

MAINE STATE LEGISLATURE

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(NEW DRAFT OF H.P. 1533, L.D. 2087).
SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 2421

H.P. 1768 House of Representatives, March 3, 1988
Reported by Representative TARDY from the Committee on
Utilities and printed under Joint Rule 2.

EDWIN H. PERT, Clerk
Original bill sponsored by Representative WEYMOUTH of
West Gardiner. Cosponsored by Representatives O'GARA of
Westbrook, WEBSTER of Cape Elizabeth and Senator ERWIN of
Oxford.

STATE OF MAINE

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

1 AN ACT to Encourage Conservation
2 Investments by Electric Utilities.
3

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

6 Sec. 1. 35-A MRSA §102, sub-§6, as enacted by
7 PL 1987, c. 141, Pt. A, §6, is amended to read:

8 6. Electric plant. "Electric plant" includes all

1 real estate, fixtures and personal property owned,
2 controlled, operated or managed in connection with or
3 to facilitate the production, generation,
4 conservation, load management, transmission, delivery
5 or furnishing of electricity for light, heat or power,
6 for public use, and all conduits, ducts or other
7 devices, materials, apparatus or property for
8 containing, holding or carrying conductors used or to
9 be used for the transmission of electricity for light,
10 heat or power for public use. "Electric plant"
11 includes, but is not limited to, fixtures and personal
12 property on the premises of a utility's customer,
13 financed in whole or in part by that utility, and
14 found by the commission to constitute a cost-effective
15 investment in conservation or load management. In the
16 case of these conservation or load management
17 investments only, "electric plant" may include
18 property actually owned by the customer or by a party
19 other than the utility. The presence of property on
20 the premises of a customer or other party, which
21 property is included in the rate base of an electric
22 utility as qualifying conservation or load management
23 investment, shall not cause the customer or other
24 party to be determined to be a public utility for any
25 purpose.

26 Sec. 2. 35-A MRSA §303, as enacted by PL 1987,
27 c. 141, Pt. A, §6, is amended to read:

28 §303. Valuation of property for fixing rates

29 In determining just and reasonable rates, tolls
30 and charges, the commission shall fix a reasonable
31 value upon all the property of a public utility and
32 upon an electric plant to the extent paid for by the
33 utility on the premises of any of its customers, which
34 is used or required to be used in its service to the
35 public within the State and a fair return on that
36 property. In fixing a reasonable value, the
37 commission shall give due consideration to evidence of
38 the cost of the property when first devoted to public
39 use and the prudent acquisition cost to the utility,
40 less depreciation on each, and any other material and
41 relevant factors or evidence, but the other factors
42 shall not include current value. In making a

1 valuation, the commission may consult reports, records
2 or other information available to it in the office of
3 any state office or board.

4 Sec. 3. 35-A MRSA §3154, sub-§6 is enacted to
5 read:

6 6. Conservation investments in rate base. Upon
7 petition by the public utility in any general rate
8 change request pursuant to section 307, filed on or
9 after January 1, 1988, the commission may in its
10 discretion include in the utility's rate base and
11 permit a fair return on the utility's rate base, any
12 electric plant to the extent financed by the utility
13 which constitutes a cost effective investment in
14 conservation or load management and which was
15 installed on the premises of a customer.

16 Sec. 4. 35-A MRSA §3304, as enacted by PL 1987,
17 c. 141, Pt. A, §6, is amended to read:

18 §3304. Control and regulation of generating
19 facilities

20 Notwithstanding the definition of a public utility
21 or of an electric plant in section 102, a small power
22 production facility and a cogeneration facility, as
23 defined in section 3303, is not deemed a public
24 utility and is not subject to control or regulation by
25 the commission, except that the commission may treat
26 all or a portion of the equity investment, whether
27 direct or indirect, by an electric utility in a
28 qualifying cogeneration facility or a qualifying small
29 power production facility as public utility property
30 for retail rate-making purposes. Commission
31 determination and regulation of rates of electric
32 utilities, which include purchases of power from a
33 qualifying small power production facility or
34 cogeneration facility, shall not be considered control
35 or regulation of these facilities.

36 The presence of property on the premises of a
37 qualifying facility, or upon the premises of a partner
38 in or part owner of a qualifying facility, which
39 property has been included in the rate base of an

1 electric utility as qualifying conservation or load
2 management investment, shall not cause the qualifying
3 facility or any partner in or part owner of a
4 qualifying facility to be determined to be a public
5 utility for any purpose.

6 STATEMENT OF FACT

7 In recent years, the Public Utilities Commission
8 has taken steps to ensure that electrical conservation
9 measures receive full consideration in utility power
10 supply planning. One of the most important of these
11 steps is least-cost planning which under current
12 commission regulations requires utility planners to
13 integrate demand reduction options, along with
14 generation supply options, in the utility's annual
15 resource plan for the next 30 years. One key problem
16 remains in this integrated planning process.
17 Generation investments, such as a new hydro-electric
18 facility, are included in the utility's rate base and
19 earn a return for utility shareholders over the
20 depreciable life of that investment, while to date
21 conservation investments have not received this
22 rate-making treatment and consequently do not
23 currently provide investment incentives for utility
24 shareholders. Adding this incentive for utility
25 investments in electrical efficiency, particularly in
26 the industrial sector, will benefit all ratepayers
27 when the costs of these investments, including a
28 return to utility shareholders, are below the
29 utility's avoided costs of replacement power.
30 Enactment of this incentive also strengthens the
31 accuracy of utility resource planning by ensuring
32 traditional rate-making treatment of investments
33 included in the resource plan, be they investments in
34 generation or in conservation measures.

35 This new draft changes dates to permit its
36 application to petitions filed after January 1, 1988,
37 corrects syntax and clarifies legislative intention
38 that nothing in this new draft is intended either to
39 impair the status of a cogeneration or small power
40 producer as a qualifying facility, under the Maine
41 Revised Statutes, Title 35-A, section 3303 or under

1 the Public Utility Regulatory Policy Act, section 210
2 by virtue of the presence of "electric plant" on its
3 premises, or to limit the authority of the Public
4 Utilities Commission to permit recovery of utility
5 investment in a plant on the premises of customers for
6 purposes of providing improved customer service, such
7 as uninterrupted power supply packages.

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