

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

2015

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

Date: 4-4-08

(Filing No. S-561 )

**UTILITIES AND ENERGY**

Reproduced and distributed under the direction of the Secretary of the Senate.

**STATE OF MAINE  
SENATE  
123RD LEGISLATURE  
FIRST SPECIAL SESSION**

**Majority**

COMMITTEE AMENDMENT "A" to S.P. 885, L.D. 2255, Bill, "An Act To Protect Maine's Energy Sovereignty through the Designation of Energy Infrastructure Corridors and Energy Plan Development"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

**PART A**

**Sec. A-1. 12 MRSA §685-A, sub-§11**, as amended by PL 1999, c. 657, §5, is further amended to read:

**11. Exemptions.** Real estate used or to be used by a public utility, as defined in Title 35-A, section 102, subsection 13, or a person who is issued a certificate by the Public Utilities Commission under Title 35-A, section 122 may be wholly or partially exempted from regulation to the extent that the commission may not prohibit such use but may impose terms and conditions for use consistent with the purpose of this chapter, when, upon timely petition ~~to the Public Utilities Commission and after a~~ notice and public hearing, the Public Utilities Commission determines that such exemption is necessary or desirable for the public welfare or convenience. The Public Utilities Commission shall adopt by rule procedures to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. A-2. 30-A MRSA §4352, sub-§4**, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

**4. Exemptions.** Real estate used or to be used by a public ~~service corporation utility~~, as defined in Title 35-A, section 102, subsection 13, or a person who is issued a certificate by the Public Utilities Commission under Title 35-A, section 122 is wholly or partially exempt from an ordinance only when on petition, notice and public hearing the Public Utilities Commission determines that the exemption is reasonably necessary for public welfare and convenience. The Public Utilities Commission shall adopt by rule

**COMMITTEE AMENDMENT**

R. of S.

1 procedures to implement this subsection. Rules adopted pursuant to this subsection are  
2 routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

3 **Sec. A-3. 35-A MRSA §122** is enacted to read:

4 **§122. Energy infrastructure corridors**

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

7 A. "Department" means the Department of Environmental Protection.

8 B. "Energy infrastructure" includes electric transmission and distribution facilities,  
9 natural gas transmission lines, carbon dioxide pipelines and other energy transport  
10 pipelines or conduits. "Energy infrastructure" does not include generation  
11 interconnection transmission facilities or energy generation facilities.

12 C. "Energy infrastructure corridor" or "corridor" means a geographic area within the  
13 State designated by the commission in accordance with this section for the purposes  
14 of siting energy infrastructure.

15 D. "Generation interconnection transmission facility" has the same meaning as in  
16 section 3132, subsection 1-B.

17 E. "Interested person" means a person that can demonstrate to the commission the  
18 financial and technical capability to engage in the development and construction of  
19 energy infrastructure.

20 F. "Project" means the development or construction of energy infrastructure within  
21 an energy infrastructure corridor.

22 G. "Tribe" includes the Penobscot Nation, as defined in Title 30, section 6203,  
23 subsection 10; the Passamaquoddy Tribe, as defined in Title 30, section 6203,  
24 subsection 7; the Houlton Band of Maliseet Indians, as defined in Title 30, section  
25 6203, subsection 2 and the Aroostook Band of Micmacs, as defined in Title 30,  
26 section 7202, subsection 1.

27 **2. Designation of energy infrastructure corridors.** The commission may, upon  
28 petition, designate energy infrastructure corridors in accordance with this subsection.

29 A. The commission may designate an energy infrastructure corridor only by rule  
30 pursuant to subsection 9. Rulemaking to designate an energy infrastructure corridor  
31 must include a public hearing in which interested persons and other persons are  
32 provided an opportunity to be heard.

33 B. The commission may commence a proceeding to designate an energy  
34 infrastructure corridor only upon the filing of a petition for the designation of a  
35 corridor by the Office of the Public Advocate, the Executive Department, Governor's  
36 Office of Energy Independence and Security or an interested person.

37 C. The commission shall dismiss a petition for the designation of an energy  
38 infrastructure corridor filed under this subsection if, after preliminary review, the  
39 commission determines that the petition does not contain sufficient information to  
40 support the designation of an energy infrastructure corridor.

R.O.S.

COMMITTEE AMENDMENT "A" to S.P. 885, L.D. 2255

1 D. The commission may designate an energy infrastructure corridor only if the  
2 commission finds that the future development of energy infrastructure within the  
3 corridor is reasonably likely to be:

- 4 (1) In the public interest, including, but not limited to, consideration of:  
5 (a) Encouraging colocation of energy infrastructure;  
6 (b) Enhancing the efficient utilization of existing energy infrastructure; and  
7 (c) Limiting impacts on the landscape; and

8 (2) Consistent with environmental and land use laws and rules of the State. A  
9 finding that the future development of energy infrastructure within the corridor is  
10 reasonably likely to be consistent with environmental and land use laws and rules  
11 of the State under this paragraph does not imply that an application for any  
12 particular project meets environmental or land use laws and rules or will be  
13 approved.

14 E. In designating a geographic area as an energy infrastructure corridor, the  
15 commission shall limit the geographic area of the corridor to an area no greater in  
16 breadth and scope than is necessary to achieve the purposes of this section.

17 F. The commission may not designate an energy infrastructure corridor that is  
18 located on any of the following lands:

- 19 (1) Houlton Band Trust Land, as defined in Title 30, section 6203, subsection  
20 2-A;  
21 (2) Passamaquoddy Indian territory, as defined in Title 30, section 6203,  
22 subsection 6;  
23 (3) Penobscot Indian territory, as defined in Title 30, section 6203, subsection 9;  
24 (4) Aroostook Band Trust Land, as defined in Title 30, section 7202, subsection  
25 2;  
26 (5) Lands that constitute a park as defined in Title 12, section 1801, subsection 7  
27 and Baxter State Park; and  
28 (6) Federally owned land.

29 3. Consultation required. Prior to designating an energy infrastructure corridor  
30 under subsection 2, the commission shall, at a minimum, consult with:

- 31 A. The department;  
32 B. Appropriate state and federal energy and natural resources protection agencies, as  
33 specified by rules adopted pursuant to subsection 9;  
34 C. The municipalities in which the corridor would be located;  
35 D. The Maine Land Use Regulation Commission, if the proposed energy  
36 infrastructure corridor, or any portion of the corridor, is located within unorganized  
37 or deorganized territories of the State; and

R. of S.

COMMITTEE AMENDMENT "A" to S.P. 885, L.D. 2255

1 E. A tribe, if the proposed energy infrastructure corridor, or any portion of the  
2 corridor, is located on land of a tribe other than those lands specified in subsection 2,  
3 paragraph F.

4 **4. Use of corridors; certificate and permit required.** Development or construction  
5 of energy infrastructure within an energy infrastructure corridor is governed by this  
6 subsection.

7 A. A transmission and distribution utility may not engage in development or  
8 construction of a transmission line covered by section 3132 within an energy  
9 infrastructure corridor, unless:

- 10 (1) The commission has issued a certificate of public convenience and necessity  
11 approving the transmission line in accordance with section 3132; and
- 12 (2) The department has issued a consolidated environmental permit approving the  
13 project in accordance with subsection 6.

14 B. A transmission and distribution utility may not engage in development or  
15 construction of energy infrastructure other than a transmission line covered by section  
16 3132 within an energy infrastructure corridor, unless:

- 17 (1) The commission has issued a corridor use certificate approving the project in  
18 accordance with subsection 5; and
- 19 (2) The department has issued a consolidated environmental permit approving the  
20 project in accordance with subsection 6.

21 C. A person that is not a transmission and distribution utility may not engage in  
22 development or construction of energy infrastructure within an energy infrastructure  
23 corridor, unless:

- 24 (1) The commission has issued a corridor use certificate approving the project in  
25 accordance with subsection 5; and
- 26 (2) The department has issued a consolidated environmental permit approving the  
27 project in accordance with subsection 6.

28 **5. Corridor use certificate.** Whenever a person proposes to develop or construct  
29 energy infrastructure within an energy infrastructure corridor, except for a transmission  
30 and distribution utility that proposes a transmission line subject to the requirements of  
31 section 3132, that person shall file with the commission a petition for a corridor use  
32 certificate. The petition for the corridor use certificate must contain such information as  
33 the commission by rule requires. The commission shall process a petition for a corridor  
34 use certificate in an adjudicatory proceeding. The commission shall issue a corridor use  
35 certificate upon a finding that the project is:

- 36 A. In the public interest; and
- 37 B. Reasonably likely to:
  - 38 (1) Minimize utility rates or increase the reliability of utility service;
  - 39 (2) Have the net effect of reducing the release of greenhouse gases; or

**COMMITTEE AMENDMENT**

R.M.S.

1           (3) Enhance economic development within the State.

2           6. Environmental review; consolidated environmental permit. Whenever a  
3 person proposes to develop or construct energy infrastructure within an energy  
4 infrastructure corridor, that person shall file with the department an application for a  
5 consolidated environmental permit. The department shall adopt by rule pursuant to  
6 subsection 9 a process for the review of applications and the issuance of the consolidated  
7 environmental permit in accordance with this subsection. The department may request  
8 comments from and consult with other agencies and programs that are required by law to  
9 issue separate approvals for some or all projects.

10           A. A consolidated environmental permit issued by the department takes the place of  
11 any other permits or licenses that the department would otherwise require for the  
12 proposed project.

13           B. The application for a consolidated environmental permit must contain such  
14 information as the department requires, including, but not limited to, all studies and  
15 documentation necessary to determine whether the proposed project is in compliance  
16 with the environmental laws of the State administered by the department.

17           C. The applicant for a consolidated environmental permit shall pay a fee specified by  
18 rule and reimburse the department for any additional costs of regulatory review,  
19 including expenses for outside peer review or other consultants or experts assisting  
20 the department in its review. Outside review of applications under this subsection is  
21 governed by Title 38, section 344-A, except that the Commissioner of Environmental  
22 Protection is not required to obtain the consent of the applicant to enter into an  
23 agreement with an outside reviewer or require that the costs of the outside review be  
24 reimbursed by the applicant.

25           D. The department shall issue its decision on an application for a consolidated  
26 environmental permit within a timeframe specified by department rule or guideline.  
27 The decision may specify approval, denial or approval in part and denial in part. A  
28 proposed project may not be undertaken if it is denied in whole or in part by the  
29 department.

30           E. Upon issuance of a consolidated environmental permit, the department shall  
31 certify to the commission that the permit has been issued and whether the proposed  
32 project complies, in part or in whole, with the environmental laws of the State  
33 administered by the department and whether other agencies and programs that are  
34 required by law to issue separate approvals for some or all aspects of the project have  
35 taken final agency action on those matters requiring their separate approval.

36           F. The department shall enforce the terms of the consolidated environmental permit.

37           G. The terms of the consolidated environmental permit may require additional  
38 submissions by the permit holder, studies and approvals with conditions.

39           If the department receives an application for a permit to develop or construct energy  
40 infrastructure within an energy infrastructure corridor prior to adopting a rule to  
41 implement this subsection, the department shall process the application in accordance  
42 with the department's existing review and permitting procedures.

R. 015

COMMITTEE AMENDMENT "A" to S.P. 885, L.D. 2255

- 1        7. Eminent domain. This subsection grants and limits certain rights of eminent  
2 domain with respect to energy infrastructure corridors.
- 3        A. The eminent domain authority of a transmission and distribution utility within an  
4 energy infrastructure corridor is governed by section 3136.
- 5        B. Subject to approval by the commission, a person that is not a transmission and  
6 distribution utility that receives a corridor use certificate under subsection 5 to  
7 develop energy infrastructure within an energy infrastructure corridor may take and  
8 hold by right of eminent domain lands and easements within that corridor necessary  
9 for the proper location of the energy infrastructure covered by the corridor use  
10 certificate in the same manner and under the same conditions as set forth in chapter  
11 65. The right of eminent domain granted in this paragraph does not apply to:
- 12            (1) Lands or easements located within 300 feet of an inhabited dwelling;
- 13            (2) Lands or easements on or adjacent to any developed or undeveloped water  
14 power;
- 15            (3) Lands or easements so closely paralleling existing wire lines of other utilities  
16 that the proposed energy infrastructure would substantially interfere with service  
17 rendered over the existing lines, except with the consent of the owners;
- 18            (4) Lands or easements owned or used by railroad corporations, except as  
19 authorized pursuant to section 2311;
- 20            (5) Lands or easements owned by the State; and
- 21            (6) Transmission and distribution plant that is owned, controlled, operated or  
22 managed by a transmission and distribution utility on the effective date of this  
23 section.
- 24        C. The commission may take and hold by right of eminent domain lands and  
25 easements within an energy infrastructure corridor in accordance with this paragraph,  
26 notwithstanding any transmission and distribution utility ownership of the lands or  
27 easements.
- 28            (1) The commission may exercise the authority under this paragraph only in an  
29 adjudicatory proceeding upon a petition by the Office of the Public Advocate or  
30 the Executive Department, Governor's Office of Energy Independence and  
31 Security demonstrating that such action is urgently needed to avoid substantial  
32 harm to electricity consumers regarding anticipated activity associated with an  
33 energy infrastructure corridor. A determination by the commission that the  
34 exercise of eminent domain under this paragraph is urgently needed to avoid  
35 substantial harm to electricity consumers regarding anticipated activity associated  
36 with an energy infrastructure corridor constitutes reviewable final agency action.
- 37            (2) The amount of any lands or easements taken by the commission pursuant to  
38 this subsection may be no greater than is required to avoid the harm to electricity  
39 consumers identified under subparagraph (1).

R. 018

COMMITTEE AMENDMENT "A" to S.P. 885, L.D. 2255

1           (3) The right of eminent domain granted in this paragraph does not apply to  
2           personal property, fixtures or improvements that constitute transmission and  
3           distribution plant.

4           (4) The commission may exercise the right of eminent domain for the purposes of  
5           this paragraph in the same manner and under the same conditions as set forth in  
6           chapter 65. For the purposes of the exercise of eminent domain authorized by  
7           this paragraph, the commission is both a person and the State.

8           (5) The commission is authorized to assess transmission and distribution utilities  
9           to the extent necessary to obtain sufficient funds to pay for lands and easements  
10           taken pursuant to this subsection.

11           (6) The commission, in an adjudicatory proceeding upon petition by the Office of  
12           the Public Advocate or the Executive Department, Governor's Office of Energy  
13           Independence and Security, may transfer or convey to any person or state agency  
14           lands and easements once acquired, except that a transmission and distribution  
15           utility whose lands or easements were taken pursuant to this paragraph must be  
16           given the first opportunity to acquire the lands or easements to the extent  
17           necessary or useful in the performance of its duties as a transmission and  
18           distribution utility.

19           (7) The commission shall report on the circumstances of any taking by eminent  
20           domain to the joint standing committee of the Legislature having jurisdiction  
21           over utilities and energy matters during the next regular session of the Legislature  
22           following the acquisition of lands or easements by eminent domain.

23           **8. Utility service territory.** Nothing in this section modifies existing restrictions on  
24           entities providing service within a public utility's service territory provided under chapter  
25           21.

26           **9. Rules.** The commission shall adopt by rule standards and procedures to  
27           implement this section. Rules adopted pursuant to this subsection are routine technical  
28           rules as defined in Title 5, chapter 375, subchapter 2-A, except that rules adopted by the  
29           commission for the designation of an energy infrastructure corridor, pursuant to  
30           subsection 2, paragraph A, are major substantive rules.

31           **Sec. A-4. Examination of generation interconnection transmission**  
32           **facilities; report.** The Department of Environmental Protection shall examine whether  
33           generation interconnection transmission facilities, as defined in the Maine Revised  
34           Statutes, Title 35-A, section 3132, subsection 1-B, should be added to the definition of  
35           "energy infrastructure" under Title 35-A, section 122, subsection 1. The department shall  
36           consult with the Public Utilities Commission, the Office of the Public Advocate, the  
37           Executive Department, Governor's Office of Energy Independence and Security and the  
38           Maine Land Use Regulation Commission as part of the examination required under this  
39           section. No later than March 14, 2009, the department shall report its findings and  
40           recommendations to the joint standing committee of the Legislature having jurisdiction  
41           over utilities and energy matters.

**COMMITTEE AMENDMENT**



R.O.S.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41

**PART B**

**Sec. B-1. 35-A MRSA §3210-C, sub-§1, ¶A-1** is enacted to read:

A-1. "Contract for differences" means a contractual arrangement between a buyer and a seller in which cash payments are made based on the actual or relative difference between a target price for energy or a capacity resource and the market value of the energy or capacity resource. Under a contract for differences, the seller pays to the buyer the positive difference between the market value and the target price and the buyer pays to the seller the negative difference between the market value and the target price. "Contract for differences" does not include a contract for the physical delivery of energy or capacity resources.

**Sec. B-2. 35-A MRSA §3210-C, sub-§3**, as amended by PL 2007, c. 293, §2, is further amended to read:

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

- A. Capacity resources; and
- B. Any available energy associated with capacity resources contracted under paragraph A:
  - (1) To the extent necessary to fulfill the policy of subsection 2, paragraph A; or
  - (2) If the commission determines appropriate for purposes of supplying or lowering the cost of standard-offer service or otherwise lowering the cost of electricity for the ratepayers in the State. Available energy contracted pursuant to this subparagraph may be sold into the wholesale electricity market in conjunction with solicitations for standard-offer supply bids.

The commission may direct large investor-owned transmission and distribution utilities to enter into contracts under this subsection only as agents for their customers and only in accordance with this section. The commission may permit, but may not require, investor-owned transmission and distribution utilities to enter into contracts for differences that are designed and intended to buffer ratepayers in the State from potential negative impacts from transmission development. To the greatest extent possible, the commission shall develop procedures for long-term contracts for investor-owned transmission and distribution utilities under this subsection having the same legal and financial effect as the procedures used for standard-offer service pursuant to section 3212 for large investor-owned transmission and distribution utilities.

The commission may enter into contracts for interruptible, demand response or energy efficiency capacity resources. These contracts are not subject to the rules of the State Purchasing Agent. In a competitive solicitation conducted pursuant to subsection 6, the commission shall allow transmission and distribution utilities to submit bids for interruptible, demand response or energy efficiency capacity resources.

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

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

5 The commission shall ensure that any long-term contract authorized under this subsection  
6 is consistent with the State's goals for greenhouse gas reduction under Title 38, section  
7 576 and the regional greenhouse gas initiative as described in the state climate action plan  
8 required in Title 38, section 577.

9 **Sec. B-3. 35-A MRSA §3210-C, sub-§7**, as amended by PL 2007, c. 293, §4, is  
10 further amended to read:

11 **7. Disposition of resources.** ~~A large~~ An investor-owned transmission and  
12 distribution utility shall sell capacity resources and energy purchased pursuant to  
13 subsection 3 or take other action relative to such capacity resources and energy as  
14 directed by the commission.

15 **Sec. B-4. 35-A MRSA §3210-C, sub-§8**, as enacted by PL 2005, c. 677, Pt. C,  
16 §1, is amended to read:

17 **8. Cost recovery.** The commission shall ensure that ~~a large~~ an investor-owned  
18 transmission and distribution utility recovers in rates all costs of contracts entered into  
19 pursuant to subsection 3, including but not limited to any impacts on the utility's costs of  
20 capital. A price differential existing at any time during the term of the contract between  
21 the contract price and the prevailing market price at which the capacity resource is sold or  
22 any gains or losses derived from contracts for differences must be reflected in rates and  
23 may not be deemed to be imprudent.

24 **Sec. B-5. 35-A MRSA §3210-C, sub-§10**, as enacted by PL 2005, c. 677, Pt. C,  
25 §1, is amended to read:

26 **10. Rules.** The commission shall adopt rules to implement this section. In adopting  
27 rules, the commission shall consider the financial implications of this section on ~~large~~  
28 investor-owned transmission and distribution utilities. Rules adopted under this  
29 subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.  
30 The commission may not enter into or direct any ~~large~~ investor-owned transmission and  
31 distribution utility to enter into any contract pursuant to this section until rules are finally  
32 adopted under this subsection.

33 **PART C**

34 **Sec. C-1. 2 MRSA §9** is enacted to read:

35 **§9. Governor's Office of Energy Independence and Security**

36 **1. Office established.** The Governor's Office of Energy Independence and Security,  
37 referred to in this section as "the office," is established in the Executive Department to  
38 carry out responsibilities of the State relating to energy resources, planning and  
39 development. The office is directly responsible to the Governor.

R. 018

COMMITTEE AMENDMENT "A" to S.P. 885, L.D. 2255

1 2. Director. The office is under the control and supervision of the Director of the  
2 Governor's Office of Energy Independence and Security, referred to in this section as "the  
3 director." The director is appointed by the Governor and serves at the pleasure of the  
4 Governor.

5 3. Duties. The director is responsible for the execution of the duties of the office.  
6 The director shall:

7 A. Chair the Energy Resources Council, established under Title 5, section 3327;

8 B. In collaboration with the Energy Resources Council and other relevant state  
9 agencies, coordinate state energy policy;

10 C. Prepare and submit a comprehensive state energy plan to the Governor and the  
11 Legislature by January 15, 2009 and every 2 years thereafter;

12 D. In collaboration with other relevant state agencies, private industry and nonprofit  
13 organizations, collect and analyze energy data, including, but not limited to, data on  
14 energy supply, demand and costs in this State with consideration of all available  
15 energy sources;

16 E. Coordinate the dissemination of energy information to the public and the media;

17 F. Provide technical assistance and information to the Governor and the Legislature  
18 regarding the State's short-range and long-range energy needs and the resources to  
19 meet those needs;

20 G. Seek funds and partnerships with public and private sources to support the goals  
21 of the office, including, but not limited to, promoting energy efficiency, demand-side  
22 management and distributed generation;

23 H. Work with transmission and distribution utilities, state agencies involved in the  
24 permitting of energy generation facilities and other relevant entities to negotiate  
25 agreements that create value for electricity consumers with developers of renewable  
26 generation who are interested in building energy generation facilities or developing or  
27 utilizing energy transmission infrastructure in this State. This paragraph does not  
28 authorize the director to be a signatory to any such agreement unless that authority is  
29 otherwise granted by law. The director shall report on activities undertaken pursuant  
30 to this paragraph by February 1, 2009, and annually thereafter, to the joint standing  
31 committee of the Legislature having jurisdiction over utilities and energy matters; and

32 I. Monitor energy transmission capacity planning and policy affecting this State and  
33 the regulatory approval process for the development of energy infrastructure pursuant  
34 to Title 35-A, section 122 and make recommendations to the Governor and the  
35 Legislature as necessary for changes to the relevant laws and rules to facilitate energy  
36 infrastructure planning and development; and

37 J. Take action as necessary to carry out the goals and objectives of the state energy  
38 plan prepared pursuant to paragraph C.

39 **Sec. C-2. 5 MRSA §3304, sub-§3, ¶K,** as enacted by PL 1989, c. 501, Pt. DD,  
40 §7, is repealed.

COMMITTEE AMENDMENT "A" to S.P. 885, L.D. 2255

1       **Sec. C-3. 5 MRSA §3327, sub-§1**, as amended by PL 2005, c. 425, §2, is further  
2 amended to read:

3       **1. Council established; membership.** In order to facilitate more effective  
4 interagency coordination of the State's activities regarding energy issues, the Energy  
5 Resources Council, referred to in this chapter as the "council," is established. The chair  
6 of the council is the Director of the ~~State Planning Office~~ Governor's Office of Energy  
7 Independence and Security within the Executive Department, who is responsible for  
8 ensuring that the council carries out its responsibilities under this chapter. The  
9 membership of the council ~~is as follows~~ also includes:

- 10       A. The Director of the State Planning Office or the director's designee;
- 11       B. The chair of the Public Utilities Commission or the chair's designee;
- 12       C. The Commissioner of Environmental Protection or the commissioner's designee;
- 13       D. The Public Advocate or the Public Advocate's designee;
- 14       E. The Commissioner of Transportation or the commissioner's designee;
- 15       F. The Commissioner of Administrative and Financial Services or the  
16 commissioner's designee;
- 17       G. The Commissioner of Economic and Community Development or the  
18 commissioner's designee;
- 19       H. The Director of the Maine State Housing Authority or the director's designee; and
- 20       I. The Commissioner of Conservation or the commissioner's designee.

21       **Sec. C-4. 5 MRSA §3327, sub-§3**, as amended by PL 2003, c. 487, §1, is further  
22 amended to read:

23       **3. Quarterly meetings; staff; funding.** The council shall meet at least quarterly.  
24 The council shall prepare a work ~~program plan~~ for each year establishing that outlines  
25 anticipated activities and establishes priorities among its efforts. The ~~State Planning~~  
26 ~~Office, within the~~ Executive Department, Governor's Office of Energy Independence and  
27 Security shall provide staff support to the council. Funding to support the work of the  
28 council and its staff is as follows.

- 29       A. A state agency applying for funds under the State Energy Program of the United  
30 States Department of Energy pursuant to 10 Code of Federal Regulations, Part 420  
31 shall, as directed by the council, apply for funds to support the work of the council  
32 and its staff.
- 33       B. To the extent funds available pursuant to paragraph A are insufficient to fund  
34 fully staff support for the council, each member of the council shall enter into an  
35 agreement with the ~~State Planning Office~~ Executive Department, Governor's Office  
36 of Energy Independence and Security to share in the cost of providing the staff  
37 support.
- 38       C. The council may seek, and the Public Utilities Commission may provide, funds to  
39 the council pursuant to Title 35-A, section 3211-A, subsection 5-A.



1003

COMMITTEE AMENDMENT "A" to S.P. 885, L.D. 2255

1 holders of corridor use certificates who are not transmission and distribution utilities and  
2 the Public Utilities Commission within an energy infrastructure corridor. The  
3 commission's eminent domain authority is specifically limited: the authority may only be  
4 exercised in an adjudicatory proceeding upon petition of the Office of the Public  
5 Advocate or the Governor's Office of Energy Independence and Security demonstrating  
6 that such action is urgently needed to avoid substantial harm to electricity consumers  
7 regarding anticipated activity associated with an energy infrastructure corridor; the  
8 amount of land or easement taken is limited to that required to prevent the identified harm  
9 to consumers; and the authority does not apply to personal property, fixtures and  
10 improvements that constitute transmission and distribution plant. The amendment  
11 authorizes the commission, in an adjudicatory proceeding and upon petition of the Office  
12 of the Public Advocate or the Governor's Office of Energy Independence and Security, to  
13 transfer lands or easements acquired by eminent domain provided that a transmission and  
14 distribution utility is given the right of first refusal. The amendment also requires the  
15 commission to report to the joint standing committee of the Legislature having  
16 jurisdiction over utilities and energy matters on the circumstances of any taking by  
17 eminent domain.

18 4. It adds language to clarify that the provisions regarding energy infrastructure  
19 corridor designation and development do not modify existing restrictions on providing  
20 service within a utility's service territory.

21 5. It requires the Public Utilities Commission to adopt by rule standards and  
22 procedures to implement the energy infrastructure corridor laws. The bill permits but  
23 does not require such rulemaking.

24 The amendment makes the following changes to Part B of the bill regarding long-  
25 term contracting authority.

26 1. It replaces the provision of the bill that authorizes the commission to direct  
27 investor-owned transmission and distribution utilities to enter into contracts for  
28 differences and other financial instruments with a provision that authorizes the  
29 commission to permit, but not require, such utilities to enter into contracts for differences,  
30 but not other financial instruments.

31 2. It eliminates the provision of the bill that authorizes the commission to enter into  
32 contracts for differences and other financial instruments.

33 3. It adds provisions to direct the commission to allow transmission and distribution  
34 utilities to submit bids for interruptible, demand response or energy efficiency resources  
35 and to ensure that long-term contracts are consistent with the State's goals for greenhouse  
36 gas reduction.

37 4. It adds language to allow an investor owned-transmission and distribution utility to  
38 recover in rates any gains or losses derived from contracts for differences.

39 The amendment makes the following changes to Part C of the bill regarding the  
40 Governor's Office of Energy Independence and Security.

41 1. It adds several duties of the Director of the Governor's Office of Energy  
42 Independence and Security beyond the duties specified in the bill. The additional duties  
43 include working in collaboration with utilities and state agencies to negotiate agreements

**COMMITTEE AMENDMENT**

B.022

COMMITTEE AMENDMENT "A" to S.P. 885, L.D. 2255

- 1 with developers of renewable generation in order to create value for Maine consumers
- 2 and monitoring policy, planning and regulatory approval processes relating to energy
- 3 transmission capacity and the development of energy infrastructure.
  
- 4 2. It adds a provision to repeal language in existing law that requires the Executive
- 5 Department, State Planning Office to formulate a biennial state energy resources plan.
- 6 Instead the Governor's Office of Energy Independence and Security is required to prepare
- 7 and submit a comprehensive state energy plan every 2 years.
  
- 8 3. It amends the provision in the bill relating to the membership of the Energy
- 9 Resources Council to provide that, for each state agency represented on the council, the
- 10 member is the executive head of that agency or that person's designee.
  
- 11 4. It clarifies the contents of the Energy Resources Council's work plan and its
- 12 inclusion in the council's annual report to the Legislature.

13  
14

**FISCAL NOTE REQUIRED**  
**(See attached)**

**COMMITTEE AMENDMENT**



Approved: 04/02/08 *MAC*

# 123rd MAINE LEGISLATURE

LD 2255

LR 3411(02)

**An Act To Protect Maine's Energy Sovereignty through the Designation of Energy Infrastructure  
Corridors and Energy Plan Development**

**Fiscal Note for Bill as Amended by Committee Amendment "A "**  
**Committee: Utilities and Energy**

**Fiscal Note Required: Yes**

---

## Fiscal Note

Minor cost increase - General Fund  
Minor cost increase - Other Special Revenue Funds

### Fiscal Detail and Notes

The additional costs associated with this legislation can be absorbed by the Department of Environmental Protection, the Public Utilities Commission, the Governor's Office of Energy Independence and Security, and the Public Advocate utilizing existing budgeted resources.