

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1998

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Legislative Document

No. 2160

H.P. 1533

House of Representatives, January 23, 1998

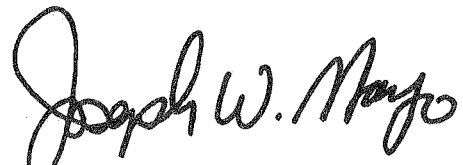
**An Act to Encourage Customer Choice and Competitive Rates for  
Natural Gas.**

(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.

  
JOSEPH W. MAYO, Clerk

Presented by Representative KONTOS of Windham.  
Cosponsored by Senator PENDLETON of Cumberland and  
Representative TAYLOR of Cumberland, Senators: CAREY of Kennebec, FERGUSON of  
Oxford.

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

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

6           **1. Cost of gas and related costs.** Subject to the approval  
8 of the commission, each gas utility shall ~~include as part of its~~  
10 ~~base rates a charge its customers a cost-of-gas adjustment rate~~  
12 ~~that includes~~ reasonable ~~cost~~ costs for the gas which ~~that~~ it  
14 supplies to its firm sales customers who receive uninterrupted  
16 service on a year-round basis. The cost of gas shall ~~include~~  
18 includes the cost of the gas purchased by the company for use in  
20 the State and may include costs directly related to the gas  
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. 2. 35-A MRSA §4703, sub-§2**, as enacted by PL 1987, c.  
24 141, Pt. A, §6, is repealed.

26       **Sec. 3. 35-A MRSA §4703, sub-§§2-A and 2-B** are enacted to read:

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

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

44       **Sec. 4. 35-A MRSA §4703, sub-§3**, as enacted by PL 1987, c.  
46 141, Pt. A, §6, is amended to read:

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

2 adjustment, pursuant to rules promulgated adopted by the  
3 commission under this section, provided except that the  
4 commission may credit against the cost of gas any and all profits  
5 received by the gas utility from sales of gas to interruptible  
6 customers to the extent that the revenues exceed the actual costs  
7 of the interruptible sales.

8 **Sec. 5. 35-A MRSA §4703, sub-§4, as enacted by PL 1987, c.**  
9 **141, Pt. A, §6, is repealed.**

10 **Sec. 6. 35-A MRSA §§4706 and 4707 are enacted to read:**

11 **§4706. Cost-of-distribution adjustment**

12 Subject to approval by the commission, a gas utility is  
13 authorized to charge all firm customers served on its  
14 distribution system a cost-of-distribution adjustment charge,  
15 pursuant to rules adopted by the commission under this section,  
16 which may include prudently incurred stranded costs that arise  
17 due to a gas utility offering transportation service and that are  
18 not included in its base rates or the cost-of-gas adjustment  
19 charge. Rules adopted pursuant to this section are routine  
20 technical rules as defined in Title 5, chapter 375, subchapter  
21 II-A.

22 **§4707. Commission authority to promote natural gas utility**  
23 **efficiency**

24 1. Rate adjustment mechanisms. This Title may not be  
25 construed to prohibit the commission from or to restrict the  
26 commission in establishing or authorizing any reasonable rate  
27 adjustment mechanisms to promote efficiency in natural gas  
28 utility operations and least-cost planning. Rate adjustment  
29 mechanisms may include, but are not limited to:

30 A. Decoupling of utility profits from utility sales through  
31 revenue reconciliation;

32 B. Reconciliation of actual revenues or costs with  
33 projected revenues or costs, either on a total or per  
34 customer basis;

35 C. Adjustment of revenues based on reconciled, indexed or  
36 forecasted costs; and

37 D. Positive or negative financial incentives for efficient  
38 operations.

39 2. Just and reasonable rates. In determining the  
40 reasonableness of any rate adjustment mechanism established under  
41

2 this chapter, the commission shall apply the standards of section  
301 to ensure that the rates resulting from the implementation of  
4 the mechanisms are just and reasonable.

6 3. Value of utility property. Notwithstanding section 301,  
rate adjustment mechanisms established under this section may be  
8 used to establish the value of the electric utility's property.

10 4. Ratepayer protection. In determining the reasonableness  
of any rate adjustment mechanisms, the commission shall consider  
12 the transfer of the risks associated with the effect of the  
economy and the weather on the utility's sales. To the extent  
14 these risks are transferred from the utility to its customers,  
the commission shall consider in a rate proceeding the effect of  
16 the transfer of risk in determining a utility's allowed rate of  
return.

18 5. Annual report. The commission shall submit to the joint  
standing committee of the Legislature having jurisdiction over  
20 utilities matters an annual report detailing any actions taken or  
proposed to be taken by the commission under this section,  
22 including actions or proposed actions on mechanisms for  
protecting ratepayers from the transfer of risks associated with  
24 rate adjustment mechanisms. The report must be submitted by  
December 31st each year.

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

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

34 B. The utility may enter into contracts for the sale of  
36 natural gas, transmission and distribution services with  
limited or no prior express approval by the commission.

38 The commission shall render its decision in any adjudicatory  
proceeding held for the purposes of authorizing a utility to  
40 implement a program consistent with this subsection within 9  
months of the initiation of the proceeding. In the adjudicatory  
42 proceeding, the commission shall establish the terms and  
conditions under which a program is authorized under this  
44 subsection. As part of a program adopted under this subsection,  
the commission may waive the requirements of section 3101. Any  
46 program authorized under this subsection must be consistent with  
section 3191. The authority granted to the commission under this  
48 subsection is in addition to the authority of the commission  
granted under other provisions of this Title, and nothing in this

2 subsection may be construed to limit the authority of the  
3 commission under any other provision of this Title.

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### SUMMARY

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9 This bill repeals the current requirement that cost-of-gas  
10 adjustment rates be uniform to all gas utility customers and  
11 permits the Public Utilities Commission to approve a rate class  
12 specific cost-of-gas adjustment rate that includes the costs of  
13 gas purchases, other costs directly related to the gas purchased  
14 and cost-of-facilities used to produce and store gas.

14

15 The bill also authorizes the creation of a distribution  
16 adjustment clause under which a gas utility may apply to the  
17 commission to recover prudently incurred costs that are not  
18 included in its base rates or cost-of-gas adjustment.