

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 993

S.P. 338

In Senate, March 31, 1987

Reference to the Committee on Utilities suggested and ordered printed.

JOY J. O'BRIEN, Secretary of the Senate
Presented by Senator KANY of Kennebec.

Cosponsored by Senator KERRY of York, Senator ERWIN of Oxford, Representative RICHARD of Madison.

STATE OF MAINE

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

AN ACT Relating to Significant Energy
Agreements and Contracts by Electric
Utilities.

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

7 Sec. 1. 35 MRSA §13-A, as amended by PL 1985, c.
8 629, §§1 and 2, is amended by adding at the end a new
9 paragraph to read:

10 This section applies to any amendment, extension
11 or renewal of any contract between the utility and
12 other parties with an ownership interest, governing
13 the terms of their participation in the construction
14 of a generation or transmission facility subject to
15 this section, whether or not the original contract
16 was approved by the commission.

1 **Sec. 2.** 35 MRSA §13-B, sub-§5 is enacted to
2 read:

3 5. Renewal of contracts. This section applies
4 to any amendment, extension or renewal of any con-
5 tract between the utility and other parties governing
6 the terms of their participation in a purchase or
7 conversion subject to this section, whether or not
8 the original contract was approved by the commission.

9 **Sec. 3.** 35 MRSA §13-D is enacted to read:

10 §13-D. Significant agreements and contracts relating
11 to generating capacity, energy or transmis-
12 sion capacity prohibited without prior order
13 of the commission

14 1. Certificate of public convenience and neces-
15 sity. Except as provided in subsection 3, no elec-
16 tric utility may enter into any significant agreement
17 or contract, as defined in subsection 2, unless the
18 commission has issued a certificate of public conve-
19 nience and necessity approving the proposed agreement
20 or contract. The utility shall file notice with the
21 commission, no less than 2 months in advance of sub-
22 mitting its petition for a certificate of public con-
23 venience and necessity for the proposed agreement or
24 contract. The commission may require the petitioner
25 to make available such additional information as it
26 deems necessary. The petition shall contain such in-
27 formation as the commission may by rule prescribe.
28 The petition shall be set down for public hearing.
29 The commission shall issue its order within 12 months
30 after the complete petition is filed. If there is
31 then outstanding for the utility a long-range plan
32 approved pursuant to section 13-C which includes the
33 agreement or contract, the utility need not provide
34 advance notice of its intent to file the petition and
35 the commission shall issue its order within 9 months
36 after the complete petition is filed.

37 In its order, the commission shall make specific
38 findings with regard to the agreement or contract.
39 If it finds that a need for it exists and it is rea-
40 sonable and consistent with the public interest, the
41 commission shall issue the certificate of public con-
42 venience and necessity.

1 The issuance of a certificate of public convenience
2 and necessity establishes that, as of the date of is-
3 suance, the decision by the utility to enter into the
4 agreement or contract was prudent; except that this
5 subsection does not apply when the commission's find-
6 ings were based on incorrect or incomplete informa-
7 tion provided by the utility.

8 2. Definitions. As used in this section, unless
9 the context indicates otherwise, the following terms
10 have the following meanings.

11 A. "Significant agreement or contract" means a
12 contract or other agreement enforceable as a con-
13 tract which binds the utility to a future course
14 of action with respect to supplying, purchasing,
15 dispatching or exchanging generating capacity,
16 energy or transmission capacity or any renewal,
17 amendment or extension of any contract or agree-
18 ment which is for a period of 3 years or more and
19 involves:

20 (1) 1,000 kilowatts or more of electrical
21 generating capacity, or 10,000,000 kilowatt
22 hours or more of energy per year, flowing
23 over a transmission line with a capacity
24 greater than 100 kilovolts; or

25 (2) More than 10% of the generating capaci-
26 ty, transmission capacity or energy genera-
27 tion of the utility, whichever is less.

28 3. Exclusions. This section does not apply to
29 any contract or agreement for which commission ap-
30 proval is required under section 13-A or 13-B or to
31 any contract with a cogenerator or small power pro-
32 ducer as defined by section 2323. This section ap-
33 plies to contracts or agreements which take effect on
34 or after the effective date of this section, and to
35 the renewal, amendment or extension on or after the
36 effective date of this section of preexisting con-
37 tracts or agreements.

38 4. Filing fee. A utility or utilities filing a
39 petition under this section shall pay to the Public
40 Utilities Commission at the time of filing an amount
41 equal to 2/100 of 1% of the estimated cost of the

1 contract or agreement. The utility or utilities may,
2 at or before the time of filing of notice of its intent
3 to file the petition, request the commission to
4 waive all or a portion of the filing fee as unneces-
5 sary to help defray the cost of review. The commis-
6 sion shall rule on the request for waiver within 60
7 days.

8 Notwithstanding this title, filing fees paid as re-
9 quired in this subsection shall be segregated, appor-
10 tioned and expended by the commission for the pur-
11 poses of this section. Any portion of the filing fee
12 that is received from a utility or utilities and is
13 not expended by the commission to process the peti-
14 tion for a certificate of public convenience and ne-
15 cessity shall be returned to the utility or utili-
16 ties.

17 STATEMENT OF FACT

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

27 Sections 1 and 2 add the requirement of commis-
28 sion approval of amendments, renewals and extensions
29 of contracts among participants to a project, where
30 the original contract would have been subject to re-
31 view under Title 35, sections 13-A and 13-B. t+99

32 Section 3 requires the Public Utilities Commis-
33 sion's approval for significant agreements and con-
34 tracts. Contracts covered are narrowly limited to
35 major energy and capacity contracts which are not
36 currently subject to the commission's approval, ex-
37 cluding contracts with cogenerators and small power
38 producers.

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