

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE  
4

5 Legislative Document

No. 1203

6  
7 S.P. 436

In Senate, April 2, 1985

8 Referred to the Committee on Utilities. Sent down for concurrence and  
9 ordered printed.

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

Presented by Senator Kany of Kennebec.

Cosponsored by Senator Baldacci of Penobscot, Representative McHenry  
11 of Madawaska and Representative Daggett of Manchester.

12 STATE OF MAINE  
13

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

17 AN ACT to Require Public Utilities Commission  
18 Approval of Significant Agreements and  
19 Contracts by Public Utilities.  
20

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

23 Sec. 1. 35 MRSA §13-D is enacted to read:

24 §13-D. Significant agreements and contracts relating  
25 to generating capacity, energy or transmis-  
26 sion capacity prohibited without prior order  
27 of the commission

28 1. Certificate of public convenience and neces-  
29 sity. Except as provided in subsection 3, commission  
30 approval is required whenever any electrical company  
31 proposes to enter into any significant agreement or  
32 contract covered by this section. No electrical com-  
33 pany may enter into any significant agreement or con-  
34 tract, as defined in subsection 2, unless the commis-  
35 sion has issued a certificate of public convenience  
36 and necessity approving the petition.

1 The company shall file with the commission, no less  
2 than 2 months in advance of submitting its petition  
3 for a certificate of public convenience and necessity  
4 for the proposed agreement or contract, and thereafter  
5 the commission may require the petitioner to make  
6 available such additional information as it deems  
7 necessary. The petition shall contain such informa-  
8 tion as the commission may by rule prescribe. The  
9 petition shall be set down for public hearing. The  
10 commission shall issue its order within 12 months af-  
11 ter the complete petition is filed. If there is then  
12 outstanding for the utility a long-range plan ap-  
13 proved pursuant to section 13-C, the utility need not  
14 provide advance notice of its intent to file the pe-  
15 tion and the commission shall issue its order with-  
16 in 9 months after the complete petition is filed.

17 In its order, the commission shall make specific  
18 findings with regard to the need for the agreements  
19 or contracts and, if it finds that a need for them  
20 exists in order for the utility to furnish safe, rea-  
21 sonable rates, the commission shall issue the certif-  
22 icate of public convenience and necessity.

23 The issuance of a certificate of public convenience  
24 and necessity establishes that, as of the date of is-  
25 suance, the decision by the utility to enter into the  
26 agreement or contract was prudent.

27 2. Definitions. As used in this section, unless  
28 the context indicates otherwise, the following terms  
29 have the following meanings.

30 A. "Significant agreement or contract" is de-  
31 defined to include any contract or other agreement  
32 enforceable as a contract which binds the utility  
33 to a future course of action including, but not  
34 limited to, supplying, purchasing or exchanging  
35 generating capacity, energy or transmission ca-  
36 capacity. The agreement shall be considered "sig-  
37 nificant" if it is for a period of 3 years or  
38 more and: Involves 1,000 kilowatts or more of  
39 electrical generating capacity, or 10,000,000  
40 kilowatt-hours per year or more of energy or  
41 transmission services for 10,000,000  
42 kilowatt-hours per year or more over a transmis-  
43 sion line with a capacity greater than 100

1 kilovolts or else if the agreement involves more  
2 than 10% of the generating capacity, energy gener-  
3 ating or transmission capacity of the utility,  
4 whichever is less. Other types of agreement or  
5 contract shall be considered "significant" if the  
6 fair market value of the goods or services in-  
7 volved exceeds \$500,000 or 5% of the gross intra-  
8 state operating revenues of the utility, whichev-  
9 er is less.

10 3. Exclusions. This section shall not apply to  
11 any contract or agreement for which commission ap-  
12 proval is required under section 13-A or 13-B. This  
13 section shall not apply to any contract or agreement  
14 which was in force prior to January 1, 1985, but this  
15 section shall apply to the renewal, amendment or ex-  
16 tension on or after January 1, 1985, of those preex-  
17 isting contracts or agreements.

18 4. Filing fee. When the petition is filed, the  
19 utility or utilities involved shall pay to the Public  
20 Utilities Commission an amount equal to 2/100 of 1%  
21 of the estimated value of the goods and services in-  
22 volved in the contract or agreement. The utility or  
23 utilities may, at or before the time of filing of no-  
24 tice of its intent to file the petition request the  
25 commission to waive all or a portion of the filing  
26 fee. The commission shall rule on the request for  
27 waiver within 60 days.

28 Notwithstanding any other provision of law, filing  
29 fees paid as required in this subsection shall be  
30 segregated, apportioned and expended by the commis-  
31 sion for the purposes of this section. Any portion  
32 of the filing fee that is received from a utility or  
33 utilities and is not expended by the commission to  
34 process the petition for a certificate of public con-  
35 venience and necessity shall be returned to the util-  
36 ity or utilities.

37 Sec. 2. Study of the NEPOOL agreement. The Pub-  
38 lic Utilities Commission shall review the so-called  
39 New England Power Pool or "NEPOOL" agreement using  
40 the criteria and procedures of the Maine Revised  
41 Statutes, Title 35, section 13-D, and report its  
42 findings to the Joint Standing Committee on Utilities  
43 and the Joint Standing Committee on Energy and Natu-

1 ral Resources on or before March 31, 1986. No re-  
2 quirement to obtain a certificate of public conve-  
3 nience and necessity may be created by this section.  
4 Any utility in the State which is a party to the  
5 NEPOOL agreement shall be assessed a filing fee and  
6 shall supply data in accordance with the Maine Re-  
7 vised Statutes, Title 35, section 13-D on the effec-  
8 tive date of this Act.

9 In studying the NEPOOL agreement the commission  
10 shall include a study of whether it is beneficial for  
11 those utilities which are not parties to that agree-  
12 ment to join NEPOOL and, conversely, whether it is  
13 beneficial for any of those utilities which are par-  
14 ties to withdraw from NEPOOL.

15 STATEMENT OF FACT

16 The Maine Revised Statutes, Title 35, sections  
17 13-A and 13-B, require the Public Utilities Commis-  
18 sion's approval for most major initiatives regarding  
19 electrical generation and transmission, including  
20 construction of power plants of a capacity greater  
21 than 1,000 kilowatts either inside or outside the  
22 State or purchase of 1,000 kilowatt interest in such  
23 a capacity in the State, and construction of major  
24 high voltage transmission lines. This bill requires  
25 Public Utilities Commission approval for significant  
26 agreements and contracts.

27 The bill does not affect existing agreements and  
28 contracts, but it does apply to renewals, amendments  
29 or extensions and it does require review of the so-  
30 called New England Power Pool, NEPOOL, agreement for  
31 informational purposes.

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