

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1548

H.P. 1059

House of Representatives, April 16, 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 MELENDY of Rockland.

STATE OF MAINE

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

An Act to Regulate Incineration Plants.

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

2
4 Sec. 1. 35-A MRS §102, sub-§§9-A, 9-B and 16-A are enacted to read:

6 9-A. Incineration plant. "Incineration plant" includes all
8 real estate, fixtures and personal property owned, controlled,
10 operated or managed in connection with or to facilitate the
12 incineration of municipal solid waste, as defined in chapter 33,
14 or industrial solid waste for purposes of either disposal or
electric power generation, or both. A facility that incinerates
municipal or industrial solid waste in small amounts that
constitute less than 2% by weight of its fuel is not considered
an incineration plant.

16 9-B. Incineration utility. "Incineration utility" includes
18 every person, the person's lessees or trustees, or receiver or
20 trustees appointed by any court, owning, controlling, operating
or managing any incineration plant for compensation within this
State.

22 16-A. Solid waste. "Solid waste" means useless, unwanted
24 or discarded solid material with insufficient liquid content to
26 be free flowing, including, but not limited to, rubbish, garbage,
28 scrap materials, junk, refuse, 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.

30 Sec. 2. 35-A MRS §116, sub-§1, as amended by PL 1989, c. 58,
32 §1, is further amended to read:

34 1. Utilities subject to assessments. Every electric, gas,
36 incineration, telegraph, telephone and water utility and ferry
38 subject to regulation by the commission shall-be is subject to an
40 assessment of not more than .25% on its intrastate gross
42 operating revenues to produce no more than \$2,696,000 in revenues
44 annually beginning in the 1989-90 fiscal year and not more than
\$2,910,000 in revenues annually beginning in the 1990-91 fiscal
year. The commission shall determine the assessments annually
prior to May 1st and assess each utility for its pro rata share.
Each utility shall pay the assessment charged to the utility on
or before July 1st of each year. Any increase in the assessment
that becomes effective subsequent to May 1st may be billed on the
effective date of the act authorizing the increase.

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

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

6 C. Gas utilities subject to the jurisdiction of the
commission solely with respect to safety shall are not be
8 subject to any assessment.

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

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

18 **Sec. 3. 35-A MRSA §310, sub-§3, ¶B,** as enacted by PL 1987, c.
20 141, Pt. A, §6, is amended to read:

22 B. Consumer-owned electric utilities organized in
accordance with chapter 35 that are not incineration
24 utilities, unless by the express terms of chapter 35 the
provisions of this section are made applicable to those
26 districts.

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

30 Notwithstanding the definition of a public utility or of an
electric plant in section 102, a ~~small--power--production~~
32 qualifying facility and ~~a cogeneration facility~~, as defined in
section 3303, is not deemed a public utility and is not subject
34 to control or regulation by the commission, except that the
commission may treat all or a portion of the equity investment,
36 whether direct or indirect, by an electric utility in a
qualifying cogeneration facility ~~or a qualifying small--power~~
38 ~~production--facility~~ as public utility property for retail
rate-making purposes, and except that the commission may regulate
40 incineration utilities in accordance with chapter 34. Commission
determination and regulation of rates of electric utilities,
42 which include purchases of power from a qualifying ~~small--power~~
~~production facility or cogeneration facility~~, ~~shall is~~ not be
44 considered control or regulation of ~~these--facilities~~ that
facility.

46 **Sec. 5. 35-A MRSA c. 34** is enacted to read:

48 CHAPTER 34

50 INCINERATION UTILITIES

2 **§3401. Short title**

4 This chapter is known and may be cited as the "Incineration Utility Regulation Act."

6 **§3402. Rate setting by the commission**

8 Notwithstanding any other provision in this Title, at the request of the majority of the municipal officers of any municipality that disposes of waste at the incineration utility's facilities, that incineration utility is subject to rate regulation by the commission in accordance with chapter 3. The rate regulation must apply to the fees, rates, tolls and other charges that the utility charges for disposal of solid waste from its customers.

16 **§3403. Rules**

18 The commission may adopt rules as necessary to ensure conformity with the requirements of this Title.

22 **Sec. 6. Existing contracts.** Contracts for disposal of solid waste in existence on the effective date of this Act remain in effect. One or more municipal customers may, however, request under the Maine Revised Statutes, Title 35-A, section 3402 a full review of any proposed change in the fees, rates, tolls or other charges by the incineration utility.

30 **STATEMENT OF FACT**

32 This bill defines incineration utility and permits, at the request of a municipality, regulation for the rates, tolls and other charges that the incineration utility charges for disposal of solid waste from its customers. Under this bill, incineration utilities, like other utilities, pay an annual assessment to the Public Utilities Commission to help defray the cost of regulation.