## MAINE STATE LEGISLATURE

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## 118th MAINE LEGISLATURE

## FIRST SPECIAL SESSION-1997

Legislative Document

No. 1871

S.P. 649

In Senate, May 13, 1997

An Act to Authorize the Public Utilities Commission to Establish Reasonable Registration and Reporting Requirements and to Study Market Power Issues Associated with Electric Industry Restructuring.

(AFTER DEADLINE)

(EMERGENCY)

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.

JOY J. O'BRIEN Secretary of the Senate

Presented by Senator CAREY of Kennebec.
Cosponsored by Representative JONES of Bar Harbor and
Representatives: BERRY of Belmont, COLWELL of Gardiner, JOY of Crystal,
LaVERDIERE of Wilton, O'NEAL of Limestone, TAYLOR of Cumberland, USHER of
Westbrook, VEDRAL of Buxton.

2	become effective until 90 days after adjournment unless enacted as emergencies; and
4	Whereas, present law does not require entities to register
6	with the Public Utilities Commission before contracting with consumers to provide electric generation service at some time in
8	the future; and
10	Whereas, the Legislature is currently considering legislation to deregulate the provisions of electric generation
12	service to the State's retail electric consumers, but that activity is not likely to be authorized until some time in the
14	future; and
16	Whereas, certain entities have already begun to market the future provision of generation service to retail consumers in the
18	State in anticipation of the passage of electric restructuring legislation and it is necessary to obtain more information on
20	these activities to protect the State's electric consumers; and
22	Whereas, it is imperative that the Legislature be informed at the earliest possible date about potential market power issues
24	raised by electric industry restructuring; and
26	Whereas, in order for the Legislature to have this information, a market power study must be immediately initiated;
28	and
30	Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of
32	Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,
36	Be it enacted by the People of the State of Maine as follows:
38	PART A
40	Sec. A-1. 35-A MRSA §3142 is enacted to read:
42	§3142. Registration required to market generation service
44	1. Registration required. Unless registered with the commission under this section, an entity may not contract or
46	attempt to contract with any retail electric consumer to provide electric generation service for a time in the future in which
48	entities are permitted to provide competitive generation service to retail consumers.
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	<ol><li>Required information. Any entity registering with the</li></ol>
2	commission under this section shall provide:
4	A. The name, mailing address and phone number of the entity;
6	B. The name, mailing address and phone number of a contact person who is knowledgeable regarding the entity's
8	activities in the State; and
10	C. The name and mailing address of any consumer in the State with which the entity has contracted to provide
12	electric generation service.
14	An entity registered under this section promptly shall provide the commission with any additional relevant information requested
16	by the commission, including, but not limited to, copies of any contracts for generation service. The commission shall provide
18	for appropriate confidentiality protection as necessary for any information provided under this section.
20	3. Contracts void. Any contract for generation service
22	entered into after the effective date of this section by an entity that is not registered with the commission under this
24	section is deemed void.
26	4. Repeal. This section is repealed March 1, 2000.
28	PART B
30	Sec. B-1. Public Utilities Commission and Department of the
32	Attorney General to study market power issues related to electric industry restructuring. The Department of the Attorney General, referred
34	to this Part as the "department," and the Public Utilities Commission, referred to in this Part as the "commission," jointly
36	shall conduct a study of market power issues raised by the prospect of retail competition in the electric industry. The
38	department and the commission shall examine how a competitive electric industry may be structured or regulated to protect
40	electric industry may be structured of regulated to protect electric power trade and commerce from unlawful restraints, price discrimination, price fixing, oligopolization and
42	monopolization. The commission and the department may examine any issue that the commission or the department determines to be
44	relevant to assessing market power issues raised by the prospect of electric industry restructuring. The study must examine at a
46	minimum the following:
48	A. The effects of altering the system of electric power dispatch from a cost-based to a bid-based system;

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2	B. The potential for market concentration or horizontal market power;
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4	C. The potential for vertical market power arising from ownership or control of transmission and distribution
6	systems of entities selling or marketing electric power;
8	D. The extent to which imbalances of supply and demand create opportunities for the unreasonable exercise of market
10	power;
12	E. The significance of existing or potential transmission system constraints and the ownership and control of
14	transmission ties;
16	F. The significance of the isolation of portions of the transmission and distribution grid from other portions of
18	the grid, in particular from those portions of the grid currently controlled by the New England power pool;
20	G. The reasonable geographic areas and markets in which
22	market power could be exercised;
24	H. The extent to which market power in relevant markets is within the scope of federal regulatory jurisdiction; and
26	
28	I. The approaches taken in other states to address market power issues.
30	Sec. B-2. Work plan. The department and commission shall develop a work plan for coordinating work on the study in order
32	to produce the reports required under section 6. The work plan must ensure jointly produced reports, although the plan may allow
34	for differing recommendations and conclusions by the department and the commission.
36	
38	may retain experts or other consultants as they determine to be
40	necessary in order to conduct the study as long as all costs are funded from resources available within the commission.
42	Sec. B-4. Coordination with other states. The department and the
44	commission shall seek to coordinate their efforts with any similar studies undertaken in other states in the region.
46	Sec. B-5. Consultation with Legislature. The department and the
48	commission regularly shall consult with the Joint Standing Committee on Utilities and Energy to update the committee on the
	progress of the study, to respond to any

qι	destions that the committee members may have and to discuss the
	camination of any relevant issues that the committee identifies be of interest.
	Sec. B-6. Reports. The department and the commission shall
рı	resent to the Joint Standing Committee on Utilities and Energy
ar	n interim report of the department's and the commission's
f	ndings and recommendations no later than February 1, 1998 and a
£	nal report of their findings and recommendations no later than
	ecember 1, 1998. The interim and final reports must include any
	egislation necessary to implement the recommendations of the
	epartment or the commission.
	See D 7 Authorization to report out logislation was the
1	Sec. B-7. Authorization to report out legislation. The joint
	canding committee of the Legislature having jurisdiction over
	cilities and energy matters may report out legislation related
	electric industry restructuring to the Second Regular Session
	the 118th Legislature or the First Regular Session of the
Ι.	19th Legislature.
	Sec. B-8. Funding of Attorney General position. An attorney
~	osition within the department must be designated by the Attorney
~	eneral to conduct the study required by this Part and to
	restigate potential violations of antitrust laws within the
	lectric utility industry. The position must be funded through
	ane 30, 1999 from funds available within the commission.
0 (	ane 30, 1999 from runds available within the commission.
	Sec. B-9. Allocation. The following funds are allocated from
01	ther Special Revenue to carry out the purposes of this Part.
	1997-98
30°N.	
P	UBLIC UTILITIES COMMISSION
R	egulatory Fund
	All Other \$86,433
	Allocates funds to fund one Attorney
	position within the Department of the
	Attorney General to conduct a market power
	study and investigate potential violations
	of antitrust laws within the utilities
	industry.
	Emergency clause. In view of the emergency cited in the
n	reamble, this Act takes effect when approved.

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## SUMMARY

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Part A of the bill requires any entity that contracts or attempts to contract with any consumer for the provision of electric generation service in anticipation of electric industry restructuring to be registered with the Public Utilities Commission. Any contract made with an unregistered provider is void.

Part B of this bill requires the Public Utilities Commission and the Department of the Attorney General to conduct a study of market power issues related to electric industry restructuring.