

MAINE STATE LEGISLATURE

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ENERGY, UTILITIES AND TECHNOLOGY

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STATE OF MAINE

SENATE

129TH LEGISLATURE

FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 359, L.D. 1173, Bill, "An Act To Allow the Direct Sale of Electricity"

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

Sec. 1. 35-A MRSA §102, sub-§1-A is enacted to read:

1-A. Abutting property. "Abutting property" means, with respect to a parcel of land, another parcel of land that shares a common property boundary, except that "abutting property" does not include a parcel of land separated from another parcel by a public road or highway.

Sec. 2. 35-A MRSA §102, sub-§20-B, as enacted by PL 1999, c. 398, Pt. A, §9 and affected by §§104 and 105, is amended to read:

20-B. Transmission and distribution utility. "Transmission and distribution utility" means a person, its lessees, trustees or receivers or trustees appointed by a court, owning, controlling, operating or managing a transmission and distribution plant for compensation within the State, except where the electricity is distributed by the entity that generates the electricity through private property alone solely for ~~that entity's own use or the use of the entity's tenants and not for sale to others.~~ the use of:

A. The entity;

B. The entity's tenants; or

C. Commercial or industrial consumers located on:

(1) The property where the entity is located or on abutting property; or

(2) A commercial or industrial site that was served by the entity or its predecessor without using the transmission and distribution plant of a public utility prior to December 31, 2018.

Sec. 3. 35-A MRSA §2102, sub-§5 is enacted to read:

COMMITTEE AMENDMENT

1 **5. Exemption for certain private electric facilities.** The provisions of this section
2 do not apply to the construction of a transmission line, together with all associated
3 equipment and facilities, that is constructed, owned and operated by a generator of
4 electricity for the purpose of electrically and physically interconnecting that generator to
5 a commercial or industrial consumer of the electricity that is located on:

6 A. The property where the entity that generates the electricity is located or on
7 abutting property; or

8 B. A commercial or industrial site that was served by the entity that generates the
9 electricity or its predecessor without using the transmission and distribution plant of a
10 public utility prior to December 31, 2018.

11 **Sec. 4. 35-A MRSA §3132, sub-§1-B,** as enacted by PL 2007, c. 148, §2, is
12 amended to read:

13 **1-B. Exception; generator interconnection transmission facility.** The
14 construction of a generator interconnection transmission facility is not subject to the
15 requirements of this section. For the purposes of this subsection, "generator
16 interconnection transmission facility" means a transmission line, together with all
17 associated equipment and facilities, that is constructed, owned and operated by a
18 generator of electricity solely for the purpose of electrically and physically
19 interconnecting such generator to ~~the transmission system of a transmission and~~
20 ~~distribution utility.;~~

21 A. The transmission system of a transmission and distribution utility; or

22 B. A commercial or industrial consumer of the electricity that is located on:

23 (1) The property where the entity that generates the electricity is located or on
24 abutting property; or

25 (2) A commercial or industrial site that was served by the entity that generates
26 the electricity or its predecessor without using the transmission and distribution
27 plant of a public utility prior to December 31, 2018.

28 **Sec. 5. 35-A MRSA §3201, sub-§5,** as amended by PL 2015, c. 29, §2, is further
29 amended to read:

30 **5. Competitive electricity provider.** "Competitive electricity provider" means a
31 marketer, broker, aggregator or any other entity selling electricity to the public at retail,
32 but does not include an electric vehicle charging station ~~provider~~ or an entity that
33 generates electricity solely for the use of:

34 A. The entity;

35 B. The entity's tenants; or

36 C. Commercial or industrial consumers located on:

37 (1) The property where the entity is located or on abutting property; or

38 (2) A commercial or industrial site that was served by the entity or its
39 predecessor without using the transmission and distribution plant of a public
40 utility prior to December 31, 2018.

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Sec. 6. 35-A MRSA §3217, sub-§4 is enacted to read:

4. Direct sales. Beginning in 2022 and every 3 years thereafter, the commission shall include in its report pursuant to section 120, subsection 7, information regarding the incidence of direct sales of electricity by an entity that generates electricity to commercial or industrial consumers located on the property where the entity that generates the electricity is located or on abutting property or on a commercial or industrial site that was served by the entity that generates the electricity or its predecessor without using the transmission and distribution plant of a public utility prior to December 31, 2018.

Sec. 7. Precedent established by Public Utilities Commission. The provisions of this Act may not, except to the extent the provisions expressly modify the Maine Revised Statutes, Title 35-A, sections 102, 2102, 3132 and 3201, be interpreted to otherwise modify or nullify the analytical framework and precedent for analyzing when an entity is a transmission and distribution utility or a competitive electricity provider established by the Public Utilities Commission in opinions and orders issued prior to the effective date of this Act, including, but not limited to, opinions and orders issued under Docket Number 2000-653, Request for Commission Investigation Regarding the Plans of Boralex Stratton Energy, Inc. to Provide Electric Service Directly from Stratton Lumber Company and Docket Number 2011-200, ReEnergy Rumford, LLC, Request for Advisory Ruling. '

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment replaces the bill. The amendment allows an entity that generates electricity to construct a transmission line for the purpose of interconnecting and distributing electricity to serve a commercial or industrial consumer without becoming subject to regulation by the Public Utilities Commission as a transmission and distribution utility or a competitive electricity provider when the commercial or industrial consumer is located on the property where the generator is located; on abutting property; or on a commercial or industrial site served by the generator or its predecessor without using the transmission and distribution plant of a public utility prior to December 31, 2018. The amendment requires the Public Utilities Commission to report every 3 years, beginning in 2022, on the incidence of direct sales of electricity by an entity that generates electricity to commercial or industrial consumers in the instances allowed under this amendment. Finally, the amendment clarifies that this legislation does not modify or nullify the framework and precedent for analyzing when an entity is a transmission and distribution utility or a competitive electricity provider established by the Public Utilities Commission in related cases.

FISCAL NOTE REQUIRED

(See attached)



129th MAINE LEGISLATURE

LD 1173

LR 1464(02)

An Act To Allow the Direct Sale of Electricity

Fiscal Note for Bill as Amended by Committee Amendment "A" (S-123)

Committee: Energy, Utilities and Technology

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - Other Special Revenue Funds

Fiscal Detail and Notes

Any additional costs to the Public Utilities Commission as a result of allowing the sale of electricity from a generator directly to a commercial or industrial customer under specific conditions are anticipated to be minor and can be absorbed within existing budgeted resources.