

MAINE STATE LEGISLATURE

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R. d. S.

L.D. 2094

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UTILITIES AND ENERGY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
118TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1495, L.D. 2094, Bill, "An Act to Facilitate Local Distribution of Natural Gas"

Amend the bill by inserting before the enacting clause the following:

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the availability of natural gas utility service is of vital importance to the well-being of the State's citizens and economy; and

Whereas, the impending construction of new natural gas pipelines offers an opportunity for the expansion of natural gas utility service in the State; and

Whereas, proceedings are pending at the Public Utilities Commission that could result in the expanded availability of natural gas utility service that raise issues requiring statutory amendments to address equitably; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, '

Further amend the bill by striking out all of sections 5 and 6 (page 2, lines 13 to 49 and page 3, lines 2 to 35 in L.D.) and inserting in their place the following:

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2 'Sec. 5. 35-A MRSA §4703, sub-§1, as enacted by PL 1987, c.
141, Pt. A, §6, is amended to read:

4 1. **Cost of gas; related costs.** Subject to the approval of
6 the commission, each gas utility shall ~~include as part of its~~
8 ~~base rates a charge its customers a cost-of-gas adjustment rate~~
10 ~~that includes~~ reasonable ~~cost~~ costs for the gas which ~~that~~ it
12 supplies to its firm sales customers who receive uninterrupted
14 service on a year-round basis. The cost of gas shall ~~include~~
16 includes the cost of the gas purchased by the company for use in
18 the State and may include costs directly related to the gas
20 purchased and may include all or a portion of the cost of
facilities used to produce and store gas, pursuant to rules
promulgated adopted by the commission under this section. The
amount ~~to be included in a utility's base rates shall be~~
determined ~~at the time of general rate adjustment under section~~
307 ~~or 1303 and shall be based upon the utility's reasonable~~
~~costs of gas during the test year used for the rate adjustment.~~

22 Sec. 6. 35-A MRSA §4703, sub-§2, as enacted by PL 1987, c.
141, Pt. A, §6, is repealed.

24 Sec. 7. 35-A MRSA §4703, sub-§§2-A and 2-B are enacted to read:

26 2-A. Cost-of-gas adjustment for firm sales customers.
28 Subject to the conditions of this section, a gas utility shall
periodically adjust its cost-of-gas adjustment clause charges to
30 its firm sales customers to reflect increases and decreases in
the cost of gas. For purposes of this section, a "firm sales
32 customer" means a customer that receives uninterrupted gas supply
and transportation service from the gas utility on a year-round
34 basis. Subject to the approval of the commission, the
cost-of-gas adjustment charge must be billed at a uniform rate
36 per 100 therms or 100 cubic feet of gas for customers of the gas
utility receiving service pursuant to the same rate schedule.

38 2-B. Cost-of-gas adjustment for nonfirm customers. The
40 rates charged to nonfirm customers include a cost of gas
determined by the commission. The total rate charged to nonfirm
42 customers is subject to the approval of the commission.

44 Sec. 8. 35-A MRSA §4703, sub-§3, as enacted by PL 1987, c.
141, Pt. A, §6, is amended to read:

46 3. **Scope of adjustment.** ~~Changes in the cost of gas~~
48 ~~purchased by the gas utility for use in the State shall~~ The costs
described in subsection 1 constitute the only items subject to
adjustment, pursuant to rules promulgated adopted by the

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commission under this section, provided except that the commission may credit against the cost of gas any and all profits received by the gas utility from sales of gas to interruptible customers to the extent that the revenues exceed the actual costs of the interruptible sales.

Sec. 9. 35-A MRSA §4703, sub-§4, as enacted by PL 1987, c. 141, Pt. A, §6, is repealed.

Sec. 10. 35-A MRSA §§4706 and 4707 are enacted to read:

§4706. Commission authority to adopt alternative rate-making mechanisms

1. Alternative rate-making mechanisms. This Title may not be construed to prohibit the commission from or to restrict the commission in establishing or authorizing any reasonable alternative rate-making mechanisms for gas utilities to promote efficiency in operations, create appropriate financial incentives, promote rate stability and promote equitable cost recovery. Alternative rate-making mechanisms may include, but are not limited to:

A. Multiyear rate-making plans that cap or otherwise establish mechanisms for future rate or revenue changes;

B. Reconciliation of actual revenues or costs with projected revenues or costs;

C. Adjustment of rates or revenues based on the use of any index, formula, forecast or projection;

D. Adjustment of rates or revenues based on an earnings-sharing, range-of-freedom or rate-stability plan;

E. Positive or negative financial incentives; and

F. Streamlined regulation or deregulation of services or entities when regulation is not required to protect the public interest.

In adopting an alternative rate-making mechanism, the commission may consider the costs of regulation, the benefits of the rate plan to the utility and to ratepayers, the impact on economic development, the reallocation of risk between investors and ratepayers, the development of a competitive market for gas services that are not natural monopolies and any other factor relevant to the establishment or authorization of an alternative rate-making mechanism. Prior to adopting an alternative rate-making mechanism, the commission shall consider the need for

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2 a rate case in order to establish a base line for the alternative
3 rate-making mechanism.

4 2. Adoption of rate-making mechanisms. Upon the filing of
5 an application for a rate plan by a gas utility, or upon the
6 commission's own motion, the commission, in an adjudicatory
7 proceeding, may adopt alternative rate-making mechanisms for any
8 gas utility in the State. The alternative rate-making mechanisms
9 need not conform with chapter 3 to the extent that the provisions
10 of chapter 3 require the use of rate-base, rate-of-return or any
11 other specific form of regulation of the rates of a gas utility
12 or to the extent that the provisions of chapter 3 give any party,
13 including the gas utility, the right to petition to change rates
14 for gas services. This section may not be construed to limit the
15 authority of the commission under section 1322.

16 3. Just and reasonable rates. In determining the
17 reasonableness of any rate-adjustment mechanism established under
18 this subchapter, the commission shall apply the standards of
19 section 301 to ensure that the rates resulting from the
20 implementation of a rate-adjustment mechanism are just and
21 reasonable.

22 4. General safeguards. In adopting alternative rate-making
23 mechanisms, the commission shall consider appropriate consumer
24 and competitive safeguards.

25 5. Rate flexibility. Notwithstanding sections 307 and 703,
26 the commission, in an adjudicatory proceeding, may authorize a
27 gas utility to implement a program under which:

28 A. The utility may change its schedule of rates with
29 limited notice to the commission; and

30 B. The utility may enter into contracts for the sale of
31 gas, transmission and distribution services and related
32 management services with limited or no prior approval by the
33 commission.

34 The commission shall establish the terms and conditions under
35 which a program is authorized under this subsection.

36 6. Amendment to multiyear rate plans. The commission may
37 not amend or prematurely terminate the terms of a multiyear rate
38 plan in a manner that prevents or threatens the utility's
39 opportunity to recover a reasonable rate of return over the
40 entire term of the plan.

41 7. Authority. The authority granted to the commission
42 under this section is in addition to the authority of the

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2 commission granted under other provisions of this Title and this
3 section may not be construed to limit the authority of the
4 commission under any other provision of this Title.

6 8. Cost-of-gas adjustment. As part of the implementation
7 of alternative rate-making mechanisms pursuant to this section,
8 the commission may waive or modify the requirements of section
9 4703 to the extent necessary to promote efficiency in operation,
10 appropriate financial incentives, rate stability or equitable
11 cost recovery.

12 9. Annual report. The commission shall submit to the joint
13 standing committee of the Legislature having jurisdiction over
14 utilities matters an annual report detailing any actions taken or
15 proposed to be taken by the commission under this section. The
16 report must be submitted by December 31st of each year.

18 §4707. Stranded costs; notice of risk.

20 Notwithstanding any other provision of this Title, costs
21 arising from obligations incurred by a gas utility after March 1,
22 1998, other than costs or obligations that are beyond the control
23 of the gas utility, determined by the commission in an
24 adjudicatory proceeding to be unrecoverable as a result of
25 competition or deregulation are incurred at the risk of the
26 shareholders of the gas utility and may not be borne by
27 ratepayers of the gas utility. This section may not be
28 interpreted as requiring that costs incurred prior to March 1,
29 1998 be recovered from ratepayers.

30 **Sec. 11. Application.** Notwithstanding the Maine Revised
31 Statutes, Title 1, section 302, this Act applies to all
32 proceedings of the Public Utilities Commission pending at the
33 time of its enactment.

34 **Emergency clause.** In view of the emergency cited in the
35 preamble, this Act takes effect when approved.'

36 Further amend the bill by inserting at the end before the
37 summary the following:

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42 **FISCAL NOTE**

43 The Public Utilities Commission will incur some minor
44 additional costs to adopt alternative rate-making mechanisms for
45 gas utilities. These costs can be absorbed within the
46 commission's existing budgeted resources.'

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SUMMARY

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This amendment preserves those portions of the bill that clarify that entities that are not corporations may be utilities. The amendment removes the portions of the bill that relate to multiyear rate plans. The amendment also does the following.

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1. It adds an emergency preamble and emergency clause to the bill.

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2. It amends provisions of law relating to the cost-of-gas adjustment clause. These changes permit the Public Utilities Commission to approve cost-of-gas adjustments that are rate-class specific and that include costs associated with facilities used to produce or store gas.

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3. It permits the Public Utilities Commission to establish alternative rate-making mechanisms and flexible rate plans for gas utilities.

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4. It provides that costs incurred by a gas utility after March 1, 1998, other than costs beyond the control of the utility, that are made unrecoverable as a result of competition or deregulation may not be borne by ratepayers.

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5. It adds a fiscal note to the bill.