

MAINE STATE LEGISLATURE

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L.D. 1567

STATE OF MAINE
SENATE
109TH LEGISLATURE
FIRST REGULAR SESSION

(Filing No. S-288)

COMMITTEE AMENDMENT "A" to S.P. 507, L.D. 1567, Bill, "AN ACT to Grant the Public Utilities Commission Jurisdiction to Review Adjustments under the Fuel Adjustment Clause."

Amend the bill by striking out everything after the title and inserting in its place the following:

'Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Maine Yankee Atomic Power Plant has been ordered to shut down by the Nuclear Regulatory Commission until design alteration can be made which will bring the plant into compliance with all applicable safety requirements; and

Whereas, Central Maine Power Company, Maine Public Service Company and Bangor Hydro-Electric Company incurred higher fuel costs as a result; and

Whereas, under existing law, these higher fuel costs will be passed on to Central Maine Power Company, Maine Public Service Company and Bangor Hydro-Electric Company ratepayers under the fuel adjustment clause; and

Whereas, there are many questions regarding allowing these costs to pass under the fuel adjustment clause, including the question

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of whether the adjustment should be allowed until all available remedies have been pursued to a conclusion by Central Maine Power Company and the other Maine utilities with an ownership interest in Maine Yankee Atomic Power Company; and

Whereas, there may not presently be a procedure under which the questions may be satisfactorily resolved before any higher costs are passed on to ratepayers under the fuel adjustment clause; and

Whereas, the Public Utilities Commission does not have jurisdiction to order a refund of these charges once they have been paid; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 35 MRSA §131, sub-§1, ¶¶A and B are enacted to read:

A. For the purposes of this chapter, a "cogenerator" is a person, firm or corporation owning or operating a facility which generates electricity and steam or other useful forms of energy which are used for commercial, industrial, heating or cooling purposes and which is not primarily engaged in the generation or sale of electric power, other than the power generated at the cogeneration facility.

B. For the purposes of this chapter, a "small power producer" is a person, firm or corporation owning or operating a power production facility with a power production capacity which,

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together with any other facilities located at the same site, does not exceed 80 megawatts of electricity and which depends upon renewable resources for its primary source of energy.

Sec. 2. 35 MRSA §131, sub-§2, 2nd sentence, as enacted by P.L. 1977, c. 689, §1, is amended to read:

The cost of fuel shall include fuel consumed in the electric utility's generating stations and the cost of power purchased~~7-excludi capacity-charges7~~, by the electric utility for use in Maine, pursuant to regulations promulgated by the commission under this section.

Sec. 3. 35 MRSA §131, sub-§4, as enacted by PL 1977, c. 689, §1, is amended to read:

4. Scope of ~~Adjustment~~. Changes in the cost of fuel consumed in the electric utility's generating stations and changes in the cost of power purchased~~7-excluding-capacity-charges7~~, by the electric utility for use in Maine shall constitute the only items subject to adjustment, pursuant to regulations promulgated by the commission under this section; except that the regulations may also provide for adjustments to the cost of fuel consumed or power purchased based upon the justness and reasonableness of that cost. In determining just and reasonable costs, the commission shall provide such revenues to the utility as may be required to perform its public service.

A. Changes in the cost of purchased power subject to adjustment to the utility shall exclude capacity charges, except to the extent that these charges are included in the cost of power purchased from a small power producer or cogenerator and to the

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extent the commission deems just and reasonable, considering the displacement of fossil fuel which can be made possible by the use of renewable resources and by the efficiencies of cogeneration in the production of energy.

Sec. 4. 35 MRSA §131, sub-§10 is enacted to read:

10. Commission review. The Public Utilities Commission shall have discretion to review, on its own motion, any costs resulting in an adjustment to the fuel charge of an electric utility under this section. The commission may, after notice and hearing, deny all or any part of the adjustment if it finds that the costs, or any part thereof, are not just and reasonable. In determining just and reasonable costs, the commission shall provide such revenues to the utility as may be required to perform its public service.

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In the event that the commission finds that it would be unreasonable, considering the need to prevent injury to the business of the electric utility and to the interests of the customers of the utility for the costs, or any part thereof, to pass under the fuel adjustment clause without review by the commission in a formal rate proceeding or in any other proceeding conducted under the authority of this Title, it may suspend all or part of these costs for a period not to exceed 4 months. The commission may, in its discretion, and after the proceeding, make appropriate adjustments for overcharges or undercharges in customer bills in subsequent computation periods to account for the differences between the fuel adjustment charges billed during the time of any suspension referred to in this subsection and the fuel adjustment charge found to be just and reasonable by the

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commission. This subsection shall remain effective with respect to an electric utility until that utility has a fuel cost adjustment which has been approved and ordered into effect by the commission under regulations promulgated pursuant to subsections 2 and 4.

← Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.'

Statement of Fact

The purpose of this amendment is to provide review and suspension authority to the Public Utilities Commission of the electric utility fuel charge until such time as the utility complies with the regulations promulgated by the commission by filing an application for fuel cost adjustment. The regulations provide for commission review of drastic changes in fuel cost requirements occasioned by circumstances as outlined in the emergency preamble of this amendment.

In addition, this amendment allows capacity charges, incurred by utility purchases of power from small power producers or cogenerators that use renewable sources of energy, to be included in the fuel adjustment clause.

Reported by the Majority of the Committee on Public Utilities.

Reproduced and distributed pursuant to Senate Rule 11-A.

June 1, 1979

(Filing No. S-288)