

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST SPECIAL SESSION-1997

Legislative Document

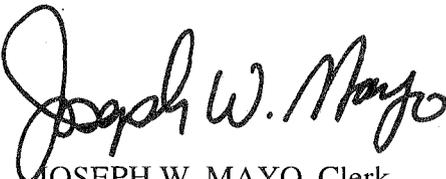
No. 1798

H.P. 1272

House of Representatives, April 15, 1997

**An Act to Permit Electric Utilities to Restructure in Ways That Improve
the Economy of the State.**

Reference to the Committee on Utilities and Energy suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative DEXTER of Kingfield.
Cosponsored by Senator RAND of Cumberland and
Representatives: BARTH of Bethel, BRUNO of Raymond, CAMERON of Rumford,
LEMONT of Kittery, TUTTLE of Sanford, WHEELER of Eliot, WRIGHT of Berwick,
Senator: FERGUSON of Oxford.

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

4 Sec. 1. 35-A MRSA c. 32 is enacted to read:

6 CHAPTER 32

8 ELECTRIC INDUSTRY RESTRUCTURING

10 §3201. Definitions

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

14 1. Electricity supplier. "Electricity supplier" means a
supplier of electricity generation services, including any
electricity generator, broker or aggregator or any power pool
that lawfully arranges for a supply of electricity to meet retail
customer demand.

20 2. Effective date of competition. "Effective date of
competition" means January 1, 2000.

22 3. FERC. "FERC" means the Federal Energy Regulatory
Commission.

26 4. Retail access. "Retail access" means the right of any
retail consumer of electricity to purchase generation services or
ancillary services from any electricity supplier or supplier of
ancillary services.

30 5. Stranded costs. "Stranded costs" means costs,
liabilities and investments, including those associated with
uneconomic assets, that electric utilities would recover if the
regulatory structure in place before the effective date of this
chapter remained in place and that would not be recovered because
of implementation of retail access unless a specific mechanism
for recovery is provided. "Stranded costs" includes the
following:

40 A. Commitments or obligations incurred before May 1, 1995;
and

42 B. Renegotiated commitments approved by the commission
after May 1, 1995.

46 §3202. Restructuring

48 1. Consumer choice. On and after the effective date of
competition, a consumer of electricity may:

- 2 A. Choose the level of reliability of the consumer's electric service;
- 4 B. Choose the source of generation and whether or not to take service with real-time pricing;
- 6 C. Self-generate electricity and have the consumer's generator interconnected with the electric grid; and
- 8 D. Purchase electric energy from any electricity supplier.

12 2. Information. The commission shall ensure that consumer confusion about retail access is minimized and that consumers are well-informed about changes resulting from retail access and increased customer choice.

16 3. Regulation and unbundling of services and rates. No later than the effective date of competition, the commission shall ensure that electric utility rates are unbundled to provide customers clear price information on the cost components of generation, transmission, distribution and any other ancillary services. On and after the effective date of competition, the commission shall ensure:

- 24 A. That generation services are legally separated from transmission and distribution services;
- 26 B. That generation services are subject to market competition;
- 28 C. That transmission and distribution services are regulated pursuant to the applicable provisions of this Title;
- 30 D. That persons owning or operating transmission or distribution systems are permitted to own small-scale distributed generation resources as part of a strategy for minimizing transmission and distribution costs; and
- 32 E. That electricity suppliers do not sell or market electricity in this State unless registered with the commission. The commission shall adopt rules governing the registration of electricity suppliers.

34 Except as otherwise provided in this chapter, but notwithstanding any other provision of this Title, on and after the effective date of competition, electricity suppliers and suppliers of ancillary services are not electric utilities and are not subject to regulation by the commission.

50

2 4. Open access to transmission and distribution
3 facilities. On and after the effective date of competition:

4 A. The commission shall ensure nondiscriminatory open
5 access to the electric system for wholesale and retail
6 transactions; and

8 B. Persons providing transmission services shall file at
9 the FERC or with the commission, as appropriate, tariffs
10 that provide open access for all competitors. The
11 commission shall monitor persons providing transmission or
12 distribution services and shall take necessary measures to
13 ensure that no electricity supplier has an unfair advantage
14 in terms of the pricing of or access to transmission or
15 distribution services.

16
17 5. Universal service. On and after the effective date of
18 competition, the commission shall by rule:

19
20 A. Require a person providing distribution services, on
21 request of a customer in its service territory, to connect
22 that customer to the distribution system;

23
24 B. Adopt adequate safeguards to ensure universal service
25 and to protect residential electricity consumers; and

26
27 C. Establish mechanisms that enable residential customers
28 with low incomes to afford electricity.

29
30 6. Benefits for all consumers. On and after the effective
31 date of competition, the commission:

32
33 A. Shall take reasonable measures to ensure that retail
34 access does not benefit one customer class to the detriment
35 of another; and

36
37 B. May establish by rule a usage-based, nonbypassable and
38 competitively neutral access or wires charge for use of a
39 distribution system, the proceeds of which may be used to
40 fund programs for low-income customers, energy efficiency
41 programs, support for research and development and
42 investments in commercialization strategies for new and
43 beneficial technologies.

44
45 7. Full and fair competition. Rules adopted by the
46 commission pursuant to this chapter must apply to buyers and
47 sellers of electricity in a fair and consistent manner that
48 ensures a fully competitive market, including a forward market in
49 bilateral contracts.

50

2 8. Environmental improvement. The commission shall ensure
that retail access is implemented in a manner that supports and
4 furthers environmental improvement. The commission shall monitor
state, regional and national activities that may affect the
operations of old and new generation sources with regard to air
6 pollution controls and costs.

8 9. Energy efficiency. The commission shall by rule
establish mechanisms:

10 A. To reduce market barriers to investments in energy
12 efficiency; and

14 B. To provide incentives for appropriate demand-side
management and cost-effective conservation.

16 10. Recovery of stranded costs. The commission shall adopt
18 mechanisms to permit electric utilities to recover stranded costs
over time through the rates of transmission and distribution
20 utilities.

22 A. In establishing mechanisms under this subsection, the
commission shall balance the interests of ratepayers and
24 utilities and shall ensure the protection and promotion of
the State's economy. Rates must be equitable, appropriate
26 and balanced, take into account the need for near-term
customer rate relief and be in the public interest.

28 B. A mechanism adopted by the commission under this
30 subsection may not provide any greater opportunity for
electric utilities to recover stranded costs than would have
32 been available under applicable regulation or law before the
effective date of competition.

34 C. The commission shall ensure that an electric utility may
36 recover legitimate, verifiable net nonmitigatable costs
associated with compliance with laws administered by the
38 Department of Environmental Protection and approved for cost
recovery on the effective date of this chapter and energy
40 resource acquisitions required by federal law or chapter 33
and the commission's regulations, chapters 36 and 380.

42 D. Electric utilities shall take all reasonable measures to
44 mitigate stranded costs. Mitigation measures must include,
but are not limited to:

46 (1) Reduction of expenses;

48 (2) Renegotiation of existing contracts;

50

2 (3) Refinancing of existing debt; and

4 (4) A reasonable amount of retirement, sale or
6 write-off of uneconomic or surplus assets, including
 regulatory assets not directly related to the provision
 of electricity service.

8 E. The commission shall determine stranded costs for each
10 electric utility on a net basis. The commission may not
12 include in the determination of net stranded costs any
14 unverifiable stranded costs or any transmission and
16 distribution assets. The commission shall from time to time
18 compare projected stranded cost estimates with actual
20 stranded costs and adjust recovery mechanisms accordingly.
22 Recovery of stranded costs must be through a usage-based,
24 nonbypassable, nondiscriminatory charge that is fair to all
 customer classes, limited in duration and consistent with
 the promotion of fully competitive markets. Recovery
 mechanisms may not include entry or exit fees. Charges to
 recover stranded costs, except stranded costs that have
 resulted from the provision of wholesale power to another
 utility, may be collected only from customers within a
 utility's retail service territory. Charges may not be
 collected on wheeling-through transactions, as defined by
 the commission by rule.

26 11. Regionalism. The commission shall exploit all
28 opportunities available to the commission to encourage the
30 reformation of the New England Power Pool to encourage
32 competition in retail sales and purchases of electricity in the
 northeast region of the United States.

34 12. Timetable. The commission shall implement retail
36 access pursuant to this chapter in the most expeditious manner
 possible. The commission shall require electric utilities to
 unbundle rates and services as soon as the commission determines
 it feasible.

38 **§3203. Oversight committee; establishment; report; meetings**

40 There is established a legislative oversight committee on
42 electric utility restructuring consisting of 14 members.

44 1. Members. The members of the legislative oversight
46 committee are as follows:

48 A. Seven members of the House of Representatives, appointed
 by the Speaker of the House, at least 5 of whom must be
 members of the joint standing committee of the Legislature

2 having jurisdiction over utility and energy matters and at
3 least 2 of whom must be members of a minority party.

4 B. Seven members of the Senate, appointed by the President
5 of the Senate, at least 2 of whom must be members of the
6 joint standing committee of the Legislature having
7 jurisdiction over utility and energy matters and at least
8 one of whom must be a member of a minority party.

10 2. Appointment. Appointments of initial members must be
11 made by September 1, 1997. Members are appointed to an initial
12 term expiring on the first Wednesday of 1998. Subsequent terms
13 are for 2 years expiring on the first Wednesday of even-numbered
14 years. Members may be appointed to successive terms.

16 3. Chair. The committee members shall select a chair by a
17 majority vote.

18 4. Report. The committee shall provide an annual report on
19 the status of electric utility restructuring on or before
20 November 1st to the Governor, the President of the Senate, the
21 Speaker of the House, the joint standing committee of the
22 Legislature having jurisdiction over utility and energy matters,
23 the Maine State Library and the commission.

26 5. Meetings. The committee shall meet quarterly or as
27 often as is necessary to conduct its business.

28 6. Reimbursement. Members may receive mileage when
29 attending to the duties of the committee.

32 7. Duties. The committee shall:

34 A. Work with the commission to develop any draft
35 legislation necessary to promote retail access and shall
36 propose any changes to or recodification of existing
37 statutes necessary to conform those statutes to the
38 provisions of this chapter; and

40 B. Work with the commission and other agencies when
41 necessary to assist in implementing this chapter.

44 SUMMARY

46 This bill restructures the electric industry. The major
47 provisions of the bill are as follows:

48 1. Establishes a competitive market for purchases and sales
49 of electricity beginning no later than January 1, 2000;

- 2 2. Establishes mechanisms to ensure universal service and
to protect low-income customers;
- 4
- 6 3. Requires the Public Utilities Commission to provide
incentives for energy conservation;
- 8 4. Permits electric utilities an opportunity to recover
stranded costs; and
- 10
- 12 5. Establishes an oversight committee to oversee the
implementation of this restructuring and to develop proposals to
conform other provisions of law to the restructuring principles
14 established by this bill.
- 16