

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 191

S. P. 83

In Senate, January 27, 1977

Referred to the Committee on Public Utilities. Sent down for concurrence and ordered printed.

MAY M. ROSS, Secretary

Presented by Senator Carpenter of Aroostook.

Cosponsor: Senator Cummings of Penobscot.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT Relating to the Regulation of Affiliated Interests of Public
Utilities.

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

35 MRSA § 104, as amended by PL 1975, c. 400, is repealed and the following enacted in its place:

§ 104. **Affiliated interests**

1. **Jurisdiction.** The commission shall have jurisdiction over holders of the voting capital stock of all public utilities under the jurisdiction of the commission to such extent as may be necessary to enable the commission to require the disclosure of the identity in respective interests of every owner of any substantial interest in such voting capital stocks. One percent or more is a substantial interest, within the meaning of this subsection.

2. **Access to accounts and records.** The commission shall have access to all accounts and records of affiliated interests having transactions, other than ownership of stock and receipt of dividends thereon, with public utilities under the jurisdiction of the commission. For the purpose of this section, the phrase "affiliated interests" means:

A. Every corporation and person owning or holding, directly or indirectly, 10% or more of the voting capital stock of such public utility;

B. Every corporation and person in any chain of successive ownership of 10% or more of voting capital stock;

C. Every corporation, 10% or more of whose voting capital stock is owned by any person or corporation owning 10% or more of the voting capital stock of such public utility, or by any person or corporation in any such chain of successive ownership of 10% or more of voting capital stock;

D. Every corporation, 10% or more of whose voting securities is owned, directly or indirectly, by such public utility;

E. Every person who is an elective officer or director of such public utility or of any corporation in any chain of successive ownership of 10% or more of voting capital stock;

F. Every corporation which has one or more elective officers or one or more directors in common with such public utility;

G. Every corporation or person which the commission may determine as a matter of fact after investigation and hearing is actually exercising any substantial influence over the policies and actions of such public utility even though the influence is not based upon stock holding, stockholders, directors or officers to the extent specified in this section; and

H. Every person or corporation who or which the commission may determine as a matter of fact after investigation and hearing is actually exercising such substantial influence over the policies and actions of the public utility in conjunction with one or more other corporations or persons with which or whom they are related by ownership or immediate family or by action in concert that together they are affiliated with the public utility within the meaning of this section even though no one of them alone is so affiliated.

3. Consent by commission. No management, construction, engineering, supply, financial or similar contract and no contract or arrangement for the purchase, sale, lease or exchange of any property or for the furnishing of any service, property or thing hereafter made with any affiliated interest, as hereinbefore defined, shall be effective unless it has first been filed with the consented to by the commission. The commission may condition the approval in such manner as it may deem necessary to safeguard the public interest. If found by the commission, after investigation, that any such contract is not in the public interest, the commission may disapprove the contract. Every contract or arrangement not consented to or accepted by the commission as provided for in this section is void.

The consent to any contract or arrangement as required in this section does not constitute approval of payments thereunder for the purpose of computing expense of operation in any rate proceeding.

4. Waiver. The commission may by general rules applicable alike to all public utilities affected thereby waive the filing and necessity for approval of contracts and arrangements described in subsection 3 in cases of:

A. Contracts or arrangements made in the ordinary course of business for the employment of officers or employees;

B. Contracts or arrangements made in the ordinary course of business for the purchase of services, supplies or other personal property at prices not exceeding the standard or prevailing market prices or at prices or rates fixed pursuant to law;

C. Contracts or arrangements where the total obligation to be incurred thereunder does not exceed \$500;

D. The temporary leasing, lending or interchanging of equipment in the ordinary course of business or in case of an emergency; and

E. Contracts made by a public utility with a person or corporation whose bid is the most favorable to the public utility, as ascertained by competitive bidding under such rules as may be prescribed by the commission. If the commission finds that any public utility is abusing or has abused the general rule and thereby is evading compliance with the standard established herein, the commission may require such public utility to thereafter file and receive the commission's approval upon all such transactions, but that general rule shall remain in full force and effect as to all other public utilities.

5. Violation; penalty. If any public utility or affiliated interest violates the provisions of this section, for any violation, it shall forfeit and pay into the State Treasury not more than \$1,000 for each offense, to be recovered in a civil action in the name of the State. Every day during which any public utility or affiliated interest violates this section shall constitute a separate and distinct offense.

STATEMENT OF FACT

The purpose of this bill is to give the Public Utilities Commission access to the books and records of affiliates of public utilities and greater control over transactions between a public utility and an affiliate.