MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

SECOND REGULAR SESSION-1998

Legislative Document

No. 2094

H.P. 1495

House of Representatives, January 20, 1998

An Act to Facilitate Local Distribution of Natural Gas.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

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

OSEPH W. MAYO. Clerk

Presented by Representative KONTOS of Windham. Cosponsored by Senator CAREY of Kennebec and

Representatives: CAMPBELL of Holden, COLWELL of Gardiner, SAXL of Bangor.

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_		Sec.	1.	35-A	N	IRSA	§1	02,	sub-§11,	as	enacted	by	PL	1987,	c.
4	141,	Pt.	Α,	§6,	is	amend	ed	to	read:						

- 11. Person. "Person" includes a corporation, partnership, limited partnership, limited liability company, limited liability partnership, association, trust, estate, any other legal entity or natural person.
- Sec. 2. 35-A MRSA §2101, as amended by PL 1995, c. 225, §7, is further amended to read:

§2101. Organization of certain public utilities

- 16 Corporations A public utility for the operation of telephones and for the purpose of making, generating, selling, distributing and supplying gas or electricity or for the operation of water utilities, ferries or public heating utilities in any municipality, or 2 or more adjoining municipalities, within the State, may be organized as a legal entity authorized under the general-corporate-law laws of the State, including Title 13-A.
- Sec. 3. 35-A MRSA §2104, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

§2104. Commission approval required for gas companies to furnish service

No gas utility erganized-under-Title-13-A may furnish its service in or to any municipality within the State, without the approval of the commission, even if no other gas utility is furnishing or is authorized to furnish a similar service. A-gas utility-providing-service-on-January-1,-1982,-shall-have-until January-1,-1983,-to-obtain-the-commission's-approval-to-centinue to-furnish-service.

Sec. 4. 35-A MRSA §§2302 and 2306, as enacted by PL 1987, c. 141, Pt. A, §6, are amended to read:

§2302. Pipelines for common carrier transportation

Every corporation organized under the general laws of the State and any public utility owning, controlling, operating or managing any pipeline within or through this State for the transportation as a common carrier for hire of oil, gas, gasoline, petroleum or any other liquids or gases may lay its pipelines and construct and maintain them in, along and under the roads and streets in any municipality, subject to the conditions

and under the restrictions provided in this chapter and chapter 25.

§2306. No taking property without consent

No eerperatien <u>public utility</u> organized under sections 2101 and 2109 may take, appropriate or use the location, pipes, lines, land or other property of any other person doing or authorized to do a similar business, without consent of the other person, except by Private—and—Special—Aet <u>private</u> and special act of the Legislature.

Sec. 5. 35-A MRSA §4702-A is enacted to read:

§4702-A. Multi-year rate plans

1. Multi-year rate plans. A gas utility or entity proposing to become a gas utility may file with the commission a multi-year rate plan for setting and adjusting base rates pursuant to this section. Notwithstanding the provisions of chapter 3, multi-year rate plans may be based, in whole or in part, on factors other than the gas utility's cost of service, rate base and rate of return. Multi-year rate plans may make use of indices, formulas, the price of competitive fuels and other mechanisms or factors to determine rates and rate adjustments. Rates established under a multi-year rate plan may include a cost of gas adjustment in accordance with section 4703 and rules adopted by the commission pursuant to section 4703.

2. Action by commission. The commission may approve or disapprove a proposed multi-year rate plan or, with the consent of the applicant, may approve an alternative plan. If the commission fails to take action on a proposed plan within 9 months following the filing of the proposed plan, the proposed plan is deemed to be approved by the commission.

3. Effectiveness. Except as provided in this section, notwithstanding the provisions of chapters 3 and 13 governing changes to the rates or rate orders of or affecting Maine utilities, once approved by the commission and accepted by the gas utility, the multi-year rate plan remains in effect for the period established in the plan unless both the commission and the gas utility agree to a change in the plan. In the event of a material change in circumstance that was not reasonably foreseeable at the time of approval of the plan and that causes the plan to become contrary to the interest of the public or the gas utility, the commission may, on its own motion or that of the gas utility, after hearing, amend the plan. Upon amendment of the plan, the commission shall make the following findings:

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4	A. The amendment to the plan is necessary the to the
	material change in circumstance that was not reasonably
4	foreseeable at the time of the initial approval of the plan
	and that material change caused the plan to become contrary
6	to the interest of the public or the gas utility;
8	B. The amendment to the plan is revenue neutral to the gas
	utility over the remaining term of the plan; and
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	C. The amendment is consistent with the intent, purposes
12	and overall form of setting and adjusting base rates of the
	initial plan.
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	4. Period of rate plans. Multi-year rate plans remain in
16	effect for the period approved by the commission, but in no case
_ •	may the period be less than 5 years or more than 15 years.
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,	5. Special contracts. In addition to the special contracts
20	permitted under section 703, subsection 3-A, a multi-year rate
	plan may authorize the gas utility to enter into contracts with
22	its customers for gas service or for both gas equipment,
	including the installation and servicing of gas equipment, and
24	gas service. The terms and conditions of contracts need not be
	consistent with the gas utility's filed schedules of rates, terms
2 6	and conditions. Contracts are not required to be filed with the
20	commission to be effective and enforceable in accordance with
28	their terms.
20	Chell Celms.
30	This section does not limit the authority of the commission
00	under section 1322.
32	V. C.
0.2	Sec. 6. Transition. This Act applies retroactively to
34	multi-year rate plans approved and applications for approval to
Ja	furnish service filed or pending on or after January 1, 1998.
36	runnish service filled of pending on of after bandary 1, 1990.
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38	SUMMARY
30	DOWNAMA
40	This bill does the following:
42	1. It authorizes the Public Utilities Commission to approve
-	multi-year rate plans for gas utilities similar to those plans
44	presently in effect for electric and telephone utilities;
46	2. It permits a utility to be organized as any legal entity
	allowed under state law;
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	3. It updates language in the Maine Revised Statutes, Title
50	35-A, chapters 21 and 23 by amending sections to pertain to all

- public utility companies, not just those utilities organized under general state corporate law; and
- 4. It makes the provisions of the bill apply retroactively to filings pending or made on or after January 1, 1998.