

MAINE STATE LEGISLATURE

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(After Deadline)
(EMERGENCY)
FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1580

H. P. 1333

House of Representatives, April 24, 1979.

The Committee on Public Utilities suggested and approved for introduction by a Majority of the Legislative Council pursuant to Joint Rule 27.

EDWIN H. PERT, Clerk

Presented by Mr. Berry of Buxton.

Cosponsor: Mr. Tierney of Lisbon.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

**AN ACT to Prohibit Unreasonable and Unjust Fuel Charges from Being Passed on
to Consumers.**

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

Whereas, the energy crisis is intensifying at a rapid rate; and

Whereas, electric generating facilities have been recently shut down in Maine and the nation, and further closing of these facilities may occur in the future; and

Whereas, the closing of electric generating facilities produces a very adverse effect upon the State; and

Whereas, a significant portion of this adverse effect is the result of substantially higher electricity costs; and

Whereas, it is unreasonable and unjust for users of electricity to bear the impact of increased electricity costs due to negligence in operation, design errors or defectively produced equipment that force the closing of electric generating facilities; and

Whereas, it is necessary to prevent the passing of unjust and unreasonable costs to electricity users as soon as possible; 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 § 51-B is enacted to read:

§ 51-B. Exclusion of costs from rates

1. Unjust and unreasonable costs. Any increased costs for the generation of electricity that are incurred as the result of the shutdown or closing in whole or in part, of an electric generating facility due to an error in design, an error attributable to negligence in the operation or management of the facility or to defectively produced equipment shall be deemed unjust and unreasonable costs.

2. Burden of proof. The burden of proof shall be on the electric utility to show that the closing of an electric generating facility and the ensuing increased costs are not the result of negligence, an error in design or defectively manufactured equipment and are not unjust and unreasonable.

3. Recovery of costs. Any increased costs resulting from the shutdown of an electric generating facility which are excluded from the revenues of an electric utility may be recovered by the utility in a suit filed against a person or firm responsible for the error or negligence.

Sec. 2. 35 MRSA § 131, sub-§ 10, is enacted to read:

10. Limitation on fuel charges. Any increased fuel costs for the generation of electricity that are incurred as the result of the shutdown or closing in whole or in part, of an electric generating facility due to an error in design, an error attributable to negligence in the operation or management of the facility or to defectively produced equipment shall not be included in the itemized fuel charges to users.

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 bill is to prohibit electric utilities from passing on to users increased costs resulting from the closing of facilities that are found to be defective in design or equipment or that are closed as a result of utility negligence. This bill prohibits the inclusion of unreasonable and unjust costs associated with the closing of a facility in the rates charged to users. In addition, these charges cannot be included in the fuel adjustment clause.

In order to recover costs incurred by defective equipment, defective design or negligence, the utility may file suit against the responsible person or firm.