

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 758

H.P. 530

House of Representatives, February 21, 1991

Reference to the Committee on Utilities suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative CROWLEY of Stockton Springs.

Cosponsored by Representative SWAZEY of Bucksport, Senator VOSE of Washington and Representative CLARK of Millinocket.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

**An Act to Require Certain Proposed Cogenerators to Obtain Review by
and Approval of the Public Utilities Commission.**

(EMERGENCY)



Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, it is in the best interest of the State to reduce the State's dependence on fossil fuels for its energy needs; and

Whereas, the burning of fossil fuels creates substantial pollution; and

Whereas, there are proposals for cogeneration facilities that would use fossil fuels as their primary energy source and these proposals are pending or soon to be submitted for approval to various governmental bodies; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 35-A MRSA §102, sub-§13, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

13. Public utility. "Public utility" includes every gas utility, natural gas pipeline utility, electric utility, telephone utility, telegraph utility, water utility, public heating utility and ferry, as these terms are defined in this section, and each of those utilities is declared to be a public utility. "Public utility" includes any cogenerator, as defined in section 3303, that sells electricity to others, has power production capacity exceeding 30 megawatts and uses a fossil fuel as its primary energy source. "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.

Sec. 2. 35-A MRSA §3304, first ¶, as amended by PL 1987, c. 613, §4, is further amended to read:

Notwithstanding the definition of a public utility or of an electric plant in section 102, a ~~small-power-production-facility~~ and ~~a-cogeneration~~ qualifying facility, as defined in section 3303, except a cogenerator that sells electricity to others, has a power production capacity exceeding 30 megawatts and uses fossil fuels as its primary energy source, is not deemed a public utility and is not subject to control or regulation by the commission, except that the commission may treat all or a portion

2 of the equity investment, whether direct or indirect, by an
3 electric utility in a qualifying cogeneration facility or--a
4 ~~qualifying--small--power--production--facility~~ as public utility
5 property for retail rate-making purposes. Commission
6 determination and regulation of rates of electric utilities,
7 which include purchases of power from a qualifying ~~small--power~~
8 ~~production facility or--cogeneration--facility~~, shall are not be
9 considered control or regulation of ~~these--facilities~~ the
10 qualifying facility.

11 **Emergency clause.** In view of the emergency cited in the
12 preamble, this Act takes effect when approved.

14 STATEMENT OF FACT

15 This bill puts a cogenerator that sells power to others, has
16 power production capacity exceeding 30 megawatts and uses a
17 fossil fuel as its primary energy source under regulation by the
18 Public Utilities Commission as a public utility.
19
20