

MAINE STATE LEGISLATURE

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L.D. 1997

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
116TH LEGISLATURE
SECOND REGULAR SESSION

HOUSE AMENDMENT "A" to S.P. 774, L.D. 1997, Bill, "An Act to Encourage Electric Rate Stabilization"

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. 10 MRSA §963-A, sub-§7-A is enacted to read:

7-A. Electric rate stabilization project. "Electric rate stabilization project" means an agreement by an electric utility with a qualifying facility, as defined in Title 35-A, section 3303, that will result in the reduction of costs to the electric utility and that has been certified by the Public Utilities Commission to meet the standards established under Title 35-A, section 3156.

Sec. 2. 10 MRSA §963-A, sub-§10, ¶L, as amended by PL 1991, c. 439, §3, is further amended to read:

L. Any hazardous waste or solid waste recycling or reduction project; or

Sec. 3. 10 MRSA §963-A, sub-§10, ¶M, as enacted by PL 1991, c. 439, §4, is amended to read:

M. Any aboveground oil replacement or upgrade project, including equipment installed to meet requirements for gasoline service station vapor control and petroleum liquids transfer vapor recovery; or

Sec. 4. 10 MRSA §963-A, sub-§10, ¶N is enacted to read:

N. Any electric rate stabilization project.

2
4 **Sec. 5. 10 MRSA §1053, sub-§6**, as amended by PL 1993, c. 460, §8, is further amended to read:

6 **6. Securities outstanding.** The authority may not have at
8 any one time outstanding revenue obligation securities to which
10 subsection 5 is stated in the trust agreement or other document
12 to apply in principal amount exceeding an amount equal to
14 \$150,000,000 less the aggregate outstanding balance of mortgage
16 loans secured by capital reserve funds pursuant to section 1032.
18 Notwithstanding any other provision of this subsection, the
20 authority may additionally have outstanding at any one time up to
22 \$120,000,000 of bonds under this subchapter relating to loans for
24 electric rate stabilization projects consisting of not more than
26 \$100,000,000 for loans and up to \$20,000,000 for use of bond
28 proceeds to fund capital reserve funds. The amount of revenue
obligation securities issued to refund securities previously
issued may not be taken into account in determining the principal
amount of securities outstanding, provided that proceeds of the
refunding securities are applied as promptly as possible to the
refunding of the previously issued securities. In computing the
total amount of revenue obligation securities of the authority
that may at any time be outstanding for any purpose, the amounts
of the outstanding revenue obligation securities that have been
issued as capital appreciation bonds or as similar instruments
are valued as of any date of calculation at their then current
accreted value rather than their face value.

30 **Sec. 6. 35-A MRSA §3156** is enacted to read:

32 **§3156. Certificates of approval**

34 The commission may issue a certificate of approval for an
36 electric rate stabilization agreement, following submission to it
38 of an application for approval, in the form and with any
40 supporting data as the commission may require. The commission
shall issue or deny the certification within 30 days of receipt
of an application.

42 The commission may not, in any rate proceeding or other
44 context, disallow or otherwise prevent the recovery of costs
incurred by the electric utility under the terms of an agreement
certified under this section based solely on the execution of the
certified agreement.

46 The commission shall issue a certificate upon application by
48 a utility pursuant to this section only if it finds that:

2 1. Benefits. The agreement, and any assistance in
4 financing the agreement to be provided by the Finance Authority
6 of Maine, will provide near-term benefits to ratepayers of the
8 utility that will be reflected in rates paid by the electric
10 utility's customers;

12 2. Rate impacts. Potential future adverse rate impacts
14 associated with the agreement are not likely to be
16 disproportionate to near-term gains;

18 3. Protection of certain facilities. The agreement does
20 not have as a necessary or probable consequence the permanent
22 cessation of operations of a qualifying facility with a capacity
24 of more than 50 megawatts;

26 4. Consistent with energy policy. The agreement is
28 consistent with section 3191; and

30 5. Protection of energy resources. The agreement will not
32 adversely impact the availability of a diverse and reliable mix
34 of electric energy resources and will not significantly reduce
36 the long-term electric energy or capacity resources available to
38 the electric utility and needed to meet future electric demand.
40 To the extent consistent with the long-term interests of
42 ratepayers, an agreement resulting in a modification of an
44 existing contract and that preserves electric energy or capacity
46 resources is preferred over an agreement that results in the
48 permanent cessation of operations of a qualifying facility.

For purposes of this section, the term "qualifying facility"
has the same meaning as in section 3303. For purposes of this
section, the term "electric rate stabilization agreement" means
any agreement by an electric utility with a qualifying facility
that will result in the reduction of costs to the electric
utility and includes, but is not limited to, agreements proposed
to be supported with financing made available under Title 10,
chapter 110, subchapter III.

A certificate may not be issued under this section after May
1, 1995.

Sec. 7. 35-A MRSA §3309 is enacted to read:

§3309. Performance of contracts; commercially reasonable
business practices

In the performance or enforcement of any contract for the
purchase of energy resources by an electric utility, all parties
shall act in good faith and observe reasonable commercial

standards of fair dealing. Conformance to this standard does not constitute imprudent utility behavior.

Sec. 8. Loans authorized. The Finance Authority of Maine may make loans to electric utilities for electric rate stabilization projects, as defined in the Maine Revised Statutes, Title 10, section 963-A from up to \$100,000,000 of the proceeds of revenue obligation securities secured by capital reserve funds pursuant to Title 10, section 1053. Notwithstanding any provision of Title 10, chapter 110, loans may aggregate up to \$100,000,000 plus an amount determined by the Finance Authority of Maine of up to an additional aggregate of \$20,000,000 to fund any capital reserve fund established by the authority for these loans. Revenue obligation securities secured by capital reserve funds pursuant to Title 10, section 1053 relating to such loans may not be issued for an electric rate stabilization agreement, as defined in Title 35-A, section 3156, executed after May 1, 1995. Any revenue obligation securities issued for electric rate stabilization projects secured by capital reserve funds pursuant to Title 10, section 1053 are limited obligations of the Finance Authority of Maine payable from revenues from borrowers and any capital reserve funds pledged for those securities as those funds are administered under Title 10, chapter 110, subchapter III and are not payable from any other assets or funds of the Finance Authority of Maine.

Sec. 9. Reports. The Finance Authority of Maine shall report by April 15, 1995 to the joint standing committee of the Legislature having jurisdiction over utilities matters on all loans made to electric utilities for electric rate stabilization projects, as defined in the Maine Revised Statutes Title 10, section 963-A. The report must identify each loan made, to whom the loan was made, the amount of the loan and the general description of the electric rate stabilization project for which the loan was made. The report may include recommendations for extending the period during which loans to electric utilities may be made or any other suggestions for changes to the provisions of this Act. The Public Utilities Commission shall report by April 15, 1995 to the joint standing committee of the Legislature having jurisdiction over utilities matters on all electric rate stabilization agreements for which an application for a certificate of approval has been processed pursuant to Title 35-A, section 3156. The report must identify the number of applications received by the commission, the identity of the applicants, a general description of each application and, for each application, whether the application was approved or denied. The report may include recommendations for extending the period during which certificates of approval may be issued to electric utilities or any other suggestions for changes to the provisions of this Act.'

R. of S.

2 Further amend the bill by inserting at the end before the
statement of fact the following:

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FISCAL NOTE

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8 The Public Utilities Commission will incur some minor
additional costs to administer a certificate of approval process
and to submit a required report to the Legislature. These costs
10 can be absorbed within the commission's existing budgeted
resources.

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14 Increasing from \$150,000,000 to \$270,000,000 the authority
of the Finance Authority of Maine to provide capital reserve fund
security for loans for electric rate stabilization projects will
16 increase the debt limit backed by the moral obligation of the
State. In the event of a default by a borrower, future General
18 Fund appropriations for debt service may be required.

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The Finance Authority of Maine can absorb, within available
resources, the costs of administering this new guarantee program
22 and the costs of providing a report on the loans made under this
program.'

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STATEMENT OF FACT

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This amendment replaces the bill. The amendment:

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32 1. Establishes a program within the Finance Authority of
Maine that allows the authority to issues loans to electric
utilities to fund agreements with qualifying facilities that
34 reduce the cost to the utility and benefit ratepayers. A loan
may only be made if the underlying agreement is certified by the
Public Utilities Commission. These loans are backed by the moral
36 obligation of the State. No more than \$100,000,000 in bonds may
be issued for loans. An additional \$20,000,000 in bonds may be
38 issued to fund capital reserve funds. A loan may not be made for
an agreement executed after May 1, 1995;

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44 2. Establishes a certificate of approval process for
agreements between utilities and qualifying facilities. The
certificate is issued by the Public Utilities Commission.
Certain criteria are established to ensure that the best
46 interests of ratepayers are protected before a certificate is
issued. The certificate must be issued or denied within 30 days
48 of the receipt of an application for a certificate. If a
certificate is issued, the commission may not prevent the utility
50 from recovering from ratepayers costs incurred under the terms of

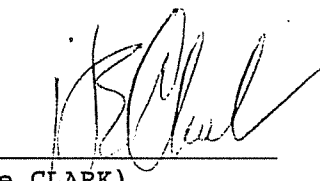
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the agreement based solely on the execution of the agreement. A certificate may not be issued after May 1, 1995;

3. Requires that, in the performance or enforcement of any contract for the purchase of energy resources by an electric utility, all parties act in good faith and observe reasonable commercial standards of fair dealing. Conformance to this standard does not constitute imprudent utility behavior;

4. Establishes reporting requirements for the Public Utilities Commission and the Finance Authority of Maine concerning their activities under this amendment. The reports are due by April 15, 1995; and

5. Adds a fiscal note to the bill.

SPONSORED BY: 
(Representative CLARK)

TOWN: Millinocket