

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 776

S. P. 242

In Senate, March 8, 1977

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

MAY M. ROSS, Secretary

Presented by Senator Cummings of Penobscot.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

**AN ACT to Clarify the Regulation of Public Utilities Owning Interests in
Electric Generating Plants and Related Facilities.**

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

Sec. 1. 35 MRSA § 2308, 1st ¶, as enacted by PL 1971, c. 203, is amended to read:

Wherever used or referred to in sections 2308 to ~~2310~~ 2313, unless a different meaning clearly appears from the context:

Sec. 2. 35 MRSA § 2308, sub-§ 2, as enacted by PL 1971, c. 203 is amended to read:

2. **Foreign electric company.** "Foreign electric company" means a ~~corporation, association, joint stock association or trust~~ any entity organized under the laws of a state other than this State, or a province of the Dominion of Canada, which is authorized under the laws of the state or province in which it is organized to generate, transmit or distribute electric energy, or to own, operate or otherwise participate in utility facilities or interests therein.

Sec. 3. 35 MRSA § 2309, as enacted by PL 1971, c. 203, is amended to read:
§ 2309. **Area within which domestic electric company may generate and transmit electric energy**

Notwithstanding any limitation imposed by its charter, each domestic ~~electrical~~ electric company is authorized and empowered to generate and transmit electric energy and to acquire and operate anywhere within or without this State utility facilities or interests therein of whatever nature or form used or required to be used in its service to the public, provided nothing in

this section shall be construed to authorize such a company to sell electric energy in this State to any person or corporation or within any area, except as otherwise authorized by its charter or the general statutes of this State and provided that section 171, notwithstanding the last sentence of subsection 1 thereof, shall be applicable to any domestic electric ~~utility~~ company acquiring and operating utility facilities outside this State.

Sec. 4. 35 MRSA § 2309, as enacted by PL 1971, c. 203, is amended by adding at the end a new paragraph to read:

Legislative consent is hereby given to the application of the laws of other states with respect to taxation, payments in lieu of taxes, and the assessment thereof to any domestic electric company which is acting without this State pursuant to authority granted in this section.

Sec. 5. 35 MRSA § 2310, as enacted by PL 1971, c. 203, is amended to read:

§ 2310. Joint ownership of facility; waiver of right to partition

Notwithstanding Title 14, chapter 719, any domestic electric company or foreign electric company that acquires or owns a joint or common interest with one or more other such electric companies or other persons in any property which is used or acquired for use as a utility facility, may surrender or waive its right to have a partition by division or partition by sale of the property for a period which does not exceed the period for which the property is used or useful for electric utility purposes.

Sec. 6. 35 MRSA §§ 2311, 2312 and 2313 are enacted to read:

§ 2311. Powers of foreign electric company

One or more foreign electric companies may construct, purchase, own, control, operate, manage, mortgage, lease, sell, dispose of, or otherwise participate in a utility facility, or interest therein, or the product or service therefrom, within this State in common or jointly with one or more domestic electric companies owning in the aggregate not less than a majority interest in such utility facility, provided that nothing herein shall be construed to authorize such a foreign electric company to sell electric energy at retail to customers located within this State.

§ 2312. Regulation of foreign electric company

Any foreign electric company acting pursuant to the authority granted in section 2311 shall, before constructing, purchasing, owning, controlling, operating, managing or otherwise participating in any such joint or common interest in a utility facility within this State, notify the commission in writing of the action to be taken by it and provide any information reasonably required by the commission under section 13-A, and after giving such notice, such foreign electric company shall annually file with the commission a copy of the annual report filed by it with the appropriate regulatory agency of its domicile or principal locus, and shall furnish to the commission from time to

time such other information with respect to its activities within this State as the commission may reasonably require.

Any foreign electric company acting pursuant to the authority granted in section 2311 shall designate, have and continuously maintain in this State a registered office and a registered agent in accordance with Title 13-A, section 1212, and shall also be subject to service of process, notice or demand as provided therein.

Upon the filing with the commission of a certificate of the appropriate regulatory agency of the state of domicile or principal locus of any foreign electric company, or of the United States, stating either that agency has regulatory jurisdiction over the issuance of stocks, bonds or other evidences of indebtedness payable more than 12 months from date of issue by that foreign electric company to finance a utility facility in this State or that agency has general supervision of such foreign electric company in the conduct of its electric utility business, that foreign electric company shall not be deemed to be an "electrical company" as defined in section 15, subsection 5, merely by reason of the exercise by it of the authority granted in section 2311.

§ 2313. Taxation

All utility facilities, real and personal, situated within this State and owned by a domestic electric company shall be subject to assessment and taxation to the same extent and in the same manner as provided in Title 36. All such utility facilities situated within this State and owned by a foreign electric company other than a municipal or quasi-municipal corporation or other political subdivision of a state or province shall be subject to assessment and taxation to the same extent and in the same manner as though owned by a domestic electric company. All such utility facilities situated in this State and owned by a foreign electric company that is a municipal or quasi-municipal corporation or other political subdivision of a state or province shall be exempt from taxation, but in lieu thereof such owner shall on or before September 1st of each year pay to the municipality where any such utility facility lies the amount which would be assessable as property taxes thereon if such utility facility were the property of a foreign electric company other than a municipal or quasi-municipal corporation or other political subdivision of a state or province. The assessment, abatement and appellate procedures and all other procedures relating to such payment in lieu of taxes shall be as provided in Title 36 with respect to taxes.

STATEMENT OF FACT

The purpose of this bill is to clarify by amendment the provisions of the Maine Public Utility laws relating to participation by public utilities in electric generating plants outside their own states of domicile. Existing Maine law is not clear as to the extent to which out-of-state utilities can participate in Maine projects or to what extent they would be regulated in Maine. This Act provides for Maine electric generating plants to have at least majority

ownership by Maine utilities and establishes a framework for effective regulation by the Public Utilities Commission. It is similar to legislation adopted in other New England states and is especially needed in Maine to help the publicly and privately owned utilities participating in the William F. Wyman Unit No. 4 under construction at Yarmouth to remove legal obstacles to owning and financing their interests in the plant.