127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document	**No. 1399**
S.P. 520	In Senate, May 12, 2015

An Act To Improve Natural Gas Price Competitiveness for Maine's Manufacturers

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

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator BURNS of Washington. (GOVERNOR'S BILL)
Cosponsored by Representative MAKER of Calais and
Representative: TURNER of Burlington.

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

Sec. 1. 35-A MRSA §1913 is enacted to read:

§1913. Backstop agreements for natural gas pipeline capacity

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

A. "Backstop agreement" means an agreement entered into between an interstate natural gas pipeline and a designated replacement shipper pursuant to which the designated replacement shipper agrees, upon a default of an eligible customer, to enter into a service agreement with an interstate natural gas pipeline for an amount of the eligible customer's long-term interstate natural gas pipeline capacity under the same rates, terms and conditions as the eligible customer and for the remainder of the term of the eligible customer's contract term.

B. "Designated replacement shipper" means one or more gas utilities or transmission and distribution utilities required by the commission to enter into an agreement with an interstate natural gas pipeline for the long-term interstate natural gas pipeline capacity of an eligible customer.

C. "Eligible customer" means a commercial or industrial business or a subsidiary of that business that is located in this State and has an agreement for a term of not less than 15 years to transport a maximum daily quantity of 7,500 dekatherms per day of natural gas.

D. "Eligible natural gas pipeline capacity" means new or incremental natural gas pipeline capacity for the delivery of natural gas into this State or to delivery points within this State.

2. Order requiring execution of capacity backstop agreement. Upon application of an eligible customer in accordance with subsection 5, the commission may require by written order that one or more gas utilities or transmission and distribution utilities enter into a backstop agreement, within 60 days of the commission's order, with applicable interstate natural gas pipelines for long-term interstate natural gas pipeline capacity that becomes available in the event of a default of the eligible customer, if the commission finds that the designated replacement shipper is capable of meeting the requirements of this section. The commission's order must identify the amount of long-term interstate natural gas pipeline capacity for a backstop agreement. Upon a commission order requiring execution of a backstop agreement pursuant to this section, the commission shall reduce the cumulative total capacity of energy cost reduction contracts established under section 1904 by the capacity of the backstop agreement.

Within 20 days of receipt of an application under subsection 5 for an order under this section, the commission shall consult with the Office of the Public Advocate and the utility or utilities recommended by the eligible customer as the designated replacement shipper. The commission's review of an application under this section is nonadjudicatory. The commission shall approve or reject the application within 60 days by issuance of a written order.

3. Limitation on resale of natural gas capacity. A backstop agreement approved by the commission must provide that the eligible customer's resale of natural gas pipeline capacity may not exceed 15% profit excluding any natural gas capacity transportation charges. If resale profits exceed 15%, the additional revenue must be used to reduce transmission and distribution rates in the location of the eligible customer's electric utility service area in a manner determined by the commission.

4. Commission criteria. The commission shall approve a request from an eligible customer and order one or more gas utilities or transmission and distribution utilities to enter into a backstop agreement with interstate natural gas pipelines pursuant to subsection 2 if the commission finds:

A. The designation of the utility or utilities as a designated replacement shipper will enhance the viability of an eligible natural gas pipeline capacity project;

B. The eligible natural gas pipeline capacity project will increase natural gas transmission capacity into the State and will further the legislative findings in section 1903;

C. The risks to utility ratepayers of an eligible customer's default are reasonable when compared to the benefits to be achieved for the eligible customer and the State as a result of the new or incremental natural gas pipeline capacity to be provided;

D. The gas utility or transmission and distribution utility, or its parent guarantor, has and continues to maintain a long-term senior, unsecured debt rating, or in the absence of a long-term senior, unsecured debt rating, a local long-term issuer rating or an issuer rating, as applicable, of at least Baa3 with a stable outlook from Moody's Investors Service, Inc. and of at least BBB- with a stable outlook from Standard and Poor's Corporation; and

E. The eligible customer is unable to meet or maintain the creditworthiness standards required to obtain eligible natural gas pipeline capacity.

5. Application. An eligible customer may apply to the commission to designate a utility as a designated replacement shipper and the application must provide a nonbinding recommendation of one or more utilities to be the shipper required to enter into a backstop agreement.

6. Actions presumed prudent; recovery of costs incurred. A gas utility's or transmission and distribution utility's actions undertaken in furtherance of a commission order under this section, including execution of a backstop agreement, are presumed to be prudent and require no further commission approval. Notwithstanding anything to the contrary in subsection 1, paragraph A, with the approval of the commission, a gas utility or transmission and distribution utility required to enter into a backstop agreement for eligible interstate pipeline capacity as a designated replacement shipper under this section may recover in rates all costs reasonably incurred including administrative costs.

7. Limitation. The commission may not order a backstop agreement under this section after December 31, 2018. The commission may continue to administer contracts entered into prior to December 31, 2018 and enter into agreements regarding the resale of natural gas pipeline capacity purchased through a backstop agreement after December 31, 2018.

SUMMARY

This bill authorizes the Public Utilities Commission to order one or more gas utilities or transmission and distribution utilities to enter into a backstop agreement under which a designated replacement shipper agrees to enter into a service agreement with an interstate natural gas pipeline for the long-term interstate natural gas pipeline capacity of an eligible customer.