

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 1459

H.P. 1040

House of Representatives, May 2, 1995

An Act to Make Changes to the Public Utilities Laws.

Submitted by the Public Utilities Commission pursuant to Joint Rule 24.
Reference to the Committee on Utilities and Energy suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative KONTOS of Windham.
Cosponsored by Senator: CARPENTER of York.

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

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Sec. 1. 35-A MRSA §307, first ¶, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

No change may be made in any schedule, including schedules of joint rates, except upon 30 days' notice to the commission, and all such changes must be plainly indicated upon existing schedules by filing new schedules in lieu of them 30 days prior to the time they are to take effect. The commission may, for good cause shown, allow changes upon less than the notice specified or modify the requirements of this section and section 308 in respect to publishing, posting and filing of ~~tariff~~ schedules, either in particular instances or by a ~~general-order~~ rule applicable to special or peculiar circumstances or conditions.

Sec. 2. 35-A MRSA §1309, sub-§9, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

9. Utility refusal or neglect to make refund; court action. If the utility refuses or neglects to make the refund within 30 days, the party aggrieved may maintain an action in the courts of the State to recover the amount. In the trial the findings of the commission shall-be are prima facie evidence of the truth of the facts found by it, and no utility may avail itself of the defense of the action that the service involved was in fact made on the published ~~tariff~~ schedule rate in force at the time it was rendered.

Sec. 3. 35-A MRSA §2503, sub-§20, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

20. Exclusive method. Compliance with this section by any person is the exclusive method of obtaining the rights and privileges conferred in this section and no person or cooperative may be required, with respect to the location of its facilities, to comply with or be subject to any other law, including, but not limited to, Title 30 30-A, chapter 240-A 165.

Sec. 4. 35-A MRSA §3132, first ¶, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

No An electric utility may not construct any generating facility or transmission line covered by ~~subsections~~ subsection 1, 1-A or 2 or rebuild or relocate any transmission line as investigated by the commission under subsection 3 unless the commission has issued a certificate of public convenience and necessity approving construction.

2 **Sec. 5. 35-A MRSA §3903, sub-§3**, as enacted by PL 1987, c.
141, Pt. A, §6, is amended to read:

4 **3. Election.** After a determination by the municipal
6 officers, or upon petition in accordance with subsection 2, the
municipal officers shall, at the next regular election or town
8 meeting, or at a special election or town meeting called and held
by them, submit the following question to the legal voters in
accordance with their charter or Title 30 30-A, section 2061
10 2528:

12 "Shall the (name of municipality) Power District be created
and incorporated under the Maine Revised Statutes, Title
14 35-A, chapter 39?"

16 **Sec. 6. 35-A MRSA §3904, sub-§3**, as enacted by PL 1987, c.
141, Pt. A, §6, is amended to read:

18 **3. Election.** After a determination by the municipal
20 officers or upon petition of the legal voters of each
municipality wishing to form a district, the municipal officers
22 shall, at the next regular election or town meeting, or at a
special election or town meeting if the petition so requests,
24 submit the following question to the legal voters of their
respective municipalities in accordance with their charter or
26 Title 30 30-A, section 2061 2528:

28 "Shall the (name of municipalities) Power District be
created and incorporated under the Maine Revised Statutes,
30 Title 35-A, chapter 39?"

32 **Sec. 7. 35-A MRSA §3906, sub-§1**, as enacted by PL 1987, c.
141, Pt. A, §6, is amended to read:

34 **1. Trustee.** Upon formation of a district under section
36 3903, all the affairs of the district shall must be managed by a
board of 3 trustees who must be residents of the district. They
38 shall hold office as provided in subsection 2 and until their
respective successors are elected and qualified. When any
40 trustee ceases to be a resident of the district, ~~his office as~~
trustee that trustee's position becomes vacant. Trustees are
42 subject to Title 30 30-A, section 2251 2605, concerning conflict
of interest.

44 **Sec. 8. 35-A MRSA §3907, sub-§1**, as enacted by PL 1987, c.
46 141, Pt. A, §6, is amended to read:

48 **1. Trustees.** Upon formation of a district under section
3904, all the affairs of the district shall must be managed by a
50 board of trustees comprised of 2 trustees from each

2 municipality. Trustees shall must be residents of their
3 respective municipalities. They shall hold office as provided in
4 subsection 2 and until their respective successors are elected
5 and qualified. When any trustee ceases to be a resident of his
6 the trustee's municipality, his--office-as-trustee that trustee's
7 position becomes vacant. Trustees are subject to Title 30 30-A,
8 section ~~2251~~ 2605, concerning conflict of interest.

10 **Sec. 9. 35-A MRSA §3915**, as enacted by PL 1987, c. 141, Pt.
11 A, §6, is amended to read:

12 **§3915. Existing service areas**

13 No A municipal power district may not serve as a public
14 utility, as defined in section 102, without consent from the
15 commission in accordance with section ~~2101~~ 2102.

16 **Sec. 10. 35-A MRSA §4131, sub-§3, ¶C**, as enacted by PL 1987,
17 c. 141, Pt. A, §6, is amended to read:

18 C. The Director of the ~~Office--of--Energy--Resources~~ State
19 Planning Office, or another employee of the ~~Office--of--Energy~~
20 Resources State Planning Office, as the director may from
21 time to time designate in writing filed with the clerk of
22 the agency, shall serve as a member of the board of
23 directors.

24 **Sec. 11. 35-A MRSA §4134, sub-§2**, as enacted by PL 1987, c.
25 141, Pt. A, §6, is amended to read:

26 **2. Restrictions.** The agency shall exercise the power of
27 eminent domain in the manner provided in Title 30 30-A, section
28 4807 5108. References in Title 30 30-A, section 4807 5108, to an
29 urban renewal project and a renewal project area and the like are
30 inapplicable. Notwithstanding Title 30 30-A, section 4807,
31 ~~subsection-2~~ 5108:

32 A. No facility for the generation, transmission or
33 distribution of electricity owned by any person may be
34 taken, except for the purpose of acquiring property or
35 rights in it in order to permit the crossing of existing
36 transmission or distribution facilities. In the event of a
37 taking, the respective rights and obligations of the agency
38 and the property owner shall, upon petition of either party,
39 be determined by the commission.

40 B. No site for a project for which any utility or person
41 had filed an application for preliminary permit, a license
42 or application for exemption from the Federal Energy
43 Regulatory Commission on or before November 1, 1977, may be
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2 taken until the time, if ever, that the application is
denied, and no further renewals or appeals are available to
4 the utility or person, or the utility or person abandons its
application, permit or license; and

6 C. No property may be taken, except as may be necessary for
the proper location of transmission or distribution lines
8 and necessary appurtenances to them, unless the property is
located within the territory in which a municipality or
10 cooperative provides service or within one mile of the
territory.

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STATEMENT OF FACT

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This bill is the Public Utilities Commission's 1995
housekeeping bill and is intended to make nonsubstantive changes
18 to laws regulating utilities.

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The bill replaces the outdated terms "tariff" and "general
order" with "schedule" and "rule," respectively, corrects cross
22 references and replaces references to the now defunct Office of
Energy Resources with references to the State Planning Office.