

# MAINE STATE LEGISLATURE

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# 116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

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Legislative Document

No. 1037

S.P. 340

In Senate, March 25, 1993

**An Act to Cause the Renegotiation of Utility Contracts for Electric Power Generated at Private Facilities.**

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Submitted by the Office of Public Advocate pursuant to Joint Rule 24.  
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 CARPENTER of York.  
Cosponsored by Senator: VOSE of Washington.

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

2           **Sec. 1. 35-A MRSA §3133, sub-§7**, as enacted by PL 1987, c.  
4           141, Pt. A, §6, is repealed.

6           **Sec. 2. 35-A MRSA §3133-A, sub-§1**, as enacted by PL 1987, c.  
8           387, §4, is amended to read:

10           **1. Certificate of public convenience and necessity.** ~~Except~~  
12           ~~as provided in subsection 3,~~ No electric utility may enter  
14           into any significant agreement or contract, as defined in  
16           subsection 2, unless the commission has issued a certificate of  
18           public convenience and necessity approving the proposed agreement  
20           or contract. The utility shall file a notice with the  
22           commission, no less than 2 months in advance of submitting its  
24           petition for a certificate of public convenience and necessity  
26           for the proposed agreement or contract. The commission may  
28           require the petitioner to make available such additional  
              information as it deems determines necessary. The petition shall  
              must contain such information as the commission may by rule  
              prescribe. The petition shall must be set down for public  
              hearing. The commission shall issue its order within 12 months  
              after the complete petition is filed. If there is then  
              outstanding a long-range plan for the utility pursuant to section  
              3134, ~~which~~ that includes the agreement or contract, the utility  
              need not provide advance notice of its intent to file the  
              petition and the commission shall issue its order within 9 months  
              after the complete petition is filed.

30           In its order, the commission shall make specific findings with  
32           regard to the agreement or contract. If the commission finds  
34           that a need for it exists and it is reasonable and consistent  
              with the public interest, the commission shall issue the  
              certificate of public convenience and necessity.

36           The issuance of a certificate of public convenience and necessity  
38           establishes that, as of the date of issuance, the decision by the  
              utility to enter into the agreement or contract was prudent.

40           **Sec. 3. 35-A MRSA §3133-A, sub-§3**, as enacted by PL 1987, c.  
42           387, §4, is repealed.

44           **Sec. 4. 35-A MRSA §3305, sub-§1**, as enacted by PL 1987, c.  
              141, Pt. A, §6, is amended to read:

46           **1. Authorized markets for electricity.** Any A small power  
48           producer or cogenerator may sell electricity to any electric  
              utility witheat only with prior approval or rate approval by the  
              commission, except as provided in section 3306, subsection 1-A.

2           **Sec. 5. 35-A MRSA §3306, sub-§1-A** is enacted to read:

4           1-A. Commission approval. Approval of the rate paid by the  
6           electric utility must be granted or denied by the commission in a  
8           proceeding pursuant to section 3133 or 3133-A. Notwithstanding  
any contrary provision in these sections, commission approval is  
not required if:

10           A. The small power producer or cogenerator and the electric  
12           utility agree to the terms and prices of a contract  
14           extension, renewal or new contract for the purchase of  
electricity; and

16           B. The prices paid by the electric utility for the purchase  
18           of electricity from the small power producer or cogenerator  
20           or any affiliate during the years remaining for a  
22           predecessor contract have been substantially reduced or the  
contract has been otherwise modified, through voluntary  
negotiation, to provide substantial net present-value  
savings to the utility's customers.

24           **Sec. 6. 35-A MRSA §3307, sub-§1-A** is enacted to read:

26           1-A. Renegotiation of contracts. The renegotiation of  
28           prices charged by a small power producer or cogenerator for the  
purchase of electricity by the electric utility in the final  
years of any previously negotiated contract must be encouraged in  
order to reduce the cost of electricity for the utility's  
customers.

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#### STATEMENT OF FACT

36           Under current law, the Public Utilities Commission plays no  
38           role in the negotiation of contract prices with private power  
producers unless it is petitioned to resolve a dispute between  
the negotiators. In addition, currently there are no incentives  
40           for private power producers to reduce contract prices. The  
purpose of this bill is to address both these issues. This bill  
42           alters existing law by creating incentives for electric utilities  
to renegotiate current contracts with private power producers and  
44           to reduce the short-term price effects on utility customers. In  
exchange for reducing current contract prices, private power  
46           producers are exempted from a new requirement that extensions of  
current contracts and new contracts receive formal approval from  
48           the Public Utilities Commission.