FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document **No. 799**

H. P. 646 House of Representatives, February 27, 1979

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

EDWIN H. PERT, Clerk

Presented by Mr. Brenerman of Portland.

Cosponsors: Mrs. Reeves of Pittston, Mr. Wood of Sanford and Mr. Laffin of Westbrook.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED SEVENTY-NINE

AN ACT to Prohibit the Inclusion in the Rates of Public Utilities of Capitalized Costs for Property not in Use.

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

Sec. 1. 35 MRSA § 15, sub-§ 1-A is enacted to read:

1-A. Capitalized costs. "Capitalized costs" means costs that are designed to show the cost of property, both tangible and intangible and ordinarily having a life of service of more than one year which is reasonably requisite for use in the conduct of the utility's operation.

Sec. 2. 35 MRSA § 51, as amended by PL 1975, c. 409, is further amended by adding at the end the following new paragraph:

In determining just and reasonable rates, the commission shall not include in the rates of any utility capitalized costs for property that is currently not in use or partially in use for the conduct of the utility's operation.

Sec. 3. 35 MRSA § 52 is amended by inserting before the last sentence the following:

In determining the value of property of any utility, the commission shall exclude all capitalized costs for property that is not currently in use or is partially in use for the conduct of the utility's operation.

STATEMENT OF FACT

The intent of this bill is to pass construction and associated construction costs to users of a utility at the time that the construction has been completed and is in use. Present law is very vague about this issue. The only reference to this question is in Title 35, section 52, which describes the method by which utility property valuation will be determined. According to Title 35, section 52 .... "the commission shall give due consideration to evidence of the cost of the property when first devoted to public use ...." This provision does not require the commission to establish a value for property that is in actual use or operation, but only requires the commission to give it "due consideration." In addition, this provision could be interpreted that the commission is empowered to estimate the cost of new property and construction at the time that it becomes operational and include this cost in current rates.

This bill amends Title 35, sections 51 and 52, of the law pertaining to rates and property valuation of public utilities. This bill shall prevent the commission from including within the rates of electric utilities any new construction that is not in use in the utility's system. In addition, it prevents the commission from including new construction in the property valuation of the utility.

Although the commission, in recent years, has tended to exclude new construction and new property costs of utilities from utility rates until the new property is in use, the law could be interpreted to allow these costs to be passed on to consumers prior to the completion of construction. This bill will serve to preserve the policy of not passing on to present utility users the costs of utility property that will not be available for use until sometime in the future.