

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 1270

6
7 S.P. 467

In Senate, April 9, 1985

8 Reference to the Committee on Utilities suggested and ordered printed.

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

10 Presented by Senator Matthews of Kennebec.

11
12 STATE OF MAINE
13

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

17 AN ACT to Prevent Utilities from Passing on
18 to Ratepayers the Investment Losses
19 from Canceled Power Plants.
20

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

23 Sec. 1. 35 MRSA §52-B, sub-§1, as enacted by PL
24 1983, c. 811, §2, is repealed and the following en-
25 acted in its place:

26 1. Prohibition. Except as provided in subsec-
27 tion 4, public utility rates or charges shall not in
28 any manner be based upon any costs associated with
29 construction work if that construction work is not
30 completed, and the commission shall not permit any
31 utility to recover in rates any costs incurred in
32 constructing, owning, maintaining or financing any
33 canceled or abandoned electric generating facility.
34 Under no circumstances shall the commission permit a
35 utility to recover in rates any costs incurred
36 imprudently in relation to an investment in a can-
37 celed or abandoned electric generating facility.

1 Sec. 2. 35 MRSA §52-B, sub-§2, as enacted by PL
2 1983, c. 811, §2, is amended to read:

3 2. Canceled or abandoned generating facilities.
4 As used in this section, the term "canceled or aban-
5 doned generating facilities" means any electric gen-
6 erating facility canceled or abandoned by the owner
7 or by the joint participants in the facility in ac-
8 cordance with the terms of applicable agreements or
9 otherwise.

10 In the event that construction has apparently ceased
11 for a period of 5 years, the commission may deter-
12 mine, in accordance with rules promulgated under this
13 chapter, that the plant is canceled or abandoned even
14 if the owner or joint participants have not formally
15 made such a determination.

16 Sec. 3. 35 MRSA §52-B, sub-§4, as enacted by PL
17 1983, c. 811, §2, is repealed and the following en-
18 acted in its place:

19 4. Exception for prior approval or financial ex-
20 igency. Subsection 1 does not apply to any portion
21 of a canceled or abandoned electric generating facil-
22 ity plant for which the utility has received prior
23 approval from the commission as documented by a cer-
24 tificate of public convenience and necessity issued
25 in accordance with section 13-A or 13-B. Subsection
26 1 does not apply if an electrical company can estab-
27 lish, as part of a proceeding initiated by it under
28 section 64, that it will be unable to perform its
29 public service or attract necessary capital on just
30 and reasonable terms, absent a commission order au-
31 thorizing recovery of part of the cost from
32 ratepayers. In either of these situations, the com-
33 mission shall balance the interests of the utility
34 and the ratepayers in a just and reasonable manner in
35 each individual case, but in no case shall the com-
36 mission allow a rate of return on investments in a
37 canceled or abandoned electric generating facility.

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STATEMENT OF FACT

Cases are presently pending before the Public Utilities Commission in which electric utility companies are seeking recovery for their investments in several canceled or abandoned power plants. If all of the recoveries sought by the utility companies are granted, electric rates will more than double over the next 5 years. The result also places Maine ratepayers in the position of paying for plants located in New Hampshire which New Hampshire ratepayers may not be charged for under New Hampshire law.

Current Maine law provides simply that the Public Utilities Commission should balance the interests of ratepayers and investors in considering requests by utilities for recovery for canceled plants. This bill provides a stronger policy to prohibit such recovery, except in narrowly defined circumstances. As under present law, no recovery will be permitted of any imprudent investment. The bill provides that the commission may determine a plant abandoned if the construction has stopped for 5 years. The bill permits recovery only when either a plant had prior approval of the Public Utilities Commission or the commission finds that the company would be unable to provide service or attract necessary capital without such recovery.

In no case would the commission be permitted to allow a return on investments in a canceled plant.

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