

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

A. 2. 2.

L.D. 2154

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48

DATE: 5-19-99

(Filing No. H-620)

UTILITIES AND ENERGY

Reproduced and distributed under the direction of the Clerk of the House.

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
119TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1509, L.D. 2154, Bill, "An Act to Amend the Electric Industry Restructuring Laws"

Amend the bill in Part A by striking out all of sections 2 and 3 and inserting in their place the following:

'Sec. A-2. 35-A MRSA §101, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

§101. Statement of purpose

The purpose of this Title is to ensure that there is a regulatory system for public utilities in the State which that is consistent with the public interest and with other requirements of law and to provide for reasonable licensing requirements for competitive electricity providers. The basic purpose of this regulatory system is to assure ensure safe, reasonable and adequate service at-rates-which and to ensure that the rates of public utilities are just and reasonable to customers and public utilities.

Sec. A-3. 35-A MRSA §102, sub-§2-A is enacted to read:

2-A. Competitive service provider. "Competitive service provider" means a competitive electricity provider as defined in section 3201, subsection 5.'

Further amend the bill in Part A by striking out all of sections 7 to 10 and inserting in their place the following:

COMMITTEE AMENDMENT

H. & S.

COMMITTEE AMENDMENT "A" to H.P. 1509, L.D. 2154

2 'Sec. A-7. 35-A MRSA §102, sub-§13, as amended by PL 1995, c.
225, §2, is further amended to read:

4 13. Public utility. "Public utility" includes every gas
6 utility, natural gas pipeline utility, electric transmission and
8 distribution utility, telephone utility, water utility, public
10 heating utility and ferry, as those terms are defined in this
12 section, and each of those utilities is declared to be a public
14 utility. "Public utility" does not include the operation of a
radio paging service, as that term is defined in this section, or
mobile telecommunications services unless only one entity or an
affiliated interest of that entity, as defined in section 707,
subsection 1, paragraph A, exclusively controls the use of the
radio frequency spectrum assigned by the Federal Communications
Commission to provide mobile service to the service area.

16 Nothing in this subsection precludes:

18 A. The jurisdiction, control and regulation by the
20 commission pursuant to private and special act of the
Legislature;

22 B. The commission's jurisdiction and control over and
24 regulation of a public utility that provides, in addition to
other services, radio paging service or mobile
26 telecommunications services;

28 C. The commission's jurisdiction and control over and
30 regulation of basic exchange telephone service offered by a
provider of mobile telecommunications services if, after
32 investigation and hearing, the commission determines that
the provider is engaged in the provision of basic exchange
34 telephone service; and

36 D. Negotiations for, or negates agreements or arrangements
existing on the effective date of this paragraph relating
38 to, rates, terms and conditions for interconnection provided
by a telephone utility to a company providing radio paging
or mobile telecommunications services.

40 Sec. A-8. 35-A MRSA §102, sub-§16-A, as enacted by PL 1997, c.
42 710, §3, is amended to read:

44 16-A. Self generation. "Self generation" means the
46 generation of electricity for the use of an entity that owns,
leases, operates, controls or manages, in whole or in part,
48 generation assets, as defined in section 3201, subsection 10,
provided that the electricity is not transmitted over
transmission and distribution plant, as defined in section 3201,
50 subsection 18 20-A.

COMMITTEE AMENDMENT

A. & S.

COMMITTEE AMENDMENT "A" to H.P. 1509, L.D. 2154

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48
50

Sec. A-9. 35-A MRSA §102, sub-§§20-A and 20-B are enacted to read:

20-A. Transmission and distribution plant. "Transmission and distribution plant" means all real estate, fixtures and personal property owned, controlled, operated or managed in connection with or to facilitate the transmission, distribution or delivery of electricity for light, heat or power for public use and includes all conduits, ducts and other devices, materials, apparatus and property for containing, holding or carrying conductors used, or to be used, for the transmission or distribution of electricity for light, heat or power for public use.

20-B. Transmission and distribution utility. "Transmission and distribution utility" means a person, its lessees, trustees or receivers or trustees appointed by a court, owning, controlling, operating or managing a transmission and distribution plant for compensation within the State, except where the electricity is distributed by the entity that generates the electricity through private property alone solely for that entity's own use or the use of the entity's tenants and not for sale to others.

Sec. A-10. 35-A MRSA §103, sub-§2, ¶C is enacted to read:

C. The commission shall oversee the activities of competitive service providers to the extent provided in this Title.

Sec. A-11. 35-A MRSA §109, sub-§1, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

1. Public utilities. No A member or employee of the commission shall may not:

A. Have any official or professional connection or relation with any public utility or competitive service provider operating within this State;

B. Hold any stock or securities in any public utility or competitive service provider operating within this State;

C. Render a professional service against any such public utility or competitive service provider; or

D. Be a member of a firm which that renders service against any such public utility or competitive service provider.

COMMITTEE AMENDMENT

2 **Sec. A-12. 35-A MRSA §115, sub-§3**, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

4 **3. Forfeitures and penalties.** The Unless otherwise
6 provided, the following provisions apply to forfeitures and penalties.

8 A. A complaint for the recovery of a forfeiture or penalty may be made by the commission or one of its members.

10 B. A suit to recover any forfeiture or penalty may be
12 brought in the name of the State in the Superior Court in
14 the county where the main office of the public utility is located or in Kennebec County.

16 C. An action commenced by the commission shall must be
18 prosecuted by the Attorney General.'

20 Further amend the bill by striking out all of sections 19 to 30 and inserting in their place the following:

22 '**Sec. A-19. 35-A MRSA §1316**, as amended by PL 1987, c. 769, Pt. A, §137, is further amended to read:

24 **§1316. Testimony presented by employees of public utilities or**
26 **competitive service providers to legislative committees**
28 **and to the Public Utilities Commission**

30 **1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

32 A. "Employee" means a person who performs a service for
34 wages or other remuneration under a contract of hire, expressed or implied, but does not include an independent contractor.

36 B. "Employer" means a public utility or competitive service
38 provider licensed to do business in this State with one or more employees.

40 C. "Legislative committee" means a joint standing committee
42 or a joint select committee of the Legislature, a task force, commission or council or any other committee
44 established by the Legislature and composed wholly or partly
46 of Legislators for the purpose of conducting legislative business.

48 D. "Own time" means an employee's vacation or personal
50 time, earned as a condition of employment.

R. S.

COMMITTEE AMENDMENT "A" to H.P. 1509, L.D. 2154

2 **2. Right to provide testimony.** ~~Every-employee~~ Employees of
4 a public utility has ~~or competitive service provider~~ have the
right to represent ~~himself~~ themselves and to testify before a
6 legislative committee or the commission on ~~his~~ their own time.
7 ~~No~~ An employee of a public utility ~~or competitive service~~
8 provider who complies with this section may not be denied the
right to testify before a legislative committee or the commission.

10 **3. Discharge of, threats to or discrimination against**
11 **employees of utility service providers for testimony presented to**
12 **legislative committees or the commission.** Unless otherwise
13 provided for, a supervisor may not discharge, threaten or
14 otherwise discriminate against an employee of a public utility ~~or~~
15 competitive service provider regarding the employee's
16 compensation, terms, conditions, location or privileges of
17 employment because the employee, in compliance with this section,
18 in good faith testifies before or provides information to a
19 legislative committee or to the commission regarding the
20 operation of the business of a public utility ~~or competitive~~
21 service provider or because the employee brings the subject
22 matter of the testimony or information to the attention of a
23 person having supervisory authority.

24
25 This subsection does not apply to an employee who has testified
26 before or provided information to a legislative committee or to
27 the commission unless the employee has first brought the subject
28 matter of the testimony or information in writing to the
29 attention of a person having supervisory authority with the
30 employer and has allowed the employer a reasonable time to
31 address the subject matter of the testimony or information. If
32 appropriate, the employer, shall respond in writing.

34 **4. Exceptions.** The protection created in subsection 3 does
35 not apply to testimony ~~which~~ that, upon reasonable inquiry by the
36 employee, would be found to be false, slanderous, libelous or
37 defamatory or to testimony ~~which~~ that violates a term or
38 condition of a collectively bargained agreement or to testimony
39 ~~which~~ that discloses trade secrets or corporate strategy, the
40 disclosure of which would result in harm to the employer.

42 **5. Civil actions for injunctive relief or other remedies.**
43 An employee of a public utility ~~or competitive service provider~~
44 who alleges a violation of ~~his~~ rights under this section and who
45 has made reasonable efforts to exhaust all grievance procedures,
46 as provided for in the contract of employment or which otherwise
47 may be available at ~~his~~ the employee's place of employment, may
48 bring a civil action, including an action for injunctive relief,
49 within 90 days after the occurrence of that alleged violation or
50 after the grievance procedure or similar process terminates. The

A. 2. 3.

COMMITTEE AMENDMENT "A" to H.P. 1509, L.D. 2154

2 action may be brought in the Superior Court for the county where
the alleged violation occurred, the county where the complainant
4 resides or the county where the person against whom the civil
complaint is filed resides. An employee must establish each and
6 every element of his the employee's case by a preponderance of
the evidence.

8 **6. Remedies ordered by court.** A court, in rendering a
judgment in an action brought pursuant to this section, may order
10 reinstatement of the employee, the payment of back wages, full
reinstatement of fringe benefits and seniority rights or any
12 combination of these remedies. A court may also award the
prevailing party all or a portion of the costs of litigation,
14 including reasonable attorneys' fees and witness fees, if the
court determines that the award is appropriate.

16 **7. Collective bargaining rights.** This section does not
diminish or impair the rights of a person under any collective
18 bargaining agreement.

20 **8. Jury trial; common-law rights.** Any action brought under
this section may be heard by a jury. Nothing in this section
22 derogates any common-law rights of an employee or employer.

24 **Sec. A-20. 35-A MRSA §1321,** as amended by PL 1995, c. 226,
26 §4, is further amended to read:

28 **§1321. Orders altered or amended**

30 The commission may at any time rescind, alter or amend any
order it has made including an order fixing any rate or rates,
32 tolls, charges or schedules of a public utility or an order
relating to matters within the jurisdiction of the commission
34 with respect to a competitive service provider only if it gives
the public utility or competitive service provider and all
36 parties to the original proceeding, to the extent practical,
written notice and after opportunity for those parties to present
38 evidence or argument, as determined appropriate by the
commission. Certified copies of amended orders must be served
40 and take effect as provided for original orders. Nothing in this
section is intended to grant to the commission authority to
42 establish or approve the rates charged by competitive service
providers.

44 **Sec. A-21. 35-A MRSA §1322,** as enacted by PL 1987, c. 141,
46 Pt. A, §6, is amended to read:

48 **§1322. Orders temporarily suspended, altered or amended**

1. **Orders temporarily amended.** When the commission finds it necessary to prevent injury to a public utility's business or to the interest of the people, or if the commission finds there is an emergency, it may temporarily alter, amend or, with the public utility's consent, suspend existing rates, schedules or orders affecting any the public utility. When the commission finds it necessary to prevent injury to a competitive service provider's business or to the interest of the people, or if the commission finds there is an emergency, it may temporarily alter, amend or, with the competitive service provider's consent, suspend existing orders affecting the competitive service provider.

2. **Rates.** Rates made under this section shall:

A. Apply to one or more of the public utilities in the State or to any part of them as the commission directs; and

B. Take effect and remain in force as the commission prescribes.

3. Limitation of authority. Nothing in this section is intended to grant the commission authority to establish or approve the rates charged by competitive service providers.

Sec. A-22. 35-A MRSA §1702, sub-§1, ¶B, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

B. The reasonableness and adequacy of the service furnished or proposed to be furnished by any public utility or competitive service provider;

Sec. A-23. 35-A MRSA §1702, sub-§3, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

3. Petition to initiate proceedings. The Public Advocate may petition the commission to initiate proceedings to review, investigate and take appropriate action with respect to the rates or service of any public utility or competitive service provider when determined necessary by the Public Advocate.

Sec. A-24. 35-A MRSA §1702, sub-§5, as amended by PL 1989, c. 660, is further amended to read:

5. Intervention on behalf of public. The Public Advocate may, on behalf of the using and consuming public, or any particular group of consumers, petition to initiate, or intervene and appear in, any proceedings before the commission, appeals from orders of the commission, or proceedings before state and federal agencies and courts in which the subject matter of the

2 action affects the customers of any utility or competitive
3 service provider doing business in this State, except that the
4 Public Advocate may not intervene in any proceeding in which the
5 commission staff is representing a position substantially similar
6 to that of the Public Advocate, as determined by the Public
7 Advocate.'

8 Further amend the bill in Part A by striking out all of
9 section 32 and inserting in its place the following:

10 'Sec. A-32. 35-A MRSA §1709, as enacted by PL 1987, c. 141,
11 Pt. A, §6, is amended to read:

12 **§1709. Conflicts of interest**

13 In addition to the limitations of Title 5, section 18, the
14 Public Advocate or any employee of the Public Advocate may not
15 have any official or professional connection or relation with, or
16 hold any stock or securities in, any public utility or
17 competitive service provider operating within this State; render
18 any professional service against any such public utility or
19 competitive service provider; or be a member of a firm which that
20 renders any such service.'

21 Further amend the bill in Part A by striking out all of
22 section 47 and inserting in its place the following:

23 'Sec. A-47. 35-A MRSA §3102, as amended by PL 1987, c. 490,
24 Pt. A, §4, is further amended to read:

25 **§3102. Recovery of cost of canceled or abandoned electric**
26 **generating facility or transmission or distribution plant**

27 1. **Determining rate-making treatment.** In determining the
28 rate-making treatment for a utility's investment in a canceled or
29 abandoned electric generating ~~facilities~~ facility or transmission
30 or distribution plant, the commission shall balance the interests
31 of the utility and ratepayers in a just and reasonable manner in
32 each individual case. The commission may not permit a utility to
33 recover in rates any costs incurred imprudently in relation to an
34 investment in a canceled or abandoned electric generating
35 facility or transmission or distribution plant.

36 2. **Canceled or abandoned generating facility or**
37 **transmission or distribution plant.** As used in this section, the
38 term "canceled or abandoned generating ~~facilities~~ facility or
39 transmission or distribution plant" means any electric generating
40 facility or transmission or distribution plant canceled or
41 abandoned by the owner or by the joint participants in the
42

2 facility in accordance with the terms of applicable agreements or
otherwise.

4 ~~3. -- Exception. -- This section does not apply to any canceled
or abandoned electric generating facility for which the
6 commission has authorized a recovery of any portion of the costs
of that facility from ratepayers prior to July 25, 1984.~~

8 ~~4. -- This section not intended to indicate preference.
Neither anything in this section nor the repeal of section 52-A
10 of former Title 35 is intended to indicate a preference for any
particular rate-making treatment of a utility's investment in a
12 canceled or abandoned plant and the manner of the recovery, if
any, of the investment shall be left to the commission's
14 discretion.~~

16 ~~5. -- Canceled plant recovery filing fee. -- Any utility
18 requesting recovery in rates of its investment in a canceled or
abandoned electric generating facility shall pay to the
20 commission a filing fee of \$150,000 for each facility. The
utility may request the commission to waive all or a portion of
22 the filing fee. The commission shall rule on the request for
waiver within 30 days. Filing fees paid as required in this
24 section shall be segregated, apportioned and expended by the
commission for the purposes of this section. Any portion of the
26 filing fee that is received from any utility and is not expended
by the commission for the purposes of this section shall be
28 returned to the utility.'~~

30 Further amend the bill in Part A in section 49 in that part
designated "§3131." in subsection 1 in the 3rd line (page 19,
32 line 26 in L.D.) by striking out the following: "generate," and
inserting in its place the following: 'generate,'

34 Further amend the bill in Part A in section 62 in that part
36 designated "§3153-A." in subsection 1 by striking out all of
paragraph E (page 38, lines 18 to 26 in L.D.) and inserting in
38 its place the following:

40 'E. Electric Transmission and distribution utility
42 financing or subsidization of capital improvements
undertaken by ratepayers to conserve electricity used by the
ratepayers in the future. ~~The commission may approve and~~
44 ~~allow cost recovery for proposals that result in savings in~~
fuel other than electricity. This paragraph applies to
46 future programs for utility financing of energy conservation
or load management ~~and to programs that the commission has~~
48 ~~already approved prior to September 29, 1987 as long as the~~
goal of such programs is to economically defer or eliminate
50 the need for transmission and distribution plant upgrades.

A. d. S.

COMMITTEE AMENDMENT "A" to H.P. 1509, L.D. 2154

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48
50

In addition to programs undertaken pursuant to this paragraph, programs may be undertaken pursuant to section 3211 to achieve goals other than that identified in this paragraph;

Further amend the bill in Part A by striking out all of section 66 and inserting in its place the following:

'Sec. A-66. 35-A MRSA §3154, sub-§7, as enacted by PL 1991, c. 769, §1 and affected by §3, is amended to read:

7. **Interruptible rates.** In any general rate design case pending on or initiated after April 1, 1992, the commission, upon request, shall determine interruptible rates consistent with and by reference to its determination of utility transmission and distribution capacity costs. Interruptible rates must be designed so as to encourage the long-term availability of interruptible resources, including interruptible options for all customer classes.'

Further amend bill in Part A by striking out all of section 72 and inserting in its place the following:

'Sec. A-72. 35-A MRSA §3181, as enacted by PL 1987, c. 141, Pt. A, §6, is repealed.'

Further amend the bill in Part A by striking out all of section 76 and inserting in its place the following:

'Sec. A-76. 35-A MRSA §3201, sub-§§3 and 13, as enacted by PL 1997, c. 316, §3, are amended to read:

3. **Aggregator.** "Aggregator" means an entity that gathers individual ~~customers~~ consumers together for the purpose of purchasing electricity.

13. **Marketer.** "Marketer" means an entity that as an intermediary purchases electricity and takes title to electricity for sale to retail ~~customers~~ consumers.

Sec. A-77. 35-A MRSA §3201, sub-§§18 and 19, as enacted by PL 1997, c. 316, §3, are repealed.

Sec. A-78. 35-A MRSA §3203, sub-§13-A is enacted to read:

13-A. Investigation. The commission may investigate any matter relating to the provision of service by a competitive electricity provider pursuant to this chapter. In conducting an investigation under this subsection, the commission shall use the procedures established under section 1303, subsection 2.

COMMITTEE AMENDMENT

2 **Sec. A-79. 35-A MRSA §3203, sub-§18** is enacted to read:

4 **18. Confidentiality of consumer information.** Information
6 concerning customers of a competitive electricity provider is
8 subject to the same confidentiality protections afforded utility
10 customer information under section 704, subsection 5.

12 **Sec. A-80. 35-A MRSA §3301**, as enacted by PL 1987, c. 141,
14 Pt. A, §6, is repealed.'

16 Further amend the bill in Part A by striking out all of
18 sections 79 to 82 and inserting in their place the following:

20 '**Sec. A-79. 35-A MRSA §3305, sub-§§1 and 3**, as enacted by PL
22 1987, c. 141, Pt. A, §6, are repealed.

24 **Sec. A-80. 35-A MRSA §3306**, as amended by PL 1987, c. 490,
26 Pt. A, §7, is further amended to read:

28 **§3306. Transactions**

30 1. **Rate.** The small power producer or cogenerator and the
32 ~~electric~~ transmission and distribution utility shall determine
34 the rate paid by the ~~electric~~ transmission and distribution
36 utility for the purchase of electricity as described in this
38 section.

40 2. **Small power producer or cogenerator and public utility**
42 **unable to agree.** In the event that the small power producer or
44 cogenerator and the ~~electric~~ transmission and distribution
46 utility are unable to agree to a contract for electricity, or to
a price for the electricity purchased by the utility, or to an
equitable apportionment of existing transmission and distribution
line improvement costs, the commission shall require the utility
to purchase the power at such rates and under such terms as the
commission establishes by rule or order.

48 3. **Competing petitions filed by small power producers.** In
the event competing petitions are filed by small power producers
or cogenerators ~~which~~ that are otherwise equivalent with respect
to the standards set forth in ~~former~~ former section 3307, and
implementing rules ~~premulgated~~ adopted by the commission, the
commission may give preference to any facility that is fueled
primarily by municipal solid waste.

50 4. **Apportionment of transmission and distribution line**
improvement costs. The commission shall base the equitable
apportionment of existing transmission and distribution line
improvement costs upon the benefits to the small power producer

2 or cogenerator and the electric transmission and distribution
3 utility.

4 5. **Commission decision on petition.** The commission shall
5 issue a decision within 6 months from receipt of a petition
6 signed by a small power producer, cogenerator or electric
7 transmission and distribution utility for commission intercession.

8 6. **Filing fee.** The petitioner or petitioners requesting
9 commission intercession shall pay to the commission an amount
10 equal to \$1,000 per megawatt of capacity of the facility in
11 issue. The petitioner or petitioners may request the commission
12 to waive all or part of the filing fee. The commission shall
13 rule on the request for waiver within 30 days. ~~Notwithstanding~~
14 ~~any other provision of law, filing~~ Filing fees paid as required
15 in this subsection shall must be segregated, apportioned and
16 expended by the commission for the purposes of this section. Any
17 portion of the filing fee that is received from any petitioner or
18 petitioners and is not expended by the commission to process the
19 request for intercession shall must be returned to the petitioner
20 or petitioners.

21 **Sec. A-81. 35-A MRSA §3307**, as enacted by PL 1987, c. 141,
22 Pt. A, §6, is repealed.

23 **Sec. A-82. 35-A MRSA §3308**, as enacted by PL 1987, c. 141,
24 Pt. A, §6, is amended to read:

25 **§3308. Energy and capacity purchases from small power producers**
26 **and cogenerators by transmission and distribution utilities**
27 **affected by the filing of a petition in bankruptcy or for**
28 **reorganization**

29 1. **Establishment of a purchase price for energy or energy**
30 **and capacity delivered to a trustee or reorganized utility.** If
31 ~~an electric~~ a transmission and distribution utility ~~which that~~
32 has entered into a power purchase contract with a small power
33 producer or cogenerator for the purchase of energy or energy and
34 capacity pursuant to former section 3305, subsection 1 or section
35 3306, files for bankruptcy or for reorganization under the
36 bankruptcy laws of the United States and, if the trustee in
37 bankruptcy or debtor, receiver, examiner or any other party in
38 possession and control of the assets of the electric transmission
39 and distribution utility rejects that power purchase contract
40 pursuant to the United States Bankruptcy Code or any similar
41 power or law, the trustee, debtor, receiver, examiner or other
42 party in possession and control of the assets of the electric
43 transmission and distribution utility ~~shall-be~~ is obligated to
44 continue to purchase without interruption from the small power
45 producer or cogenerator whose contract was rejected any energy or
46
47
48
49
50

energy and capacity which that the small power producer or
cogenerator makes available to it. If the power purchase
contract is rejected, the avoided cost for the energy, or energy
and capacity for the time period commencing on the date of the
rejection and ending on the original expiration date of the
rejected contract shall must be the avoided cost determined for
the period as if the determination were being made on the date on
which the electric transmission and distribution utility and
small power producer or cogenerator entered into the rejected
contract.

2. Nature of capacity contract. If a small power producer
or cogenerator contracts to provide an-electric a transmission
and distribution utility with electric generating capacity, that
portion of the power purchase contract which that requires the
delivery of the capacity shall may not be executory in nature
under the laws of the State once the small power producer or
cogenerator has first made available to the electric transmission
and distribution utility the electric generating capacity. This
section shall may not be interpreted to mean that any other
sections of such a contract are executory in nature.

3. Commission approval of rates of reorganized utility. At
any time that the commission is requested or required to approve
rates for an-electric a transmission and distribution utility
which that has rejected a power purchase contract with a small
power producer or cogenerator as a result of a bankruptcy or
reorganization proceeding, or to approve rates of a person
controlling and in possession of the assets of an-electric a
transmission and distribution utility which that was a party to
such a rejected contract, it shall may not grant any rate
approval, unless the electric transmission and distribution
utility or person seeking the rates includes within the rates
provision for payment for all energy and capacity made available
by a small power producer or cogenerator, either at the original
contract rate or at the rate specified in subsection 1.

Any person who is obligated to comply with this section may
not be permitted to operate as an-electric a transmission and
distribution utility in the State, unless it is in full
compliance with this section.

Sec. A-83. 35-A MRSA §3309, as enacted by PL 1993, c. 712,
§7, is amended to read:

**§3309. Performance of contracts; commercially reasonable business
practices**

In the performance or enforcement of any contract for the
purchase of energy resources by an-electric a transmission and

2 distribution utility, all parties shall act in good faith and
observe reasonable commercial standards of fair dealing.
4 Conformance to this standard does not constitute imprudent
utility behavior.'

6 Further amend the bill in Part A in section 86 by striking
out all of the first 2 lines (page 49, lines 49 and 50 in L.D.)
8 and inserting in its place the following:

10 'Sec. A-86. 35-A MRSA §3503, as amended by PL 1999, c. 102,
§1, is further amended to read:'

12
14 Further amend the bill in Part A in section 86 in that part
designated "§3503." in subsection 5 by striking out all of
16 paragraph C and inserting in its place the following:

18 'C. For consumer-owned ~~electric~~ transmission and
distribution utilities, except rural electrification
20 cooperatives:

22 (1) To provide each year a sum equal to not less than
2% nor more than 10% of the term indebtedness
24 represented by the issuance of bonds created or assumed
by the utility, which sum must be turned into a sinking
26 fund and kept to provide for the extinguishment of term
indebtedness. The money set aside in this sinking fund
28 and all interest accrued to this fund must be devoted
to the retirement of the term obligations of the
30 utility and may be invested in such securities as
savings banks in the State are allowed to hold;

32 (2) To provide for annual principal payments on serial
indebtedness created or assumed by the utility; and

34 (3) To provide for a contingency reserve fund, 1/2 of
36 which may be used for capital purposes, to reflect up
to a 25% addition to yearly revenues over the amount
38 required to operate the ~~electric~~ utility, not including
purchased power supply costs, if any. Any surplus in
40 excess of this 25% must be used to offset future
revenue requirements in the setting of rates. Any
42 interest generated on these funds must be deposited
into the contingency reserve fund. The balance in the
44 contingency reserve fund at the close of the utility's
fiscal year may not exceed 25% of the yearly revenues
46 over the amount required to operate the ~~electric~~
utility, not including purchased power supply costs, if
48 any; and'

A. & S.

COMMITTEE AMENDMENT "A" to H.P. 1509, L.D. 2154

2 Further amend the bill in Part A by inserting after section
101 the following:

4 'Sec. A-102. 36 MRSA §6652, sub-§1-C, §§B, C and D, as enacted
6 by PL 1997, c. 729, Pt. B, §2, are amended to read:

8 B. Except as provided in paragraph C, reimbursement may not
10 be made for property used to produce or transmit energy
12 primarily for sale. Energy is primarily for sale if 2/3 or
14 more of the useful energy is directly or indirectly sold and
transmitted during the property tax year through the
facilities of a transmission and distribution utility as
defined in Title 35-A, section ~~3201~~ 102, subsection ~~19~~ 20-B.

16 C. A cogeneration facility is eligible for reimbursement on
18 that portion of property taxes paid multiplied by a
fraction, the numerator of which is the total amount of
20 useful energy produced by the facility that is directly used
22 by a manufacturing facility without transmission over the
facilities of a transmission and distribution utility as
24 defined in Title 35-A, section ~~3201~~ 102, subsection ~~19~~ 20-B
and the denominator of which is the total amount of useful
energy produced.

26 D. For purposes of this subsection, unless the context
28 indicates otherwise, the following terms have the following
meanings.

30 (1) "Cogeneration facility" means the eligible
32 property within a facility that produces electrical
34 energy, thermal energy or both for commercial or
36 industrial use when less than 2/3 of the useful energy
produced by the facility during the property tax year
is sold and transmitted directly or indirectly through
the facilities of a transmission and distribution
38 utility, as defined in Title 35-A, section ~~3201~~ 102,
subsection ~~19~~ 20-B. "Cogeneration facility" includes
eligible property within a heat recovery steam
generator.

40 (2) "Useful energy" is energy in any form that does
42 not include waste heat, efficiency losses, line losses
44 or other energy dissipation.'

46 **Sec. A-103. Application.** This Part is not intended to affect
48 the calculation of a transmission and distribution utility's
stranded costs pursuant to the Maine Revised Statutes, Title
35-A, section 3208.'

COMMITTEE AMENDMENT

Further amend the bill in Part B in section 1 by striking out all of subsection 5 and inserting in its place the following:

'5. International transmission contracts. Notwithstanding section 3204, transmission and distribution utilities, including consumer-owned utilities, that operate or manage a portion of the grid connected to the New England grid by transmission lines that pass through Canada may enter into commercially reasonable contracts with Canadian electric utilities for the purchase of back-up services, tie-line interruption services, ancillary services, transmission services or any other service that promotes effective retail electric competition in northern Maine. The transmission and distribution utilities shall make all such contract services available to competitive electricity providers at cost, on an equitable basis. Commission approval of such contracts is not required. Nothing in this subsection exempts from commission jurisdiction utility operations or activities undertaken pursuant to such contracts.'

Further amend the bill in Part C in section 1 in subsection 1 in the first line (page 57, line 32 in L.D.) by striking out the following: "electric" and inserting in its place the following: 'electric transmission and distribution'

Further amend the bill in Part D in section 1 in subsection 4 in the last line (page 59, line 3 in L.D.) by striking out the following: "2000" and inserting in its place the following: '2001'

Further amend the bill in Part E in section 1 by striking out all of subsection 6 and inserting in its place the following:

'6. Exception. Notwithstanding any other provision of this chapter, an electric utility whose system is not physically connected to any transmission and distribution utility is exempt from this chapter. The commission shall ensure that such an electric utility's rates, including consideration of generation-related costs, are just and reasonable.'

Further amend the bill by inserting after Part F the following:

·PART G

Sec. G-1. 35-A MRSA §3205, sub-§3, ¶H, as enacted by PL 1997, c. 316, §3, is amended to read:

H. A distribution utility shall keep a log of all requests for information made by the affiliated competitive provider and nonaffiliated competitive electricity providers and the

A. d. S.

2 date of the response to such requests and shall keep a log
of any other transactions between the distribution utility
4 and the affiliated provider that the commission may by rule
require. The log is subject to periodic review by the
6 commission. The commission shall establish categories of
requests for information and shall specify which categories,
8 if any, are sufficiently trivial to be exempt from the log
requirements imposed under this paragraph.

10 **Sec. G-2. 35-A MRSA §3205, sub-§3, ¶Q is enacted to read:**

12 Q. A distribution utility may not subsidize the business of
14 its affiliated competitive provider at ratepayer expense in
any manner not specifically authorized under this section.

16 **Sec. G-3. 35-A MRSA §3205, sub-§§5 to 7, as enacted by PL 1997,**
18 **c. 316, §3, are repealed.**

20 **Sec. G-4. 35-A MRSA §3206-A is enacted to read:**

22 **§3206-A. Marketing; investor-owned utilities; penalties**

24 1. Penalties. The commission shall require an
investor-owned transmission and distribution utility to divest an
affiliated competitive provider if the commission determines in
26 an adjudicatory proceeding that:

28 A. The distribution utility or an affiliated competitive
provider has knowingly violated section 3205 or section 3206
30 or any rule adopted by the commission pursuant to those
sections; and

32 B. The violation resulted or had the potential to result in
34 substantial injury to retail consumers of electric energy or
to the competitive retail market for electric energy.

36 The commission may impose administrative penalties of up to
38 \$100,000 for a violation of section 3205 or section 3206 or any
rule adopted by the commission pursuant to those sections. Each
40 day of a violation constitutes a separate offense. In addition,
the commission may require disgorgement of profits or revenues
42 realized as a result of a violation of section 3205 or section
3206 or any rule adopted by the commission pursuant to those
44 sections. Penalties collected by the commission under this
section must be deposited in the Public Utilities Commission
46 Reimbursement Fund under section 117.

48 2. Prohibition; divestiture. If, after the effective date
of this section, 10% or more of the stock of an investor-owned
50 transmission and distribution utility is purchased by an entity:

2 A. The purchasing entity and any related entity may not
3 sell or offer for sale generation service to any retail
4 consumer of electric energy in this State; and

6 B. If, in an adjudicatory proceeding, the commission
7 determines that an affiliated competitive provider obtains
8 an unfair market advantage as a result of the purchase, the
9 commission shall order the investor-owned transmission and
10 distribution utility to divest the affiliated competitive
11 provider.

12 If the commission orders a divestiture pursuant to this
13 subsection, the distribution utility must complete the
14 divestiture within 12 months of the order to divest, unless the
15 commission grants an extension. Upon application by the
16 distribution utility, the commission may grant an extension for
17 the purpose of permitting the utility to complete a divestiture
18 that has been initiated in good faith but not finalized within
19 the 12-month period. The commission shall oversee and approve a
20 divestiture in accordance with rules adopted pursuant to
21 subsection 4.

22 3. Effect of divestiture. If the commission orders an
23 investor-owned transmission and distribution utility to divest an
24 affiliated competitive provider pursuant to this section, the
25 investor-owned transmission and distribution utility may not have
26 an affiliated interest in a competitive electricity provider
27 after the divestiture.

28 As used in this section, the term "affiliated competitive
29 provider" means a competitive electricity provider whose
30 relationship with an investor-owned transmission and distribution
31 utility qualifies it as an affiliated interest.

32 Sec. G-5. Modification of rules. The Public Utilities
33 Commission shall modify its major substantive rule, Chapter 304:
34 Standard of Conduct for Transmission and Distribution Utilities
35 and Affiliated Competitive Electricity Providers, as follows to
36 bring it into conformity with the changes to law accomplished
37 pursuant to this Part:

38 1. Add a provision providing that an investor-owned electric
39 utility may not subsidize the business of its affiliated
40 competitive provider at ratepayer expense in a manner not
41 specifically authorized by the Maine Revised Statutes, Title
42 35-A, section 3205; and

43 2. Modify the penalty provisions to increase the
44 administrative penalties from a maximum of \$10,000 to a maximum
45 of \$20,000.

11.05

COMMITTEE AMENDMENT "A" to H.P. 1509, L.D. 2154

2 of \$100,000 and provide for disgorgement of profits in addition
to the administrative penalty for violations of the standards of
conduct.

4
6 The Public Utilities Commission is not required to hold
hearings or conduct other formal proceedings to modify its major
substantive rule in accordance with this section and such
8 modifications do not require review or approval of the
Legislature prior to becoming effective.

10
12

PART H

14 **Sec. H-1. 2 MRSA §6-A, sub-§1**, as amended by PL 1985, c. 693,
§§2 and 14 and c. 737, Pt. C, §5, is further amended to read:

16
18 1. **Chair.** The salary of the ~~ehairman~~ chair of the
commission ~~shall be within salary range 91, step G, for fiscal~~
20 ~~year 1987, and salary range 91, step H, for fiscal year 1988, and~~
annually thereafter is equal to the salary of the Chief Justice
22 of the Superior Court as established pursuant to Title 4, section
4, subsection 2-A and section 102, subsection 1.

24 **Sec. H-2. 2 MRSA §6-A, sub-§2**, as repealed and replaced by PL
1987, c. 402, Pt. A, §5, is amended to read:

26
28 2. **Commission members.** The salary of members of the
commission ~~shall be within salary range 90, step G, for fiscal~~
30 ~~year 1987, and salary range 90, step H, for fiscal year 1988, and~~
annually thereafter is equal to the salary of an Associate
32 Justice of the Superior Court as established pursuant to Title 4,
section 102, subsections 2 and 2-A.

34 **Sec. H-3. Allocation.** The following funds are allocated from
Other Special Revenue funds to carry out the purposes of this
36 Part.

	1999-00	2000-01
40 PUBLIC UTILITIES COMMISSION		
42 Public Utilities - Administrative		
44 Division		
Personal Services	\$52,394	\$78,216
46 All Other	(52,394)	(78,216)
48 Deallocation funds from a		
50 reduction in All Other costs		
to provide an allocation for		

COMMITTEE AMENDMENT

A.d.s.

COMMITTEE AMENDMENT "A" to H.P. 1509, L.D. 2154

2 an increase in the salary of
the chair and commission
4 members of the Public
Utilities Commission.

6 PUBLIC UTILITIES COMMISSION
TOTAL \$0 \$0

10 PART I

12 Sec. I-1. 35-A MRSA §3210, sub-§1, as enacted by PL 1997, c.
14 316, §3, is amended to read:

16 1. Policy. In order to ensure an adequate and reliable
supply of electricity for Maine residents and to encourage the
18 use of renewable, efficient and indigenous resources, it is the
policy of this State to encourage the generation of electricity
20 from renewable and efficient sources and to diversify electricity
production on which residents of this State rely in a manner
consistent with this section.

22 Sec. I-2. 35-A MRSA §3210, sub-§2, as enacted by PL 1997, c.
24 316, §3, is repealed and the following enacted in its place:

26 2. Definitions. As used in this section, unless the
context otherwise indicates, the following terms have the
28 following meanings.

30 A. "Efficient resource" means a source of electrical
generation that:

32 (1) Qualifies as a qualifying cogeneration facility
34 under the Federal Energy Regulatory Commission rules,
18 Code of Federal Regulations, Part 292, Subpart B, as
36 in effect on January 1, 1997, was constructed prior to
January 1, 1997 and meets the following efficiency
38 standard:

40 (a) During any calendar year, the sum of the
useful power output and the useful thermal energy
42 output of the facility is no less than 60% of the
total energy input to the facility.

44 For purposes of this paragraph, the term "useful power
46 output" means the electrical or mechanical energy made
available for use, exclusive of any energy used in the power
48 production process. For purposes of this paragraph, the
term "useful thermal energy" means thermal energy made
50 available to an industrial or commercial process, net of any

COMMITTEE AMENDMENT

2 heat contained in condensate return and makeup water, used
3 in a heating application or used in a space cooling
4 application.

6 B. "Eligible resource" means a source of electrical
7 generation that:

8 (1) Generates power that can physically be delivered to
9 the control region in which the New England Power Pool,
10 or its successor as approved by the Federal Energy
11 Regulatory Commission, has authority over transmission,
12 or to the Maritimes Control Area; and

14 (2) Is either a renewable resource or an efficient
15 resource.

16 C. "Renewable resource" means a source of electrical
17 generation:

18 (1) That qualifies as a small power production
19 facility under the Federal Energy Regulatory Commission
20 rules, 18 Code of Federal Regulations, Part 292,
21 Subpart B, as in effect on January 1, 1997; or

22 (2) Whose total power production capacity does not
23 exceed 100 megawatts and that relies on one or more of
24 the following:

25 (a) Fuel cells;

26 (b) Tidal power;

27 (c) Solar arrays and installations;

28 (d) Wind power installations;

29 (e) Geothermal installations;

30 (f) Hydroelectric generators;

31 (g) Biomass generators; or

32 (h) Generators fueled by municipal solid waste in
33 conjunction with recycling.

34 **Sec. I-3. 35-A MRSA §3210, sub-§§3 and 4, as enacted by PL**
35 **1997, c. 316, §3, are amended to read:**

36 **3. Portfolio requirements.** As a condition of licensing
37 pursuant to section 3203, each competitive electricity provider
38

2 in this State must demonstrate in a manner satisfactory to the
3 commission that no less than 30% of its portfolio of supply
4 sources for retail electricity sales in this State are is
5 accounted for by renewable eligible resources. If a competitive
6 electricity provider represents to a customer that the provider
7 is selling to the customer a portfolio of supply sources that
8 includes more than 30% eligible resources, the resources
9 necessary to supply more than 30% of that customer's load may not
10 be applied to meet the aggregate 30% portfolio requirement. By
11 January 1, 1999, the commission shall provisionally adopt rules
12 establishing reasonable procedures for implementing this
13 requirement. Rules adopted under this subsection are major
14 substantive rules pursuant to Title 5, chapter 375, subchapter
15 II-A.

16 **4. Report.** In view of property tax benefits, developments
17 in other states and the development of a market for tradable
18 credits for satisfying renewable eligible resource requirements,
19 the commission shall review the 30% portfolio requirement and
20 make a recommendation for any change to the joint standing
21 committee of the Legislature having jurisdiction over utilities
22 and energy matters no later than 5 years after the beginning of
23 retail competition.

24 **Sec. I-4. Modification of rules.** The Public Utilities Commission
25 shall modify its major substantive rule, Chapter 311: Renewable
26 Resource Portfolio Requirement, as follows to bring it into
27 conformity with the changes to law accomplished pursuant to this
28 Part:

29 1. Change the renewable resources portfolio requirement to
30 an eligible resources portfolio requirement;

31 2. Change the definition of "renewable resource" to conform
32 with the definition of that term provided in the Maine Revised
33 Statutes, Title 35-A, section 3210, subsection 2, paragraph C;

34 3. Add a definition of "efficient resource" that conforms
35 with the definition of that term provided in Title 35-A, section
36 3210, subsection 2, paragraph A; and

37 4. Insert a provision that if a competitive electricity
38 provider represents to a customer that the provider is selling to
39 the customer a portfolio of supply sources that includes more
40 than 30% eligible resources, the resources necessary to supply
41 more than 30% of that customer's load may not be applied to meet
42 the aggregate 30% portfolio requirement.

43 The Public Utilities Commission is not required to hold
44 hearings or conduct other formal proceedings to modify its major
45
46
47
48
49
50

A. d. S.

2 substantive rule in accordance with this section, and such
3 modifications do not require review or approval of the
4 Legislature prior to becoming effective.

6 **PART J**

8 **Sec. J-1. 35-A MRSA §3203, sub-§2, ¶¶D and E,** as enacted by PL
10 1997, c. 316, §3, are amended to read:

12 D. Evidence of the ability to satisfy the renewable
14 resource portfolio requirement established under section
16 3210; and

18 E. Disclosure of the names and corporate addresses of all
20 affiliates of the applicant; and

22 **Sec. J-2. 35-A MRSA §3203, sub-§2, ¶F** is enacted to read:

24 F. Evidence that the applicant is registered with the State
26 Tax Assessor as a seller of tangible personal property
28 pursuant to Title 36, section 1754-B, together with a
30 statement that the applicant agrees to be responsible for
32 the collection and remission of taxes in accordance with
34 Title 36, Part 3 on all taxable sales of electricity made by
36 the applicant to consumers located in this State.

38 **PART K**

40 **Sec. K-1. 35-A MRSA §3204, sub-§10** is enacted to read:

42 10. Retail contracts for bundled electricity service
44 extending beyond March 1, 2000. If a transmission and
46 distribution utility has entered into a contract to provide
48 bundled electricity service to a retail customer at a price other
50 than the applicable tarriffed rate for a term extending beyond
March 1, 2000, the utility shall attempt to renegotiate and
reform the contract to preserve as nearly as possible the
parties' benefits and burdens under the terms of the contract,
except that an investor-owned transmission and distribution
utility may not agree to provide directly or indirectly
generation service to the customer on or after March 1, 2000.

The utility shall reform the contract so that the customer pays a
total price for delivered electricity on an annual basis during
the remaining term of the contract equal to the price contained
in the contract. If the customer has exercised due diligence to
obtain the lowest price from a competitive electricity provider
for generation service for the remaining term of the contract,

2 the utility shall reform the contract to provide a price for
4 transmission and distribution services, stranded costs and all
6 other applicable utility charges that is equal to the difference
8 between the original contract price and the price for generation
service obtained by the customer. If the customer has failed to
exercise due diligence, the price must be equal to the difference
between the original contract price and a reasonable market price
for generation service for that customer.

10 If after good faith negotiations the contracting parties are
12 unable to agree to a reformed contract, either party may petition
14 the commission to resolve the dispute. The commission shall
16 determine any unresolved issues and impose a reformed contract to
18 preserve as nearly as possible the parties' benefits and burdens
20 under the terms of the original contract. Prior to its final
22 determination, the commission shall review updated information
24 provided by the retail customer concerning the price of its
generation service. The commission may not approve a retail
contract with a price term longer than the expected duration of
the retail customer's generation service contract. Changes to a
contract reformed under this subsection take effect on March 1,
2000. A transmission and distribution utility shall ensure that
any contract subject to this subsection has been reformed before
that date.

PART L

28
30 **Sec. L-1. 35-A MRSA §3208, sub-§8,** as enacted by PL 1997, c.
316, §3, is amended to read:

32 **8. Proceedings.** The commission shall conduct separate
34 adjudicatory proceedings to determine the stranded costs for each
36 investor-owned utility and each consumer-owned utility. In the
38 same proceedings, the commission shall establish the revenue
40 requirements for each transmission and distribution utility and
stranded costs charges to be charged by each transmission and
distribution utility when retail access begins. The proceedings
must be completed by July December 1, 1999.

42 **Sec. L-2. 35-A MRSA §3209, sub-§2,** as enacted by PL 1997, c.
316, §3, is amended to read:

44 **2. Proceeding.** Following notice and hearing, the
46 commission shall complete an adjudicatory proceeding on or before
48 October December 1, 1999 for the design of cost recovery for
transmission and distribution costs, stranded costs and other
costs recovered pursuant to this chapter and for the design of
rates for backup or standby service.

PART M

Sec. M-1. 35-A MRSA §3216, sub-§1, ¶A, as enacted by PL 1997, c. 316, §3, is amended to read:

A. "Eligible employees" means all full-time and part-time employees of an electric utility:

(1) Who are not officers of the utility;

(2) Who are employed by the utility on January 1, 1998; and

(3) Who are laid off due to retail competition.

Absent other just cause, a layoff after March 1, 2000 is deemed to have been due to retail competition. The commission by rule shall establish a date after which a layoff is deemed not to have been due to retail competition. An employee is not an eligible employee by reason of the transfer of the employee's job duties or assignment within a company or within affiliated companies at similar levels of compensation.

Sec. M-2. 35-A MRSA §3216, sub-§2, ¶E, as enacted by PL 1997, c. 316, §3, is amended to read:

E. Provide severance pay equal to 2 weeks of current base pay for each year of full-time and one week of current base pay for each year of part-time employment.

Sec. M-3. **Retroactivity.** This Part is retroactive to September 19, 1997.

PART N

Sec. N-1. 35-A MRSA §3204, sub-§3, as enacted by PL 1997, c. 316, §3, is amended to read:

3. **Extension; separation required.** An investor-owned electric utility may apply to the commission for an extension to permit the utility to divest one or more generation assets or generation-related business activities after March 1, 2000. The commission shall grant an extension if the commission finds that an extension would be likely to improve the sale value of those assets on the market or would be likely to reduce the level of the utility's stranded costs. ~~If--the--commission--grants--an extension,--the--utility--shall--transfer--to--a--distinct--corporate~~

A.S.

COMMITTEE AMENDMENT "A" to H.P. 1509, L.D. 2154

~~entity by March 1, 2000 the generation assets to which the extension applies. Conduct of the utility and any affiliated corporate entity receiving the generation assets is governed by section 3205.~~

The commission by rule shall establish the procedure for granting extensions. ~~By March 1, 1999, the commission shall provisionally adopt all rules required under this subsection.~~ Rules adopted under this subsection are major substantive rules pursuant to Title 5, chapter 375, subchapter II-A.

Sec. N-2. Modification of rules. The Public Utilities Commission shall modify its major substantive rule, Chapter 307: Sale of Capacity and Energy of Undivested Generation Assets: Extension of Divestiture Deadline, as follows to bring it into conformity with the changes to law accomplished pursuant to this Part:

1. Change the rule to provide that the commission shall grant an extension of the divestiture deadline if it finds that the extension would be likely to improve the sale value of those assets on the market or would be likely to reduce the level of the utility's stranded costs; and

2. Delete section 10, subsection B of the rule that requires that if the commission grants an extension, the utility shall transfer to a distinct corporate entity by March 1, 2000 the generation assets to which the extension applies.

The Public Utilities Commission is not required to hold hearings or conduct other formal proceedings to modify its major substantive rule in accordance with this section, and such modifications do not require review or approval of the Legislature prior to becoming effective.'

Further amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

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

	FISCAL NOTE	
	1999-00	2000-01
48	APPROPRIATIONS/ALLOCATIONS	
50	Other Funds	\$0 \$0

COMMITTEE AMENDMENT

2 This bill includes Other Special Revenue funds allocations
of \$52,394 and \$78,216 in fiscal years 1999-00 and 2000-01,
4 respectively, for the Public Utilities Commission to increase the
salaries of the chair of the commission and the 2 commission
6 members. These allocations are offset by deallocations in the
same amounts from a reduction in All Other costs.

8 This bill may avoid potential reductions of sales tax
10 collections from electricity sales, an unanticipated result of
electric industry restructuring. The amount of the potential
12 sales tax collections affected can not be determined at this time.

14 The Public Utilities Commission will incur some minor
additional costs to adopt rules and administer new provisions
16 related to the restructuring of the electric industry. These
costs can be absorbed within the commission's existing budgeted
18 resources.

20 The Department of the Attorney General will incur additional
costs to enforce violations relating to utility service
22 providers. The Department of the Attorney General assumes that
the additional enforcement activities associated with the change
24 will be minimal and the costs associated with these activities
can be absorbed within the department's existing budgeted
26 resources.

28 The Board of Environmental Protection within the Department
of Environmental Protection will incur some minor additional
30 costs to regulate certain transmission lines. These costs can be
absorbed within the board's existing budgeted resources.'

32
34 **SUMMARY**

36 This amendment:

38 1. Amends the section of law relating to the Public
Utilities Commission's purpose to make clear that the Public
40 Utilities Commission has no authority over the rates of
competitive electricity providers;

42 2. Adds a definition of "competitive service provider" that
44 includes competitive electricity providers;

46 3. Strikes that portion of the bill that amends the
definition of "customer" to include customers of competitive
48 electricity providers, modifies the definition of "aggregator"
and "marketer" to change references to "customer" to "consumer"

R. d's.
COMMITTEE AMENDMENT "A" to H.P. 1509, L.D. 2154

2 and adds a provision for confidential treatment of information
concerning customers of competitive electricity providers;

4 4. Changes a reference to "electric utility" in the
definition of "public utility" to "transmission and distribution
6 utility;"

8 5. Strikes a proposed definition of "utility service
provider" that includes both public utilities and competitive
10 electricity providers and changes references in the bill to
"utility service provider" to "public utility" and "competitive
12 service provider;"

14 6. Deletes reference to generation assets from the
definition of "transmission and distribution utility;"

16 7. Strikes the definitions of "transmission and
18 distribution plant" and "transmission and distribution utility"
from the Maine Revised Statutes, Title 35-A, section 3201;
20 definitions of these terms are inserted instead in section 102 so
that they apply to all of Title 35-A;

22 8. Clarifies in Title 35-A, section 103 that the Public
24 Utilities Commission's authority to regulate competitive service
providers extends only so far as provided elsewhere in Title 35-A;

26 9. Removes those portions of the bill that include in Title
28 35-A, section 115 references to competitive electricity providers
and provides that the forfeitures and penalties provisions of
30 that section apply unless other provisions of law provide
otherwise, such as Title 35-A, section 3203;

32 10. Strikes those portions of the bill that include
34 references to competitive electricity providers in the provisions
of Title 35-A relating to the Public Utilities Commission's
36 investigative authority with respect to public utilities and adds
a separate provision that grants authority to the Public
38 Utilities Commission to investigate competitive electricity
providers;

40 11. Clarifies the provision of the bill amending Title
42 35-A, section 1322 regarding the commission's authority to
temporarily alter, amend or suspend its orders to make clear that
44 the commission has no authority to regulate the rates of
competitive service providers;

46 12. Amends that portion of the bill that repeals Title
48 35-A, section 3102 so that subsections 1 and 2 of that section
are retained;

50

A.S.

COMMITTEE AMENDMENT "A" to H.P. 1509, L.D. 2154

2 13. Removes a reference to electric generation in the definition of "domestic transmission and distribution utility;

4 14. Clarifies the Electric Rate Reform Act to provide that the goal of conservation programs under Title 35-A, section 3153-A, subsection 1, paragraph E must be to economically defer or eliminate the need for transmission and distribution facility upgrades but that conservation programs undertaken pursuant to section 3211 are separate and may be designed to achieve other goals;

12 15. Modifies the provision of law regarding interruptible rates to provide that the commission shall determine such rates on request;

16 16. Repeals the Public Utilities Commission's authority to buy power from out of State and resell it to electric utilities;

18 17. Strikes that portion of the bill that repeals Title 20 35-A, section 3305 and instead repeals only subsections 1 and 3 of that section; this preserves the right of owners of qualifying facilities to distribute electricity through private facilities for the use of tenants or associates;

24 18. Replaces that portion of the bill that repeals Title 26 35-A, section 3306; the amendment preserves this section regarding the authority of the Public Utilities Commission to resolve disputes between qualifying facilities and transmission and distribution utilities;

28 19. Replaces that portion of the bill that repeals Title 30 35-A, section 3308; the amendment preserves this section regarding the treatment of qualifying facility contracts in the event the contracting utility goes into bankruptcy;

32 20. Replaces that portion of the bill that repeals Title 34 35-A, section 3309; the amendment preserves this section regarding the performance standards for qualifying facility contracts;

36 21. Changes the provision of law regarding contingency 38 reserve funds of consumer-owned transmission and distribution utilities to bring it into conformity with Public Law 1999, chapter 102;

40 22. Corrects cross-references in Title 36, section 6652 to 42 "transmission and distribution utility" to account for the reassignment of that definition to Title 35-A, section 102; 44

COMMITTEE AMENDMENT

R. & S.

COMMITTEE AMENDMENT "A" to H.P. 1509, L.D. 2154

23. Adds a savings clause to Part A of the bill to make it clear that nothing in that Part is intended to affect the calculation of a transmission and distribution utility's stranded costs;

24. Amends Part B to clarify that the authorization of transmission and distribution utilities to enter into international transmission contracts is not limited by the restrictions imposed by Title 35-A, section 3204 regarding divestiture; to exempt such contracts from Public Utilities Commission approval; and to clarify that the Public Utilities Commission retains jurisdiction over utility operations or activities undertaken pursuant to such contracts;

25. Amends Part C to correct a reference to "electric utility" by replacing it with "transmission and distribution utility;"

26. Amends Part D to extend the date by which the Public Utilities Commission must adopt rules on competitive billing and metering to March 1, 2001;

27. Amends Part E to clarify that the exemption from electric industry restructuring for electric utilities not physically connected to any transmission and distribution utility applies to consumer-owned electric utilities as well as investor-owned electric utilities;

28. Adds a new Part G that:

A. Adds a provision authorizing the Public Utilities Commission to require a transmission and distribution utility to keep a log of any transactions with its affiliated provider;

B. Adds a provision prohibiting a large distribution utility from subsidizing the business of its affiliated competitive provider and requires the Public Utilities Commission to amend its rules to apply this standard to small distribution utilities as well;

C. Moves the penalty provisions, including the so-called "poison pill" penalty, that apply to violations of standards of conduct by transmission and distributions utilities with affiliated competitive electricity providers so that the penalties apply to all transmission and distribution utilities. It also increases the maximum penalties from \$10,000 to \$100,000 and allows for disgorgement of profits for violations of the standards of conduct and requires the

COMMITTEE AMENDMENT

A. d. S.

COMMITTEE AMENDMENT "A" to H.P. 1509, L.D. 2154

2 Public Utilities Commission to amend its rules conform to these changes; and

4 D. Exempts the Public Utilities Commission from undertaking otherwise required formal proceedings in order to change its rule to conform to these changes in law;

8 29. Adds a new Part H that increases the salaries of the commissioners of the Public Utilities Commission. Currently the salary of the chair of the commission is set by statute at range 10 91, step 8 and the salaries of the other 2 commissioners at range 12 90, step 8. Part H increases their salaries by making them equal to the salaries of the justices of the Superior Court. The 14 salary of the chair of the commission is made equal to the salary of the Chief Justice of the Superior Court and the salaries of 16 the other commissioners are made equal to the salaries of the Associate Justices;

18 30. Adds a new Part I that modifies the renewable portfolio requirement applicable to competitive electricity providers in 20 the restructured electric marketplace. Part I:

22 A. Changes the description of the portfolio requirement to 24 more accurately describe the resources that are eligible to meet the requirement. Under current law, cogenerators that 26 do not use renewable resources are eligible. This amendment preserves the portfolio requirement but separates those 28 facilities that are eligible as renewable resources from those that are eligible as efficient cogenerators;

30 B. Tightens the efficiency requirements for eligible 32 cogenerators; and

34 C. Provides that if a competitive electricity provider 36 represents to a customer that the provider is selling to the customer a portfolio of supply sources that includes more 38 than 30% eligible resources, the resources necessary to supply more than 30% of that customer's load may not be 40 applied to meet the aggregate 30% portfolio requirement;

42 31. Adds a new Part J that requires competitive electricity providers, as a condition of licensing, to register with the State Tax Assessor and agree to be responsible for the collection 44 and remission of sales taxes due on sales of electricity made by the licensee to consumers located in this State;

46 32. Adds a new Part K that provides for the reformation of 48 any contract for electricity that a transmission and distribution utility has with a retail customer that extends beyond March 1, 50 2000. The contract must be reformed so that the customer pays a

COMMITTEE AMENDMENT

total price for delivered electricity on an annual basis that is equal to the price contained in the original contract. If the utility and the customer fail to reach an agreement on reformation of the contract, the Public Utilities Commission is required to reform the contract to preserve as nearly as possible the parties' benefits and burdens under the terms of the original contract;

33. Adds a new Part L that extends the deadlines by which the Public Utilities Commission must complete its cases related to stranded costs; the deadlines are extended to December 1, 1999;

34. Adds a new Part M that retroactively modifies the law regarding transition benefits for employees of electric utilities displaced by restructuring. The amendment makes it clear that part-time employees are included; and

35. Adds a new Part N that allows the Public Utilities Commission to grant an extension on the divestiture of "generation-related business," including wholesale energy contracts, and removes the requirement that assets for which a divestiture extension has been granted must be moved by the utility to an affiliate.

The bill together with this amendment modifies the definitions of several terms and repeals the definitions of several terms. The repeal of the definitions of "electric utility," "electric plant" and "excluded electric plant" together with the change made to the definition of "transmission and distribution utility" and the retention of Title 35-A, section 3305, subsection 2 is designed to consolidate and clarify the law with respect to the matters governed by those provisions and does not substantively change the effect of the law with respect to these matters. Nothing in the bill or the amendment is intended substantively to change the definitions of "transmission and distribution plant," "transmission and distribution utility," "public utility," "cogenerator," "small power producer" or "qualifying facility" or to overturn Public Utilities Commission precedent with regard to the interpretation of these terms including interpretations involving the terms "electric utility," "electric plant" and "excluded electric plant." As provided in the definition of "transmission and distribution utility," an entity that does not own, control, operate or manage a transmission and distribution plant is not a "transmission and distribution utility."

The amendment also adds a fiscal note to the bill.