

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## FIRST SPECIAL SESSION-1997

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Legislative Document

No. 1804

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H.P. 1274

House of Representatives, April 15, 1997

**An Act to Restructure the State's Electric Industry.**

(AFTER DEADLINE)

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

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 JONES of Bar Harbor.  
Cosponsored by Senator CAREY of Kennebec and  
Representatives: DONNELLY of Presque Isle, LaVERDIERE of Wilton, MITCHELL of  
Vassalboro, O'NEAL of Limestone, TAYLOR of Cumberland, VEDRAL of Buxton,  
Senators: AMERO of Cumberland, CLEVELAND of Androscoggin.

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

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

**§3201. Definitions**

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

1. **Affiliated interest.** "Affiliated interest" has the same meaning as provided in section 707, subsection 1, paragraph A.

2. **Aggregate.** "Aggregate" means to organize individual electricity consumers into a group for the purpose of purchasing electric power on a group basis.

3. **Aggregator.** "Aggregator" means the group entity that purchases electric power on behalf of its individual members.

4. **Competitive generation provider.** "Competitive generation provider" means a generator, marketer, broker, aggregator or any other entity producing or selling electric power to meet retail customers' demand.

5. **Consumer-owned transmission and distribution utility.** "Consumer-owned transmission and distribution utility" means any transmission and distribution utility wholly owned by its consumers, including, but not limited to:

A. The transmission and distribution portion of a rural electrification cooperative organized under chapter 37;

B. The transmission and distribution portion of an electrification cooperative organized on a cooperative plan under the laws of the State;

C. A municipal or quasi-municipal transmission and distribution utility;

D. The transmission and distribution portion of a municipal or quasi-municipal entity providing generation and other services; and

E. A transmission and distribution utility wholly owned by a municipality.

6. **Divest.** "Divest" means to legally transfer ownership and control to an entity that is not an affiliated interest.

7. **Generation assets.** "Generation assets" includes all

2 real estate, fixtures and personal property owned, controlled,  
3 operated or managed in connection with, or to facilitate, the  
4 generation of electric power.

6 8. Generation portfolio. "Generation portfolio" means all  
7 of the generation sources from which a competitive generation  
8 provider obtains electric energy.

10 9. Generation service. "Generation service" means the  
11 provision of electric power to a consumer but does not encompass  
12 any activity related to the transmission or distribution of that  
13 power.

14 10. Large, investor-owned transmission and distribution  
15 utility. "Large, investor-owned transmission and distribution  
16 utility" means an investor-owned transmission and distribution  
17 utility serving more than 50,000 retail customers.

18 11. Qualifying facility. "Qualifying facility" has the  
19 same meaning as provided in section 3303.

22 12. Retail access. "Retail access" means the right of a  
23 retail consumer of electricity to purchase generation service  
24 from a competitive generation provider.

26 13. Small, investor-owned transmission and distribution  
27 utility. "Small, investor-owned transmission and distribution  
28 utility" means an investor-owned transmission and distribution  
29 utility serving 50,000 or fewer retail customers.

30 14. Transmission and distribution plant. "Transmission and  
31 distribution plant" means all real estate, fixtures and personal  
32 property owned, controlled, operated or managed in connection  
33 with, or to facilitate, the transmission, distribution or  
34 delivery of electricity for light, heat or power for public use  
35 and includes all conduits, ducts or other devices, materials,  
36 apparatus or property for containing, holding or carrying  
37 conductors used, or to be used, for the transmission or  
38 distribution of electricity for light, heat or power for public  
39 use.

42 15. Transmission and distribution utility. "Transmission  
43 and distribution utility" means a person, its lessees, trustees,  
44 receivers or trustees appointed by a court, owning, controlling,  
45 operating or managing a transmission and distribution plant.

46 **§3202. Retail access**

48 1. Right to purchase generation service. Beginning on  
50 January 1, 2000, all consumers of electricity have the right to

2 purchase generation service directly from competitive generation  
3 providers.

4 A. The commission may advance or delay the date for retail  
5 access for some or all consumers by not more than 90 days if  
6 necessary to effect a smooth transition to retail access,  
7 avoid consumer confusion or otherwise advance the purposes  
8 of this chapter.

10 B. The commission shall monitor regional electric power  
11 system developments and restructuring efforts in other  
12 jurisdictions. On its own motion, or upon the request of  
13 any interested party, the commission may open an  
14 investigation to determine the need for any delay or  
15 acceleration of the implementation of retail access or other  
16 modifications to this chapter. All interested parties must  
17 be granted an opportunity to be heard. If the commission  
18 finds that the implementation of retail access should be  
19 delayed or accelerated or other modifications of this  
20 chapter should be made, the commission shall report that  
21 finding to the Legislature as provided in section 3213.

22 **2. Aggregation permitted; limitation.** When retail access  
23 begins, consumers of electricity may aggregate their purchases of  
24 generation service in any manner they choose. If a public agency  
25 serves as an aggregator, it may not require consumers of  
26 electricity within its jurisdiction to purchase generation  
27 service from that agency.

30 **3. Reciprocity requirements prohibited.** The commission may  
31 not require that other states or Canadian provinces allow retail  
32 access in their jurisdictions as a condition to permitting  
33 competitive generation providers from those states or provinces  
34 to sell electricity at retail in this State.

36 **§3203. Deregulation of generation service**

38 Except as otherwise provided in this chapter, competitive  
39 generation providers are not subject to regulation under this  
40 Title on and after January 1, 2000.

42 **§3204. Structural separation and divestiture of generation**

44 **1. Structural separation required.** Except as provided in  
45 subsection 3, by January 1, 2000, each investor-owned electric  
46 utility shall transfer to a distinct corporate entity all  
47 generation assets and generation-related business activities,  
48 including electric energy sales activities, and  
49 generation-related contracts. By July 1, 1998, the commission  
50 shall open a rule-making proceeding to determine the extent of  
separation between affiliated interests necessary to avoid

1 cross-subsidization and market power abuses. By March 1, 1999,  
2 the commission shall provisionally adopt all rules required under  
3 this subsection. Rules adopted under this subsection are major  
4 substantive rules pursuant to Title 5, chapter 375, subchapter  
5 II-A. In adopting rules under this subsection, the commission  
6 shall consider all relevant issues, including, but not limited to:

7 A. Codes of conduct that may be required to ensure the  
8 effectiveness of the separation requirement;

9 B. Restrictions on employee activities;

10 C. Accounting standards; and

11 D. Information and service comparability requirements.

12 **2. Interests in generation restricted.** Except as otherwise  
13 provided in this section, on and after January 1, 2000 an  
14 investor-owned transmission and distribution utility may not:

15 A. Acquire or hold any financial or ownership interest in  
16 generation assets or generation-related business activities  
17 or contracts for generation; or

18 B. Produce, purchase, sell, market, aggregate consumers,  
19 broker or engage in any similar activity relating to  
20 generation capacity or energy.

21 **3. Sale of capacity and energy required.** Investor-owned  
22 utilities are not required to transfer to a distinct corporate  
23 entity contracts with a qualifying facility. Beginning January  
24 1, 2000, each large, investor-owned transmission and distribution  
25 utility shall sell all rights to capacity and energy from its  
26 contracts with qualifying facilities. Beginning January 1, 2006,  
27 each large, investor-owned transmission and distribution utility  
28 shall sell all the rights to capacity and energy under any  
29 contracts with the Maine Yankee Atomic Power Company.

30 **4. Divestiture required; exception.** On or before January  
31 1, 2006, each large, investor-owned transmission and distribution  
32 utility shall divest all generation assets and generation-related  
33 business activities except contracts with qualifying facilities  
34 and ownership interests in the Maine Yankee Atomic Power  
35 Company. After January 1, 2006, a large, investor-owned  
36 transmission and distribution utility may not have an affiliated  
37 interest in a competitive generation provider.

38 **5. Commission may require divestiture of Maine Yankee**  
39 **interests.** Notwithstanding any other provision of this chapter,  
40 the commission, if necessary to achieve the purposes of this  
41 chapter,

chapter, may require any investor-owned transmission and distribution utility to divest its ownership interests in the Maine Yankee Atomic Power Company on or after January 1, 2009. The commission may order divestiture under this subsection only after notice to all interested parties and an opportunity for those parties to be heard.

**6. Commission may require exempt utilities to divest.** The commission may require any small, investor-owned transmission and distribution utility to divest all generation assets and generation-related business activities except contracts with qualifying facilities and, until January 1, 2009, ownership interests in the Maine Yankee Atomic Power Company. The commission may order divestiture under this subsection only after notice to all interested parties and an opportunity for those parties to be heard. In order to require divestiture under this subsection, the commission must find that divestiture is necessary to achieve the purposes of this chapter. If the commission orders divestiture under this subsection, the small, investor-owned transmission and distribution utility may not have an affiliated interest in a competitive generation provider after divestiture.

**7. Generation assets permitted.** On or after January 1, 2000, notwithstanding any other provision in this chapter, the commission may allow an investor-owned transmission and distribution utility to own, have a financial interest in or otherwise control generation and generation-related assets to the extent that the commission finds that ownership, interest or control is necessary for the utility to perform its obligations as a transmission and distribution utility in an efficient manner. The transmission and distribution utility may not sell the energy or capacity from generation that it owns, has a financial interest in or otherwise controls to any retail consumer of electricity.

**8. Retail marketing restricted; wholesale marketing prohibited; exception.** Except as provided in subsection 6, after January 1, 2006, consumer-owned transmission and distribution utilities and affiliated interests of small, investor-owned transmission and distribution utilities:

A. May sell retail generation service only within their respective service territories; and

B. May not sell wholesale generation service except incidental sales necessary to reduce the cost of providing retail service.

**9. Proceedings.** An electric utility required to divest

2 under this section shall file a divestiture plan with the  
3 commission before January 1, 2005. The commission shall review  
4 the plan to ensure its consistency with this chapter. The  
5 commission shall complete its review of a utility's divestiture  
6 plan within 6 months after that divestiture plan is filed with  
7 the commission.

8 **§3205. Regulation of transmission and distribution utilities**

10 Nothing in this chapter limits the commission's authority to  
11 regulate electric transmission and distribution services as  
12 otherwise provided in this Title and to ensure that all consumers  
13 of electricity are afforded transmission and distribution  
14 services at just and reasonable rates.

16 **§3206. Stranded costs recovery**

18 1. Stranded costs defined. For the purposes of this  
19 section, the term "stranded costs" means a utility's legitimate,  
20 verifiable and unmitigable costs made unrecoverable as a result  
21 of retail access and determined by the commission as provided in  
22 this subsection.

24 A. For each electric utility, the commission shall  
25 determine the sum of the following:

- 26 (1) The costs of a utility's regulatory assets related  
27 to generation;
- 28 (2) The difference between net plant investment  
29 associated with a utility's generation assets and the  
30 market value of the generation assets; and
- 31 (3) The difference between future contract payments  
32 and the market value of a utility's purchased power  
33 contracts.

34 When determining the market value of generation assets and  
35 purchased power contracts, the commission shall rely to the  
36 greatest extent possible on market information, including,  
37 but not limited to, market valuations that become known as  
38 generation assets and the rights to power under contracts  
39 with qualifying facilities are sold.

40 B. Notwithstanding any other provision of this chapter, the  
41 commission may not include any costs for obligations  
42 incurred on or after April 1, 1995 in a utility's stranded  
43 costs, except that the commission may include:

- 44 (1) Regulatory assets created after April 1, 1995,



2 including, but not limited to, the amortization of  
3 costs associated with the restructuring of a qualifying  
4 facility contract or costs deferred pursuant to rate  
5 plans or for energy conservation; and

6 (2) Obligations incurred by a utility after April 1,  
7 1995 that are beyond the control of the utility.

8  
9  
10 C. A utility shall pursue all reasonable means to reduce  
11 its potential stranded costs and to receive the highest  
12 possible value for generation assets and contracts,  
13 including the exploration of all reasonable and lawful  
14 opportunities to reduce the cost to ratepayers of contracts  
15 with qualifying facilities. The commission shall consider a  
16 utility's efforts to satisfy this requirement when  
17 determining the amount of a utility's stranded costs under  
18 this subsection. The commission shall reduce a utility's  
19 stranded costs to reflect the utility's failure to mitigate  
20 its potential stranded costs to the greatest extent possible.

21  
22 2. **Stranded costs recoverable.** When retail access begins,  
23 the commission shall provide an electric utility a reasonable  
24 opportunity to recover stranded costs through the rates of the  
25 transmission and distribution utility, as provided in this  
26 section. The opportunity must be comparable to the utility's  
27 opportunity to recover stranded costs before the implementation  
28 of retail access under this chapter.

29  
30 3. **Determination of stranded costs charges.** Before retail  
31 access begins, the commission shall estimate the stranded costs  
32 for each electric utility in the State. The commission shall use  
33 these estimates as the basis for a stranded costs charge to be  
34 charged by each transmission and distribution utility when retail  
35 access begins. In 2003 and 2006, the commission shall correct  
36 any substantial inaccuracies in the stranded costs estimates and  
37 adjust the stranded costs charges to reflect any such  
38 correction. The commission may correct the stranded costs  
39 estimates and adjust the stranded costs charges at any other  
40 time. When correcting stranded costs and adjusting stranded  
41 costs charges, the commission shall make any change effective  
42 only prospectively and may not reconcile past estimates to  
43 reflect actual values.

44  
45 4. **Recovery of stranded costs.** Stranded costs must be  
46 recovered through the regulated rates of a transmission and  
47 distribution utility. All customers of a transmission and  
48 distribution utility shall pay stranded costs charges. The  
49 commission shall consider both usage-sensitive rate designs and  
50 rate designs that are not usage sensitive, such as a  
per-maximum-kilowatt charge or a flat access charge. In

2 establishing a rate design for stranded costs charges, the  
3 commission shall consider:

4 A. The amount to be recovered;

6 B. The time period in which recovery will occur;

8 C. Economic efficiency;

10 D. Equity;

12 E. Rate stability;

14 F. The encouragement of consumer choice among competitors  
15 based on economic costs; and

16 G. Rate designs adopted by other jurisdictions.

18 Nothing in this subsection precludes a commission determination  
19 that stranded costs for any utility are negative and result in a  
20 credit to customers instead of a charge.

22 5. Proceedings. The commission shall conduct separate  
23 proceedings to determine the stranded costs for each  
24 investor-owned utility and each consumer-owned utility. In the  
25 same proceedings, the commission shall establish the revenue  
26 requirements for each transmission and distribution utility and  
27 the rates and stranded costs charges to be charged by each  
28 transmission and distribution utility when retail access begins.  
29 The proceedings must be completed by July 1, 1999.

32 **§3207. Standard-offer service**

34 When retail access begins, the commission shall ensure that  
35 standard-offer service is available to all consumers of  
36 electricity, except that the commission may establish eligibility  
37 requirements that exclude consumers of electricity with demands  
38 above a specified amount if the commission finds that the  
39 consumers do not need standard-offer service and that their  
40 eligibility for standard-offer service would increase its costs.

42 1. Establishment of terms and conditions. The commission  
43 shall open a rule-making proceeding no later than October 1, 1997  
44 to establish terms and conditions for standard-offer service,  
45 that include, but are not limited to:

46 A. Eligibility requirements;

48 B. Entry and exit restrictions;

2 C. Protection against a standard-offer service provider's  
4 failure to provide service as contracted for;

6 D. Appropriate rate design issues;

8 E. Customer class and voltage differentiations; and

10 F. Credit, collection and disconnection practices.

12 By February 15, 1998, the commission shall provisionally adopt  
14 rules establishing terms and conditions for standard-offer  
16 service. Rules adopted under this subsection are major  
18 substantive rules pursuant to Title 5, chapter 375, subchapter  
20 II-A.

22 2. Selection of standard-offer service providers. After  
24 terms and conditions for standard-offer service have been  
26 established under subsection 1, each transmission and  
28 distribution utility shall administer a bid process to select a  
30 standard-offer service provider for that transmission and  
32 distribution utility's service territory. By July 1, 1999, the  
34 commission shall review the bid submissions for each transmission  
36 and distribution utility and select the standard-offer service  
38 provider for that utility's service territory.

40 A. The commission shall determine the general credit data  
42 and specific information from general load and usage data  
44 that transmission and distribution utilities must provide to  
46 potential standard-offer service bidders, including, but not  
48 limited to, monthly demand and energy consumption and the  
50 number of customers in each customer class. The commission  
shall ensure that individual customer confidentiality is  
preserved in this process and that a transmission and  
distribution utility releases customer-specific data only  
with the customer's permission. If the transmission and  
distribution utility incurs additional costs to develop and  
produce the required data, the commission shall permit that  
utility to recover those costs through transmission and  
distribution rates.

B. A consumer-owned utility and a competitive generation  
provider affiliated with a transmission and distribution  
utility may submit bids to provide standard-offer service  
for that utility's service territory. To prevent the unfair  
use of information possessed by a consumer-owned utility or  
a transmission and distribution utility, the commission  
shall ensure that a consumer-owned utility or a competitive  
generation provider affiliated with a transmission and  
distribution utility seeking to bid on standard-offer

2 service has no greater access to relevant information than  
3 is provided to other potential bidders.

4 C. The commission shall establish the maximum duration of a  
5 standard-offer service contract after considering all  
6 relevant factors, including, but not limited to, market  
7 risks and the need for price stability and contract  
8 flexibility.

10 3. Price cap; investigation. The price for the  
11 standard-offer service in the year 2000 in any service territory,  
12 when combined with the regulated rates of the transmission and  
13 distribution service and any stranded costs charge, may not  
14 exceed on average the total rate for electricity immediately  
15 before the implementation of retail access. After the year 2000,  
16 the commission shall determine the need for, and method of,  
17 escalation of this price cap. If the qualifying bids under  
18 subsection 2 for standard-offer service in any service territory,  
19 when combined with the regulated rates of transmission and  
20 distribution service and any stranded costs charge, exceeds, on  
21 average, the total rate for electricity immediately before the  
22 implementation of retail access, the commission shall investigate  
23 whether the implementation of retail access remains in the public  
24 interest and notify the Legislature of the determination under  
25 section 3213.

26 4. Implementation period. Standard-offer service must be  
27 available until January 1, 2005. By January 1, 2004, the  
28 commission shall begin an investigation to determine whether the  
29 continued availability of standard-offer service is necessary and  
30 in the public interest. The commission shall conclude the  
31 investigation by June 30, 2004 and report its results to the  
32 Legislature under section 3213.

34 5. Territorial and rate class application. Nothing in this  
35 section precludes the commission from permitting or requiring  
36 different terms and conditions for standard-offer service in  
37 different utility service territories or for different customer  
38 classes.

40 **§3208. Consumer protection rules**

42 The commission shall adopt rules to ensure that retail  
43 consumers of electricity are protected to the greatest extent  
44 possible from unfair trade practices, fraud and other  
45 unreasonable practices by competitive generation providers and  
46 transmission and distribution utilities. Rules adopted under  
47 this section are major substantive rules pursuant to Title 5,  
48 chapter 375, subchapter II-A.

50 1. Registration of competitive generation providers;

2 report. A competitive generation provider may not sell  
3 electricity at retail in the State unless it is registered with  
4 the commission. A competitive generation provider shall file  
5 periodic reports after registration as required by the  
6 commission. The commission shall impose reasonable registration  
7 requirements on competitive generation providers, including, but  
8 not limited to, the following.

9  
10 A. The commission shall determine the information required  
11 to be filed by competitive generation providers and ensure  
12 that competitive generation providers have the necessary  
13 financial and technical resources to carry out their  
14 business obligations and commitments to customers.

15  
16 B. The commission shall consider the need for requiring a  
17 competitive generation provider to file a bond with the  
18 commission as evidence of financial ability to withstand  
19 market disturbances or other events that may increase the  
20 cost of providing service or to provide for uninterrupted  
21 service to its customers if a competitive generation  
22 provider stops service.

23  
24 2. Business practice standards. The commission shall  
25 establish minimum business practice standards for competitive  
26 generation providers, including, but not limited to:

27 A. Minimum notice provisions for changes in rates or other  
28 service terms;

29 B. Conditions for service termination;

30  
31 C. Requirements governing changing a customer's competitive  
32 generation provider; and

33 D. Minimum informational and marketing materials.

34  
35  
36 3. Filing requirements. Generation providers shall file  
37 their generally available rates, terms and conditions with the  
38 commission. The commission may not require a competitive  
39 generation provider to file or otherwise publicly disclose its  
40 service contracts with individual consumers. The commission,  
41 subject to appropriate protective orders, may require the  
42 submission of individual service contracts or any other  
43 confidential information from a competitive generation provider.

44  
45  
46 4. Standard billing. The commission shall consider the  
47 adoption of a standard bill format for electric power service.  
48 If a standard bill format is adopted, the commission shall  
49 investigate the possibility of adopting a format consistent with  
50 other New England states to create a regional bill format. The

2 commission may not prohibit transmission and distribution  
3 utilities from contracting with generation providers to include  
4 both entities' charges on a single bill.

5 5. Dispute resolution. The commission shall resolve  
6 disputes between competitive generation providers and retail  
7 consumers of electricity with respect to consumer protection  
8 rules adopted by the commission.

10 6. Disconnection restricted. A transmission and  
11 distribution utility may not disconnect service to a consumer due  
12 to nonpayment of generation charges or any other dispute with a  
13 competitive generation provider, except that the commission may  
14 permit disconnection of electric service to consumers of  
15 electricity based on nonpayment of charges for standard-offer  
16 service provided under section 3207.

18 7. Disclosure. If necessary to achieve the purposes of  
19 this chapter, the commission may require the disclosure of  
20 information concerning a competitive generation provider's  
21 services. The commission shall provide for reasonable  
22 confidentiality protections.

24 8. Maine Unfair Trade Practices Act. The commission has  
25 concurrent authority with the Attorney General to act under the  
26 Maine Unfair Trade Practices Act with respect to retail sales  
27 activities of competitive generation providers.

28 9. Construction; rate regulation prohibited. This section  
29 may not be construed to permit the commission to regulate the  
30 rates of any competitive generation provider.

32 10. Penalties. In an adjudicatory proceeding, the  
33 commission may impose a penalty of up to \$5,000 for each  
34 violation of a consumer protection rule adopted under this  
35 section. Each day a violation continues constitutes a separate  
36 offense. Penalties collected by the commission under this  
37 section must be deposited in the Public Utilities Commission  
38 Reimbursement Fund under section 117.

40 **§3209. Energy policy**

42 The commission, in a manner consistent with the requirements  
43 of an efficient and effective competitive market for electricity,  
44 shall promote the development and use of renewable resources in  
45 producing electric power and promote the use of conservation and  
46 load management.

48 1. Renewable resources. Unless the commission determines  
49 that it is incompatible with approaches adopted in other New  
50 England states, the commission shall encourage the development

2 England states, all competitive generation providers shall  
3 include a minimum amount of renewable energy in their generation  
4 portfolio. The commission shall identify acceptable types of  
5 renewable energy sources and establish the minimum amount of  
6 renewable energy required under this subsection. Competitive  
7 generation providers may meet this requirement through the  
8 purchase of credits from other suppliers of renewable energy. If  
9 the commission determines that this approach is incompatible with  
10 approaches adopted in other New England states, the commission  
11 shall adopt an alternative program to promote the development and  
12 use of renewable resources in producing electric power.

13  
14 A. In establishing the type of renewable energy requirement  
15 to be adopted for the State, the commission shall:

16 (1) Ensure that the requirement does not unreasonably  
17 deter competitive generation providers from the State's  
18 retail market for electricity;

19  
20 (2) Consider the market's ability to develop and sell  
21 power from renewable resources;

22  
23 (3) Consider the actions taken by other New England  
24 states with regard to renewable energy requirements; and

25  
26 (4) Identify the effect the requirement has on  
27 electric rates and the economy.

28  
29 B. If the commission establishes a minimum renewable energy  
30 portfolio requirement, the commission shall consider all  
31 relevant factors, including, but not limited to:

32  
33 (1) The level of renewable energy required;

34  
35 (2) The extent to which any requirement should vary  
36 from similar requirements adopted in other New England  
37 states;

38  
39 (3) The manner in which renewable credits are  
40 calculated and traded;

41  
42 (4) The price impacts of various renewable  
43 requirements and the effect of those price impacts on  
44 consumers; and

45  
46 (5) Whether any particular level of renewable energy  
47 requirement produces measurable benefits for the State.

48  
49 C. By April 1, 1998, the commission shall commence a  
50 rule-making proceeding on renewable energy requirements. By

2 April 1, 1999, the commission shall provisionally adopt  
4 rules establishing renewable energy requirements in  
6 compliance with this subsection. Rules adopted under this  
8 subsection are major substantive rules pursuant to Title 5,  
10 chapter 375, subchapter II-A.

12 D. Competitive generation providers shall disclose their  
14 generation resource mix to the commission. The commission  
16 shall publish that information for each competitive  
18 generation provider on a quarterly basis.

20 2. Conservation programs. The commission shall require  
22 transmission and distribution utilities to implement energy  
24 conservation programs and include the cost of any such programs  
26 in the rates of transmission and distribution utilities. The  
28 commission shall require transmission and distribution utilities  
30 to select energy efficiency service providers through periodic  
32 competitive bidding programs. The commission shall establish a  
34 reasonable level of funding for those programs comparable to the  
36 amount expended for similar programs in the year 1999 and  
38 regularly review the amount of funding needed.

40 By July 1, 1998, the commission shall commence a rule-making  
42 proceeding on energy conservation programs. By July 1, 1999, the  
44 commission shall provisionally adopt rules establishing energy  
46 conservation programs in compliance with this subsection. Rules  
48 adopted under this subsection are major substantive rules  
50 pursuant to Title 5, chapter 375, subchapter II-A.

**§3210. Consumer education and information**

The commission shall take all steps necessary to ensure  
that, prior to the implementation of retail access, electricity  
consumers are aware, to the greatest extent practicable, of the  
opportunities and risks of electric industry restructuring.

1. Unbundled bills. Beginning January 1, 1999, electric  
utilities shall issue bills that state the current cost of  
electric capacity and energy separately from other charges for  
electric service. By January 31, 1998, each electric utility  
shall file with the commission a bill unbundling proposal. The  
commission shall complete its review of those proposals and adopt  
a rule establishing unbundled bill requirements by July 1, 1998.  
Rules adopted under this subsection are routine technical rules  
pursuant to Title 5, chapter 375, subchapter II-A.

2. Publish information. The commission shall publish and  
disseminate, through any means considered appropriate,  
information that enhances consumers' ability to effectively make  
choices in a competitive electricity market.



2        **§3211. Low-income assistance program**

4            The commission shall ensure that existing programs to assist  
6        low-income electricity consumers continue after retail  
8        competition begins. Those programs must be implemented  
10       separately in the service territory of each utility that conducts  
12       a low-income assistance program immediately before retail access  
14       begins. If the Legislature fails to appropriate specific funding  
16       from the General Fund or some other source for those programs  
18       when retail access begins, the commission shall provide funding  
20       through the rates of the transmission and distribution  
22       utilities. The amount of funding provided for that purpose must  
24       be comparable to the amounts spent for low-income assistance  
26       programs in the year 1999. The commission shall investigate  
28       whether consumer-owned utilities should provide low-income  
30       assistance programs and whether there are better means to  
32       distribute the funds provided for all low-income assistance  
34       programs. The commission may adopt rules to implement this  
36       section. Rules adopted under this section are routine technical  
38       rules pursuant to Title 5, chapter 375, subchapter II-A.

22       **§3212. Commission report**

24            On December 31st of each year, the commission shall submit  
26        to the joint standing committee of the Legislature having  
28        jurisdiction over utility and energy matters a report describing  
30        the commission's activities in carrying out the requirements of  
32        this chapter and further describing activities relating to  
34        changes in the regulation of electric utilities in other  
36        jurisdictions.

32       **§3213. Proposed changes**

34            If the commission determines, after providing interested  
36        parties an opportunity to be heard, that any provision in this  
38        chapter is not in the public interest, the commission shall  
40        present a report to the joint standing committee of the  
42        Legislature having jurisdiction over utility and energy matters.  
44        The report must state the basis for the commission's conclusion  
46        and include legislation designed to modify this chapter  
48        consistent with the public interest.

44            **Sec. 2. Recommendation for low-income assistance program.** On or  
46        before January 1, 1998, the Public Utilities Commission and the  
48        State Planning Office shall provide to the Joint Standing  
50        Committee on Utilities and Energy, the Joint Standing Committee  
      on Appropriations and Financial Affairs and the Joint Standing  
      Committee on Taxation, and to any other committees of relevant  
      jurisdiction, legislation that funds assistance to low-income

2 consumers of electricity through the General Fund or through a  
tax on all energy sources in the State.

4 **Sec. 3. Market power report.** On or before December 1, 1998,  
6 the Public Utilities Commission shall submit a report to the  
joint standing committee having jurisdiction over utility and  
8 energy matters, on whether market power exists or is likely to  
arise in the generation market in New England.

10 **Sec. 4. Conforming amendments.** By December 31, 1998, the  
12 Public Utilities Commission shall identify and submit to the  
joint standing committee having jurisdiction over utility and  
14 energy matters, legislation proposing amendments required to  
conform other statutes to the provisions of this Act.

16 **Sec. 5. Authority.** The joint standing committee having  
18 jurisdiction over utility and energy matters may report out  
legislation concerning electric industry restructuring to the  
20 First or Second Regular Session of the 119th Legislature.

## 22 SUMMARY

24 The Legislature finds that:

26 1. Where viable markets exist, market mechanisms should be  
28 preferred over regulation, and the risk of business decisions  
should fall on investors rather than consumers;

30 2. The needs and preferences of electricity consumers  
32 should be met with the lowest costs;

34 3. All consumers should have a reasonable opportunity to  
benefit from a restructured electric industry;

36 4. Electric industry restructuring should not diminish  
38 environmental quality, compromise energy efficiency or jeopardize  
energy security;

40 5. All consumers should have access to reliable, safe and  
42 reasonably priced electric service;

44 6. Electric industry restructuring should not diminish  
low-income assistance or other consumer protections;

46 7. The electric industry structure should be lawful,  
48 understandable to the public, fair and perceived to be fair; and

50 8. Electric industry restructuring should improve the  
State's business climate.

2           The purposes of this bill are:

4           1. To promote efficient and effective competition in the  
market for the generation and sale of electricity in the State;

6           2. To ensure that all consumers of electricity are able to  
8 benefit from competition;

10          3. To provide an orderly transition from the current form  
of regulation to retail competition for electricity;

12          4. To continue to provide the public with opportunities to  
14 participate in decisions concerning electric restructuring; and

16          5. To ensure that the Public Utilities Commission has all  
18 necessary authority to implement an electric restructuring plan  
consistent with these findings and purposes.

20           This bill does the following:

22          1. Establishes retail competition for the purchase and sale  
of electricity beginning January 1, 2000;

24          2. Requires Central Maine Power Company, Bangor  
26 Hydro-Electric Company and Maine Public Service Company by  
January 1, 2000 to transfer all generation-related assets and  
28 business functions, other than contracts with qualifying  
facilities, to distinct corporate entities;

30          3. Requires Central Maine Power Company and Bangor  
32 Hydro-Electric Company by January 1, 2000 to sell all their  
rights to capacity and energy under contracts with qualifying  
34 facilities;

36          4. Requires Central Maine Power Company and Bangor  
Hydro-Electric Company by January 1, 2006 to divest all  
38 generation-related assets and business functions, except  
ownership interests in the Maine Yankee Atomic Power Company and  
40 contracts with qualifying facilities;

42          5. Requires Central Maine Power Company and Bangor  
Hydro-Electric Company by January 1, 2006 to sell all rights to  
44 energy and capacity under any contracts with the Maine Yankee  
Atomic Power Company;

46          6. Permits the Public Utilities Commission to require Maine  
48 Public Service Company to divest all generation-related assets  
and functions, except ownership interests in Maine Yankee Atomic  
50 Power Company and contracts with qualifying facilities;

- 2           7. Permits the Public Utilities Commission to require  
4 Central Maine Power Company, Bangor Hydro-Electric Company and  
Maine Public Service Company to divest their ownership interests  
6 in Maine Yankee Atomic Power Company on or after January 1, 2009;
- 8           8. Preserves Public Utilities Commission regulation of  
transmission and distribution services;
- 10          9. Permits electric utilities to recover legitimate,  
12 verifiable and unmitigable costs that are otherwise unrecoverable  
as a result of retail competition in the electric industry;
- 14          10. Establishes a standard-offer service to ensure access  
16 for all customers to reasonably priced electric power;
- 18          11. Requires the Public Utilities Commission to establish  
rules to protect consumers in the competitive market;
- 20          12. Requires the Public Utilities Commission to establish  
22 registration requirements for competitive generation providers;
- 24          13. Requires the Public Utilities Commission to establish  
26 minimum business practice standards for competitive generation  
providers;
- 28          14. Prohibits disconnection of service to consumers who  
fail to pay generation charges but permits disconnection of  
30 customers who fail to pay the standard-offer service charge;
- 32          15. Permits the Public Utilities Commission to enforce the  
Maine Unfair Trade Practices Act with respect to electric retail  
34 sales activities;
- 36          16. Requires the Public Utilities Commission to adopt rules  
that promote renewable resources and energy conservation; and
- 38          17. Preserves low-income assistance programs funded through  
40 transmission and distribution rates but directs that alternative  
funding mechanisms be proposed.