

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 1260

7 S.P. 413

In Senate, March 17, 1983

8 Submitted by the Public Utilities Commission pursuant to Joint Rule 24.
9 Referred to the Committee on Public Utilities. Sent down for concurrence
and ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Kany of Kennebec.

Cosponsors: Representative Bost of Orono and Representative Baker of
Portland.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT to Allow the Public Utilities
18 Commission to set Rates on the Basis of
19 Interpretation of Federal Law.
20

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

23 35 MRSA §305-A is enacted to read:

24 §305-A. Court review of questions of federal law

25 It shall not be unreasonable or an abuse of dis-
26 cretion for the commission to set rates on the basis
27 of its interpretation of federal law, even though the
28 interpretation may conflict with federal policy or an
29 interpretation of federal law adopted by a federal
30 agency, unless the court finds the commission's
31 interpretation to be erroneous or finds the commis-
32 sion's actions to have been preempted by federal law.
33 It shall not be unreasonable or an abuse of discre-
34 tion for the commission to jeopardize a utility's

1 right to tax benefits, unless the court finds that
2 the commission's interpretation of the law is errone-
3 ous, that those benefits will be lost by the commis-
4 sion's action, and that the loss of those benefits
5 would be unreasonable.

6 STATEMENT OF FACT

7 This bill ensures that a Public Utilities Commis-
8 sion rate decision based on its interpretation of
9 federal law will not be set aside unless the court
10 finds the interpretation to be erroneous. In the
11 past, commission decisions have been set aside and
12 utility rates increased merely because the court
13 found that the decision conflicted with federal
14 policy or created a possibility of causing the loss
15 of certain tax benefits. The bill allows the court
16 to set aside a commission decision only if its inter-
17 pretations are legally wrong or if its actions are
18 specifically preempted by federal law. The bill
19 allows the court to reverse the commission on a fed-
20 eral ground only on the basis of the court's own
21 interpretation of the law, rather than on the basis
22 of a mere conflict between state and federal agen-
23 cies' views.

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