

MAINE STATE LEGISLATURE

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(Governor's Bill)
SECOND REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1859

H. P. 1741

House of Representatives, January 23, 1980

On Motion of Mr. Davies of Orono, referred to the Committee on Public Utilities. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk of the House

Presented by Mrs. Kany of Waterville.

Cosponsor: Mr. Davies of Orono.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY

AN ACT Requiring Public Utilities Commission Approval for the Purchase of Portions of Electrical Generating Facilities by Electrical Companies.

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

Sec. 1. 35 MRSA § 13-A, as last amended by PL 1979, c. 265, §§ 3-5, is repealed.

Sec. 2. 35 MRSA § 13-B is enacted to read:

§ 13-B. Commission approval required for construction or purchase of electrical generating facilities

When an electrical company proposes to erect or to purchase any portion of a power generating facility with an installed capacity of 1,000 kilowatts or more, or transmission lines carrying 100 kilovolts or more, the company shall file a petition for a certificate of public convenience and necessity. No electrical company may enter into any construction, financing or purchase agreement pertaining to additional power generation facilities without approval from the commission.

Within not less than 3 months prior to submitting a petition for a certificate of public convenience and necessity, an electrical company shall file a notice of intent to file the petition. This notice shall inform the commission of the location, size, type of facility, estimated cost or purchase price and proposed construction

schedule of the generating facility or lines to be constructed or purchased, together with such other facts and details concerning the proposed facility outlines as the commission, by rule, shall prescribe.

The petition for a certificate of public convenience and necessity shall be provided by the commission and shall contain information as the commission, by rule, shall prescribe. The petition shall be set down for public hearing and the commission shall issue its order within 15 months after the petition is filed with the commission, unless the period is either extended by agreement of all the parties or by the commission upon its determination that the party seeking the extension would, because of circumstances beyond that party's control for which it has no reasonable substitute and the party to that time having prosecuted its case in good faith and with due diligence, be unreasonably disadvantaged unless the extension were granted.

Whenever an electric company or companies propose to erect within this State or purchase any transmission line carrying 100 kilovolts, or more, and the transmission line does not result from the construction of any generating facility pursuant to this section, the company shall file a petition for the approval of the proposed line. This petition shall contain such information as the commission shall, by rule, prescribe. The petition shall be set down for public hearing and the commission shall issue its order within 6 months after the petition is filed with the commission, unless the period is either extended by agreement of all parties or by the commission upon its determination that the party seeking the extension would, because of circumstances beyond that party's control for which it has no reasonable substitute and the party to that time having prosecuted its case in good faith and with due diligence, be unreasonably disadvantaged unless the extension were granted.

In its order, the commission shall make specific findings with regard to the need for the facilities and, if the commission finds that a need exists, it shall issue a certificate of public convenience and necessity for the facilities proposed. If the commission orders or allows the erection or purchase of the facilities, the order shall be subject to all other provisions of law and the right of any other agency to approve the facilities.

At any public hearing held by the commission as to the erection and construction or purchase of a transmission line, the electric company shall submit a map to the commission at least 14 days prior to the public hearing. The map shall be available to the public at the offices of the commission and shall indicate the proposed location and route of the transmission line and a description of any planned equipment and facilities to be placed thereon. The commission may approve or disapprove all or portions of the proposed transmission line, and shall determine its location, character, size, width installation, maintenance and appearance as are necessary having regard for any increased costs thereby caused.

In the event that the commission has issued a certificate of public convenience

and necessity for the transmission of generating facilities proposed and the Board of Environmental Protection in an order under Title 38, section 484, makes any modification in the location, size, character or design of the facilities, the company or companies shall deliver a copy of the order to the commission and shall state the nature of the modifications and all cost adjustments occasioned thereby to the cost of the proposed facilities relied upon by the commission in issuing its certificate of public convenience and necessity under this section.

If the cost adjustments specified herein exceed the cost relied upon by the commission in the original proceeding under this section by more than 20% of the original cost, the company or companies shall not proceed with any construction of the proposed facilities, the commission's original certificate of public convenience and necessity notwithstanding. The commission, upon notification of the cost increase, shall reopen its original decision concerning the facilities and shall make specific findings with regard to the need for the facilities to the same extent and with the same authority as if the company's or companies' petition for approval were before it. Except as modified herein, the commission shall retain all authority granted to it under section 306.

STATEMENT OF FACT

The purpose of this bill is to require electrical utilities to obtain approval from the Public Utilities Commission prior to the purchase of any portion of an electric generating facility. At the present time, an electric utility may purchase a portion of a generating facility and use short-term financing to initially underwrite the project. The utility then requests the Public Utility Commission to approve a bond issue to replace the short-term notes and to finance the entire project. The commission, therefore, approves the purchase after it has been purchased, and is disinclined to disapprove the purchase considering the contracts, financing agreements and other agreements that have already been implemented.

This bill places the purchase of electrical generating facilities on the same basis as the construction of generating facilities. Present law requires an electrical utility to obtain a certificate of public convenience and necessity from the Public Utilities Commission prior to construction of the facility. The purpose of this provision is to prevent over-building of generating capacity and to ensure the availability of lowest cost power for Maine users. As a result of this bill, the Public Utilities Commission will be able to evaluate proposed purchases of portions of generating facilities prior to the actual purchase. Any purchase of a generating facility, in whole or in part, will require a certificate of public convenience and necessity.