

# MAINE STATE LEGISLATURE

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# 125th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2011

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**Legislative Document**

**No. 1411**

H.P. 1037

House of Representatives, April 6, 2011

### **An Act To Facilitate Transparency and Accountability while Reducing Electricity Costs**

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

A handwritten signature in cursive script, reading "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Clerk

Presented by Representative FOSSEL of Alna.

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

2       **Sec. 1. 12 MRSA §685-B, sub-§2-C, ¶C** is enacted to read:

3       C. Notwithstanding any other provision of law, the commission may not issue a  
4       permit or license for the construction of a generator as part of a wind energy  
5       development unless construction of the generator will result in reduced electricity  
6       costs for consumers in this State as determined by the Public Advocate pursuant to  
7       Title 35-A, section 1702-B, subsection 3 or a certificate of emergency is issued by the  
8       Public Utilities Commission pursuant to Title 35-A, section 3144.

9       **Sec. 2. 35-A MRSA §1702-B** is enacted to read:

10      **§1702-B. Monitoring electricity generators; cost impact determination**

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

13      A. "Generator" means a device located in this State that produces electricity and is  
14      required to be reported as a generating unit pursuant to United States Department of  
15      Energy Form 860 or a successor form.

16      B. "Generator developer" means a person, firm or corporation proposing or financing  
17      the construction of a generator or the representative or agent of that person, firm or  
18      corporation.

19      C. "Generator operator" means a person, firm or corporation owning or operating a  
20      generator or the representative or agent of that person, firm or corporation.

21      D. "Gross electrical generation" has the same meaning as in Title 38, section 580-A,  
22      subsection 14.

23      **2. Monthly state electricity generation report.** Using information provided by  
24      generator operators and generator developers, the Public Advocate shall coordinate a  
25      monthly state electricity generation report with input from the Department of  
26      Environmental Protection, the Governor's Office of Energy Independence and Security  
27      within the Executive Department and the commission. The report must include the  
28      following information for the month covered by the report:

29      A. Gross electrical generation by each generator;

30      B. The cost per megawatt of electricity generated by each generator;

31      C. The capacity factor for each generator;

32      D. The average hourly day-ahead locational marginal price as reported by the  
33      independent system operator of the electric grid;

34      E. The carbon dioxide emissions of each generator;

35      F. The total amount of carbon dioxide emitted in this State each month due to  
36      electricity generation;

1        G. If a generator developer applies for a license, permit or certification to any state  
2        agency for the construction of a generator, the estimated change in carbon dioxide  
3        emissions that would result from the development of that generator certified in  
4        accordance with rules adopted by the commission. Rules adopted pursuant to this  
5        paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter  
6        2-A; and

7        H. Any plans produced by a generator developer or generator operator for the  
8        decommissioning or curtailment of a generator.

9        **3. Electricity cost impact analysis.** When a generator developer submits an  
10       application for a license, permit or certification to any state agency for the construction of  
11       a generator, the Public Advocate, in coordination with the commission, shall conduct an  
12       analysis to determine if the construction of that generator will result in reduced electricity  
13       costs for consumers in this State. When completed, the analysis must be submitted to any  
14       state agency that is reviewing an application for a license, permit or certification for the  
15       construction of that generator.

16       **Sec. 3. 35-A MRSA §3144** is enacted to read:

17       **§3144. Electricity generation emergency in public necessity**

18       If the Public Advocate determines that the construction of a generator will not reduce  
19       electricity costs to consumers in this State pursuant to section 1702-B, subsection 3, the  
20       generator developer may petition the commission to issue a certificate of emergency.

21       The commission by rule shall establish criteria for determining when public necessity  
22       requires issuance of a certificate of emergency. The commission, after a hearing, shall  
23       issue a certificate under this section if the commission finds that the criteria established  
24       by the commission have been met.

25       Rules adopted under this section are routine technical rules pursuant to Title 5,  
26       chapter 375, subchapter 2-A.

27       **Sec. 4. 38 MRSA §344, sub-§1-B** is enacted to read:

28       **1-B. Limitation on approval.** Notwithstanding any other provision of law, a permit  
29       or license may not be issued under this Title for the construction of a generator unless the  
30       construction of the generator will reduce electricity costs for consumers in this State as  
31       determined by the Public Advocate pursuant to Title 35-A, section 1702-B, subsection 3  
32       or a certificate of emergency is issued by the Public Utilities Commission pursuant to  
33       Title 35-A, section 3144.

34       For purposes of this subsection, "generator" has the same meaning as in Title 35-A,  
35       section 1702-B, subsection 1, paragraph A.

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## SUMMARY

This bill requires the Public Advocate to issue a monthly report regarding the performance of electricity generators, including but not limited to output, capacity factors, price of electricity generated and carbon dioxide emissions.

The bill prohibits the construction of new electricity generators unless the Public Advocate determines that the construction of the generator will result in reduced electricity costs for consumers in this State or the Public Utilities Commission issues a certificate of emergency.