

# MAINE STATE LEGISLATURE

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L.D. 1904

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DATE: 3/23/94

(Filing No. S-491 )

**UTILITIES**

Reported by: Senator Carpenter of York

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**STATE OF MAINE  
SENATE  
116TH LEGISLATURE  
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 707, L.D. 1904, Bill, "An Act to Establish the Maine Surplus Energy Auction Program"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'Sec. 1. 35-A MRSA c. 44 is enacted to read:

**CHAPTER 44**

**MAINE SURPLUS ENERGY AUCTION PROGRAM**

**§4401. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Eligible electric utility. "Eligible electric utility" means an electric utility in the State with over \$35,000,000 in annual revenues.

2. Marginal cost. "Marginal cost" means the actual additional power supply and delivery costs incurred by the eligible electric utility to serve the customers selected pursuant to section 4402.

**§4402. Program established**

1. Price of electricity. There is established within the commission the Maine Surplus Energy Auction Program, referred to

**COMMITTEE AMENDMENT**

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2 in this chapter as "the program," which provides access to  
4 surplus electricity to selected industrial and commercial  
6 electricity consumers at a price no lower than the marginal cost  
8 of that electricity to the utility. Surplus electricity is  
10 available for sale under the program only for the period during  
12 which the commission, pursuant to section 4403, determines that  
14 surplus will be available.

16 2. Notification. Within 120 days of the effective date of  
18 this section, eligible electric utilities shall provide notice of  
20 the program to all industrial and commercial customers within  
22 their respective service areas and distribute to those customers  
24 requests for proposals for purchases of electricity under the  
26 program.

28 3. Selection criteria. Eligible electric utilities shall  
30 evaluate proposals received from customers in response to the  
32 notice provided under subsection 2 and select candidate customers  
34 from within the utilities' respective service areas to  
36 participate in the program. The proposals must be evaluated and  
38 selected on the basis of the following criteria.

40 A. The following are favored:

42 (1) Proposals to purchase electricity for new and  
44 incremental uses that would increase the customer's  
46 existing load and that would not occur but for this  
48 program;

50 (2) Proposals from customers who will be able to  
52 operate competitively at otherwise applicable  
54 electricity rates beyond the term of a contract made  
56 pursuant to the program;

58 (3) Proposals for contracts that, if accepted, would  
60 be likely to result in additions to or maintenance of  
62 the employment base in this State; and

64 (4) Proposals for contracts that, if accepted, would  
66 maximize contributions to utility revenues and load,  
68 with due consideration given to the quality and the  
70 type of that load.

72 B. The following is not favored:

74 (1) Any proposal that, if accepted, would likely  
76 result in a shift in business activity to or create an  
78 unfair competitive advantage for the business making  
80 the proposal to the disadvantage of other existing  
82 businesses in this State.

2 4. Contract terms. Upon the selection of candidate  
3 proposals, eligible electric utilities shall negotiate the sale  
4 of electricity from the surplus energy pool established under  
5 section 4403. The terms of these contracts must be based on the  
6 proposals submitted pursuant to this section and the criteria  
7 established under subsection 3 and must be for a period not to  
8 extend beyond the period during which the commission, pursuant to  
9 section 4403, determines that surplus will be available.  
10 Contracts entered into under this chapter must include provisions  
11 making the contract interruptible and terminable to ensure that  
12 only surplus energy or capacity is sold under the contract.

13 **§4403. Surplus energy pool established**

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15 The commission shall, within 90 days of the effective date  
16 of this section, estimate the total amount of surplus electricity  
17 that is likely to be available to each eligible electric utility  
18 and the period during which that surplus will be available. The  
19 commission shall calculate the total surplus as the amount of  
20 electricity not required to meet the utility's projected load at  
21 any time during the period of surplus and not needed to satisfy  
22 the requirements of the utility's participation in the New  
23 England power pool as defined in section 4103. The energy pool  
24 available to be auctioned under this chapter may be no more than  
25 80% of the total surplus electricity estimated by the  
26 commission. The commission may further restrict the size of the  
27 pool to the extent the commission determines necessary to protect  
28 the interests of ratepayers. This subsection does not preclude  
29 an eligible electric utility from marketing surplus energy under  
30 any other applicable tariff or special contract filed with the  
31 commission.

32 **§4404. Report to Legislature**

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34 The commission shall report annually to the Governor and the  
35 Legislature on the status of the Maine Surplus Energy Auction  
36 Program.'

37  
38 Further amend the bill by inserting at the end before the  
39 statement of fact the following:

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41 **FISCAL NOTE**

42  
43 The Public Utilities Commission will incur some minor  
44 additional costs to employ consultants to provide a certain  
45 required estimate. These costs can be absorbed within the  
46 commission's existing budgeted resources.'  
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STATEMENT OF FACT

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This amendment strikes and replaces the bill. This amendment alters the provisions of the bill as follows:

1. Clarifies the definition of "marginal cost" to include delivery costs;

2. Removes the requirement that electricity auctioned under the Maine Surplus Energy Auction Program established by the bill be no lower than marginal cost plus one cent per kilowatt hour. Under this amendment, the rate may be no lower than marginal cost;

3. Modifies the criteria that a utility must employ in evaluating proposals under this program by:

A. Clarifying which types of proposals should be favored and which should not be favored;

B. Adding a criterion to discourage acceptance of proposals that could lead to competitive disadvantages for existing businesses that do not participate in or are not accepted under the program; and

C. Adding a criterion establishing a preference for proposals for new electric power uses that would not occur but for the program;

4. Adds a requirement that contracts entered into under the program be interruptible and terminable to ensure that only surplus energy or capacity is sold under the contract. This restriction mirrors the restriction currently governing the availability of incentive rates;

5. Clarifies that a utility may market electricity under other tariffs or contracts authorized by the Public Utilities Commission pursuant to other utility laws;

6. Clarifies how the commission is to determine the size of the total surplus electricity pool available during the term of the program: total surplus is defined as the amount of electricity not required to meet the utility's projected load during the program period and not needed to satisfy New England Power Pool requirements. This amendment establishes 80% of the total surplus as the amount of electricity available to be auctioned under the pool. The amendment also expressly provides that the commission is authorized to further restrict the size of the available pool to the extent necessary to protect ratepayers. The commission determines the period during which surplus will be available under the program;

COMMITTEE AMENDMENT "A" to S.P. 707, L.D. 1904

2 7. Makes a variety of editorial changes to clarify the  
4 meaning of the bill and to conform the language of the bill to  
6 traditional drafting standards; and

8. Adds a fiscal note to the bill.