

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES (Filing No. H-519)  
109TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 795, L.D. 1002, Bill,  
"AN ACT to Encourage Industrial Cogeneration and Small Power  
Production Facilities Using Renewable Sources of Energy."

Amend the Bill in section 2 by striking out all of that  
part designated "§2324." and inserting in its place the following:

'§2324. Control and regulation of generating facilities

Notwithstanding the definition of a public utility in  
section 15, subsection 13, a small power production facility  
and a cogeneration facility, as defined in section 2323, shall  
not be deemed a public utility and shall not be subject to  
control or regulation by the Public Utilities Commission, except  
that commission determination and regulation of rates of public  
utilities which include purchases of power from a qualifying  
small power production facility or cogeneration facility shall  
not be considered control or regulation of these facilities.'

Further amend the Bill in section 2 by striking out all  
of that part designated "§2325." and inserting in its place the  
following:

'§2325. Sale of electricity

1. Authorized markets for electricity. Any small power  
producer or cogenerator may sell electricity without prior  
approval or rate approval by the commission to any electric  
public utility corporation or cooperative authorized to make,  
generate, sell or distribute electricity.

2. Use of electricity by the producer. Any small power producer or cogenerator may generate or distribute electricity through his private property solely for his own use, the use of his tenants or the use of his associates in a small power production or cogeneration facility and not for sale to others without approval or regulation by the commission.'

Further amend the Bill in section 2 by striking out all of that part designated "§2327." and inserting in its place the following:

'§2327. Review of rates

During a rate proceeding before the commission which involves the review of rates paid by a public utility for electricity purchased by the utility from a small power producer, or upon petition to the commission in accordance with section 2326, the commission shall follow the standards prescribed in this section as the basis of the commission's decision pertaining to these rates.

1. Term of contract. Long-term contracts for the purchase of electricity by the utility from small power producers and cogenerators shall be encouraged in order to enhance the economic feasibility of small power production and cogeneration facilities.

2. Alternative cost of energy to the utility. The rates paid by a utility to a small power producer or cogenerator shall not exceed, over the term of the purchase power contract, the cost to the electric utility of the electric energy which,

but for the purchase from the cogenerator or small power producer, the utility would generate or purchase from another source. A determination of alternative energy costs to the utility shall include consideration of the cost of additional or existing generating capacity which could be displaced over the term of the contract as well as the cost of fuel and other operating expenses of electric energy production which a utility would otherwise incur in generating or purchasing power from another source.

3. Displacement of fossil fuel. Displacement of fossil fuel by the production of energy from renewable resources or by the more efficient use of energy by cogeneration shall be encouraged by contracts with and by rates paid to small power producers or cogenerators that make displacement feasible.

4. Availability and reliability of power. The rate charged by a small power producer or cogenerator for electricity produced shall reflect the reliability of the power with respect to the number of hours per day and days per year that it is available; the time of day and season of the year at which the electricity is made available; and the time of day, season of the year and the total need for power required by a public utility electric corporation or electric cooperative.'

#### Statement of Fact

This amendment clarifies the status of small power production and cogeneration facilities with respect to the production of energy and regulation by the Public Utilities Commission. This amendment prohibits a small power production or cogenerating

facility from selling electricity at retail without approval by the Public Utilities Commission.

Another change proposed by this amendment establishes a maximum rate for the electricity sold by a small power producer or cogenerator to a public utility. The maximum rate is the highest cost for which the utility would otherwise be paying for generating or purchasing power from other sources.

This amendment also revises the standards by which rates are set for power purchased from a small power producer or cogenerator. The cost of new plant and equipment are removed because they are unnecessary and the cost of fossil fuel is included in the displacement of fossil fuel standard.

Reported by the Committee on Public Utilities  
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