turn, has a solid waste disposal
contract with the member;

36 (4) ~~An--electric--power--generation--company~~ A competitive
38 electricity provider, as defined in Title 35-A, section
40 3201, established by a public utility whether or not it
is regulated by the Public Utilities Commission or a
42 successor state agency; and

44 (5) A subsidiary entity formed by ~~an--electric~~ a
transmission and distribution utility.

46 **Sec. 24. 38 MRSA §2232, sub-§3**, as enacted by PL 1991, c. 676,
§1, is amended to read:

48 **3. Revenue.** The total revenue of the incineration facility
50 from all sources for the last completed fiscal year and each

2 month of that year. Revenue figures must identify revenues from
each revenue source, including, but not limited to, tipping fees
4 and any revenue from sales of electricity to electric
transmission and distribution utilities;

6 **Emergency clause.** In view of the emergency cited in the
preamble, this Act takes effect March 1, 2000.

10 SUMMARY

12 This bill, which is reported by the Joint Standing Committee
on Utilities and Energy pursuant to Public Law 1997, chapter 316,
14 section 12, brings various provisions of law into conformity with
changes made by electric industry restructuring. Specifically,
16 the bill:

18 1. Deletes an obsolete reference to "electric public
utility" in the Maine Revised Statutes, Title 5 in a provision
20 concerning the use of certain fuels in state facilities;

22 2. Changes a reference to "electric utility" to
"transmission and distribution utility" in a provision of law
24 concerning the electric rate stabilization program;

26 3. Deletes an obsolete provision concerning sales of
electricity to an "electric public utility" in a provision of law
28 concerning revenue obligation programs administered by the
Finance Authority of Maine;

30 4. Changes a reference to "electric utility" to
32 "transmission and distribution utility" in a provision of law
concerning building standards;

34 5. Changes a reference to "public service corporation" to
36 "public utility" in a provision of law concerning zoning by the
Maine Land Use Regulation Commission;

38 6. Updates a provision of law concerning the provision of
40 estimates of electric consumption and cost by an "electric
utility";

42 7. Clarifies that the Sunday closure law does not apply to
44 competitive electricity providers;

46 8. Includes theft of the services of competitive
electricity providers in the criminal code provisions regarding
48 theft of utility services;

- 2 9. Modifies provisions relating to the determination of
vocational education tuition services to maintain the inclusion
of electricity costs;
- 4
- 6 10. Changes a reference to "electric utility" to
"transmission and distribution utility" in a provision of law
relating to municipal self-funded pools;
- 8
- 10 11. Changes several references to "utility corporation" to
"public utility" in provisions of law relating to electrical
inspections;
- 12
- 14 12. Changes a provision relating to unclaimed deposits or
refunds owed by a public utility to include those owed by a
competitive electricity provider;
- 16
- 18 13. Changes a reference to "electric utility" to
"transmission and distribution utility" in a provision of law
relating to the sales tax exemption for residential electric use;
- 20
- 22 14. Strikes a provision providing special air emissions
fees for generators owned by electric utilities;
- 24
- 26 15. Changes a reference to "electric utility" to
"transmission and distribution utility" in a provision concerning
Public Utilities Commission approval requirements for site
location of development permits and deletes a reference to
"electric utility generation facilities";
- 28
- 30 16. Deletes a provision providing special low sulfur fuel
use standards for facilities owned by regulated electric
utilities;
- 32
- 34 17. Changes references to "electric utility" to
"transmission and distribution utility" in provisions of law
relating to investments of public waste disposal corporations; and
- 36
- 38 18. Changes a reference to "electric utility" to
"transmission and distribution utility" in a provision of law
relating to revenues of incineration facilities.
- 40