

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1998

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Legislative Document

No. 2094

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H.P. 1495

House of Representatives, January 20, 1998

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### An Act to Facilitate Local Distribution of Natural Gas.

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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.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH 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.

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

2  
4       **Sec. 1. 35-A MRSA §102, sub-§11**, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

6           **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.

10       **Sec. 2. 35-A MRSA §2101**, as amended by PL 1995, c. 225, §7, is further amended to read:

14       **§2101. Organization of certain public utilities**

16           ~~Corperations~~ 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.

24       **Sec. 3. 35-A MRSA §2104**, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

28       **§2104. Commission approval required for gas companies to furnish service**

30           No gas utility ~~organized 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 continue to furnish service.~~

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

42       **§2302. Pipelines for common carrier transportation**

44           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

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

4 **§2306. No taking property without consent**

6 No ~~operation~~ public utility organized under sections 2101  
8 and 2109 may take, appropriate or use the location, pipes, lines,  
land or other property of any other person doing or authorized to  
10 do a similar business, without consent of the other person,  
~~except by Private and Special Act~~ private and special act of the  
Legislature.

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

14 **§4702-A. Multi-year rate plans**

16 **1. Multi-year rate plans.** A gas utility or entity  
18 proposing to become a gas utility may file with the commission a  
multi-year rate plan for setting and adjusting base rates  
20 pursuant to this section. Notwithstanding the provisions of  
chapter 3, multi-year rate plans may be based, in whole or in  
22 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  
24 of indices, formulas, the price of competitive fuels and other  
mechanisms or factors to determine rates and rate adjustments.  
26 Rates established under a multi-year rate plan may include a cost  
of gas adjustment in accordance with section 4703 and rules  
28 adopted by the commission pursuant to section 4703.

30 **2. Action by commission.** The commission may approve or  
32 disapprove a proposed multi-year rate plan or, with the consent  
of the applicant, may approve an alternative plan. If the  
34 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.

36 **3. Effectiveness.** Except as provided in this section,  
38 notwithstanding the provisions of chapters 3 and 13 governing  
changes to the rates or rate orders of or affecting Maine  
40 utilities, once approved by the commission and accepted by the  
gas utility, the multi-year rate plan remains in effect for the  
42 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  
44 material change in circumstance that was not reasonably  
foreseeable at the time of approval of the plan and that causes  
46 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  
48 gas utility, after hearing, amend the plan. Upon amendment of  
the plan, the commission shall make the following findings:



2 public utility companies, not just those utilities organized  
under general state corporate law; and

4 4. It makes the provisions of the bill apply retroactively  
to filings pending or made on or after January 1, 1998.