

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 330

S.P. 112

In Senate, January 28, 2003

**An Act To Clarify the Ability of Transmission and Distribution
Utilities To Market Electricity at Retail**

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

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

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator HALL of Lincoln.
Cosponsored by Representative BLISS of South Portland.

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

2 **Sec. 1. 35-A MRSA §3205, sub-§1**, as enacted by PL 1997, c.
4 316, §3, is amended to read:

6 **1. Definitions.** As used in this section and sections 3206
8 and 3206-A, unless the context otherwise indicates, the following
terms have the following meanings.

10 A. "Affiliated competitive provider" or "affiliated
12 competitive electricity provider" means a competitive
electricity provider ~~whose--relationship--with--a--large~~
14 ~~investor-owned--transmission--and--distribution--utility~~
~~qualifies-it-as-an-affiliated-interest.;~~

16 (1) Created by an investor-owned transmission and
18 distribution utility that owns more than 90% of its own
stock; and

20 (2) Whose relationship with an investor-owned
22 transmission and distribution utility qualifies it as
an affiliated interest.

24 B. "Distribution utility" means a large investor-owned
26 transmission and distribution utility that has an affiliated
competitive provider.

28 C. "Purchasing entity" means a person that purchases 10% or
30 more of the stock of a distribution utility on or after the
effective date of this section.

32 D. "Related entity" means:

34 (1) Any person who owns, directly, indirectly or
36 through a chain of successive ownership, 10% or more of
the voting securities of the purchasing entity;

38 (2) Any person 10% or more of whose voting securities
40 are owned, directly or indirectly, by an affiliated
interest as defined in subparagraph (1);

42 (3) Any person 10% or more of whose voting securities
44 are owned, directly or indirectly, by a purchasing
entity;

46 (4) Any person, or group of persons acting in concert,
48 ~~which~~ that the commission may determine, after
investigation and hearing, exercises substantial
influence over the policies and actions of a purchasing
50 entity, provided that the person or group of persons
beneficially owns

2 more than 3% of the purchasing entity's voting securities; ~~or~~

4 (5) Any purchasing entity of which any person defined
6 in subparagraphs (1) to (4) is an affiliated interest;
or

8 (6) A competitive electricity provider created by an
10 investor-owned transmission and distribution utility
that owns less than 90% of its own stock.

12 E. "Voting securities" means any security or any
14 proprietary or other interest presently entitling the owner
or holder of the security to vote in the direction or
management of the affairs of a company.

16 **Sec. 2. 35-A MRSA §3206-A, sub-§2,** as enacted by PL 1999, c.
18 398, Pt. G, §4, is amended to read:

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

24 A. The Neither the purchasing entity and nor any related
26 entity created before or after the purchase may not sell or
offer for sale generation service to any retail consumer of
electric energy in this State; and

28 B. If An affiliated competitive provider may continue to
30 sell retail generation services to Maine consumers unless,
in an adjudicatory proceeding, the commission determines
32 that an the affiliated competitive provider obtains an
unfair market advantage as a result of the purchase. If the
34 commission makes this determination, the commission shall
order the investor-owned transmission and distribution
36 utility to divest the affiliated competitive provider.

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

48 **Sec. 3. 35-A MRSA §3206-A, last ¶,** as enacted by PL 1999, c.
50 398, Pt. G, §4, is repealed.

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SUMMARY

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This bill amends current law regarding electric industry restructuring to clarify that marketing of electricity by an entity acquiring a Maine electric utility is prohibited if the market entity was established after the date of merger.

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