

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2007

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Legislative Document

No. 268

H.P. 224

House of Representatives, January 18, 2007

### **An Act Regarding the Long-term Contracting Authority of the Public Utilities Commission**

(EMERGENCY)

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Submitted by the Public Utilities Commission pursuant to Joint Rule 204.  
Reference to the Committee on Utilities and Energy suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative BLISS of South Portland.  
Cosponsored by Senator BARTLETT of Cumberland.

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

3       **Whereas,** the New England independent system operator and the Federal Energy  
4 Regulatory Commission are moving forward with regional capacity requirements that  
5 will add significant costs to Maine customers; and

6       **Whereas,** long-term contracts for capacity resources may reduce the costs of the  
7 regional capacity requirements and enhance grid reliability; and

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

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

13       **Sec. 1. 35-A MRSA §3210-C, sub-§1,** as enacted by PL 2005, c. 677, Pt. C, §1,  
14 is amended to read:

15       **1. Definitions.** As used in this section, unless the context otherwise indicates, the  
16 following terms have the following meanings.

17       A. "Capacity resource" means any renewable capacity resource, nonrenewable  
18 capacity resource or ~~new~~ interruptible, demand response or energy efficiency  
19 capacity resource.

20       B. "Interruptible, demand response or energy efficiency capacity resource" means a  
21 resource that has demand response, interruptible or energy efficiency capacity  
22 recognized by the ~~commission~~ New England independent system operator or  
23 successor organization.

24       C. "New" as applied to any capacity resource means a capacity resource that:

25               (1) Has an in-service date after September 1, 2005;

26               (2) Was added to an existing facility after September 1, 2005;

27               (3) For at least 2 years was not operated or was not recognized by the New  
28 England independent system operator as a capacity resource and, after September  
29 1, 2005, resumed operation or was recognized by the New England independent  
30 system operator as a capacity resource; or

31               (4) Was refurbished after September 1, 2005 and is operating beyond its  
32 previous useful life or is employing an alternate technology that significantly  
33 increases the efficiency of the generation process.

34       D. "Nonrenewable capacity resource" means an electric generation resource other  
35 than a renewable capacity resource.

1 E. "Renewable capacity resource" means a renewable resource, as defined in section  
2 3210, subsection 2, paragraph C, except "renewable capacity resource" does not  
3 include:

4 (1) A generator fueled by municipal solid waste in conjunction with recycling; or

5 (2) A hydroelectric generator unless it meets all state and federal fish passage  
6 requirements applicable to the generator.

7 **Sec. 2. 35-A MRSA §3210-C, sub-§3**, as enacted by PL 2005, c. 677, Pt. C, §1,  
8 is amended to read:

9 **3. Commission authority.** The commission may direct large investor-owned  
10 transmission and distribution utilities to enter into long-term contracts for:

11 A. Capacity resources; ~~and~~

12 B. Any available energy associated with capacity resources contracted under  
13 paragraph A:

14 (1) To the extent necessary to fulfill the policy of subsection 2, paragraph A; or

15 (2) If the commission determines appropriate for purposes of supplying or  
16 lowering the cost of standard-offer service ~~pursuant to section 3212. If contracts~~  
17 ~~are entered into~~ Available energy contracted pursuant to this subparagraph, ~~the~~  
18 ~~contracts must be treated as standard offer service contracts pursuant to section~~  
19 ~~3212.~~ may be sold into the wholesale electricity market in conjunction with  
20 solicitations for standard-offer supply; and

21 C. Any available ancillary services or renewable energy credits associated with  
22 capacity resources contracted under paragraph A to the extent the cost of the ancillary  
23 services or renewable energy credits is below market value or the purchase of the  
24 ancillary services or renewable energy credits adds value to the transaction.

25 The commission may direct large investor-owned transmission and distribution utilities to  
26 enter into contracts under this subsection only on a wholesale basis or as agents for their  
27 customers and only in accordance with this section. To the greatest extent possible, the  
28 commission shall develop procedures having the same legal and financial effect as the  
29 procedures used for standard-offer service pursuant to section 3212 for large investor-  
30 owned transmission and distribution utilities.

31 The commission may enter into contracts for interruptible, demand response or energy  
32 efficiency capacity resources. These contracts are not subject to the rules of the State  
33 Purchasing Agent.

34 Capacity resources contracted under this subsection may not exceed the amount  
35 necessary to ensure the reliability of the electric grid of this State or to lower customer  
36 costs as determined by the commission pursuant to rules adopted under subsection 10.

37 Unless the commission determines the public interest requires otherwise, a capacity  
38 resource may not be contracted under this subsection unless the commission determines  
39 that the capacity resource is recognized as a capacity resource for purposes of any  
40 regional or federal capacity requirements.

