

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 339

S.P. 182

In Senate, February 22, 1989

Reference to the Committee on Utilities suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator DUTREMBLE of York.

Cosponsored by Senator HOBBS of York, Representative DUTREMBLE of Biddeford and Representative LIBBY of Kennebunk.

STATE OF MAINE

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

An Act to Regulate Incineration Plants.



1 **Be it enacted by the People of the State of Maine as follows:**

3 **Sec. 1. 35-A MRSA §102, sub-§§9-A and 9-B** are enacted to read:

5 9-A. Incineration plant. "Incineration plant" includes all
7 real estate, fixtures and personal property owned, controlled,
9 operated or managed in connection with or to facilitate the
11 incineration of municipal solid waste, as defined in chapter 33,
13 or industrial solid waste for purposes of either disposal or
electric power generation, or both. A facility which incinerates
municipal or industrial solid waste in small amounts which
constitute less than 2% by weight of its fuel shall not be
considered an incineration plant.

15 9-B. Incineration utility. "Incineration utility" includes
17 every person, the utility's lessees, trustees, receiver or
19 trustees appointed by any court owning, controlling, operating or
managing any incineration plant for compensation within this
State.

21 **Sec. 2. 35-A MRSA §102, sub-§13,** as enacted by PL 1987, c.
23 141, Pt. A, §6, is amended to read:

25 13. **Public utility.** "Public utility" includes every gas
27 utility, incineration utility, natural gas pipeline utility,
29 electric utility, telephone utility, telegraph utility, water
31 utility, public heating utility and ferry, as those terms are
33 defined in this section and each of those utilities is declared
to be a public utility. "Public utility" does not include the
operation of a radio paging service, as that term is defined in
this section. Nothing in this subsection precludes the
jurisdiction, control and regulation by the commission pursuant
to private and special act of the Legislature.

35 **Sec. 3. 35-A MRSA §102, sub-§16-A** is enacted to read:

37 16-A. Solid waste. "Solid waste" means useless, unwanted
39 or discarded solid material with insufficient liquid content to
41 be free flowing, including, by way of example and not by
43 limitation, rubbish, garbage, scrap materials, junk, refuse,
45 inert fill material and landscape refuse, but does not include
septic tank sludge or agricultural wastes. "Solid waste"
includes fuel, whether solid, liquid or gas, derived from
materials such as those listed.

47 **Sec. 4. 35-A MRSA §116, sub-§1,** as amended by PL 1987, c. 631,
§4, is further amended to read:

49 1. **Utilities subject to assessments.** Every electric, gas,
51 incineration, telegraph, telephone and water utility and ferry
subject to regulation by the commission shall be subject to an

1 assessment of not more than .25% on its intrastate gross
operating revenues to produce no more than \$2,386,000 \$2,436,000
3 in revenues annually beginning in the 1988-89 1989-90 fiscal
year. The commission shall determine the assessments annually
5 prior to May 1st and shall assess each utility for its pro rata
share. Each utility shall pay the assessment charged to the
7 utility on or before July 1st of each year. Any increase in the
assessment that becomes effective subsequent to May 1st may be
9 billed on the effective date of the act authorizing the increase.

11 A. The assessments charged to utilities under this section
are just and reasonable operating costs for rate-making
13 purposes.

15 B. For the purposes of this section, "intrastate gross
operating revenues" means intrastate revenues derived from
17 filed rates, except revenues derived from sales for resale.

19 C. Gas utilities subject to the jurisdiction of the
commission solely with respect to safety shall not be
21 subject to any assessment.

23 D. The commission may correct any errors in the assessments
by means of a credit or debit to the following year's
25 assessment rather than reassessing all utilities in the
current year.

27 E. The commission may exempt utilities with annual
29 intrastate gross operating revenues under \$50,000 from
assessments under this section.

31 **Sec. 5. 35-A MRSA §310, sub-§3, ¶ B,** as enacted by PL 1987, c.
33 141, Pt. A, §6, is amended to read:

35 **3. Exception: municipal and quasi-municipal water utilities**
and consumer-owned electric utilities. This section shall not
37 apply to:

39 B. Consumer-owned electric utilities organized in
accordance with chapter 35, which are not incineration
41 utilities, unless by the express terms of chapter 35 the
provisions of this section are made applicable to those
43 districts.

45 **Sec. 6. 35-A MRSA §3304,** as amended by PL 1987, c. 613, §4,
is further amended to read:

47 **§3304. Control and regulation of generating facilities**
49

51 Except for any incineration utility, notwithstanding
Notwithstanding the definition of a public utility or of an
electric plant in section 102, a small power production facility

1 and a cogeneration facility, as defined in section 3303, is not
2 deemed a public utility and is not subject to control or
3 regulation by the commission, except that the commission may
4 treat all or a portion of the equity investment, whether direct
5 or indirect, by an electric utility in a qualifying cogeneration
6 facility or a qualifying small power production facility as
7 public utility property for retail rate-making purposes.
8 Commission determination and regulation of rates of electric
9 utilities, which include purchases of power from a qualifying
10 small power production facility or cogeneration facility, shall
11 not be considered control or regulation of these facilities.

13 The presence of property on the premises of a qualifying
14 facility, or upon the premises of a partner in or part owner of a
15 qualifying facility, which property has been included in the rate
16 base of an electric utility as qualifying conservation or load
17 management investment, shall not cause the qualifying facility or
18 any partner in or part owner of a qualifying facility to be
19 determined to be a public utility for any purpose.

21 **Sec. 7. 35-A MRSA c. 34** is enacted to read:

23 **CHAPTER 34**

25 **INCINERATION UTILITIES**

27 **§3401. Short title**

29 This chapter shall be known and may be cited as the
30 "Incineration Utility Regulation Act."

31 **§3402. Rates**

33 Notwithstanding any other provision in this Title,
34 incineration utilities are subject to rate regulation by the
35 commission in accordance with chapter 3. The rate regulation
36 shall apply to the fees, rates, tolls and other charges which the
37 utility charges for disposal of solid waste from its customers.

39 **§3403. Sale of electric power or heat**

41 1. Sale of electric power. Sale of electric power by an
42 incineration utility shall be regulated in accordance with this
43 chapter. Any incineration utility which sells electric power to
44 the general public and falls within the definition of electric
45 utility in section 102 shall also be regulated for those
46 activities as an electric utility, in accordance with this
47 Title. The sale of electricity by an incineration utility to an
48 electric utility shall be governed by chapter 31 or 33, as
49 applicable.

1
3 The bill establishes a general economic regulatory system
5 for incineration utilities. Incineration utilities, like other
7 public utilities regulated by the State, provide an essential
9 public service and are a natural monopoly. In addition, many
11 incineration utilities are engaged in electric power generation,
13 in which the State has exercised regulation for years. As public
15 utilities, economic regulation of incineration utilities is to be
carried out by the Public Utilities Commission, in a manner
similar to regulation of other public utilities. The basic
purpose of this regulatory system is to ensure safe, reasonable
and adequate service of rates which are just and reasonable to
the customer and the utilities. Under the bill, incineration
utilities, like other utilities, would pay an annual assessment
to the commission to help cover the cost of regulation.

17 In addition, the bill amends the site location of
19 development law to make it clear that incineration plants are
subject to review under that law, in addition to any other review
required by law.