

MAINE STATE LEGISLATURE

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New Draft of S. P. 474, L. D. 1330
FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1653

S. P. 638

In Senate, May 22, 1981

Reported by Senator Devoe of Penobscot from the Committee on Public Utilities and Printed under Joint Rules No. 2.

MAY M. ROSS, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Encourage Small Power Facilities.

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

Sec. 1. 35 MRSA § 2323, sub-§ 1, as amended by PL 1979, c. 688, § 15, is further amended by adding at the end a new paragraph to read:

For purposes of this chapter, a cogenerator shall be considered not primarily engaged in the generation or sale of electric power if 50% or less of the equity interest in the cogeneration facility is owned by a public utility, a subsidiary of a public utility or an affiliate of a public utility.

Sec. 2. 35 MRSA § 2323, sub-§§ 1-A, 1-B and 1-C are enacted to read:

1-A. Associate. "Associate" means any person or corporation other than a public utility that substantially participates in the ownership or operation of a cogeneration or small power production facility, or any person or corporation that contracts to receive the thermal output of a cogeneration facility.

1-B. Existing transmission and distribution line improvement costs. "Existing transmission and distribution line improvement costs" means any costs the utility reasonably incurs for upgrading and improving transmission and distribution lines and related facilities that are already operable as part of that utility's existing power grid.

1-C. Interconnection costs. "Interconnection costs" means the reasonable

costs incurred solely due to connecting the qualifying facility with the existing facilities of the electric utility purchasing the power. Interconnection costs do not include the costs of improvements to existing transmission and distribution lines.

Sec. 3. 35 MRSA § 2323, sub-§ 3, as amended by PL 1979, c. 688, § 16, is repealed and the following enacted in its place:

3. **Small power producer.** For purposes of this chapter, a power producer shall not be considered a "small power producer" if more than 50% of the equity interest in the power production facility is owned by a public utility, a subsidiary of a public utility or an affiliate of a public utility.

Sec. 4. 35 MRSA § 2324, as enacted by PL 1979, c. 421, § 2, is repealed and the following enacted in its place:

§ 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 the commission may treat all or a portion of the equity investment, whether direct or indirect, by an electric utility in a qualifying cogeneration facility or a qualifying small power production facility as public utility property. 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.

Sec. 5. 35 MRSA § 2325, sub-§ 2, as enacted by PL 1979, c. 421, § 2, is amended to read:

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, or sale to, his associates in a small power production or cogeneration facility and not for the use of or sale to others without approval or regulation by the commission.

Sec. 6. 35 MRSA § 2325, sub-§ 3 is enacted to read:

3. **Interconnections and existing transmission line improvements.** A small power producer or cogenerator selling electricity to a utility shall be obligated to pay all reasonable interconnection costs. Any existing transmission and distribution line improvement costs incurred in order for the utility to utilize fully the power from a qualifying facility shall be equitably apportioned between the utility and the small power producer.

Sec. 7. 35 MRSA § 2326, as enacted by PL 1979, c. 421, § 2, is repealed and the following enacted in its place:

§ 2326. **Transactions**

The rate paid by the public utility for the purchase of electricity as described in

this section shall be determined by the small power producer or cogenerator and the public utility electric company or cooperative. In the event that the small power producer or cogenerator and the public utility electric company or cooperative are unable to agree to a contract for electricity, or to a price for the electricity purchased by the public utility, or to an equitable apportionment of existing transmission and distribution line improvement costs, the commission shall require the utility to purchase the power as such rates and under such terms as the commission shall establish by rule or order. The equitable apportionment of existing transmission and distribution line improvement costs by the commission shall be based upon the benefits to the small power producer or cogenerator and the public utility electric company or cooperative. The commission shall render a decision within 90 days from receipt of a petition signed by a small power producer, cogenerator, public utility electric company or electric cooperative for commission intercession.