

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 1276

S.P. 439

In Senate, February 16, 1999

An Act Relating to Utilities and Affiliated Interests.

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

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by President LAWRENCE of York.
Cosponsored by Senator DAGGETT of Kennebec, Representatives: FULLER of Manchester,
GAGNON of Waterville, MADORE of Augusta, MAILHOT of Lewiston, O'BRIEN of
Augusta, TESSIER of Fairfield.

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

2
4 **Sec. 1. 35-A MRSA §707, sub-§3, ¶G,** as enacted by PL 1997, c. 237, §1, is amended to read:

6 G. For any contract or arrangement expected to involve the
8 use by an affiliated interest of utility facilities, or
10 services ~~or intangibles, including good will or use of a~~
12 ~~brand name,~~ the commission shall determine the value of
14 those facilities, or services ~~or intangibles~~. When its
16 facilities, or services ~~or intangibles~~ are used by the
18 affiliated interest, the utility's costs must be charged to
20 and received from the affiliated interest based upon this
22 value. The commission shall also determine the proper
 allocation of costs for shared facilities, or services ~~or~~
 ~~intangibles~~. If the commission is unable to make the value
 determinations required by this paragraph within the time
 limits imposed by paragraph A, the commission may approve
 the contract or arrangement without making the
 determinations, except that the commission shall make the
 determinations within 60 days of approving the contract or
 arrangement.

24 **Sec. 2. 35-A MRSA §713,** as enacted by PL 1997, c. 237, §2, is
26 amended to read:

28 **§713. Unregulated business ventures of utilities**

30 A utility may not charge its ratepayers for costs
32 attributable to unregulated business ventures undertaken by the
34 utility or an affiliated interest. The commission shall
36 allocate, between a utility's shareholders and ratepayers, costs
38 for facilities, or services ~~or intangibles, including good will~~
 ~~or use of a brand name,~~ that are shared between regulated and
 unregulated business activities. ~~The commission shall also~~
 ~~attempt to ensure that the utility or the affiliated interest~~
 ~~does not have an undue advantage in any competitive market as a~~
 ~~result of its regulated status or its affiliation with a~~
 ~~regulated utility.~~

40 ~~Complaints by entities competing with a utility or an~~
42 ~~affiliated interest in an unregulated market, alleging that the~~
44 ~~utility or affiliated interest has an undue competitive advantage~~
46 ~~as a result of any relationship with the parent or affiliated~~
48 ~~regulated utility must be adjudicated by the commission. The~~
50 ~~commission shall render a decision on any complaint filed under~~
 ~~this section within 9 months of the date of the filing. The~~
 ~~commission may dismiss without hearing any complaint that it~~
 ~~concludes is clearly intended to harass or delay, is frivolous or~~
 ~~is clearly without merit.~~

2 ~~A complaint filed under this section must specify, to the~~
3 ~~extent possible, the nature and extent of the alleged competitive~~
4 ~~advantage and the basis for the belief that a competitive~~
5 ~~advantage exists. The utility shall respond to the complaint~~
6 ~~within 10 days of receiving notice from the commission of the~~
7 ~~complaint. Within 10 days of receiving the utility's response,~~
8 ~~the commission shall determine whether the complaint is clearly~~
9 ~~intended to harass or delay, is frivolous or is clearly without~~
10 ~~merit.~~

11 For the purposes of this section, the term "affiliated
12 interest" has the same meaning as in section 707, subsection 1,
13 paragraph A.
14

16 SUMMARY

17 This bill removes the requirement that when intangible
18 assets of a utility, including good will or use of a brand name,
19 are used by an affiliated interest of a utility, the utility must
20 be paid by the affiliated interest for the use of those assets.
21 The bill removes the authority of the Public Utilities Commission
22 to do the following:
23

24 1. Allocate between a utility's shareholders and ratepayers
25 costs for intangible assets, including good will or use of brand
26 name, that are shared between regulated and unregulated business
27 activities undertaken by a utility or an affiliated interest;
28

29 2. Attempt to ensure that the utility or the affiliated
30 interest does not have an undue advantage in any competitive
31 market as a result of its regulated status or its affiliation
32 with a regulated utility; and
33

34 3. Act upon complaints by entities competing with a utility
35 or an affiliated interest in an unregulated market, alleging that
36 the utility or affiliated interest has an undue competitive
37 advantage as a result of any relationship with the parent or
38 affiliated regulated utility.