

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 2104
6

7 H.P. 1493

House of Representatives, February 28, 1986

8 Approved for introduction by a majority of the Legislative Council
9 pursuant to Joint Rule 26.

Reference to the Committee on Utilities suggested and ordered printed.

10 EDWIN H. PERT, Clerk

Presented by Representative McGowan of Canaan.

Cosponsored by Representative Vose of Eastport, Senator Baldacci of
11 Penobscot and Representative Willey of Hampden.

12 STATE OF MAINE
13

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

17 AN ACT to Permit Industrial Electric
18 Consumers to Purchase Energy from and
19 through Transmission Lines Carrying
20 Energy from Canada through the State.
21

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

24 Sec. 1. 35 MRSA §13-A, 3rd ¶, as enacted by PL
25 1971, c. 476, §1, is amended to read:

26 In its order pertaining to any transmission line
27 intended to be used solely to connect one or more of
28 the State's electric utilities with one or more elec-
29 tric utilities located in the United States, the com-
30 mission shall make specific findings with regard to
31 the need for such the facilities and if the commis-
32 sion finds that a need exists, it shall issue a cer-
33 tificate of public convenience and necessity for the
34 facilities proposed. If the commission orders or al-
35 lows the erection of such the facilities, such order
36 shall be subject to all other provisions of law and

1 the right of any other agency to approve ~~said~~ the fa-
2 cilities.

3 Sec. 2. 35 MRSa §13-A, as amended by PL 1983, c.
4 237, is amended by adding after the 3rd paragraph 2
5 new paragraphs to read:

6 In its order pertaining to any transmission line
7 intended in whole or in part to carry electric energy
8 from Canada to purchasers in the State or through the
9 State to purchasers in other states, the commission
10 shall make specific findings on whether a need exists
11 for the facilities; whether electric utilities
12 servicing customers in the State have a reasonable op-
13 portunity to purchase energy or energy and capacity
14 on a just and reasonable basis from the owners or op-
15 erators of the line or from the Canadian entities
16 selling energy through or to the line; whether elec-
17 tric utilities subject to commission jurisdiction
18 which participate in the construction or ownership of
19 the line have adequate opportunity to profit from
20 construction or ownership of the line; and whether
21 industrial consumers located in the State have a com-
22 mercially reasonable opportunity to contract on a
23 just and reasonable basis for the purchase of energy
24 or energy and capacity from the owners or operators
25 of the line or from the Canadian entities selling en-
26 ergy through or to the line. The commission shall
27 ensure that purchases from or through the line by any
28 industrial consumers located in the State are not
29 likely to result in a reasonably ascertainable uncom-
30 pensated loss by the ratepayers of the State's elec-
31 tric utility which has most recently provided service
32 to the industrial consumer.

33 If the commission makes an affirmative finding on
34 each of these matters, it shall issue a certificate
35 of public convenience and necessity for the proposed
36 facilities. If the commission issues such a certifi-
37 cate, the proposed facilities shall be subject to all
38 other provisions of law and the right of any other
39 agency to approve the facilities.

40 Sec. 3. 35 MRSa §2325, sub-§2, as amended by PL
41 1981, c. 450, §5, is further amended to read:

1 2. Use of electricity by the producer. Any small
2 power producer or cogenerator may generate or and
3 distribute electricity through his private property
4 solely for his own use, the use of his tenants or the
5 use of, or sale to, his associates in a small power
6 production or cogeneration facility. and not The gener-
7 eration, transmission or distribution of electricity
8 for the use of or sale to others without approval or
9 regulation by the commission shall be limited as pro-
10 vided in subsection 4.

11 Sec. 4. 35 MRSA §2325, sub-§4 is enacted to
12 read:

13 4. Transmission or wheeling of electric energy.
14 The transmission or wheeling of electric energy shall
15 be as follows.

16 A. Upon the request of a small power producer or
17 cogenerator, located within the State, for the
18 transmission or wheeling of electric energy to an
19 industrial consumer of electricity located within
20 the State through the transmission or distribu-
21 tion system of one or more electric utilities,
22 the electric utility shall enter into an agree-
23 ment of not more than 30 years duration to pro-
24 vide such transmission or wheeling services sub-
25 ject to reasonable conditions. The conditions
26 shall ensure that fulfillment of the wheeling
27 agreement between the small power producer or
28 cogenerator and the wheeling utility:

29 (1) Is unlikely to result in a reasonably
30 ascertainable uncompensated loss by or place
31 an undue burden on the wheeling utility; or

32 (2) Will not unreasonably impair the abili-
33 ty of the wheeling utility to adequately
34 serve its customers in the State.

35 B. In the event that the small power producer or
36 cogenerator and the utility requested to transmit
37 or wheel the electric energy are unable to agree
38 on any matter pertaining to transmission or
39 wheeling services, the commission shall require
40 the utility to provide the transmission or
41 wheeling services under such conditions as may be

1 reasonable, for a period of time determined by
2 the commission to be reasonable. The commission
3 shall determine the rate for transmission or
4 wheeling only if no federal agency with authority
5 to set such a rate does so within a reasonable
6 time after a request is made. The failure or re-
7 usal to act of a federal agency with authority
8 to set a transmission or wheeling rate shall not
9 justify refusal of an electric utility to trans-
10 mit or wheel electric energy. Any rate set by a
11 federal agency with authority to set such a rate
12 shall supersede any rate set by the commission.

13 Sec. 5. 35 MRS.A §2330 is enacted to read:

14 §2330. Transmission or wheeling between affiliated
15 industrial enterprises

16 Upon the request of an industrial manufacturing
17 enterprise located in the State to transmit or wheel
18 electric energy to another industrial facility in the
19 State owned in whole or in part by or otherwise af-
20 iliated with the enterprise, the electric utility
21 shall enter into an agreement of not more than 30
22 years duration to provide transmission or wheeling
23 services subject to reasonable conditions. The con-
24 ditions shall ensure that the fulfillment of the
25 transmission or wheeling agreement between the indus-
26 trial manufacturing enterprise and the transmitting
27 or wheeling utility:

28 1. Loss by or burden on wheeling utility. Is
29 unlikely to result in a reasonably ascertainable un-
30 compensated loss by or place an undue burden on the
31 wheeling utility; or

32 2. Unreasonable impairment of service. Will not
33 unreasonably impair the ability of the wheeling util-
34 ity to adequately serve its customers in the State.

35 In the event that the industrial manufacturing
36 enterprise and the utility requested to transmit or
37 wheel the electric energy are unable to agree to any
38 matter pertaining to transmission or wheeling ser-
39 vices, the commission shall require the utility to
40 provide the transmission or wheeling services under
41 the conditions as may be reasonable, for a period of

1 time determined by the commission to be reasonable.
2 The commission shall determine the rate for transmis-
3 sion or wheeling only if no federal agency with au-
4 thority to set such a rate does so within a reason-
5 able time after a request is made. The failure or
6 refusal to act of a federal agency with authority to
7 act shall not justify refusal of an electric utility
8 to transmit or wheel electric energy. Any rate set
9 by a federal agency with authority to set such a rate
10 shall supersede any rate set by the commission.

11 **Sec. 6. Legislative Findings** The Legislature
12 finds that the Small Power Production Facilities Act
13 and related legislative, regulatory and utility ac-
14 tions since the energy crisis of the 1970's have in-
15 creased the efficiency of the generation, delivery
16 and consumption of electricity and other forms of en-
17 ergy in the State. By encouraging energy generation
18 by nonutility sources and increasing reliance on
19 indigenous and renewable energy sources, these ac-
20 tions have decreased the long-term cost of energy in
21 the State, lowered the capital requirements of the
22 State's electric utilities and strengthened and di-
23 versified the State's economy.

24 The Legislature agrees with the recent findings
25 of the Industrial Stability Commission that "elec-
26 tricity and energy prices are 2 important factors in
27 determining whether certain industries prosper,
28 whether they stay in an area and where they relocate
29 and expand" and that "electricity and energy prices
30 are particularly important for those industries which
31 are very energy intensive and are subject to intense
32 national or global competition."

33 The Legislature finds that the State's economy
34 remains strongly dependent on the economic health of
35 the paper, textile, shoe, plastics, forest products
36 and similar energy intensive manufacturing indus-
37 tries. These state industries, among others, are both
38 energy intensive and subject to intense, and some-
39 times unfair, national and global competition. Ac-
40 cordingly, the Legislature concludes it must act to
41 protect the public health, safety and welfare by re-
42 moving additional obstacles to more efficient genera-
43 tion, delivery and consumption of electric energy by
44 industrial electricity consumers.

1 By permitting and encouraging more efficient com-
2 binations of production and consumption of electric
3 energy by Maine industry without allowing unreason-
4 able burdens to be imposed on other electricity con-
5 sumers or electric utilities, the State's economy may
6 be preserved and strengthened. Further, the State's
7 natural resources will be allocated more efficiently
8 and the environment more prudently safeguarded by po-
9 licies which encourage optimal combinations of pro-
10 duction and consumption of electric energy.

11 The Legislature accepts the determination of the
12 Industrial Stability Commission that purchases of en-
13 ergy by industrial consumers directly from Canada may
14 be in the public interest and should be further ex-
15 plored. The Legislature finds that the government of
16 Canada has increased the generation of electric ener-
17 gy beyond the reasonably foreseeable needs of Canadi-
18 an consumers and that efforts are underway to market
19 Canadian energy in this State and other states. The
20 Legislature finds that the construction of 2 large
21 electric transmission lines from Canada through the
22 State is under consideration and that an application
23 for a certificate of public convenience and necessity
24 has been filed with the Public Utilities Commission
25 for the first of the 2 lines.

26 The Legislature recognizes that each of the lines
27 will have a measurable and important impact on the
28 State's environment. The Legislature also finds that
29 the long-term costs of that impact may be outweighed
30 by the availability of the lines and the energy mar-
31 kets these lines can open in Canada to the State's
32 electric utilities and industrial electricity consum-
33 ers.

34 The Legislature further finds that significant
35 differences exist between electric power exchanges
36 among domestic utilities, which are subject to state
37 and federal regulation, and electric power exchange
38 between domestic utilities and the Canadian Govern-
39 ment entities which perform the proprietary function
40 of generating and transmitting electric energy.
41 Among these differences are an historic refusal of
42 the Canadian Government entities to deal with indus-
43 trial consumers in the State, a competitive relation-
44 ship between the Canadian Government entities and

1 domestic utilities and an inability of the Public
2 Utilities Commission to regulate the price or quality
3 of service of the Canadian entities. In light of
4 these and related factors, the Legislature acts, in
5 the protection of the public health, safety and wel-
6 fare and in the exercise of its inherent jurisdiction
7 over the dedication of capital to the providing of
8 the utility services to assure the benefit of the
9 transmission lines to the people of the State.

10

STATEMENT OF FACT

11 The purpose of this bill is to strengthen the
12 State's economy by continuing the State's recent
13 trends in the more efficient use of electricity and
14 in the wise use of the State's indigenous and renew-
15 able resources for the production of electric energy.
16 The bill is intended to encourage and permit more ef-
17 ficient generation, delivery and consumption of elec-
18 tric energy in several ways.

19 Specifically, the bill requires the Public Utili-
20 ties Commission to issue a certificate of public con-
21 venience and necessity for any power transmission
22 line from Canada only on a showing of need for the
23 line, benefit to electric utilities located in Maine
24 which will own or construct the line and benefit to
25 electricity consumers located in this State. Indus-
26 trial consumers must be allowed to buy power from or
27 through the line if other ratepayers will not be
28 harmed.

29 The bill also encourages and permits the wheeling
30 or transmission of electric energy from small power
31 producers or cogeneration facilities located in this
32 State to industrial consumers of electricity located
33 in this State, if unreasonable harm will not result
34 to electric utilities or other ratepayers. Similar-
35 ly, the bill encourages and permits the wheeling or
36 transmission of electric energy from an industrial
37 facility located in this State to an affiliated in-
38 dustrial facility also located in this State.

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