

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

SECOND REGULAR SESSION-2016

Legislative Document

No. 1513

H.P. 1036

House of Representatives, December 28, 2015

An Act To Clarify Laws Relating to Affiliate Ownership of Electric Generation

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on December 22, 2015. Referred to the Committee on Energy, Utilities and Technology pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Handwritten signature of Robert B. Hunt in cursive.

ROBERT B. HUNT
Clerk

Presented by Representative DION of Portland.
Cosponsored by Senator WOODSOME of York and
Representative: BEAVERS of South Berwick.

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

2 **Sec. 1. 35-A MRSA §3204, sub-§5**, as enacted by PL 1997, c. 316, §3, is
3 amended to read:

4 **5. Ownership of generation prohibited.** Except as otherwise permitted under this
5 chapter, ~~on or after March 1, 2000~~, an investor-owned transmission and distribution
6 utility may not ~~own, have a financial interest in or otherwise control generation or~~
7 ~~generation-related assets~~; directly or indirectly, including through an affiliated interest:

8 A. Have an ownership interest in generation or generation-related assets;

9 B. Have a financial interest in generation or generation-related assets; or

10 C. Control generation or generation-related assets.

11 **Sec. 2. 35-A MRSA §3204, sub-§6-A** is enacted to read:

12 **6-A. Affiliate ownership of generation or generation-related assets.** The
13 commission by rule may allow an investor-owned transmission and distribution utility to
14 have a generation affiliate as long as the investor-owned transmission and distribution
15 utility does not have a financial interest in the generation affiliate sufficient to produce
16 incentives for favoritism that would undermine the purposes of this chapter. The rules
17 adopted by the commission must establish minimum standards necessary to protect
18 ratepayers and standards of conduct governing the relationship between an investor-
19 owned transmission and distribution utility and a generation affiliate. Standards of
20 conduct adopted by the commission must ensure at a minimum that:

21 A. A generation affiliate is not given preference over nonaffiliated competitive
22 generators;

23 B. Employees of an investor-owned transmission and distribution utility may not be
24 shared with and must be physically separated from those of a generation affiliate;

25 C. The books of accounts and records of an investor-owned transmission and
26 distribution utility and a generation affiliate must be separate and are subject to
27 review by the commission; and

28 D. An investor-owned transmission and distribution utility may not subsidize the
29 business of a generation affiliate at the expense of ratepayers.

30 For the purposes of this subsection, "generation affiliate" means an affiliate of an
31 investor-owned transmission and distribution utility that owns or controls generation or
32 generation-related assets.

33 Rules adopted under this subsection are major substantive rules pursuant to Title 5,
34 chapter 375, subchapter 2-A.

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SUMMARY

2 This bill clarifies language regarding ownership interest, financial interest or control
3 of generation or generation-related assets by an investor-owned transmission and
4 distribution utility.

5 This bill also allows the Public Utilities Commission to adopt rules to allow an
6 investor-owned transmission and distribution utility to have an interest in a generation
7 affiliate as long as that interest is not a financial interest sufficient to produce incentives
8 for favoritism that would undermine the purposes of the Maine Revised Statutes, Title
9 35-A, chapter 32. This bill allows the commission to adopt major substantive rules that
10 establish minimum standards necessary to protect ratepayers and standards of conduct
11 that govern the relationship between an investor-owned transmission and distribution
12 utility and a generation affiliate. This bill requires that standards of conduct adopted by
13 commission rule ensure at a minimum that a generation affiliate is not given preference
14 over nonaffiliated competitive generators; employees of an investor-owned transmission
15 and distribution utility are physically separated from and not shared with those of a
16 generation affiliate; the books of accounts and records of an investor-owned transmission
17 and distribution utility and a generation affiliate are separate and are subject to review by
18 the commission; and an investor-owned transmission and distribution utility does not
19 subsidize the business of a generation affiliate at the expense of the ratepayer.

20 This bill defines "generation affiliate" as an affiliate of an investor-owned
21 transmission and distribution utility that owns or controls generation or generation-related
22 assets.