

# MAINE STATE LEGISLATURE

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DATE: May 5, 1995

(Filing No. S-119 )

## UTILITIES AND ENERGY

Reported by: The Minority of the Committee.

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### STATE OF MAINE SENATE 117TH LEGISLATURE FIRST REGULAR SESSION

COMMITTEE AMENDMENT " A " to S.P. 253, L.D. 691, Bill, "An Act to Clarify the Intent of the Electric Rate Reform Act"

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 §3157 is enacted to read:

#### §3157. Certain direct sale agreements subject to commission approval

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Affected utility" means any electric utility that is providing electric service to a customer at the time a contracting utility proposes or offers to enter into a FAME facility direct sale agreement with that customer.

B. "Affiliated interest" has the same meaning as that term is defined in section 707.

C. "Contracting utility" means any electric utility, including any affiliated interest of that utility, that proposes or offers to enter into a FAME facility direct sale agreement.

D. "Electric rate stabilization agreement" has the same meaning as the term is defined in Title 10, section 963-A, subsection 7-A.

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2        E. "FAME facility" means any electric power production  
4        facility that a contracting utility has acquired title to or  
6        an interest in by means of an electric rate stabilization  
8        agreement that was supported in whole or in part with  
10       financing made available under Title 10, section 1053.

12       F. "FAME facility direct sale agreement" means any contract  
14       or other agreement between a contracting utility and a  
16       customer of an affected utility under which any capacity or  
18       energy of a FAME facility is specifically committed to that  
20       customer and electricity from the facility is or will be  
22       transmitted directly from the FAME facility to the  
24       customer. "FAME facility direct sale agreement" does not  
26       include contracts or other agreements in which a contracting  
28       utility sells or agrees to sell system power, even if the  
30       system power includes or potentially includes the energy or  
32       capacity of a FAME facility.

34       G. "Significant direct negative impact" means a percentage  
36       loss in total annual electric revenues of an affected  
38       utility as a result of a FAME facility direct sale agreement  
40       that is greater than the percentage increase in the total  
42       annual electric revenues of the contracting utility as a  
44       result of that sale agreement. The percentage loss in the  
46       total annual electric revenues of an affected utility is  
48       determined by:

50       (i) Determining the amount of the projected total  
52       annual revenue of the affected utility if the FAME  
54       facility direct sale agreement is approved under this  
56       section; and

58       (ii) Subtracting from the amount determined under  
60       subparagraph (1) the projected total annual electric  
62       revenues of the affected utility if the affected  
64       utility were to continue to provide power to the  
66       customer at the rate the affected utility proposed to  
68       charge that customer.

70       2. Prohibition. A contracting utility may not enter into a  
72       FAME facility direct sale agreement without prior approval of the  
74       commission under this section. A contracting utility must  
76       petition the commission in the form and in the manner prescribed  
78       by the commission by rule or order.

80       3. Commission approval; standard. The commission may not  
82       approve a FAME facility direct sale if the commission finds that  
84       the FAME facility direct sale agreement will cause a significant  
86       direct negative impact on an affected utility. The affected  
88       utility has the burden of proof in showing that it will suffer a  
90       significant direct negative impact.

2        4. Commission approval; decision. The commission shall  
4        issue its order approving or disapproving a FAME facility direct  
6        sale agreement within 6 months after a complete petition is filed  
8        by the contracting utility.

10       5. Exclusions. This section does not apply to the following:

12       A. A FAME facility direct sale agreement executed by a  
14       contracting utility and a customer prior to the effective  
16       date of this section and any future FAME facility direct  
18       sale agreement between that utility and that customer; or

20       B. A FAME facility direct sale agreement if the bonds  
22       issued pursuant to Title 10, section 1053 for the  
24       acquisition of title to or an interest in the FAME facility  
26       have been fully repaid so that the all state obligations  
28       related to those bonds under that section have ceased.'

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

#### 34       'FISCAL NOTE

36       The Public Utilities Commission will incur some minor  
38       additional costs to issue certain findings pertaining to the sale  
40       of power from a production facility acquired under an electric  
42       rate stabilization agreement. These costs can be absorbed within  
44       the commission's existing budgeted resources.'

#### 46       STATEMENT OF FACT

      This amendment, which is the minority report of the Joint  
Standing Committee on Utilities and Energy, strikes and replaces  
the bill. This amendment requires the Public Utilities  
Commission approval of direct sale agreements involving  
facilities that have been acquired by an electric utility under  
the electric stabilization program when the direct sale is to the  
customer of another electric utility. The Public Utilities  
Commission may not approve the direct sale if the percentage loss  
in annual electric revenues of the utility losing the customer is  
greater than the percentage increase in annual electric revenues  
of the selling utility as a result of the sale. The commission  
is required to issue its ruling in 6 months of receipt of an  
application.

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2           Any direct sale agreement executed prior to the effective  
4           date of this bill and any future sales agreements between the  
6           parties to the existing direct sale agreement are exempt from the  
8           Public Utilities Commission approval. Also exempt are direct  
          sales from facilities the bonds for which are fully repaid so  
          that all state obligations related to the bonds under the  
          electric rate stabilization program have ceased.