

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

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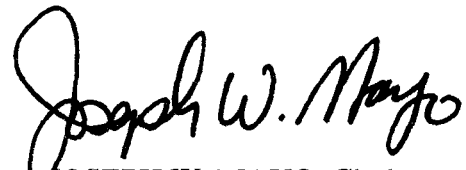
H.P. 1509

House of Representatives, April 6, 1999

An Act to Amend the Electric Industry Restructuring Laws.

Reported by Representative DAVIDSON for the Joint Standing Committee on Utilities and Energy pursuant to Public Law 1997, chapter 316, section 12

Reference to the Joint Standing Committee on Utilities and Energy suggested and printing ordered under Joint Rule 218.


JOSEPH W. MAYO, Clerk

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

4 **PART A**

6 **Sec. A-1. 5 MRSA §200-B, sub-§1**, as repealed and replaced by PL 1995, c. 625, Pt. A, §2, is amended to read:

8 **1. Public utility services.** As used in this section, the term "public utility services" means services furnished by a public utility as defined in Title 35-A, section 102, subsections 5, 7, 8, 12, 14, 15, 19, 20-B and 22 whether or not subject to the jurisdiction of the Public Utilities Commission.

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

16 **§101. Statement of purpose**

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

26 **Sec. A-3. 35-A MRSA §102, sub-§4**, as repealed and replaced by PL 1987, c. 628, §1, is amended to read:

30 **4. Customer.** "Customer" includes any person, government or governmental division which that has applied for, been accepted and is currently receiving service from a public utility service provider.

34 **Sec. A-4. 35-A MRSA §102, sub-§5**, as enacted by PL 1987, c. 141, Pt. A, §6, is repealed.

38 **Sec. A-5. 35-A MRSA §102, sub-§6**, as amended by PL 1997, c. 710, §1, is repealed.

40 **Sec. A-6. 35-A MRSA §102, sub-§6-A**, as enacted by PL 1997, c. 710, §2 and affected by §10, is repealed.

44 **Sec. A-7. 35-A MRSA §102, sub-§§20-A, 20-B and 20-C** are enacted to read:

46 **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

2 or delivery of electricity for light, heat or power for public
3 use and includes all conduits, ducts or other devices, materials,
4 apparatus or property for containing, holding or carrying
5 conductors used, or to be used, for the transmission or
6 distribution of electricity for light, heat or power for public
7 use. "Transmission plant" includes generation assets retained
8 under section 3204, subsection 3 or 6.

10 20-B. Transmission and distribution utility. "Transmission
11 and distribution utility" means a person, its lessees, trustees,
12 or receivers or trustees appointed by a court, owning,
13 controlling, operating or managing a transmission and
14 distribution plant for compensation within the State.

16 20-C. Utility service provider. "Utility service provider"
17 means any public utility or competitive electricity provider.

18 **Sec. A-8. 35-A MRSA §103, sub-§2, ¶B,** as enacted by PL 1987,
19 c. 141, Pt. A, §6, is amended to read:

20 B. The commission shall set the basic policies of the
21 Public Utilities Commission and shall regulate public
22 utilities and oversee the activities of other utility
23 service providers in accordance with this Title.

26 **Sec. A-9. 35-A MRSA §109, sub-§1,** as enacted by PL 1987, c.
27 141, Pt. A, §6, is amended to read:

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

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

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

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

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

44 **Sec. A-10. 35-A MRSA §115,** as enacted by PL 1987, c. 141,
45 Pt. A, §6, is amended to read:

48 **§115. Enforcement of state laws**

2 The following provisions apply to the enforcement of state
laws.

4 **1. Commission's duties.** The commission shall:

6 A. Inquire into any neglect or violation of state laws by a
public utility service provider doing business within the
8 State;

10 B. Inquire into any neglect or violation of state laws by
the officers, agents, employees or any person operating the
12 plant of a public utility service provider;

14 C. Enforce this Title and all other laws relating to public
utilities utility service providers; and

16 D. Report all violations of this Title and all other laws
18 relating to ~~public-utilities~~ utility service providers to
the Attorney General when the Attorney General has primary
20 jurisdiction to enforce those laws.

22 **2. Duties of the Attorney General and district attorneys.**
Upon the request of the commission, the Attorney General or the
24 district attorney of the proper county shall:

26 A. Aid in any investigation, hearing or trial conducted
under this Title; and

28 B. Institute and prosecute all proceedings for the
30 enforcement of this Title and of all other state laws
relating to ~~public-utilities~~ utility service providers and
32 to the punishment of violations.

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

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

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

46 C. An action commenced by the commission shall must be
prosecuted by the Attorney General.

48 **Sec. A-11. 35-A MRSA §307, 3rd ¶,** as enacted by PL 1987, c.
50 141, Pt. A, §6, is amended to read:

2 For the purposes of this section, a "general increase in
4 rates" means any change in the rates, tolls and charges of the
6 public utility, the effect of which is to increase the annual
8 operating revenues of a public utility by more than 1%, provided
10 that this term does not include a rate change made for the sole
purpose of implementing a fuel cost adjustment rate, pursuant to
~~section 3101~~ or section 4703 or a rate change made for the sole
purpose of implementing an energy conservation adjustment rate,
pursuant to section 3154.

12 **Sec. A-12. 35-A MRSA §310, sub-§3**, as enacted by PL 1987, c.
14 141, Pt. A, §6, is amended to read:

16 **3. Exception: Municipal and quasi-municipal water utilities
and consumer-owned transmission and distribution utilities.** This
18 section shall does not apply to:

20 A. Municipal or quasi-municipal corporations ~~which~~ that are
water utilities within the definition of section 102, any
22 provisions in any charter notwithstanding, and ~~which~~ that
elect to proceed pursuant to the terms of section 6104,
24 unless by the express terms of section 6104, the provisions
of this section are made applicable to those corporations; or

26 B. Consumer-owned ~~electric~~ transmission and distribution
utilities organized in accordance with chapter 35, unless by
28 the express terms of chapter 35 the provisions of this
section are made applicable to those districts.

30 **Sec. A-13. 35-A MRSA §313, sub-§§2 and 4**, as enacted by PL
32 1995, c. 129, §1, are amended to read:

34 **2. Charges.** A campground owner or operator may charge a
submeter user only for kilowatt hours used by that submeter
36 user. The charge that a campground owner or operator may charge
a submeter user for electric service may not exceed the kilowatt
38 usage of the submeter user multiplied by the combined rate per
kilowatt hour that the campground owner or operator is charged by
40 the ~~electric~~ transmission and distribution utility and
competitive electricity provider.

42 **4. Interpretation; not resale.** A submeter user is not a
44 customer of the ~~electric~~ transmission and distribution utility or
competitive electricity provider providing service to the
46 master-metered campground owner or operator. For purposes of
this Title, a submeter user is not a customer of the campground
48 owner or operator. Nothing in this section permits the resale of
electricity by a campground owner or operator.

50

2 **Sec. A-14. 35-A MRSA §701, sub-§2**, as amended by PL 1995, c.
225, §5, is further amended to read:

4 **2. Renting facilities.** This section does not prohibit a
public utility from renting any facilities incident to the
6 production, transmission, delivery or furnishing of ~~electricity~~
transmission and distribution service, gas, heat or water or the
8 conveyance of telephone messages and paying a reasonable rental
for the facilities.

10 **Sec. A-15. 35-A MRSA §702, sub-§3**, as enacted by PL 1987, c.
141, Pt. A, §6, is amended to read:

14 **3. Service and facilities.** Every public utility providing
~~electric~~ transmission and distribution or gas service, upon
16 reasonable notice, shall furnish to all persons who may apply for
facilities and service, suitable facilities and service
18 consistent with policies approved or established by the
commission, without undue delay and without unreasonable
20 discrimination.

22 **Sec. A-16. 35-A MRSA §704, sub-§1**, as enacted by PL 1987, c.
141, Pt. A, §6, is amended to read:

24 **1. Residential customers.** The commission shall adopt and
26 promulgate reasonable rules after a hearing concerning the
termination or disconnection of any residential customer's
28 service by ~~an electric~~ a transmission and distribution, gas,
water or telephone utility of the State. These rules shall apply
30 generally to all such utilities within the commission's
jurisdiction and shall must provide for adequate written notice
32 by that utility to the residential customer that ~~his~~ the
customer's utility bill has not been paid, and a notice of ~~his~~
34 the prospective termination or disconnection and ~~his~~ the right,
prior to disconnection, to enter into reasonable installment
36 payment arrangements with that utility; to settle any dispute
concerning the proposed disconnection at an informal hearing with
38 that utility and to appeal the results of that utility's decision
to the commission. The rules shall must also provide that there
40 may be no termination or disconnection during a limited medical
emergency and for a just and reasonable procedure regarding
42 reconnections of utility service and deposit requirements.

44 **Sec. A-17. 35-A MRSA §752, sub-§2**, as enacted by PL 1995, c.
348, §1, is amended to read:

46 **2. Overhead high-voltage line.** "Overhead high-voltage
48 line" means all above-ground bare or insulated electrical
conductors of voltage in excess of 600 volts, measured between
50 conductors or measured between a conductor and the ground, that

2 are owned or operated by an--electric a transmission and
3 distribution utility, except those conductors that are:

4 A. Enclosed in a rigid metallic conduit or flexible armored
5 conduit; or

6 B. On the premises of mines that are subject to the
7 provisions of the Federal Mine Safety and Health Act of
8 1977, 30 United States Code, Section 801 and regulations
9 adopted pursuant to that Act by the federal Mine Safety and
10 Health Administration.

11 **Sec. A-18. 35-A MRSA §906**, as amended by PL 1997, c. 710,
12 §4, is further amended to read:

13 **§906. Commission authorization not required**

14 1. **Property and service outside the State.** Except as
15 provided in subsection 2 for electric transmission and
16 distribution utilities, notwithstanding any other provision of
17 this chapter, a public utility is not required to apply to the
18 commission for authority to issue stocks, bonds, notes or other
19 evidences of indebtedness for the acquisition of property, for
20 the purposes of carrying out its corporate powers, the
21 construction, completion, extension or improvement of its
22 facilities, or the improvement or maintenance of its service,
23 outside the State.

24 2. **Exception: Transmission and distribution utilities.**
25 Notwithstanding subsection 1, this chapter ~~shall apply~~ applies to
26 any domestic electric transmission and distribution utility
27 acquiring and operating utility facilities outside the State for
28 the purpose of serving customers within the State.

29 ~~3.--Domestic-electric-utility.--For purposes of this section~~
30 ~~only,--the--term--"domestic-electric-utility"--does--not--include--an~~
31 ~~entity--that--is--not--an--electric--utility--as--a--result--of--the~~
32 ~~application--of--section--102,--subsection--6-A.~~

33 **Sec. A-19. 35-A MRSA §1303, sub-§1, ¶C**, as enacted by PL 1987,
34 c. 141, Pt. A, §6, is amended to read:

35 C. An investigation of any matter relating to a public
36 utility service provider should for any reason be made.

37 **Sec. A-20. 35-A MRSA §1303, sub-§2**, as enacted by PL 1987, c.
38 141, Pt. A, §6, is amended to read:

39 2. **Formal investigation.** If, after the summary
40 investigation, the commission is satisfied that sufficient

2 grounds exist to warrant a formal public hearing as to the
3 matters investigated, it shall give the interested public utility
4 service provider written notice of the matter under
5 investigation. Seven days after the commission has given notice,
6 it may set a time and place for a public hearing. The hearing
shall must be held in accordance with section 1304.

8 **Sec. A-21. 35-A MRSA §1304, sub-§1**, as amended by PL 1995, c.
226, §1, is further amended to read:

10

11 **1. Notice to utility and parties.** The commission shall
12 notify the public utility service provider, other parties and
13 interested persons it considers proper of the time and place of
14 the formal public hearing as provided in Title 5, section 9052.

16 **Sec. A-22. 35-A MRSA §1304, sub-§2**, as amended by PL 1995, c.
226, §2, is further amended to read:

18

19 **2. Notice to subscribers.** If, after the commission has
20 notified the public utility service provider of the hearing as
21 provided in this section or in section 310, it appears that the
22 time, place and nature of the hearing will not be reasonably
23 publicized by newspaper or otherwise, the following provisions
24 apply.

26 **A.** The commission may by rule or upon written notice to the
27 public utility service provider require it to:

28

29 (1) Give reasonable notice of the time and place of
30 the hearing to each subscriber affected or to be
31 affected by the subject of the hearing; or

32

33 (2) File pertinent information as to the rates or
34 service involved, including schedules of proposed
35 rates, in the office of the clerk of the municipality
36 where the subscribers reside.

38 **B.** The notice given by the public utility service provider
shall must:

40

41 (1) Be given by first class mail; and

42

43 (2) Include a statement that pertinent information as
44 to rates or service is on file in the office of the
45 clerk of the municipality where the subscribers reside.

46

47 **C.** Nothing in this section relieves ~~the~~ a public utility
48 from the provisions of section 308.

2 **Sec. A-23. 35-A MRSA §1306, sub-§4, ¶B**, as enacted by PL 1987,
c. 141, Pt. A, §6, is amended to read:

4 B. Delivered to the publie utility service provider
6 affected by it.

8 **Sec. A-24. 35-A MRSA §1306, sub-§5, ¶A**, as enacted by PL 1987,
c. 141, Pt. A, §6, is amended to read:

10 A. After a copy is delivered to the publie utility service
12 provider affected; and

14 **Sec. A-25. 35-A MRSA §1316**, as amended by PL 1987, c. 769,
Pt. A, §137, is further amended to read:

16 **§1316. Testimony presented by employees of utility service**
18 **providers to legislative committees and to the Public**
 Utilities Commission

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

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

30 B. "Employer" means a publie utility service provider
32 licensed to do business in this State with one or more
employees.

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

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

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

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

16 This subsection does not apply to an employee who has testified
17 before or provided information to a legislative committee or to
18 the commission unless the employee has first brought the subject
19 matter of the testimony or information in writing to the
20 attention of a person having supervisory authority with the
21 employer and has allowed the employer a reasonable time to
22 address the subject matter of the testimony or information. If
23 appropriate, the employer, shall respond in writing.

24
25 **4. Exceptions.** The protection created in subsection 3 does
26 not apply to testimony which that, upon reasonable inquiry by the
27 employee, would be found to be false, slanderous, libelous or
28 defamatory or to testimony which that violates a term or
29 condition of a collectively bargained agreement or to testimony
30 which that discloses trade secrets or corporate strategy, the
31 disclosure of which would result in harm to the employer.

32
33 **5. Civil actions for injunctive relief or other remedies.**
34 An employee of a public utility service provider who alleges a
35 violation of his rights under this section and who has made
36 reasonable efforts to exhaust all grievance procedures, as
37 provided for in the contract of employment or which otherwise may
38 be available at his the employee's place of employment, may bring
39 a civil action, including an action for injunctive relief, within
40 90 days after the occurrence of that alleged violation or after
41 the grievance procedure or similar process terminates. The
42 action may be brought in the Superior Court for the county where
43 the alleged violation occurred, the county where the complainant
44 resides or the county where the person against whom the civil
45 complaint is filed resides. An employee must establish each and
46 every element of his the employee's case by a preponderance of
47 the evidence.

48
49 **6. Remedies ordered by court.** A court, in rendering a
50 judgment in an action brought pursuant to this section, may order

2 reinstatement of the employee, the payment of back wages, full
3 reinstatement of fringe benefits and seniority rights or any
4 combination of these remedies. A court may also award the
5 prevailing party all or a portion of the costs of litigation,
6 including reasonable attorneys' fees and witness fees, if the
7 court determines that the award is appropriate.

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

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

14 **Sec. A-26. 35-A MRSA §1321,** as amended by PL 1995, c. 226,
15 §4, is further amended to read:

16 **§1321. Orders altered or amended**

17
18 The commission may at any time rescind, alter or amend any
19 order it has made including an order fixing any rate or rates,
20 tolls, charges or schedules only if it gives the public utility
21 service provider and all parties to the original proceeding, to
22 the extent practical, written notice and after opportunity for
23 those parties to present evidence or argument, as determined
24 appropriate by the commission. Certified copies of amended
25 orders must be served and take effect as provided for original
26 orders.

27
28 **Sec. A-27. 35-A MRSA §1322,** as enacted by PL 1987, c. 141,
29 Pt. A, §6, is amended to read:

30 **§1322. Orders temporarily suspended, altered or amended**

31
32 **1. Orders temporarily amended.** When the commission finds
33 it necessary to prevent injury to a public-utility's utility
34 service provider's business or to the interest of the people, or
35 if the commission finds there is an emergency, it may temporarily
36 alter, amend or, with the public-utility's utility service
37 provider's consent, suspend existing rates, schedules or orders
38 affecting any public utility service provider.

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

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

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

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

6 **Sec. A-28. 35-A MRSA §1702, sub-§1, ¶B,** as enacted by PL 1987,
c. 141, Pt. A, §6, is amended to read:

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

12 **Sec. A-29. 35-A MRSA §1702, sub-§3,** as enacted by PL 1987, c.
14 141, Pt. A, §6, is amended to read:

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

22 **Sec. A-30. 35-A MRSA §1702, sub-§5,** as amended by PL 1989, c.
24 660, is further amended to read:

26 **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
28 and appear in, any proceedings before the commission, appeals
from orders of the commission, or proceedings before state and
30 federal agencies and courts in which the subject matter of the
action affects the customers of any utility service provider
32 doing business in this State, except that the Public Advocate may
not intervene in any proceeding in which the commission staff is
34 representing a position substantially similar to that of the
Public Advocate, as determined by the Public Advocate.

36 **Sec. A-31. 35-A MRSA §1702, sub-§7,** as enacted by PL 1987, c.
38 141, Pt. A, §6, is amended to read:

40 **7. Assist customers of consumer-owned transmission and**
distribution utilities. The Public Advocate shall assist
42 customers of consumer-owned electric transmission and
distribution utilities in reviewing proposed rate increases and
44 preparing questions and testimony for public hearings and, on
request of a customer and when determined necessary by the Public
46 Advocate, intervene in the proceedings conducted in accordance
with chapter 35.

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

2 **§1709. Conflicts of interest**

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

18 **Sec. A-33. 35-A MRSA §2101**, as amended by PL 1997, c. 707,
20 §2, is further amended to read:

22 **§2101. Organization of certain public utilities**

24 A public utility for the operation of telephones and for
26 the purpose of making, ~~generating,~~ selling, distributing and
28 supplying gas or electricity electric transmission and
30 distribution service or for the operation of water utilities,
32 ferries or public heating utilities in any municipality, or 2 or
34 more adjoining municipalities, within the State, may be organized
36 as a legal entity authorized under the laws of the State,
38 including Title 13-A.

40 **Sec. A-34. 35-A MRSA §2102, sub-§2**, as amended by PL 1991, c.
42 342, §4, is further amended to read:

44 **2. Approval not required.** Except as provided in section
46 2104, the commission's approval is not required for a public
48 utility to furnish service in any municipality in which that
50 public utility is furnishing service on October 8, 1967.
Approval is not required for the operation of a radio paging
service or mobile telecommunications services. Approval is not
required for ~~an-electric~~ a transmission and distribution utility
to ~~sell--and~~ distribute electricity to any other ~~electric~~
transmission and distribution utility.

Sec. A-35. 35-A MRSA §2103, as enacted by PL 1987, c. 141,
Pt. A, §6, is amended to read:

**§2103. Transmission and distribution utility and cooperative
authorized to serve same area**

 After September 1, 1967, where a cooperative organized under
chapter 37 and any other ~~electric~~ transmission and distribution
utility are serving or authorized to serve the same municipality,
neither the cooperative nor the other utility may bring
electrical service to a new location except as provided in this
section.

2 **1. Notice.** The cooperative or utility must notify the
4 other cooperative or utility and the commission, in writing, of
6 the request by the party for electrical service, where bringing
the service requires the extension of existing distribution
facilities.

8 **2. Filing objections.** If, after notice, the other
10 cooperative or utility opposes the bringing of electrical service
12 to the new service location, within 7 days of receipt of the
notice of proposed service, it shall:

14 A. File objections to the bringing of the electrical
service with the commission; and

16 B. Send a copy of its objections to the utility or
18 cooperative and to the party requesting electrical service.

20 **3. Decision.** If objections are filed, the commission shall
22 immediately set a hearing date, and shall determine whether the
24 cooperative or the other utility shall serve. If, after notice,
either the cooperative or the utility fails to file its
objections pursuant to subsection 2, it will be conclusively
presumed that the cooperative or the utility, as the case may be,
has consented to the furnishing of the service.

26 **4. Temporary service pending a decision.** Pending the final
28 determination of the right to serve, the commission may order
30 temporary service brought to the prospective new service location
without prejudice to the rights of any party.

32 **Sec. A-36. 35-A MRSA §2108**, as enacted by PL 1987, c. 141,
Pt. A, §6, is amended to read:

34 **§2108. Corporations may hold real estate**

36 Corporations organized under ~~sections~~ section 2101 and
38 former section 2109 may purchase, hold and convey real estate and
40 personal property that are necessary for the purposes for which
they are created.

42 **Sec. A-37. 35-A MRSA §2109**, as enacted by PL 1987, c. 141,
Pt. A, §6, is repealed.

44 **Sec. A-38. 35-A MRSA §2305**, as amended by PL 1995, c. 349,
46 §§1 and 2, is further amended to read:

48 **§2305. Transmission and distribution utilities may construct lines**

2 Every electric transmission and distribution utility may
construct and maintain its lines in, upon, along, over, across
4 and under the roads and streets in any municipality in which it
is authorized to supply electricity, subject to the conditions
and restrictions provided in this chapter and chapter 25.

6
8 No person except an electric a transmission and distribution
utility may construct and maintain its lines with poles or other
structures carrying electricity in, upon, along or under the
10 roads, streets and public ways maintained by any municipality
unless, in addition to meeting the requirements of section 2503,
12 the applicable licensing authority finds that:

14 **2. Posting surety bonds.** The applicant has posted with the
licensing authority a surety bond in accordance with terms and
16 conditions established by the licensing authority in an amount
sufficient to:

18 A. Protect the public from claims, demands and actions
20 arising out of improper construction of the line; and

22 **3. Duplication of or interference with transmission and**
distribution facilities. The commission has found that the line
24 neither constitutes a duplication of electric transmission and
distribution facilities nor interferes physically with the
26 adequate and safe delivery of electricity to others. A
commission finding is not required under this subsection if the
28 only nonutility facility in the public way is a facility
providing service from the person's abutting property or abutting
30 easement to a utility facility in the public way and that utility
facility is within 30 feet of the person's property line or
32 easement.

34 A utility that enters into any written agreement with the
owner of a line with regard to that line shall record that
36 agreement in the registry of deeds in the county in which the
line is placed.

38
40 The owner of a line is responsible for properly maintaining
the line. If the owner of a line fails to maintain a line
properly and a municipality incurs any expense in maintaining the
42 line or pays any damages as a result of the owner's failure to
maintain the line properly, the municipality may assess the owner
44 of the line the amount of those actual costs. The assessment
must be in writing and must specify the amount of the assessment,
46 the basis for the assessment and that a lien will be created on
the real estate of the owner of the line if the assessment is not
48 paid within 90 days. If the owner of the line does not pay the
assessment within 90 days, a lien is created on the real estate
50 of the owner of the line situated in the municipality to secure

2 the payment of actual costs incurred by the municipality. This
3 lien may be treated and enforced in the same manner as a tax lien
4 under Title 36, chapter 105, subchapter IX, article 2. In
5 addition to any other available remedies, a person aggrieved by a
6 lien imposed or enforced by a municipality under this section may
7 bring an action in Superior Court for a determination of the
8 validity of the lien.

9
10 This section does not apply to state and state aid highways
11 maintained by the State.

12 ~~An electric~~ A transmission and distribution utility may not
13 ~~provide deliver~~ electricity ~~for~~ over any line in, upon, along or
14 under roads, streets and public ways maintained by a municipality
15 if the lines or poles were constructed by a person other than an
16 ~~electric~~ a transmission and distribution utility, unless the
17 ~~electric~~ transmission and distribution utility is provided with
18 certified copies of the findings by the applicable licensing
19 authority of compliance with subsection 2 and the commission's
20 findings pursuant to subsection 3.

21
22 **Sec. A-39. 35-A MRSA §2305-A**, as enacted by PL 1995, c. 349,
23 §3, is amended to read:

24
25 **§2305-A. Transmission and distribution utilities, telephone**
26 **utilities and cable television companies to conform**
27 **to standards**

28
29 **1. Definitions.** As used in this section, unless the context
30 otherwise indicates, the following terms have the following
31 meanings.

32
33 A. "Cable television company" has the same meaning as in
34 Title 30-A, section 2001.

35
36 B. "Most recent edition of the Standard" means the 1993
37 edition or any subsequent edition of the Standard adopted by
38 the commission pursuant to this section.

39
40 C. "Standard" means the National Electrical Safety Code
41 (NESC)-ANSI-C2.

42
43 **2. Applicable national standard.** Except as otherwise
44 provided in this section or by rule of the commission adopted
45 pursuant to this section, every ~~electric~~ transmission and
46 distribution utility, telephone utility and cable television
47 company shall design, construct, operate and maintain its lines
48 and equipment in conformance with the applicable provisions of
49 the most recent edition of the Standard.
50

2 **3. Review of standards by commission.** Whenever a new or
3 revised edition of the Standard is published, an--electric a
4 transmission and distribution utility, telephone utility or cable
5 television company may request the commission to hold a hearing
6 on whether the new or revised Standard should be adopted.

7 A. If a hearing is requested within 120 days of the
8 publication of the new or revised Standard, the commission
9 shall hold a hearing and shall either adopt the new or
10 revised Standard or, pursuant to subsection 4, amend or
11 reject the new or revised Standard. If a hearing is
12 requested and held under this paragraph, the new or revised
13 Standard does not go into effect in any form except as
14 expressly provided by the commission in its order.

15 B. If a hearing is not requested within 120 days of the
16 publication of the new or revised Standard, the commission
17 is deemed to have adopted the new or revised Standard
18 effective on the 180th day after publication. Existing
19 facilities that meet the requirements of the previously
20 applicable Standard but which do not meet the requirements
21 of the new or revised Standard may remain in noncompliance
22 only if grandfathered under the new edition.

23 **4. Modifications, deletions and waivers to Standard.** The
24 commission may, at its discretion and after appropriate hearing,
25 modify, delete or waive individual requirements of the Standard.
26 The commission may make a modification or deletion or grant a
27 waiver of a national standard of practice contained in the
28 Standard only if it finds one of the following:

29 A. Other measures achieving equivalent levels of safety will
30 be substituted for the modified, deleted or waived national
31 standard; or

32 B. The national standard is not applicable or is unduly
33 burdensome for the level of safety achieved under local
34 conditions.

35 Modifications, deletions or waivers of individual requirements of
36 the Standard remain in force until the next edition of the
37 Standard is adopted by the commission pursuant to subsection 3 or
38 the modification, deletion or waiver is repealed by the
39 commission, whichever occurs first.

40 Pursuant to subsection 3, paragraph A, an--electric a transmission
41 and distribution utility, telephone utility or cable television
42 company may petition the commission to continue approved
43 modifications, deletions or waivers under a new or revised
44 Standard. Unless the commission reaffirms a modification,
45

2 deletion or waiver in its order adopting a new or revised
Standard, a modification, deletion or waiver is deemed repealed
4 on adoption of the new or revised Standard.

6 **5. Additional safety measures.** The commission may, at its
discretion and after appropriate hearing, require safety measures
8 in addition to those required by the Standard. An additional
requirement remains in force for 10 years from its effective date
unless the commission:

10 A. Repeals the requirement; or

12 B. Reaffirms the requirement by order. Each reaffirmation
14 must occur within 10 years of the original effective date of
the requirement or within 10 years of the last affirmation.

16 **Sec. A-40. 35-A MRSA §2306**, as amended by PL 1997, c. 707,
18 §4, is further amended to read:

20 **§2306. No taking property without consent**

22 ~~No~~ A public utility organized under ~~sections~~ section 2101
and ~~former section~~ 2109 may not take, appropriate or use the
24 location, pipes, lines, land or other property of any other
person doing or authorized to do a similar business, without
26 consent of the other person, except by ~~private and special act~~
Private and Special Act of the Legislature.

28 **Sec. A-41. 35-A MRSA §2515, first ¶**, as enacted by PL 1987, c.
30 141, Pt. A, §6, is amended to read:

32 Every corporation organized under ~~sections~~ section 2101 and
~~former section~~ 2109 is liable in all cases to repay a
34 municipality all sums of money that the municipality is obliged
to pay on a judgment recovered against it for damages caused by
36 an obstruction, digging up or displacement of a way or street by
the corporation, together with ~~attorneys~~ attorney's fees and
38 expenses necessarily incurred in defending the municipality in
the actions. The corporation shall:

40 **Sec. A-42. 35-A MRSA §2516, sub-§1**, as amended by PL 1995, c.
42 225, §10, is further amended to read:

44 1. **Permit required to cut wires and remove poles.** A person
may not cut, disconnect or remove the wires or poles of a
46 telephone or ~~electric~~ transmission and distribution utility in
order to move a building, alter, repair or improve a street,
48 bridge or way, or for any other purpose unless that person:

2 A. Applies in writing to the municipal officers of the
municipalities in which changes or alterations of wires or
poles are desired, or in which a building is to be moved; and

4 B. Receives a written permit from the officers.

6 **Sec. A-43. 35-A MRSA §2522, first ¶**, as enacted by PL 1993, c.
8 399, §1, is amended to read:

10 Notwithstanding any other provision of law, ~~an electric~~ a
12 transmission and distribution utility or telephone utility may
trim, cut or remove by cutting trees located within the public
14 right-of-way of a public way and may trim or cut portions of
trees encroaching upon the public right-of-way when necessary to
ensure safe and reliable service if:

16 **Sec. A-44. 35-A MRSA §2902, sub-§1**, as enacted by PL 1987, c.
18 141, Pt. A, §6, is amended to read:

20 1. **To promote markets for borrowing.** To foster and promote
by all reasonable means the provision of adequate markets and
22 costs for borrowing money by public utilities, for the financing
of the provision, manufacture, ~~generation~~, transmission and
24 distribution of electricity, gas and water and for the financing
of energy conservation measures and renewable energy resources
26 designed to reduce the use of electricity and gas;

28 **Sec. A-45. 35-A MRSA §2903, sub-§7**, as enacted by PL 1987, c.
30 141, Pt. A, §6, is amended to read:

32 7. **Public utility.** "Public utility" means any ~~electric~~
transmission and distribution utility, water utility or gas
34 utility ~~which that~~ is subject to the jurisdiction of the
commission.

36 **Sec. A-46. 35-A MRSA §3101**, as amended by PL 1987, c. 671,
§1, is repealed.

38 **Sec. A-47. 35-A MRSA §3102**, as amended by PL 1987, c. 490,
40 Pt. A, §4, is repealed.

42 **Sec. A-48. 35-A MRSA §3103**, as enacted by PL 1987, c. 141,
44 Pt. A, §6, is amended to read:

46 **§3103. Minimum charge**

48 1. **Utilities required to provide minimum charge.** Any
~~electric~~ transmission and distribution utility serving more than
5,000 customers ~~which that~~ has a residential rate combining
50 energy and demand costs in a single rate ~~which that~~ neither

declines nor increases, but is flat as consumption increases
2 shall recover its customer costs through the same rate. As part
of that rate, each such electric transmission and distribution
4 utility shall provide for a minimum charge to include such an
amount of kilowatt hours as the commission shall--determine
6 determines.

8 **2. Billing of minimum charge.** The minimum charge shall
must be billed to the customer in such a manner that all
10 transmission and distribution charges to the customer for
residential service appear on the bill as a single item. This
12 ~~requirement does not prohibit separate information concerning the~~
~~fuel cost adjustment, as defined in section 3101, from appearing~~
14 ~~on the statement.~~

16 **Sec. A-49. 35-A MRSA §3131**, as amended by PL 1997, c. 710,
§5, is further amended to read:

18 **§3131. Definitions**

20 As used in this subchapter, unless the context indicates
22 otherwise, the following terms have the following meanings.

24 **1. Domestic transmission and distribution utility.**
"Domestic electric transmission and distribution utility" means
26 any entity organized under the laws of this State to generate,
transmit or distribute electricity.

28 ~~1-A. Electric utility. "Electric utility" has the same~~
30 ~~meaning as defined in section 102, subsection 5.~~

32 ~~2. Energy. "Energy" means an entitlement to energy for a~~
34 ~~period greater than 3 years.~~

36 **3. Foreign electric utility.** "Foreign electric utility"
means any entity organized under the laws of a state other than
38 this State, or a province of Canada, which that is authorized
under the laws of the state or province in which it is organized
40 to generate, transmit or distribute electricity, or to own,
operate or otherwise participate in utility facilities or
42 interests in utility facilities.

44 ~~3-A. Fuel conversion. "Fuel conversion" means conversion~~
~~of a permanently installed generating facility of more than 1000~~
~~kilowatts to use a type of fuel different from that which the~~
46 ~~facility currently is equipped to use.~~

48 ~~4. Generating capacity. "Generating capacity" means an~~
~~entitlement to the output of 1,000 kilowatts or more of an~~

2 ~~electric-generating-facility-or-facilities-for-a-period-greater~~
3 ~~than-3-years.~~

4 **5. Transmission capacity.** "Transmission capacity" means an
5 entitlement to transmission services over a transmission line
6 with a capacity greater than 100 kilovolts for periods greater
7 than 3 years.

8
9 **6. Utility facility.** "Utility facility" means an item of
10 plant used or useful in the electric transmission and
11 distribution utility business, and includes, but is not limited
12 to, such items of plant as ~~generating--stations,~~ transmission
13 lines, office buildings and equipment and transportation
14 equipment.

15 **7. Corridor.** "Corridor" means an area no greater than 1/2
16 mile in width in which a proposed transmission line is to be
17 located.

18
19 **Sec. A-50. 35-A MRSA §3132,** as amended by PL 1997, c. 710,
20 §6, is further amended to read:

21
22 **§3132. Construction of transmission lines prohibited**
23 **without prior order of the commission**

24
25 An ~~electric~~ A transmission and distribution utility may not
26 construct any ~~generating-facility-or~~ transmission line covered by
27 subsection 1, ~~1-A-or~~ 2 or rebuild or relocate any transmission
28 line as investigated by the commission under subsection 3 unless
29 the commission has issued a certificate of public convenience and
30 necessity approving construction.

31
32 ~~1.--Construction-of-generating-facility-and-resulting-line.~~
33 ~~Whenever-any-electric-utility-or-utilities-proposes-to-erect~~
34 ~~within-this-State-a-permanently-installed-generating-facility-of~~
35 ~~more-than-1,000-kilowatts-or-any-transmission-line-capable-of~~
36 ~~operating-at-100-kilovolts-or-more,-the-construction-of-which-is~~
37 ~~required-to-carry-the-capacity-or-energy-produced-by-the~~
38 ~~generating-facility,-the-following-provisions-apply.~~

39
40 ~~A.--The-utility-or-utilities-shall-file-with-the-commission,~~
41 ~~no-less-than-3-months-in-advance-of-submitting-its-petition~~
42 ~~for-approval-of-the-proposed-facility-or-lines,-a-notice-of~~
43 ~~its-intent-to-file-the-petition.~~

44
45 ~~The-notice-of-intent-to-file-shall-inform-the-commission-of~~
46 ~~the-location,-size,-type-of-facility,-estimated-cost-and~~
47 ~~proposed-construction-schedule-of-the-generating-facility-or~~
48 ~~lines,-together-with-such-other-facts-and-details-concerning~~

2 the proposed facility or lines as the commission by rule prescribes.

4 B. The petition for approval of the proposed generating facility or lines shall contain such information as the commission by rule prescribes.

6 C. The petition for approval shall be set down for public hearing.

8 D. The commission shall issue its order within 15 months after the petition is filed with the commission unless the period is either extended by agreement of all the parties or by the commission upon its determination that the party seeking the extension would, because of circumstances beyond that party's control for which it has no reasonable substitute, be unreasonably disadvantaged unless the extension were granted, provided that the party to that time had prosecuted its case in good faith and with due diligence.

10 E. The utility or utilities shall send the municipalities in which any part of the proposed transmission line is to be located a copy of the application, including a copy of the proposed corridor or corridors. Any municipality through which any part of the proposed transmission line is to be located that requests to be an intervenor becomes an intervenor to the proceeding.

12 **1-A. Purchase of capacity or energy and resulting line.** Whenever any electric utility or utilities propose to purchase any generating capacity, transmission capacity or energy as defined in section 3131 and erect any transmission line capable of operating at 100 kilovolts or more, the construction of which is required to carry the capacity or energy purchased, the following provisions shall apply.

14 A. The purchase of the generating capacity, transmission capacity or energy shall be subject to section 3133.

16 B. The construction of the resulting transmission line shall be subject to this section, except that the notice of intent must be filed no less than 2 months in advance of submitting the petition for approval and the commission shall issue its order within 12 months after the petition is filed.

18 **2. Construction of transmission line.** Except as otherwise provided in subsection 3-A, whenever any electric transmission and distribution utility or utilities propose to erect within this State a transmission line capable of operating at 100

2 kilovolts, or more, and ~~the transmission line does not result~~
3 ~~from the construction of a generating facility pursuant to this~~
4 ~~section or the purchase of generating capacity, transmission~~
5 ~~capacity or energy, the utility or utilities shall file a~~
6 ~~petition for the approval of the proposed line. The petition is~~
7 ~~subject to the requirements of subsection 1, paragraphs B and C.~~
8 The petition for approval of the proposed transmission line must
9 contain such information as the commission by rule prescribes.
10 The petition for approval must be set down for public hearing.
11 The commission shall issue its order within 6 months after the
12 petition is filed unless this period is extended as ~~provided in~~
13 ~~subsection 1, paragraph D either by agreement of all the parties~~
14 ~~or by the commission upon its determination that the party~~
15 ~~seeking the extension would, because of circumstances beyond that~~
16 ~~party's control, be unreasonably disadvantaged unless the~~
17 ~~extension were granted, provided that the party to that time had~~
18 ~~prosecuted its case in good faith and with due diligence.~~

19 At the time of filing of a petition for approval of a proposed
20 line under this section, the utility shall send a copy of the
21 petition by certified mail to the municipal officers of the
22 municipality or municipalities in which the line is to be located.

24 **3. Transmission line rebuilding or relocation projects.**

25 Each ~~electric~~ transmission and distribution utility shall file
26 annually with the commission a schedule of transmission line
27 rebuilding or relocation projects ~~which that~~ it intends to carry
28 out during the next 5 years concerning transmission lines that
29 will become, or will remain at, voltages of 100 kilovolts or
30 more. The schedule shall ~~must~~ describe each project, showing the
31 length, location and estimated cost.

32 If the commission determines that an investigation of any
33 transmission line rebuilding or relocation project is warranted,
34 it shall notify the ~~electric~~ transmission and distribution
35 utility within 60 days of the annual filing and the ~~electric~~
36 transmission and distribution utility shall ~~is~~ then ~~be~~ required
37 to comply with the provisions of this section with respect to
38 that project. The absence of commission notification requiring
39 the utility to file a petition does not preclude such
40 notification in subsequent years.

42 **3-A. Minor transmission line construction projects.** Each

43 domestic ~~electric~~ transmission and distribution utility shall
44 file annually with the commission a schedule of minor
45 transmission line construction projects that it intends to carry
46 out during the next 5 years concerning transmission lines that
47 will be capable of operating at 100 kilovolts or more. A minor
48 transmission line construction project is a transmission line
49 construction project, the cost of which does not exceed 25% of
50

2 the utility's current annual transmission property depreciation
charge. The schedule must describe each project, showing the
length, location and estimated cost.

4

6 If the commission determines that an investigation of any minor
transmission line construction project is warranted, it shall
8 notify the electric transmission and distribution utility within
60 days of the annual filing and the electric utility must then
10 comply with the provisions of this section with respect to that
project. The absence of commission notification requiring the
12 utility to file a petition does not preclude such notification in
subsequent years.

14 ~~For purposes of this subsection only, the term "domestic electric~~
~~utility" does not include an entity that is not an electric~~
16 ~~utility as a result of the application of section 102, subsection~~
~~6-A.~~

18

20 **4. Corridor of proposed transmission line.** The electric
transmission and distribution utility or utilities shall submit a
map to the commission with its application. The map must:

22

24 A. Be available to the public at the offices of the
commission and at the local town office where any portion of
the proposed transmission line is to be located;

26

28 B. Indicate the proposed corridor or corridors of the
transmission line and a description of any planned equipment
and facilities to be placed there; and

30

32 C. Be prepared in cooperation with the appropriate natural
resource protection agencies and the affected municipalities.

34

5. Commission approval of a proposed line. The commission
may approve or disapprove all or portions of a proposed
36 transmission line and shall make such orders regarding its
character, size, installation and maintenance as are necessary,
38 having regard for any increased costs caused by the orders.

40

6. Commission order; certificate of public convenience. In
its order, the commission shall make specific findings with
42 regard to the need for the proposed facilities transmission
line. If the commission finds that a need exists, it shall issue
44 a certificate of public convenience and necessity for the
facilities transmission line. If the commission orders or allows
46 the erection of the facilities transmission line, the order is
subject to all other provisions of law and the right of any other
48 agency to approve the facilities transmission line. The electric
transmission and distribution utility may submit a petition for
50 and obtain approval of a proposed transmission line under this

2 section before applying for approval under municipal ordinances
3 adopted pursuant to Title 30-A, Part 2, Subpart 6-A; and Title
4 38, section 438-A and, except as provided in subsection 4, before
5 identifying a specific route or route options for the proposed
6 transmission line. Except as provided in subsection 4, the
7 commission may not consider the petition insufficient for failure
8 to provide identification of a route or route options for the
9 proposed transmission line. The issuance of a certificate of
10 public convenience and necessity establishes that, as of the date
11 of issuance of the certificate, the decision by the utility to
12 erect or construct was prudent. At the time of its issuance of a
13 certificate of public convenience and necessity, the commission
14 shall send to each municipality through which a proposed corridor
15 or corridors for a transmission line extends a separate notice
16 that the issuance of the certificate does not override, supersede
17 or otherwise affect municipal authority to regulate the siting of
18 the proposed transmission line.

19 **7. Environmental protection agency modification.** If the
20 commission has issued a certificate of public convenience and
21 necessity for a proposed transmission ~~or--generating--facilities~~
22 line and the Board of Environmental Protection in an order under
23 Title 38, section 484, makes a modification in the location,
24 size, character or design of the facilities transmission line,
25 the company shall:

26 A. Deliver a copy of the order to the commission; and

27 B. State the nature of the modifications and all cost
28 adjustments occasioned by the modifications to the cost of
29 the proposed facilities transmission line relied upon by the
30 commission in issuing its certificate of public convenience
31 and necessity under this section.

32 **8. Cost adjustments.** If the cost adjustments specified in
33 subsection 7 exceed the cost relied upon by the commission in the
34 original proceeding under this section by more than 20% of the
35 original cost, the utility may not proceed with any construction
36 of the proposed facilities transmission line, the commission's
37 original certificate of public convenience and necessity
38 notwithstanding. The commission, upon notification of the cost
39 increase, shall:

40 A. Reopen its original decision concerning the facilities
41 transmission line;

42 B. Make specific findings with regard to the need for the
43 facilities transmission line to the same extent and with the
44 same authority as if the company's petition for approval
45 were before it; and

2 C. Except as modified in this section, retain all authority
4 granted to it under section 1321.

6 **9. Filing fee; waiver of fee.** When a petition is filed
8 under this section, the electric transmission and distribution
10 utility or utilities involved shall pay to the commission an
12 amount equal to 2/100 of 1% of the estimated cost to erect,
14 rebuild or relocate the facility transmission line provided that
16 in the case of a petition filed under subsection 2, the fee shall
be is 4/100 of 1%. The utility may, at the time of the filing of
notice of its intent to file the petition, or, in the case of
lines subject to subsection 2, at the time of the filing of the
petition, request the commission to waive all or a portion of the
filing fee. The commission shall rule on the request for waiver
within 30 days.

18 Filing fees paid as required under this subsection shall must be
20 segregated, apportioned and expended by the commission for the
22 purposes of this section. Any portion of the filing fee that is
received from any utility and is not expended by the commission
to process the petition for a certificate of public convenience
and necessity shall must be returned to the utility.

24 **10. Exemption from filing fees.** Notwithstanding any other
26 requirement in this section, the commission may, by rule, exempt
28 from filing fees applications concerning transmission lines ~~not~~
~~associated with a major new generating facility or construction~~
~~of small generating facilities~~, the review of which does not
30 place an unusual burden on the commission's budget.

32 **11-A. Amendments, extensions and renewals of contracts**
34 **originally subject to commission approval.** This section applies
to any amendment, extension or renewal of any contract between
the utility and other parties with an ownership interest,
36 governing the terms of their participation in the construction of
a ~~generation--or~~ transmission facility line subject to this
38 section, if the original contract was subject to approval by the
commission. The commission may waive the approval requirements
40 of this section with respect to a particular amendment, extension
or renewal or a group of amendments, extensions or renewals upon
42 request ~~under subsection 1.~~ If the commission does not respond
to a request for waiver within 30 days, the request is deemed to
44 have been granted. The commission shall prescribe by rule the
content of a request for waiver and procedures for the
46 expeditious processing of requests in certain circumstances.

48 **11-B. Amendments, extensions and renewals of contracts not**
50 **originally subject to commission approval.** For any amendment,
extension or renewal of any contract otherwise subject to this

2 section, but when the original contract was not subject to
3 approval by the commission, the utility shall file a copy of the
4 proposed amendment, extension or renewal with the commission
5 within 7 days of the day when the utility receives notice of the
6 proposal, but approval under this section is not required.

7 **12. Waiver of notice.** The commission may waive any of the
8 notice requirements in this section in advance of filing.

9 **Sec. A-51. 35-A MRSA §3133**, as amended by PL 1995, c. 357,
10 §§3 to 5, is further amended to read:

11 **§3133. Purchase of transmission capacity prohibited without**
12 **prior order of the commission**

13 **1. Commission approval required for purchases.** An electric
14 A transmission and distribution utility may not purchase any
15 ~~generating capacity, transmission capacity or energy or carry-out~~
16 ~~a fuel conversion as defined in section 3131~~, unless the
17 commission has issued a certificate of public convenience and
18 necessity approving the purchase ~~or conversion~~ or has waived the
19 approval requirements pursuant to subsection 11.
20

21 **2. Notice of intent to file.** The utility or utilities
22 shall file with the commission, no less than 2 months in advance
23 of submitting its petition for a certificate of public
24 convenience and necessity for the proposed purchase ~~or~~
25 ~~conversion~~, a notice of its intent to file the petition. The
26 notice shall must inform the commission of the terms of the
27 proposed purchase ~~or conversion~~ and, after receiving the notice,
28 the commission may, by rule or otherwise, require the petitioner
29 to make available such additional information as it determines
30 necessary. The commission may waive the requirement that at
31 least 2 months months' advance notice be given. The commission
32 shall rule on any request for waiver within 60 days. If there is
33 then outstanding for the utility a long-range plan approved
34 pursuant to section 3134, the utility need not provide an advance
35 notice of its intent to file the petition.
36

37 **3. Petition for certificate of public convenience and**
38 **necessity.** The petition for a certificate of public convenience
39 and necessity shall must contain such information as the
40 commission may by rule prescribe.
41

42 **4. Hearing.** The petition shall must be set down for public
43 hearing.
44

45 **5. Deadline for issuance of commission order.** The
46 commission shall issue its order within 12 months after the
47 petition is filed. If there is then outstanding for the utility
48
49
50

2 a long-range plan approved pursuant to section 3134, the
commission shall issue its order within 9 months of filing.

4 **6. Certificate of public convenience and necessity.** The
following provisions apply to the issuance of a certificate of
6 public convenience and necessity.

8 A. In its order, the commission shall make specific
findings with regard to the need for the purchase ~~or~~
10 ~~conversion~~ and, if the commission finds that a need exists,
it shall issue a certificate of public convenience and
12 necessity for the purchase ~~or conversion~~.

14 ~~B. In ruling upon a fuel conversion petition, the~~
~~commission may consider the benefit to the public of any~~
16 ~~increased security of fuel supply which may result from the~~
~~conversion.~~

18 C. The issuance of a certificate of public convenience and
20 necessity establishes that, as of the date of issuance of
the certificate, the decision by the utility to purchase ~~or~~
22 ~~convert~~ was prudent.

24 ~~7. Exclusions. Nothing in this section applies to any~~
~~purchases made by an electric utility from any cogenerator or~~
26 ~~small power producer, as defined in chapter 33.~~

28 ~~7-A. Consumer owned electric utilities. Extensions of~~
~~existing wholesale power purchase arrangements by consumer owned~~
30 ~~electric utilities, as defined in section 3501, subject to~~
~~Federal Energy Regulatory Commission review with respect to~~
32 ~~rates, are exempt from prior review under this section.~~

34 **8. Filing fee.** When the petition is filed, the utility or
utilities involved shall pay to the commission an amount equal to
36 2/100 of 1% of the estimated cost of the purchase ~~or conversion~~.
The utility or utilities may, at the time of the filing of notice
38 of its intent to file the petition, request the commission to
waive all or a portion of the filing fee. The commission shall
40 rule on a request for waiver within 30 days.

42 Filing fees paid as required by this subsection shall must be
segregated, apportioned and expended by the commission for the
44 purposes of this section. Any portion of the filing fee that is
received from any utility or utilities and is not expended by the
46 commission to process the petition for a certificate of public
convenience and necessity shall must be returned to the utility
48 or utilities.

2 9. ~~Imported power.~~ In its review of any petition filed on
or after January 1, 1987, for approval of the purchase of
4 generating capacity or energy from outside the State, the
commission may consider the comparative economic impact on the
6 State of production of additional power within the State,
investments in energy conservation and the purchase of the power
from outside the State.

8
10 10-A. **Renewal of contracts for purchase originally subject
to commission approval.** The requirements of this section apply
12 to any amendment, extension or renewal of any contract between
the utility and other parties governing the terms of their
14 participation in a purchase or conversion subject to this
section, if the original contract was subject to approval by the
commission.

16
18 10-B. **Renewal of contracts not originally subject to
commission approval.** For any amendment, extension or renewal of
20 any contract otherwise subject to this section for which the
original contract was not subject to approval by the commission,
22 the utility shall file a copy of the proposed amendment,
extension or renewal with the commission within 7 days of the day
24 when the utility receives notice of the proposal, but approval
under this section is not required.

26 11. **Waiver of approval requirements.** The commission may
waive the notice and approval requirements of this section on its
28 own motion or upon request of any party except that the
commission may not waive the approval requirements if the
30 purchase or fuel conversion involves generating capacity that
exceeds either 5% of the installed capacity of the utility or 30
32 megawatts of capacity. The commission shall rule on a request
for a waiver within 60 days. Prior to considering a waiver, the
34 commission shall ensure that notice by mail has been sent, and an
opportunity to be heard permitted, to persons who commonly
36 participate in commission proceedings and persons whose contracts
the commission determines may be affected by the agreement. The
38 commission may prescribe by rule the content of a request for
waiver and procedures for the expeditious processing of the
40 request in certain circumstances.

42 **Sec. A-52. 35-A MRSA §3133-A**, as amended by PL 1995, c. 357,
§§6 to 9, is further amended to read:

44 **§3133-A. Significant agreements and contracts relating
46 to transmission capacity prohibited without
prior order of the commission**

48 1. **Certificate of public convenience and necessity.** Except
50 as provided in subsection 3, an electric transmission and

2 distribution utility may not enter into any significant agreement
3 or contract, as defined in subsection 2, unless the commission
4 has issued a certificate of public convenience and necessity
5 approving the proposed agreement or contract or has waived the
6 approval requirements pursuant to subsection 6. The utility must
7 file a notice with the commission no less than 2 months in
8 advance of submitting its petition for a certificate of public
9 convenience and necessity for the proposed agreement or
10 contract. The commission may require the petitioner to make
11 available such additional information as it determines
12 necessary. The petition must contain such information as the
13 commission may by rule prescribe. The petition must be set down
14 for public hearing. The commission shall issue its order within
15 12 months after the complete petition is filed. If there is then
16 outstanding a long-range plan for the utility pursuant to section
17 3134 that includes the agreement or contract, the utility need
18 not provide advance notice of its intent to file the petition and
19 the commission shall issue its order within 9 months after the
20 complete petition is filed.

21 In its order, the commission shall make specific findings with
22 regard to the agreement or contract. If the commission finds
23 that a need for it exists and it is reasonable and consistent
24 with the public interest, the commission shall issue the
25 certificate of public convenience and necessity.

26 The issuance of a certificate of public convenience and necessity
27 establishes that, as of the date of issuance, the decision by the
28 utility to enter into the agreement or contract was prudent.

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

32 A. "Significant agreement or contract" means a contract or
33 other agreement enforceable as a contract that binds the
34 utility to a future course of action with respect to
35 supplying, purchasing, ~~dispatching~~ or exchanging ~~generating~~
36 ~~capacity, energy or~~ transmission capacity or any renewal,
37 amendment or extension of any contract or agreement that is
38 for a period of longer than 3 years and involves one of the
39 following, whichever is less:
40 following, whichever is less:

41 (1) More than 5,000 kilowatts of electrical ~~generating~~
42 transmission capacity, or 50,000,000 kilowatt hours or
43 more of energy per year, flowing over a transmission
44 line with a capacity greater than 100 kilovolts;
45 line with a capacity greater than 100 kilovolts;

2 (2) More than 10% of the ~~generating--capacity,~~
transmission capacity ~~or--energy--generation~~ of the
utility; or

4
6 (3) ~~More~~ The transmission of an amount equal to more
than 1.0% of the total annual kilowatt hour sales ~~of~~ in
the utility utility's service territory.

8
10 **3. Exclusions.** This section does not apply to any contract
or agreement for which commission approval is required under
12 section 3132 or 3133 ~~or--to--any--contract--with--a--cogenerator--or~~
~~small--power--producer--as--defined--by--section--3303.~~ This section
14 applies to contracts or agreements which that take effect on or
after the effective date of this section.

16 **4. Filing fee.** A utility or utilities filing a petition
under this section shall pay to the Public Utilities Commission
18 at the time of filing an amount equal to 2/100 of 1% of the
estimated cost of the contract or agreement. The utility or
20 utilities, at or before the time of filing of notice of its
intent to file the petition, may request the commission to waive
22 all or a portion of the filing fee as unnecessary to help defray
the cost of review. The commission shall rule on the request for
24 waiver within 60 days.

26 Notwithstanding this Title, filing fees paid as required in this
subsection shall must be segregated, apportioned and expended by
28 the commission for the purposes of this section. Any portion of
the filing fee that is received from a utility or utilities and
30 is not expended by the commission to process the petition for a
certificate of public convenience and necessity shall must be
32 returned to the utility or utilities.

34 **5-A. Amendments, extensions and renewals.** The requirements
of this section apply to any amendment, extension or renewal of
36 any significant agreement or contract subject to this section, if
the original contract was subject to approval by the commission.

38 **5-B. Amendments, extensions and renewals of contracts not**
40 **originally subject to commission approval.** For any amendment,
extension or renewal of any contract otherwise subject to this
42 section when the original contract was not subject to approval by
the commission, the utility shall file a copy of the proposed
44 amendment, extension or renewal with the commission within 7 days
of the day when the utility receives notice of the proposal, but
46 approval is not required under this section.

48 **6. Waiver of approval requirements.** The commission may
waive the notice and approval requirements of this section upon
50 its own motion or upon the request of any party, ~~except that the~~

2 ~~commission may not waive the approval requirements if the~~
3 ~~agreement involves generating capacity that exceeds the larger of~~
4 ~~5% of the installed capacity of the utility or 50 megawatts of~~
5 ~~capacity.~~ The commission shall rule on a request for a waiver
6 within 60 days. Prior to considering a waiver, the commission
7 shall ensure that notice by mail has been sent, and an
8 opportunity to be heard permitted, to persons who commonly
9 participate in commission proceedings and persons whose contracts
10 the commission determines may be affected by the agreement. The
11 commission may prescribe by rule the content of a request for
12 waiver and procedures for expeditious processing of the request
13 in certain circumstances.

14 **Sec. A-53. 35-A MRSA §3134**, as amended by PL 1987, c. 378,
15 §2, is further amended to read:

16 **§3134. Long-range plan**

17 **1. Filing by transmission and distribution utilities.**
18 Every electric transmission and distribution utility in whose
19 service territory total sales of electric energy for purposes
20 other than resale exceeded ~~300,000,000 kilowatt~~ 300,000,000
21 kilowatt hours during any calendar year may submit to the
22 commission a long-range energy plan for the 15-year period
23 subsequent to the date the plan is submitted. This plan shall:

- 24
- 25 A. Include the utility's annual peak-load forecasts, annual
26 energy forecasts, ~~projected annual fuel mix type and~~
27 ~~location of proposed generating facilities and alternatives,~~
28 type and route of major proposed transmission lines and
29 alternatives and an analysis of the cost and financing of
30 the plan, together with such other information as the
31 commission may by rule require; and
 - 32 B. List and describe all the assumptions used by the
33 utility in formulating the plan required by this section.
- 34

35 **2. Hearing and decision.** The commission shall set down for
36 public hearing each long-range energy plan filed in accordance
37 with subsection 1. Notice of the hearing and opportunity to
38 intervene shall must be provided in accordance with the Maine
39 Administrative Procedure Act, Title 5, chapter 375, and the
40 commission's rules of practice and procedure. The commission
41 shall issue a decision approving, disapproving or modifying each
42 plan within one year after the filing of such energy plan in
43 accordance with this subsection. Each long-range energy plan as
44 approved or modified by the commission shall ~~constitute~~
45 constitutes the energy plan of the filing utility and, unless
46 altered as the result of judicial review or subsequently modified
47 by commission order, shall ~~represent~~ represents the final finding
48
49
50

of fact of the matters contained in the plan for the purposes of subsection 3.

3. Purchase of transmission capacity. If, at the time the commission issues an order granting a certificate of public convenience and necessity to a utility pursuant to section 3133, there is in existence a long-range energy plan for the utility approved or modified by the commission 2 years or less before the date of the order, the certificate shall may not be granted unless the purchase ~~of conversion~~ conforms to that plan. The findings by the commission, as embodied in its order under subsection 2, shall to the extent relevant represent the commission's findings of fact of the matters contained in the order in any proceeding pursuant to section 3133 that is decided within 2 years from the date of the order.

4. Plans of consumer-owned transmission and distribution utilities. The commission may order the filing of a long-range energy plan, comparable to the plan authorized in this section, by a consumer-owned electric transmission and distribution utility, as defined in section 3501. The order shall must allow sufficient time for its preparation. A consumer-owned utility may file a comparable plan on its own initiative. Any plan submitted under this subsection may be filed in concert with other consumer-owned electric transmission and distribution utilities. A plan is comparable to a plan otherwise authorized in this section if it provides the same or similar data to the fullest extent possible, taking into account the size and resources of the consumer-owned utility.

The plan shall must be reviewed by the commission in accordance with subsection 2. ~~If a plan has been approved by the commission, the consumer-owned electric utility shall not agree to the extension of an existing wholesale power contract, exempted from prior review under section 3133, which is not consistent with the plan.~~

Sec. A-54. 35-A MRS §3135, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

§3135. Physical connection between lines of utilities authorized

1. Connection with feed lines. ~~An electric~~ A transmission and distribution utility may extend its lines to connect with the feed lines of any other electric transmission and distribution utility ~~generating and selling electricity. The generating utility shall furnish electricity if requested to the extent of its reasonable capacity and at reasonable rates, provided that the commission so orders upon application, after public hearing~~

2 ~~of all parties interested.~~ The commission may fix such terms and
conditions as will safeguard the rights and interests of both
utilities.

4
6 ~~Ten individuals who contemplate the organization of an electric
utility may petition for a public hearing under this subsection.
The commission may hold its hearing on the petition and make its
8 order.--If the petitioners organize an electric utility and begin
business within one year, the order shall be effective to give
10 authority to the electric utility.~~

12 **2. Emergency connection and transport of energy.** The
commission, in the interest of public convenience and necessity,
14 may order any utility which that is principally engaged in the
manufacture, transmission, and distribution ~~or~~ sale of
16 electricity directly to the public or to be used ultimately by
the public to transport temporarily electricity over its
18 transmission or distribution facilities at a reasonable charge
and in a manner as the commission directs when the transmission
20 will alleviate an electric power shortage within this State which
that exists by reason of an emergency.

22
24 Whenever the commission, upon its own motion or upon application
of any electric transmission and distribution utility, after due
notice to all interested parties and an opportunity for a
26 hearing, makes findings based upon substantial evidence that an
emergency exists and that action is necessary and appropriate in
28 the public interest and is not detrimental to the interests of
investors and consumers, it may order a utility to establish
30 physical connection of its transmission or distribution
facilities with the facilities of one or more other utilities to
32 ~~sell electricity to, to exchange electricity with, to~~ transmit or
distribute electricity for any other utility for a temporary
34 period.

36 The commission may not compel a company to ~~sell, exchange,~~
transmit or distribute electricity under this subsection when to
38 do so would impair its ability to render adequate service to its
customers ~~or would require it to enlarge its generating~~
40 ~~facilities.~~

42 The commission may prescribe the terms and conditions of the
arrangement to be made between the utilities affected by the
44 order, including the compensation or reimbursement reasonably due
to any of them, and, in the case of a new physical connection,
46 the apportionment of costs between them or among them provided
that a utility making application for or receiving the benefit of
48 a connection which that will inure to its sole benefit assumes
the entire cost of the connection.

50

2 **Sec. A-55. 35-A MRSA §3136**, as enacted by PL 1987, c. 141,
Pt. A, §6, is amended to read:

4 **§3136. Transmission and distribution utilities have eminent
6 domain; approval**

8 1. **Land necessary for location of transmission lines**
10 **carrying 5,000 volts.** Any ~~electric~~ transmission and distribution
12 utility may take and hold by right of eminent domain lands and
14 easements necessary for the proper location of its transmission
lines which ~~that~~ are designed to carry voltages of 5,000 volts or
more and of necessary appurtenances, located within the territory
in which the utility is authorized to do public utility business,
in the same manner and under the same conditions as set forth in
chapter 65.

16 2. **Right of eminent domain not applicable.** The right of
18 eminent domain granted in subsection 1 does not apply to:

20 A. Lands or easements located within 300 feet of an
inhabited dwelling;

22 B. Lands or easements on or adjacent to any developed or
24 undeveloped water power;

26 C. Lands or easements so closely paralleling existing wire
lines of other utilities that the proposed transmission
28 lines would substantially interfere with service rendered
over the existing lines, except with the consent of the
30 owners; and

32 D. Lands or easements owned or used by railroad
corporations.

34 3. **Prior right to locate distribution lines and**
36 **appurtenances in right-of-way limits of public way.** Electric
38 Transmission and distribution utilities may take and hold by
right of eminent domain land or easements necessary for the
proper location of their distribution lines and the necessary
40 appurtenances, but only where the ~~electric~~ transmission and
distribution utilities had a prior right to locate their
42 distribution lines and necessary appurtenances in the
right-of-way limits of a public way and the body having
44 jurisdiction over the public way has caused the ~~electric~~ utility
to remove its distribution lines and appurtenant structures
46 outside the right-of-way limits of the public way. This right
does not apply to lands or easements as specified in subsection
48 2, paragraphs B, C and D.

2 **4. Commission approval; environmental factors.** A location
3 to be taken by eminent domain for such transmission or
4 distribution lines must be approved by the commission.
5 Environmental factors to be considered for proper location of a
6 transmission line are not subject to review by the commission
7 when the location of the transmission line has received site
8 location of development approval under Title 38, section 484.

9 **Sec. A-56. 35-A MRSA §3137**, as enacted by PL 1987, c. 141,
10 Pt. A, §6, is amended to read:

11 **§3137. Area within which domestic transmission and**
12 **distribution utility may transmit electricity;**
13 **taxation by other states**

14 **1. Domestic transmission and distribution utility may**
15 **transmit electricity inside or outside this State.**
16 Notwithstanding any limitation imposed by its charter, each
17 domestic electric transmission and distribution utility may
18 generate--and transmit electricity and acquire and operate
19 anywhere inside or outside this State utility facilities or
20 interests in utility facilities of any nature or form used or
21 required to be used in its service to the public, provided that
22 nothing in this section authorizes a utility to ~~sell~~ distribute
23 electricity in this State to any person or within any area,
24 except as otherwise authorized by its charter or the general
25 statutes of this State.

26 **2. Legislative consent to application of laws of other**
27 **states with respect to taxes.** Legislative consent is given to
28 the application of the laws of other states with respect to
29 taxation, payments in lieu of taxes and the assessment of taxes
30 or payments in lieu of taxes to any domestic electric
31 transmission and distribution utility which that is acting
32 outside this State under this section.

33 **Sec. A-57. 35-A MRSA §3138**, as enacted by PL 1987, c. 141,
34 Pt. A, §6, is amended to read:

35 **§3138. Joint ownership of facility; waiver of right to**
36 **partition**

37 Notwithstanding Title 14, chapter 719, any domestic electric
38 transmission and distribution utility or foreign electric utility
39 that acquires or owns a joint or common interest with one or more
40 other electric utilities or other persons in any property which
41 that is used or acquired for use as a utility facility may
42 surrender or waive its right to have a partition by division or
43 partition by sale of the property for a period which that does

not exceed the period for which the property is used or useful
for ~~electric~~ transmission and distribution utility purposes.

Sec. A-58. 35-A MRSA §3140, sub-§4, as amended by PL 1997, c. 316, §2, is further amended to read:

4. Certificate of agency with regulatory jurisdiction over foreign electric utility. Upon the filing with the commission of a certificate of the appropriate regulatory agency of the state of domicile or principal locus of a foreign electric utility, or of the United States, stating either that the agency has regulatory jurisdiction over the issuance of stocks, bonds or other evidences of indebtedness payable more than 12 months from date of issue by that foreign electric utility to finance a utility facility in this State or that the agency has general supervision of that foreign electric utility in the conduct of its electric utility business, that foreign electric utility may not be deemed an ~~electric utility~~ a "transmission and distribution utility" as defined in section 102, subsection 5 20-B, merely by reason of the exercise by it of the authority granted in former section 3139.

Sec. A-59. 35-A MRSA §3140, sub-§5, as enacted by PL 1997, c. 710, §7, is repealed.

Sec. A-60. 35-A MRSA §3141, sub-§§1 and 2, as enacted by 1987, c. 141, Pt. A, §6, are amended to read:

1. Utility facilities owned by domestic transmission and distribution utility. All utility facilities, real and personal, situated within this State and owned by a domestic ~~electric~~ transmission and distribution utility are subject to assessment and taxation to the same extent and in the same manner as provided in Title 36.

2. Utility facilities owned by foreign electric utility. All utility facilities situated within this State and owned by a foreign electric utility other than a municipal or quasi-municipal corporation or other political subdivision of a state or province are subject to assessment and taxation to the same extent and in the same manner as though owned by a domestic ~~electric~~ transmission and distribution utility.

Sec. A-61. 35-A MRSA §3152, as amended by PL 1993, c. 402, §1, is further amended to read:

§3152. Policy and findings

1. Increased efficiency. The Legislature declares and finds that improvements in ~~electric~~ transmission and distribution

2 utility rate design and related regulatory programs have great
3 potential for reducing the cost of electric utility services to
4 consumers, for encouraging energy conservation and efficient use
5 of existing facilities and for minimizing the need for expensive
6 new electric ~~generating--and~~ transmission capacity. It is the
purpose of this chapter to:

8 A. Require the commission to relate electric transmission
9 and distribution rates more closely to the costs of
10 providing electric transmission and distribution service; and

12 ~~B.---Encourage--the--commission--to--set--electric--rates--to~~
13 ~~promote--the--maximum--efficient--utilization--of--natural--energy~~
14 ~~resources--existing--in--the--State--in--order--to--promote--the--use~~
15 ~~of--indigenous--energy--resources--to--the--extent--that--this--will~~
16 ~~reduce--overall--electric--costs--or--electric--rates,--or--both,~~
17 ~~provided--equivalent--consideration--is--given--to--the--goals--of~~
18 ~~reducing--costs--and--reducing--rates,--and~~

20 C. Require the commission to consider the ability of
21 low-income residential customers to pay in full for electric
22 services as electric transmission and distribution rates are
redesigned consistent with these policies.

24 **Sec. A-62. 35-A MRSA §3153-A**, as amended by PL 1993, c. 402,
26 §2, is further amended to read:

28 **§3153-A. Public Utilities Commission to develop proposals**
29 **to improve transmission and distribution utility**
30 **rate design**

32 **1. Proposals and programs developed.** The commission, as it
33 determines appropriate, shall order electric transmission and
34 distribution utilities to develop and submit specific rate design
35 proposals and related programs for implementing energy
36 conservation and energy efficiency techniques and innovations,
37 either in conjunction with or independent of any rate-making
38 proceeding pending before the commission. The proposals, as the
39 commission determines, must be designed to encourage energy
40 conservation, minimize the need for new ~~electrical--generating~~
41 transmission and distribution capacity, minimize costs of
42 electricity transmission and distribution service to consumers,
43 minimize transmission and distribution rates over the long term
44 or short term and take into account the needs of low-income
45 customers. In approving a proposal under this section, the
46 commission shall give equivalent consideration to the goals of
47 minimizing costs and minimizing transmission and distribution
48 rates ~~of--electricity~~ to consumers. Proposals must include, but
49 are not limited to, proposals that provide for the development
50 and implementation of:

- 2 A. Load management techniques;
- 4 B. Rates that reflect marginal costs of services at
6 different voltages, times of day or seasons of the year,
8 including long-run marginal costs associated with the
construction of new electric--generating transmission and
distribution facilities;
- 10 ~~C. Policies that encourage economic use of fuel and the
12 maximum efficient utilization of natural energy resources
indigenous to the State;~~
- 14 D. Rates or other regulatory policies that encourage
16 electric transmission and distribution utility system
reliability;
- 18 E. Electric Transmission and distribution utility financing
20 or subsidization of capital improvements undertaken by
ratepayers to conserve electricity used by the ratepayers in
22 the future. The commission may approve and allow cost
recovery for proposals that result in savings in fuel other
24 than electricity. This paragraph applies to future programs
for utility financing of energy conservation or load
26 management and to programs that the commission has already
approved prior to September 29, 1987;
- 28 F. As defined by the commission by rule, cost-effective
30 conversions of electric space heat systems to systems
relying on other fuels and other techniques for enabling
32 homeowners and tenants to replace on-peak, winter period
electric usage with less expensive sources of heat;
- 34 G. Rates or bill payment assistance programs for
36 residential customers who have been certified eligible for
state or federal fuel assistance that take into account the
38 difficulty these customers have paying in full for electric
service or that target assistance to these customers in the
40 most efficient manner, taking into account the necessity of
maintaining electric service; and
- 42 H. Rates that allow incremental use or maintenance of
44 existing use when those rates serve to minimize rate levels
for all electric transmission and distribution customers.
46 In approving any proposal for rates that allow incremental
use or maintenance of existing use, the commission shall
48 seek to ensure that rates for all customer classes will be
lower than they would have been had the commission not
50 approved the proposal.

3. **Implementation of rebate structures.** The Public Utilities Commission may require an electric transmission and distribution utility to implement rebate structures for installation or upgrade of an electric service entrance to encourage energy efficient buildings and discourage energy inefficient buildings. In designing these programs, the commission shall give due consideration to safety.

Sec. A-63. 35-A MRSA §3154, sub-§1, as amended by PL 1993, c. 91, §8, is further amended to read:

1. **Rate design and conservation improvements.** The commission shall mandate, after notice and hearing on the proposed schedule, a scheduled phasing-in of the improvements in electric transmission and distribution utility rate design and related regulatory programs submitted and approved under section 3153-A and is authorized to order utilities to implement electric transmission and distribution utility rate design improvements approved by the commission on a temporary, pilot and experimental basis, affecting either a portion or all of any class of consumers of any utility as the commission may determine is appropriate to carry out the purposes of this subchapter, and order other energy conservation techniques, programs and innovations relating to electric transmission and distribution utility service that, in the commission's judgment, are practicable, just and reasonably related to fulfilling the purposes of this chapter. In ordering any rate design improvements or any other programs for implementing energy conservation techniques and innovations referred to in section 3153-A, the commission shall consider rate design stability and shall assure ensure the revenue requirements of the utility.

Sec. A-64. 35-A MRSA §3154, sub-§4, as enacted by PL 1987, c. 141, Pt. A, §6, is repealed.

Sec. A-65. 35-A MRSA §3154, sub-§5, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

5. **Load management devices.** The commission shall mandate, in any electric transmission and distribution utility rate schedule approved or taking effect after January 1, 1983, a rate for any user who installs a load management device, approved by the commission, which that reflects the savings to the utility resulting from the use of the device.

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 shall

2 determine interruptible rates consistent with and by reference to
3 its determination of utility transmission and distribution
4 capacity costs. Interruptible rates must be designed so as to
5 encourage the long-term availability of interruptible resources,
6 including interruptible options for all customer classes.

7 **Sec. A-67. 35-A MRSA §3154, sub-§8**, as enacted by PL 1993, c.
8 262, §1, is repealed.

9 **Sec. A-68. 35-A MRSA §3156, sub-§4**, as enacted by PL 1993, c.
10 712, §6, is repealed.

11 **Sec. A-69. 35-A MRSA c. 31, sub-c. IV**, as amended, is further
12 amended by repealing and replacing the headnote to read:

13 **SUBCHAPTER IV**

14 **OLDER CITIZENS TRANSMISSION AND DISTRIBUTION**
15 **SERVICE POLICY**

16 **Sec. A-70. 35-A MRSA §3171**, as corrected by RR 1993, c. 1,
17 §104, is amended to read:

18 **§3171. Title**

19 This subchapter may be known and cited as the "Older
20 Citizens ~~Electric~~ Transmission and Distribution Service Policy."

21 **Sec. A-71. 35-A MRSA §3172**, as enacted by PL 1987, c. 141,
22 Pt. A, §6, is amended to read:

23 **§3172. Policy**

24 It is declared that it is a policy of the State to insure an
25 adequate ~~electric~~ transmission and distribution utility service
26 to older citizens at a price they can afford. Older citizens
27 today face a special crisis in surviving under the constant
28 increase in the cost of living and particularly in the cost of
29 fuel and utility services. It is the purpose of lifeline
30 ~~electric~~ transmission and distribution service to alleviate the
31 upward spiral in the cost of ~~electric~~ transmission and
32 distribution service to older citizens and at the same time to
33 encourage as well as reward the conservation of scarce energy
34 supplies by adopting the approach of constant per unit cost for
35 the use of electricity. It is the policy of the State that older
36 citizens be able to receive ~~electric~~ transmission and
37 distribution service for basic necessities of modern life, such
38 as lighting and refrigeration, at a stable, fair and reasonable
39 minimum cost and to encourage the reduction of electricity
40 consumption for all other uses beyond such basic necessities.
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2 **Sec. A-72. 35-A MRSA §3181, sub-§§1 and 5**, as enacted by PL
3 1987, c. 141, Pt. A, §6, are amended to read:

4
5 **1. Commission representation of the State.** The commission,
6 when authorized by the Governor, shall represent the State in
7 negotiating, contracting for and purchasing electricity generated
8 outside of the State, and in reselling the purchased electricity
9 ~~to electric utilities serving for use in~~ this State when the
10 commission determines that the purchases and resales will serve
11 the energy needs of the State in a manner consistent with the
12 public interest. As used in this section, the term "electricity"
13 includes capacity.

14
15 **5. Transmission and distribution utility may not refuse to**
16 **transmit electricity.** ~~No electric~~ A transmission and
17 distribution utility may **not** refuse to transmit electricity
18 purchased under this section via its facilities at reasonable
19 rates if it has capability to transmit the energy.

20
21 **Sec. A-73. 35-A MRSA §3182**, as amended by PL 1987, c. 490,
22 Pt. B, §§8 and 9, is repealed.

23 **Sec. A-74. 35-A MRSA §3191**, as amended by PL 1991, c. 769,
24 §2, is repealed.

25
26 **Sec. A-75. 35-A MRSA §3195**, as amended by PL 1993, c. 614,
27 §1, is further amended to read:

28
29 **§3195. Commission authority to promote transmission and**
30 **distribution utility efficiency**

31
32 **1. Rate-adjustment mechanisms.** This Title may not be
33 construed to prohibit the commission from or to restrict the
34 commission in establishing or authorizing any reasonable
35 rate-adjustment mechanisms to promote efficiency in ~~electric~~
36 transmission and distribution utility operations and least-cost
37 planning. Rate-adjustment mechanisms may include, but are not
38 limited to:

39
40 A. Decoupling of utility profits from utility sales through
41 revenue reconciliation;

42
43 B. Reconciliation of actual revenues or costs with projected
44 revenues or costs, either on a total or per customer basis;

45
46 C. Adjustment of revenues based on reconciled, indexed or
47 forecasted costs; and
48

2 D. Positive or negative financial incentives for efficient
operations.

4 2. **Just and reasonable rates.** In determining the
reasonableness of any rate-adjustment mechanism established under
6 this subchapter, the commission shall apply the standards of
section 301 to ~~assure~~ ensure that the rates resulting from the
8 implementation of the mechanism are just and reasonable.

10 3. **Value of utility property.** Notwithstanding section 303,
rate-adjustment mechanisms established under this section may be
12 used to establish the value of the ~~electric~~ transmission and
distribution utility's property.

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

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

32 6. **Rate flexibility.** Notwithstanding sections 307 and 703,
34 the commission, in an adjudicatory proceeding, may authorize an
~~electric~~ a transmission and distribution utility to implement a
36 program under which:

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

40 B. The utility may enter into contracts for the sale of
42 ~~electricity~~, transmission and distribution services and
related management services with limited or no prior express
44 approval by the commission.

46 The commission shall render its decision in any adjudicatory
proceeding held for the purposes of authorizing a utility to
48 implement a program consistent with this subsection within 9
months of the initiation of the proceeding. In the adjudicatory
50 proceeding, the commission shall establish the terms and

2 conditions under which a program is authorized under this
3 subsection. ~~As part of a program adopted under this subsection,~~
4 ~~the commission may waive the requirements of section 3101. Any~~
5 ~~program authorized under this subsection must be consistent with~~
6 ~~section 3191.~~ The authority granted to the commission under this
7 subsection is in addition to the authority of the commission
8 granted under other provisions of this Title and nothing in this
9 subsection may be construed to limit the authority of the
10 commission under any other provision of this Title.

11 **Sec. A-76. 35-A MRSA §§3301 and 3302**, as enacted by PL 1987,
12 c. 141, Pt. A, §6, are repealed.

13 **Sec. A-77. 35-A MRSA §3303**, as amended by PL 1987, c. 769,
14 Pt. A, §143, is further amended to read:

15 **§3303. Definitions**

16
17 As used in this chapter, unless the context otherwise
18 indicates, the following terms have the following meanings.

19 **1. Associate.** "Associate" means any person other than an
20 electric a transmission and distribution utility that
21 substantially participates in the ownership or operation of a
22 cogeneration or small power production facility or any person
23 that contracts to receive the thermal output of a cogeneration
24 facility.

25 **1-A. Affiliate.** "Affiliate" means any person who, as
26 determined by the commission:

27
28 A. Directly controls, is controlled by or is under common
29 control with an electric generation enterprise; or

30
31 B. Substantially owns, is substantially owned by or is
32 substantially under common ownership with, an electric
33 generation enterprise.

34
35 **2. Cogenerator.** "Cogenerator" means a municipality or
36 person:

37
38 A. Owning or operating a facility which that generates
39 electricity and steam or other useful forms of energy which
40 that are used for commercial, industrial, heating or cooling
41 purposes; and

42
43 B. Not primarily engaged in the generation or sale of
44 electricity, other than the electricity generated at the
45 cogeneration facility.

For purposes of this chapter, a cogenerator is considered not primarily engaged in the generation or sale of electricity if 50% or less of the equity interest in the cogeneration facility is owned by an electric a transmission and distribution utility, a subsidiary of an electric a transmission and distribution utility or an affiliate of an electric a transmission and distribution utility.

~~3. Existing transmission and distribution line improvement costs. "Existing transmission and distribution line improvement costs" means any costs the utility reasonably incurs for upgrading and improving transmission and distribution lines and related facilities that are already operable as part of that utility's existing power grid.~~

~~4. Interconnection costs. "Interconnection costs" means the reasonable costs incurred solely due to connecting the qualifying facility with the existing facilities of the electric utility purchasing the power. Interconnection costs do not include the costs of improvements to existing transmission and distribution lines.~~

5. **Municipal solid waste.** "Municipal solid waste" means solid waste emanating from domestic and commercial sources within the State over which municipalities are authorized to exercise control.

6. **Municipal solid waste energy recovery facility.** "Municipal solid waste energy recovery facility" means a "small power producer" ~~as defined in this section, which~~ that depends upon municipal solid waste for at least 50% of its energy.

7. **Qualifying facility.** "Qualifying facility" means any small power producer or cogenerator as defined in this chapter.

8. **Renewable resources.** "Renewable resources" means resources that are capable of being reproduced, replenished or restored following the use of these resources and resources that are inexhaustible. Renewable resources shall include biomass, wood, water, waste, solid waste, as defined by Title 38, section 1303, solar energy and wind, but do not include, nuclear fuel sources, coal and oil.

9. **Small power producer.** "Small power producer" means a municipality or person owning or operating a power production facility with a power production capacity which that, together with any other facilities located at the same site, does not exceed 80 megawatts of electricity and which that depends upon renewable resources for its primary source of energy. For purposes of this chapter, a power producer is not considered a

2 "small power producer" if more than 50% of the equity interest in
the power production facility is owned by a electric transmission
4 and distribution utility, a subsidiary of a electric transmission
and distribution utility or an affiliate of a electric
6 transmission and distribution utility.

8 **Sec. A-78. 35-A MRSA §3304**, as amended by PL 1987, c. 613,
§4, is repealed.

10 **Sec. A-79. 35-A MRSA §3305**, as enacted by PL 1987, c. 141,
Pt. A, §6, is repealed.

12 **Sec. A-80. 35-A MRSA §3306**, as amended by PL 1987, c. 490,
14 Pt. A, §7, is repealed.

16 **Sec. A-81. 35-A MRSA §§3307 and 3308**, as enacted by PL 1987,
c. 141, Pt. A, §6, are repealed.

18 **Sec. A-82. 35-A MRSA §3309**, as enacted by PL 1993, c. 712,
20 §7, is repealed.

22 **Sec. A-83. 35-A MRSA c. 35**, as amended, is further amended by
repealing and replacing the headnote to read:

24 **CHAPTER 35**

26 **CONSUMER-OWNED TRANSMISSION AND DISTRIBUTION UTILITIES**

28 **Sec. A-84. 35-A MRSA §3501**, as amended by PL 1987, c. 490,
30 Pt. C, §9, is further amended to read:

32 **§3501. Definitions**

34 **1. Consumer-owned transmission and distribution utility.**
For the purposes of this chapter, "consumer-owned electric
36 transmission and distribution utility" means any electric
transmission and distribution utility which that is wholly owned
38 by its consumers, including, but not limited to:

40 A. Any rural electrification cooperative organized under
chapter 37;

42 B. Any electrification cooperative organized on a
44 cooperative plan under the laws of the State;

46 C. Any municipal or quasi-municipal electric transmission
and distribution utility;

48

2 D. The ~~electric~~ portion of any municipal or quasi-municipal
entity providing ~~electric--and--other~~ transmission and
4 distribution services; and

6 E. Any ~~electric~~ transmission and distribution utility
wholly owned by a municipality.

8 **Sec. A-85. 35-A MRSA §3502**, as amended by PL 1995, c. 255,
10 §§1 to 6, is further amended to read:

12 **§3502. Procedures for changes in rates**

14 Notwithstanding section 310, any consumer-owned ~~electric~~
transmission and distribution utility that proposes to increase
16 rates, tolls or charges by not more than 15% of the utility's
annual operating revenues or proposes to decrease rates, tolls or
18 charges in any amount may elect to set rates pursuant to this
section and section 3503. ~~These sections do not apply to fuel~~
~~adjustment clauses as governed by section 3101.~~

20 1. **Public hearing.** A consumer-owned ~~electric~~ transmission
22 and distribution utility that elects to set rates under this
section may not increase or decrease any rate, toll or charge
24 without first holding a public hearing at which the Public
Advocate and any customer of the consumer-owned ~~electric~~
26 transmission and distribution utility may present testimony and
may question the officials present regarding the proposed rate
28 change.

30 2. **Notification.** The consumer-owned ~~electric~~ transmission
32 and distribution utility shall, at least 30 days prior to the
hearing, publish a notice of the amount of the proposed rate
34 change, the percent of change for each customer class and the
hearing, including the date, time, place and purpose of the
36 hearing, in a newspaper of general circulation in the area
encompassed by the consumer-owned ~~electric~~ transmission and
distribution utility. In addition, 60 days prior to the hearing,
38 the consumer-owned ~~electric~~ transmission and distribution utility
shall notify the commission and the Public Advocate of its intent
40 to change rates, tolls or charges.

42 3. **Ratepayer notification.** Each consumer-owned ~~electric~~
transmission and distribution utility shall give, at least 30
44 days prior to the public hearing, one notice to each of its
ratepayers of:

46 A. The amount of the proposed rate change;

48 B. The percent of change for each customer class;

50

- 2 C. The customer's right to request information relating to
the present and proposed rates;
- 4 D. The customer's right to an open and fair hearing and to
further hearings before the commission;
- 6 E. The availability of assistance from the Public Advocate;
- 8 F. The date, time, place and purpose of the hearing; and
- 10 G. The customer's right to petition the commission to
investigate the proposed rate change, the requirement that
12 signatures on petitions filed pursuant to subsection 8 are
invalid unless accompanied by the printed names and
14 addresses of the signers and the fact that the utility will,
upon request, provide customers with petition forms that
16 include space for signatures and the printed names and
addresses of the signers.

20 **4. Customer rights.** At the commencement of each hearing
held pursuant to this section, the consumer-owned electric
22 transmission and distribution utility shall inform those present
of customer rights as specified in subsection 3, that the rate
24 change may be investigated by the commission in accordance with
subsection 8 and that petitions filed pursuant to subsection 8
26 must bear the signature, printed name and address of the signer.
Upon request, the utility shall provide customers with petition
28 forms that include a place for signatures and the printed names
and addresses of the signers.

30 **5. Supporting materials.** The consumer-owned electric
32 transmission and distribution utility shall file a copy of all
materials supporting the proposed rate change with the commission
34 and the Public Advocate, at least 30 days prior to the hearing.
A copy of all material supporting the proposed rate change must
36 be made available to customers for examination at the offices of
the consumer-owned electric transmission and distribution utility
38 for at least 30 days prior to the hearing. The consumer-owned
electric transmission and distribution utility shall promptly
40 provide any relevant additional material or information requested
by a customer or by the commission or by the Public Advocate.

42 **6. Filing changed rates.** The consumer-owned electric
44 transmission and distribution utility shall file its changed
rates with the commission within 30 days of the public hearing,
46 but not sooner than 10 days following the public hearing. The
commission may order the consumer-owned electric transmission and
48 distribution utility to correct any mathematical or clerical
errors.

50

2 **7. Effective date of rate change.** Subject to the notice
and waiver requirements of section 307, consumer-owned electric
3 transmission and distribution utilities electing to set rates
4 under this section may establish an effective date for any rate
change of at least one month, but not more than 9 months, from
6 the date the rates are filed with the commission.

8 **8. Authority to investigate rate changes.** If, within 30
days of the public hearing, 10% of the customers of the
10 consumer-owned electric transmission and distribution utility or
750 customers, whichever is less, file with the utility and with
12 the commission petitions requesting a review of the rate change
by the commission, the rate change may be suspended,
14 investigated, reviewed and changed by the commission in
accordance with section 310, except that no suspension ordered
16 issued by the commission pursuant to section 310 may be effective
for a period greater than 9 months from the date the rate changes
18 were filed.

20 **9. Procedures for suspension of rate change.** If the number
of signatures on the petition is at least 750 or if the number of
22 signatures on the petition equals or exceeds 10% of the customers
indicated on the consumer-owned electric transmission and
24 distribution utility's most recent annual report on file with the
commission, the commission may suspend the rate change pursuant
26 to section 310. The commission shall notify the electric utility
of the suspension.

28 **10. Transmission and distribution utility may challenge**
30 **petitions.** A consumer-owned electric transmission and
distribution utility has 10 days from the receipt of notice to
32 notify the commission and the lead petitioner whether it intends
to contest any aspect of the validity of the petitions, after
34 which it loses that right. If the utility intends to challenge
the validity of individual signatures on the petitions, it shall
36 identify, in its notice to the commission and lead petitioner,
the specific signatures it is challenging and state the grounds
38 for challenging each signature it believes is invalid. When the
utility files its notice of intent to challenge the validity of
40 the petitions, the utility shall provide the commission and the
lead petitioner with a list of its customers. If the electric
42 utility notifies the commission in a timely fashion that it
wishes to contest the validity of the petitions, the commission
44 shall set the matter for hearing. It shall hold the hearing and
issue its decision on the validity of the petitions within 30
46 days of notification by the electric utility that it intends to
contest the validity of the petitions. If the commission finds
48 the petitions to be invalid, it shall lift its order of
suspension. For the purposes of this section, "customer" means,
50 in the case of residential accounts, any one adult residing in a

household where the utility's electric transmission and distribution service is provided and, in the case of all other accounts where the utility's electric transmission and distribution service is provided, a corporate officer, a partner or a proprietor. No more than one person may sign on behalf of an account. No A person may not sign on behalf of more than one account unless the person is a customer at each account.

A signature on a petition filed pursuant to subsection 8 is valid only if accompanied by the printed name and address of the signer. If a petition filed pursuant to subsection 8 bears a sufficient total number of signatures but an insufficient number of printed names and addresses of the signers, the lead petitioner has 7 days from receipt of notice of the utility's challenge to cure the invalidity. If the utility's only challenge to a petition relates to the absence of printed names or addresses of the signers of the petition and the lead petitioner cures the invalidity as provided in this subsection, the commission is not required to hold a hearing under this subsection.

11. Review of rates under section 310. Nothing in this section prohibits a consumer-owned electric transmission and distribution utility from petitioning the commission for review pursuant to section 310 in the first instance.

12. Frequency of rate increases. No A consumer-owned electric transmission and distribution utility may not institute a general increase in its rates under this section within one year of its most recent general increase in rates pursuant to this section. For the purposes of this section, a "general increase in rates" means any change in the rates, tolls and charges of ~~the--electric~~ a consumer-owned transmission and distribution utility, the effect of which is to increase the annual operating revenues of ~~an--electric~~ a consumer-owned transmission and distribution utility by more than 1%, ~~but--does not--include--a--rate--change--made--for--the--sole--purpose--of implementing--a--fuel--cost--adjustment--rate--pursuant--to--section 3101.~~

13. Penalty. If, upon the filing of a rate change pursuant to this section, the commission finds that the utility has failed to comply with this section, the commission may suspend the rates for investigation pursuant to section 310. If there is a substantial procedural violation of this section, the commission may prohibit the utility from filing rates pursuant to this section in its next rate case.

Sec. A-86. 35-A MRS §3503, as amended by PL 1993, c. 512, §3, is further amended to read:

2 **§3503. Rates for consumer-owned transmission and distribution**
4 **utilities**

6 **1. Scope of section.** Notwithstanding any other provision
8 of law or any charter to the contrary and in addition to any
10 charter or private and special laws creating or affecting any
12 consumer-owned electric transmission and distribution utility,
14 the rate, toll or charge made, exacted, demanded or collected by
16 the consumer-owned electric transmission and distribution utility
18 is governed by this section.

20 **2. Definition.** As used in this section, the term
22 "governing body" means the governing body of a consumer-owned
24 electric transmission and distribution utility.

26 **3. Just and reasonable rates.** The governing body shall
28 establish and file rates, tolls and charges which that are just
30 and reasonable and which that provide revenue as may be required
32 for the consumer-owned electric transmission and distribution
34 utility to perform its public utility service and to attract
36 necessary capital on just and reasonable terms.

38 **4. Nondiscriminatory rates.** The governing body shall
40 establish and file rates which that are nondiscriminatory and
42 which that are applied on a nondiscriminatory basis.

44 **5. Purposes.** The governing body may establish and file
46 rates under this section to provide revenue for the following
48 purposes, but no other:

50 A. To pay the current expenses for operating and
maintaining the electric transmission and distribution
system and to provide for normal renewals and replacements;

 B. To provide for the payment of the interest on the
indebtedness created or assumed by the utility;

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

 (1) To provide each year a sum equal to not less than
2% nor more than 10% of the term indebtedness
represented by the issuance of bonds created or assumed
by the utility, which sum must be turned into a sinking
fund and kept to provide for the extinguishment of term
indebtedness. The money set aside in this sinking fund
and all interest accrued to this fund must be devoted
to the retirement of the term obligations of the

2 utility and may be invested in such securities as
savings banks in the State are allowed to hold;

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

6
8 (3) To provide for a contingency reserve fund to
reflect up to a 5% addition to yearly revenues over the
amount required to operate the electric utility. Any
10 surplus in excess of 5% must be used to offset future
revenue requirements in the setting of rates. Any
12 interest generated on these funds must be deposited
into the contingency reserve fund. The balance in the
14 contingency reserve fund at the close of the utility's
fiscal year may not exceed 5% of the yearly revenues
16 over the amount required to operate the electric
utility; and

18
20 D. For rural electrification cooperatives supplying or
authorized to supply energy, to provide for debt service
22 coverage by providing rates to reflect an additional amount
no more than the amount of yearly long-term interest
24 payments. The total amount of equity may not exceed the
level of equity required by the lender and in no case may
26 exceed 40% of the rural electrification cooperative's total
assets minus total reserves as shown on the cooperative's
annual report to the commission submitted pursuant to
28 section 504, subsection 2. Any surplus in excess must be
used to offset future revenue requirements in the setting of
30 rates.

32 The limitations set out in this subsection apply only in the case
of rates established pursuant to this section and do not limit
34 the discretion of the commission in setting rates under any other
section.

36
38 **6. Penalty.** If, as a result of investigation pursuant to
section 310, 1302 or 1303, the commission finds that the utility
has set rates pursuant to section 3502 which ~~that~~ significantly
40 exceed the limits of this section, the commission may order the
utility to use any existing surplus to offset future revenue
42 requirements and may suspend the utility's rights pursuant to
section 3502 for a specified time period.

44
46 **Sec. A-87. 35-A MRSA §3504**, as repealed and replaced by PL
1989, c. 101, is amended to read:

48 **§3504. Treatment of certain small consumer-owned transmission
and distribution utilities**

50

2 1. **Exemption.** Upon request of a consumer-owned electric
3 transmission and distribution utility of not more than 150
4 customers, the commission may exempt the utility from any of the
5 requirements of any commission rules and this Title, with the
6 exception of sections 3502 and 3503.

7 2. **Rule-making considerations.** The commission shall take
8 into account the form of governance of consumer-owned electric
9 transmission and distribution utilities when promulgating rules
10 and shall state in any notice of proposed rulemaking relating to
11 those utilities what consideration has been given to the ability
12 of those utilities to regulate matters covered under their own
13 authority and, in promulgating those rules, shall ~~may~~ not impose
14 unreasonable requirements on consumer-owned electric transmission
15 and distribution utilities.

16 **Sec. A-88. 35-A MRS §3734, sub-§§1 and 2,** as enacted by PL
17 1987, c. 141, Pt. A, §6, are amended to read:

18 1. **Incorporators are members.** Each incorporator of a
19 cooperative is a member of the cooperative, but no other person
20 may become a member unless that person agrees to use electric
21 energy transmission and distribution service or other services
22 furnished by the cooperative when they are made available through
23 its facilities.

24 2. **Requirements of membership.** Any member of a cooperative
25 who agrees to use ~~electric-energy-shall-lease~~ transmission and
26 distribution service ceases to be a member if he that member does
27 not use ~~electric-energy~~ transmission and distribution service
28 supplied by the cooperative within 6 months after it is made
29 available ~~to--him~~ or if ~~electric--energy~~ transmission and
30 distribution service is not made available ~~to--him~~ by the
31 cooperative within 2 years after he the member becomes a member
32 or such lesser period as the bylaws of the cooperative may
33 provide.

34 **Sec. A-89. 35-A MRS §3905,** as enacted by PL 1987, c. 141,
35 Pt. A, §6, is amended to read:

36 **§3905. Existing districts**

37 Any quasi-municipal district organized under the private and
38 special laws ~~which~~ that is ~~an--electric~~ a transmission and
39 distribution utility within the meaning of section 102, may
40 reorganize in accordance with this chapter. In addition to the
41 methods of sections 3903 and 3904, the trustees may, by majority
42 vote, petition the municipal officers for an election and those
43 officers shall hold an election in accordance with those sections.

2 **Sec. A-90. 35-A MRSA §3911**, as enacted by PL 1987, c. 141,
Pt. A, §6, is amended to read:

4 **§3911. Eminent domain**

6 A district may exercise the right of eminent domain under
the same conditions and for the same purposes as other ~~electric~~
8 transmission and distribution utilities under section 3136.
Title to property acquired shall ~~be~~ must be taken in the name of the
10 district.

12 **Sec. A-91. 35-A MRSA §4132, sub-§11**, as enacted by PL 1987, c.
141, Pt. A, §6, is amended to read:

14 **11. Plan.** Individually or jointly with any other person to
16 plan, finance, acquire, construct, improve, purchase, operate,
maintain, use, share costs of, own, lease, sell, dispose of or
18 otherwise participate in projects or portions of projects, the
product or service from them, securities or obligations issued or
20 incurred in connection with the financing of them or research and
development relating to them, inside or outside the State. The
22 agency may also enter into and perform contracts with any person
with respect to the powers set out in this subsection. If the
24 agency acquires or owns an interest as a tenant in common with
others in any projects, the surrender or waiver by the agency or
26 by the other property owner of its right to partition the
property for a period not exceeding the period for which the
28 property is used or useful for ~~electric~~ utility purposes may not
be invalid and unenforceable by reason of length of the period,
30 or as unduly restricting the alienation of the property.

32 **Sec. A-92. 35-A MRSA §4135, sub-§2**, as enacted by PL 1987, c.
141, Pt. A, §6, is amended to read:

34 **2. Property taxes.** All real and personal property acquired
36 by the agency is subject to taxes to the same extent as real and
personal property owned by other ~~electric~~ transmission and
38 distribution utilities.

40 **Sec. A-93. 35-A MRSA §4301, sub-§1**, as enacted by PL 1987, c.
141, Pt. A, §6, is amended to read:

42 **1. Investment in nuclear power plants.** The Legislature
44 finds that construction of a nuclear power plant is a major
financial investment, which will have consequences for ~~ratepayers~~
46 consumers for years to come. In the recent past, investments in
nuclear power plants have caused severe financial strain on
48 consumers ~~and-utilities~~.

2 **Sec. A-94. 35-A MRSA §4302, sub-§1**, as enacted by PL 1987, c.
141, Pt. A, §6, is amended to read:

4 **1. Question submitted to voters.** ~~After--review--of--the~~
~~proposed-plant-by-the-commission-in-accordance-with-section-3132~~
6 ~~or-3133,-but-prior~~ Prior to the construction of any nuclear power
8 plant within the State, the question of approving that
construction shall must be submitted to the voters of the State
in the manner prescribed by law for holding a statewide
10 election. This question shall must be submitted to the legal
voters of the State at the next following statewide election. The
12 ~~city-aldermen,-town-selectmen~~ municipal officers and plantation
assessors of this State shall notify the inhabitants of their
14 respective cities, towns and plantations to meet, in the manner
prescribed by law for holding a statewide election, to vote on
16 the acceptance or rejection of construction by voting on the
following question:

18 "Do you approve construction of the nuclear power plant proposed
20 for (insert locations)?"

22 **Sec. A-95. 35-A MRSA §4303**, as enacted by PL 1987, c. 141,
Pt. A, §6, is amended to read:

24 **§4303. Notice; effective date of certificate; prohibition**

26 ~~Upon-issuance-of-a-certificate-of-public-convenience-and~~
~~necessity-under-section-3132-or-3133-for-any-nuclear-power-plant~~
28 ~~within-this-State,-the-commission-shall-notify-the-Secretary-of~~
~~State.-No-certificate-may-be-effective-until-30-days-after~~
30 ~~submission-to-the-voters,-as-prescribed-in-section-4302.~~
32 Construction may not commence on a nuclear power plant without
approval by the voters, as prescribed in section 4302.

34 **Sec. A-96. 35-A MRSA §4352, sub-§10**, as enacted by PL 1987, c.
36 141, Pt. A, §6, is amended to read:

38 **10. Owner.** "Owner" means any electric transmission and
distribution utility ~~which~~ that owns any portion of a nuclear
40 power plant, whether directly or through ownership of stock in a
company ~~which~~ that owns any portion of a nuclear power plant or
42 through membership in a holding company ~~which~~ that owns any
portion of a nuclear power plant or through other means.

44 **Sec. A-97. 35-A MRSA §4353, sub-§2, ¶C**, as enacted by PL 1987,
46 c. 141, Pt. A, §6, is amended to read:

48 C. The share of the estimated decommissioning expenses
50 attributed to each electric utility to which the plant
supplies power;

2 **Sec. A-98. 35-A MRSA §4353, sub-§3, ¶B**, as enacted by PL 1987,
c. 141, Pt. A, §6, is amended to read:

4
6 B. The commission shall approve the decommissioning
financing plan if it finds that the licensee, in the
8 judgment of the commission, has provided reasonable
assurance that:

10 (1) The estimated time of closing of the nuclear power
plant and the estimated cost of decommissioning are
12 reasonable;

14 (2) The share of the estimated cost of decommissioning
for each electric utility to which the plant supplies
16 power is reasonable;

18 (3) The principal and income ~~which~~ that will have
accumulated in the decommissioning trust fund at the
20 estimated time of closing the plant will be adequate to
cover the estimated cost of decommissioning, plus the
22 expenses of administering the fund;

24 (4) The provisions of the proposed form of the
decommissioning trust fund will ensure that the funds
26 in the trust are judiciously invested and will
adequately protect the funds until decommissioning is
28 completed and, in the event the licensee proposes to
establish its own decommissioning fund committee, that
30 the licensee-established committee will ensure that the
funds in the trust are judiciously invested and will
32 adequately protect the funds until decommissioning is
completed;

34 (5) The assets in the fund ~~cannot~~ can not be withdrawn
36 unless approved by the decommissioning fund committee
under section 4355, subsection 5, prior to completion
38 of decommissioning;

40 (6) Contributions to the fund are equitably spread
over the useful life of the plant to the extent
42 feasible;

44 (7) The plans and options for insuring against or
otherwise financing any shortfall in the fund resulting
46 from a premature closing are adequate and reasonable;

48 (8) The owners are legally bound to accept their
respective shares of the ultimate financial

2 responsibility for decommissioning and the plan
reflects full compliance with section 4356; and

4 (9) The plan will periodically be reviewed and revised
6 to reflect more closely the costs and available
techniques for decommissioning. This update shall must
8 occur at least every 5 years.

10 **Sec. A-99. 35-A MRSA §4355, sub-§6**, as enacted by PL 1987, c.
141, Pt. A, §6, is amended to read:

12 **6. Expenditure of money remaining after decommissioning.**
Upon termination of decommissioning, the commission shall conduct
14 a final audit of the decommissioning trust fund. The commission
may by rule, if the public interest requires, establish a
16 decommissioning contingency reserve at that time. If there are
assets remaining in the fund attributable to a given plant, after
18 its decommissioning has been completed, those assets shall must
be returned, in proportion to their payments, to the owners and
20 any other persons who originally made payments to the licensee
for decommissioning purposes in accordance with the order or
22 orders of any regulatory agency having jurisdiction. No portion
of the remaining assets in a fund may accrue to the benefit of
24 the licensee.

26 An electric transmission and distribution utility in the State
which that receives remaining decommissioning funds under this
28 subchapter shall distribute the funds equitably, under the
guidance of the commission, to its customers.

30 **Sec. A-100. 35-A MRSA §4391, sub-§3**, as enacted by PL 1987, c.
32 141, Pt. A, §6, is amended to read:

34 **3. Owner.** "Owner" means any electric utility which that
owns any portion of a nuclear power plant, whether directly or
36 indirectly, through ownership of stock in a company which that
owns any portion of a nuclear power plant, through membership in
38 a holding company which that owns any portion of a nuclear power
plant or through other means.

40 **Sec. A-101. 35-A MRSA §4392, sub-§7**, as enacted by PL 1987, c.
42 141, Pt. A, §6, is amended to read:

44 **7. Assets remaining in the fund.** Any assets remaining in
the fund at the time of dissolution shall must be returned, in
46 proportion to their payments, to the owners and any other persons
who originally made payments to the licensee for the fund. Any
48 amounts returned to the electric transmission and distribution
utilities within the State will be subject to ultimate rate

2 treatment by the commission. No portion of the remaining assets
in the fund may accrue to the benefit of the licensee.

4 **Sec. A-102. Effective date.** This Part takes effect on March 1,
2000.

6
8 **PART B**

Sec. B-1. 35-A MRSA §3202, sub-§5 is enacted to read:

10 **5. International transmission contracts.** Transmission and
12 distribution utilities, including consumer-owned utilities, that
14 operate or manage a portion of the grid connected to the New
16 England grid by transmission lines that pass through Canada may
18 enter into commercially reasonable contracts with Canadian
20 electric utilities for the purchase of back-up services, tie-line
22 interruption services, ancillary services, transmission services
24 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. All such contracts, and the rates at which such contract
services are offered for resale to competitive electricity
providers, are subject to commission approval.

26
28 **PART C**

Sec. C-1. 35-A MRSA §116, sub-§1, as corrected by RR 1995, c.
1, §29, is amended to read:

32 **1. Utilities subject to assessments.** Every electric, gas,
34 telephone and water utility and ferry subject to regulation by
the commission is subject to an assessment ~~of not more than 25%~~
36 on its intrastate gross operating revenues to produce no more
than ~~\$4,473,000 in revenues annually beginning in the 1991-92~~
38 ~~fiscal year and not more than \$4,918,000 in revenues annually~~
~~beginning in the 1992-93 fiscal year.~~ The commission shall
40 assess transmission and distribution utilities at a rate
sufficient to produce \$3,370,000 and shall assess all other
42 utilities at a rate sufficient to produce \$1,548,000. The
44 commission shall determine the assessments annually prior to May
46 1st and assess each utility for its pro rata share for
48 expenditure during the fiscal year beginning July 1st. Each
utility shall pay the assessment charged to the utility on or
before July 1st of each year. Any increase in the assessment
that becomes effective subsequent to May 1st may be billed on the
effective date of the act authorizing the increase.

2 A. The assessments charged to utilities under this section
are just and reasonable operating costs for rate-making
4 purposes.

6 B. For the purposes of this section, "intrastate gross
operating revenues" means intrastate revenues derived from
8 filed rates, except revenues derived from sales for resale.

10 C. Gas utilities subject to the jurisdiction of the
commission solely with respect to safety are not subject to
12 any assessment.

14 D. The commission may correct any errors in the assessments
by means of a credit or debit to the following year's
16 assessment rather than reassessing all utilities in the
current year.

18 E. The commission may exempt utilities with annual
intrastate gross operating revenues under \$50,000 from
20 assessments under this section.

22 PART D

24 **Sec. D-1. 35-A MRSA §3202, sub-§4, as enacted by PL 1997, c.**
316, §3, is amended to read:

26 **4. Electric billing and metering services.** Beginning March
28 1, 2002, pursuant to rules adopted by the commission, the
provision of electric billing and metering services is subject to
30 competition. The commission by rule may establish an earlier
date for the beginning of competition for the provision of
32 billing or metering services, except that the commission may not
set a beginning date that is prior to March 1, 2000.

34 The commission by rule shall establish minimum standards
36 necessary to protect consumers of these services and codes of
conduct governing the relationship among transmission and
38 distribution utilities providing electric billing and metering
services, any affiliates of transmission and distribution
40 utilities providing such services and providers of such services
that are not affiliated with a transmission and distribution
42 utility. The commission shall determine each transmission and
distribution utility's costs of providing electric billing and
44 metering services that are reflected in consumer rates, including
capital costs, depreciation, operating expenses and taxes, and
46 shall separate this portion of the consumer rate into a separate
charge.

48

2 Rules adopted under this subsection are major substantive rules
as defined in Title 5, chapter 375, subchapter II-A and must be
4 provisionally adopted by March 1, 1999 2000.

6 **PART E**

8 **Sec. E-1. 35-A MRSA §3202, sub-§6** is enacted to read:

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

16 **PART F**

18 **Sec. F-1. 35-A MRSA §3212, sub-§2**, as amended by PL 1997, c.
20 691, §§6 and 7, is further amended to read:

22 **2. Selection of standard-offer service providers.** After
terms and conditions for standard-offer service have been
24 established under subsection 1, the commission shall administer a
bid process to select a standard-offer service provider for that
transmission and distribution utility's service territory. By
26 December 1, 1999, the commission shall review the bid submissions
for each transmission and distribution utility and select the
28 standard-offer service provider or providers for that utility's
service territory.

30 A. The commission shall determine the general credit data
32 and specific information from general load and usage data
that transmission and distribution utilities must provide to
34 potential standard-offer service bidders, including, but not
limited to, monthly demand and energy consumption and the
36 number of customers in each customer class. The commission
shall ensure that individual customer confidentiality is
38 preserved in this process and that a transmission and
distribution utility releases customer-specific data only
40 with the customer's permission. If the transmission and
distribution utility incurs additional costs to develop and
42 produce the required data, the commission shall permit that
utility to recover those costs through transmission and
44 distribution rates.

46 B. The commission shall establish the maximum duration of a
standard-offer service contract after considering all
48 relevant factors, including, but not limited to, market
risks and the need for price stability and contract
50 flexibility.

2 C. A competitive electricity provider that is an affiliate
4 of a large investor-owned transmission and distribution
6 utility may submit bids to provide standard-offer service
8 for up to 20% of the electric load within the service
10 territory of the large investor-owned transmission and
12 distribution utility with which it is affiliated. To
prevent the unfair use of information possessed by a large
investor-owned transmission and distribution utility, the
commission shall ensure that a utility seeking to bid on
standard-offer service has no greater access to relevant
information than is provided to other potential bidders.

14 D. A consumer-owned transmission and distribution utility
16 and a small investor-owned transmission and distribution
18 utility may submit bids to provide standard-offer service
20 for that utility's service territory. To prevent the unfair
22 use of information possessed by a consumer-owned
24 transmission and distribution utility or a small
investor-owned transmission and distribution utility, the
commission shall ensure that a utility seeking to bid on
standard-offer service has no greater access to relevant
information than is provided to other potential bidders.

26 By February 15, 1998, the commission shall provisionally adopt
28 rules establishing a methodology for structuring the bidding
30 process for standard-offer service in order to implement the
32 provisions of this subsection. In adopting rules, the commission
34 shall consider methods to ensure, to the extent possible, at
least 3 providers of standard-offer service in each transmission
and distribution utility service territory, as long as the method
does not result in any significant adverse impacts on rates paid
by consumers. Rules adopted under this subsection are major
substantive rules pursuant to Title 5, chapter 375, subchapter
II-A.

36 Notwithstanding any other provision of this Title, the commission
38 may, in the event of a default by a standard-offer service
40 provider, require the transmission and distribution utility in
whose service territory the provider was providing standard-offer
service to arrange and to provide for default service.
42 Notwithstanding any other provision of this Title, the commission
44 may, in the event that the commission receives no bids to provide
46 standard-offer service in a transmission and distribution
48 utility's territory or the commission determines that the bids it
receives are inadequate or unacceptable, require the transmission
and distribution utility to arrange and to provide for default
service. The arrangement and provision of such default service
by a transmission and distribution utility does not constitute

2 selling electric energy or capacity at retail for purposes of
section 3205, subsection 2.

4 Notwithstanding Title 5, section 1831, the commission is not
subject to rules adopted by the State Purchasing Agent in
6 conducting the competitive bidding process required under this
section.

8

10

SUMMARY

12

This bill which is reported by the Joint Standing Committee
on Utilities and Energy pursuant to Public Law 1997, chapter 316,
14 section 12, implements recommendations of the Public Utilities
Commission regarding electric industry restructuring. The bill
16 does the following:

18

Part A makes changes to the Maine Revised Statutes, Title
35-A to bring them in conformity with the electric industry
20 restructuring law. Specifically it:

22

1. Clarifies that the purpose of the Maine Revised
Statutes, Title 35-A now includes the creation of a regulatory
24 system that extends beyond public utilities. Title 35-A also
governs certain providers of competitive services that are
26 integrally related to the provision of utility service, such as
competitive electricity providers;

28

2. Clarifies that the definition of "customer" includes
30 customers of any utility service provider, not just public
utilities;

32

3. Repeals definitions of "electric utility" and "electric
34 plant" and enacts 3 new definitions. The first 2, "transmission
and distribution plant" and "transmission and distribution
36 utility" are drawn from the electric industry restructuring law
and are enacted in Title 35-A, section 102 so that they apply
38 throughout this Title. The definition of "utility service
provider" is new and includes any public utility or a competitive
40 electricity provider;

42

4. Clarifies that the commission is required to oversee the
activities of licensed competitive providers who are not public
44 utilities;

46

5. Extends the prohibitions on certain relationships
between commission employees and public utilities to apply to any
48 utility service provider;

2 6. Clarifies that the commission has the duty to enforce
3 certain laws against utility service providers except in those
4 instances where the Attorney General has primary jurisdiction.
5 It also clarifies that the Attorney General has the duty to
6 institute legal action against any utility service provider, not
7 just a public utility. Finally, in the general penalty
8 provision, the bill explicitly acknowledges that other specific
9 penalty provisions in Title 35-A will take precedence over the
10 general provision;

11 7. Replaces certain references to an "electric" utility
12 with "transmission and distribution" utility and replaces certain
13 references to electric service with transmission and distribution
14 service, and corrects certain cross references;

15 8. Replaces certain references to an "electric utility"
16 with "transmission and distribution utility" and "competitive
17 electricity provider." The context requires reference to both
18 entities because the statute contemplates a total amount billed
19 for electricity usage, which is now broken down into a
20 transmission and distribution charge and a separate energy charge;
21

22 9. Clarifies that the commission may investigate any matter
23 relating to a utility service provider and is not restricted to
24 investigating only public utilities;
25

26 10. Clarifies that the procedural requirements applicable
27 to commission hearings apply to all utility service providers and
28 not just public utilities. Because of these changes, it is also
29 necessary to clarify a reference to a public utility's obligation
30 to provide copies of new rate schedules under Title 35-A, section
31 308. This requirement does not apply to competitive electricity
32 providers;
33

34 11. Clarifies that commission orders must be provided to
35 the utility service provider affected by the order and not just
36 to a public utility;
37

38 12. Extends the protections afforded to public utility
39 employees who testify before the Legislature or the commission to
40 employees of any utility service provider;
41

42 13. Clarifies that notice of any change to a commission
43 order must be given to any involved utility service provider, not
44 just a public utility;
45

46 14. Clarifies that the commission's emergency authority to
47 temporarily suspend or alter an order applies to all utility
48 service providers, not just public utilities. The bill further
49 clarifies that this authority does not give the commission the
50

2 power to establish or approve the rates charged by competitive
2 electricity providers;

4 15. Clarifies that the Public Advocate has authority to
4 review or participate in cases involving any utility service
6 provider, and not just a public utility;

8 16. Extends the prohibitions on certain relationships
8 between the employees of the Public Advocate and public utilities
10 to apply to any utility service provider;

12 17. Clarifies that the generation of electricity is no
12 longer a function of a public utility for purposes of the statute
14 governing the organization of public utilities under the general
16 corporate laws;

18 18. Repeals the statutory section that permitted consumers
18 who were not receiving adequate service from an electric utility
20 to form a new public utility corporation to provide service.
22 This section required the former electric utility to provide
24 sufficient energy to the newly-formed utility to serve its
customers. Since transmission and distribution utilities will no
longer be able to provide energy to a successor utility, the
section is no longer needed;

26 19. Clarifies that transmission and distribution utilities
26 will no longer "provide" electricity but will only "deliver"
28 electricity;

30 20. Deletes a reference to "generation" from the purposes
30 of the Maine Public Utility Financing Bank Act to reflect the
32 fact that transmission and distribution utilities will no longer
34 be generating electricity;

36 21. Repeals those provisions authorizing rate adjustments
36 to reflect an electric utility's changed fuel costs for
38 generating electricity. This provision is not necessary for
transmission and distribution utilities that will no longer
generate electricity;

40 22. Repeals those provisions governing the recovery in
42 rates of expenses associated with canceled generation
44 facilities. This provision is not necessary for transmission and
distribution utilities that will no longer generate electricity;

46 23. Deletes a reference to information concerning the fuel
46 cost adjustment that might appear on a consumer's electricity
48 bill. There will be no fuel cost adjustment for transmission and
distribution utility bills;

50

24. Retains reference to a foreign "electric" utility because other jurisdictions may retain integrated electric utilities. The bill also deletes references to generation-related topics because transmission and distribution utilities no longer provide electricity to customers;

25. Deletes provisions requiring commission approval of the construction of generation facilities and the purchase of capacity or energy. Since transmission and distribution utilities will no longer own generation facilities or provide energy, these provisions are no longer needed. For the same reasons, references to commission approval of transmission lines related to new generation facilities or energy purchases are also deleted. The bill retains the requirement for commission approval before a transmission and distribution utility may construct a new transmission line of 100 kilovolts or more;

26. Repeals provisions requiring commission approval for an electric utility's purchase of generating capacity or energy or the fuel conversion of an existing generating facility. The bill retains the requirement that a transmission and distribution utility obtain commission approval before purchasing transmission capacity;

27. Repeals references to generation and energy in the statute that requires commission approval for any significant utility agreement or contract. The bill retains those provisions requiring the approval of significant agreements or contracts related to transmission capacity;

28. Repeals references to generation planning in the statute governing long-range plans of electric utilities. The bill retains those provisions governing planning for the long-range needs of a transmission and distribution utility;

29. Updates the provisions governing the interconnection of electric utility transmission lines. The bill repeals provisions that required a utility to provide electricity to another utility because transmission and distribution utilities will no longer own generation or provide energy;

30. Deletes references to generation because transmission and distribution utilities may no longer generate electricity;

31. Deletes a reference to "other electric" utilities because the term could refer to a domestic transmission and distribution utility or a foreign electric utility. The amended language simply refers to "other utilities."

2 32. Repeals provisions that encourage the commission to set
3 electric rates to promote the use of indigenous natural energy
4 resources. This provision is no longer needed after the
5 generation of electricity is separated from its transmission and
6 distribution. The commission no longer sets electric rates
7 including an energy charge;

8 33. Amends the statutory provisions governing the
9 establishment of electric rate charges. The bill deletes a
10 reference to encouraging the economic use of fuel and indigenous
11 resources because transmission and distribution utilities no
12 longer provide energy. The bill attempts to retain and adapt
13 existing rate design policies to reflect the fact that utilities
14 will be providing only transmission and distribution service;

15 34. Repeals provisions that required the commission to
16 consider adopting certain standards established in federal law.
17 The bill also repeals provisions authorizing electric utilities
18 to seek approval of incentive rates if the utility had surplus
19 capacity or energy. This provision is no longer needed because
20 transmission and distribution utilities will no longer provide
21 capacity or energy to customers;

22 35. Clarifies the authority of the commission to purchase
23 electricity on behalf of consumers in the State. Present law
24 permits the commission to resell such electricity to electric
25 utilities serving the State. Since transmission and distribution
26 utilities will no longer provide electricity to consumers, the
27 bill permits the commission to resell the electricity for use in
28 this State. This language will permit resale or competitive
29 electricity providers who provide electricity to consumers after
30 restructuring;
31

32 36. Repeals the statutory section requiring retail wheeling
33 by an electric utility under certain circumstances. This section
34 is no longer needed because transmission and distribution
35 utilities must wheel power for any provider after electric
36 restructuring;
37

38 37. Repeals the statutory section requiring electric
39 utilities to pursue a least-cost energy plan. This section is no
40 longer needed because transmission and distribution utilities
41 will no longer provide energy to customers;
42

43 38. Repeals a reference to the sale of electricity by a
44 transmission and distribution utility;
45

46 39. Repeals certain sections of Title 35-A, chapter 33 that
47 govern the purchase of power from small power producers and
48

2 cogeneration. These provisions do not apply to transmission and
distribution utilities that no longer purchase or sell energy;

4 40. Replaces references to "electric energy" with
"transmission and distribution service" provided by a rural
6 electrification cooperative.

8 41. Replaces a reference to "ratepayers" with "consumers"
and deletes a reference to "utilities" in the statute that
10 requires a referendum to approve the construction of a new
nuclear power generating facility in the State. Since
12 transmission and distribution utilities will not be involved in
the construction of any future nuclear power facility, the
14 appropriate reference is to electricity consumers;

16 42. Deletes a reference to review of a proposed nuclear
power generating facility by the commission. The statutory
18 sections requiring such review of generation plant construction
are repealed by this bill;

20 43. Deletes a reference to the issuance of a certificate of
public convenience and necessity for the construction of a
22 nuclear power generating facility. The statutory sections
requiring the issuance of such certificates for generating
24 facilities are repealed by this bill; and

26 44. Provides that Part A takes effect on March 1, 2000, to
28 coincide with the start of electric restructuring.

30 Part B authorizes international transmission contracts.

32 Part C modifies the Public Utilities Commission assessment
on utilities to account for the change in the electric utility
34 industry.

36 Part D grants the Public Utilities Commission a one-year
extension to adopt major substantive rules on competitive billing
38 and metering.

40 Part E exempts small electric utilities from retail
competition.

42 Part F authorizes the commission to require a transmission
44 and distribution utility to arrange default service in the event
the Public Utilities Commission fails to get bids to provide
46 standard-offer service or if the bids it receives are
unacceptable.