

# MAINE STATE LEGISLATURE

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M  
10/10/03

L.D. 67

DATE: 5-9-03

(Filing No. H-318)

MINORITY  
UTILITIES AND ENERGY

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
121ST LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 75, L.D. 67, Bill, "An Act to Ensure that Utility Property is used to Further the Public Interest"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 35-A MRSA §3136-A is enacted to read:

§3136-A. Property acquired by eminent domain; change in use

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

A. "Covered property" means:

(1) Property in which a transmission and distribution utility has a property interest on the effective date of this paragraph and that the transmission and distribution utility or a predecessor in interest acquired through the exercise of eminent domain or by other means but that it had, at the time of acquisition, authority to take by eminent domain; or

(2) Property that a transmission and distribution utility acquires after the effective date of this paragraph through the exercise of eminent domain or by other means but that it has, at the time of

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acquisition, authority to take by eminent domain, except property described in Title 1, section 815, subsection 4, paragraph C.

B. "Incidental uses" includes, but is not limited to, driveways, gardens, logging roads and other utility purposes such as fiber-optic and cable lines.

C. "Public use" means any use available to the general public free or for a nominal fee, including, but not limited to, hiking, skiing, snowmobiling, camping and boating or vehicular access pursuant to such uses.

2. Prohibition. Except as provided in subsection 3, a transmission and distribution utility may not:

A. Use covered property for any purpose other than the purpose for which the property was acquired; or

B. Sell, lease, convey or otherwise transfer any interest in covered property to any other entity, including, but not limited to, an affiliate of the transmission and distribution utility.

3. Commission approval. The commission may:

A. Authorize a transmission and distribution utility to sell, lease, convey or otherwise transfer some or all of its interest in covered property if the commission finds that the use to which the covered property will be put as a result of the transfer is a public use;

B. Authorize a transmission and distribution utility to use covered property for a purpose other than the purpose for which the property was acquired if the commission finds that use to be a public use; and

C. By rule establish a list of uses that may be made of covered property that do not require commission approval, as long as the uses are incidental uses of the covered property.

4. Rules. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.'

**SUMMARY**

This amendment is the minority report of the Joint Standing Committee on Utilities and Energy. With regard to property

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2 acquired by eminent domain, or property acquired by other means  
but taken under the threat of eminent domain, this amendment  
4 prohibits a transmission and distribution utility from using the  
property for purposes other than those for which it was  
6 acquired. The amendment authorizes the Public Utilities  
Commission to allow public uses of covered property or, by rule,  
incidental uses of covered property.

FISCAL NOTE REQUIRED  
(See attached)

**COMMITTEE AMENDMENT**

Approved: 05/07/03 *MAC*

**121st Maine Legislature  
Office of Fiscal and Program Review**



**LD 67**

**An Act to Ensure that Utility Property is used to Further the Public  
Interest**

**LR 0567(02)**

**Fiscal Note for Bill as Amended by Committee Amendment " "**

**Committee: Utilities and Energy**

**Fiscal Note Required: Yes**

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**Fiscal Note**

Minor Cost increase - Other Special Revenue Funds