

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

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No. 1181

H.P. 855

House of Representatives, March 12, 2019

An Act To Reduce Electricity Costs through Nonwires Alternatives

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

Handwritten signature of Robert B. Hunt in cursive.

ROBERT B. HUNT
Clerk

Presented by Representative BERRY of Bowdoinham.
Cosponsored by Representative HUBBELL of Bar Harbor, Senator LAWRENCE of York and Representatives: CAIAZZO of Scarborough, DENK of Kennebunk, DOUDERA of Camden, GROHOSKI of Ellsworth, HUTCHINS of Penobscot, NEWELL of the Passamaquoddy Tribe, SHARPE of Durham, Senator: LIBBY of Androscoggin.

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

2 **Sec. 1. 35-A MRSA §102, sub-§13**, as amended by PL 2009, c. 539, §1, is
3 further amended to read:

4 **13. Public utility.** "Public utility" includes every gas utility, natural gas pipeline
5 utility, transmission and distribution utility, telephone utility, water utility and ferry, as
6 those terms are defined in this section, and each of those utilities is declared to be a public
7 utility. "Public utility" does not include the operation of a radio paging service, as that
8 term is defined in this section, or mobile telecommunications services unless only one
9 entity or an affiliated interest of that entity, as defined in section 707, subsection 1,
10 paragraph A, exclusively controls the use of the radio frequency spectrum assigned by the
11 Federal Communications Commission to provide mobile service to the service area.
12 ~~"Public utility" includes a smart grid coordinator as defined in section 3143, subsection 1,~~
13 ~~paragraph B.~~

14 Nothing in this subsection precludes:

15 A. The jurisdiction, control and regulation by the commission pursuant to private and
16 special act of the Legislature;

17 B. The commission's jurisdiction and control over and regulation of a public utility
18 that provides, in addition to other services, radio paging service or mobile
19 telecommunications services;

20 C. The commission's jurisdiction and control over and regulation of basic exchange
21 telephone service offered by a provider of mobile telecommunications services if,
22 after investigation and hearing, the commission determines that the provider is
23 engaged in the provision of basic exchange telephone service; and

24 D. Negotiations for, or negates agreements or arrangements existing on the effective
25 date of this paragraph relating to, rates, terms and conditions for interconnection
26 provided by a telephone utility to a company providing radio paging or mobile
27 telecommunications services.

28 **Sec. 2. 35-A MRSA §1701, sub-§2**, as enacted by PL 1987, c. 141, Pt. A, §6, is
29 amended to read:

30 **2. Staff of the Public Advocate.** The staff of the Public Advocate ~~shall consist~~
31 ~~consists~~ of such other personnel, including staff attorneys, as the Public Advocate
32 determines necessary to represent the using and consuming public, as required by
33 subsection 1702, ~~and the nonwires alternative coordinator established in subsection 2-A.~~
34 All such personnel ~~shall be~~ are appointed, supervised and directed by the Public
35 Advocate. The Public Advocate is not subject to the supervision, direction or control of
36 the chairman or members of the commission.

37 **Sec. 3. 35-A MRSA §1701, sub-§2-A** is enacted to read:

38 **2-A. Nonwires alternative coordinator.** A nonwires alternative coordinator,
39 referred to in this section as "the coordinator," is established within the Office of the
40 Public Advocate. As used in this subsection, "nonwires alternative" has the same

1 meaning as in section 3131, subsection 4-C. The duties of the coordinator include, but
2 are not limited to:

3 A. Investigation of nontransmission alternatives to proposed transmission lines
4 pursuant to section 3132, subsection 2-D and investigation of nonwires alternatives to
5 proposed transmission or distribution projects pursuant to section 3132-A, subsection
6 1-A;

7 B. Review and analysis of distribution system planning studies required under
8 section 3132-B;

9 C. Identification of nonwires alternatives to proposed utility capital investments to
10 address identified needs and evaluation of the net present value costs and benefits of
11 nonwires alternatives as compared to utility capital investments in the transmission
12 and distribution system. The coordinator shall recommend to the commission
13 nonwires alternatives to advance grid reliability at the lowest total cost to ratepayers,
14 considering the evaluation of costs and benefits under this paragraph, and submit
15 procurement plans for the recommended nonwires alternatives to the commission for
16 approval. A procurement plan may provide for the Efficiency Maine Trust to procure
17 and deliver, through its existing programs, certain nonwires alternatives, as
18 appropriate, to achieve administrative efficiencies;

19 D. Implementation of procurement plans under paragraph C, as approved by the
20 commission, including administration of requests for proposals for and evaluation
21 and selection of proposals for nonwires alternatives; and

22 E. Publication of quarterly reports on procurements of nonwires alternatives,
23 including budgets, timelines, in-service dates, costs incurred and operational savings
24 and other benefits.

25 The coordinator shall include and collaborate with transmission and distribution utilities,
26 the Efficiency Maine Trust and interested parties in the review and analysis of proposed
27 utility capital investments and nonwires alternatives. A transmission and distribution
28 utility shall provide to the coordinator any data requested by the coordinator in order to
29 carry out the coordinator's duties under this subsection. A transmission and distribution
30 utility may request a protective order if necessary to protect the confidentiality of
31 information in accordance with section 1311-A.

32 **Sec. 4. 35-A MRSA §1701, sub-§3, ¶¶E and F**, as enacted by PL 1999, c. 259,
33 §4, are amended to read:

34 E. Business Services Manager, salary range 26; ~~and~~

35 F. Special Assistant to the Public Advocate, salary range 20-; and

36 **Sec. 5. 35-A MRSA §1701, sub-§3, ¶G** is enacted to read:

37 G. Nonwires Alternative Coordinator, salary range 53.

38 **Sec. 6. 35-A MRSA §3131, sub-§§4-C and 4-D** are enacted to read:

39 **4-C. Nonwires alternative.** "Nonwires alternative" means infrastructure,
40 technology or applications that defer or reduce the need for the construction of a

1 transmission or distribution line and associated infrastructure, including substations, and
2 that address system reliability needs proposed to be met by the transmission or
3 distribution line at a lower cost to ratepayers. "Nonwires alternative" includes
4 nontransmission alternatives.

5 **4-D. Nonwires alternative coordinator.** "Nonwires alternative coordinator" means
6 the position within the Office of the Public Advocate as established in section 1701,
7 subsection 2-A.

8 **Sec. 7. 35-A MRSA §3132, sub-§2-D,** as enacted by PL 2017, c. 201, §4, is
9 amended to read:

10 **2-D. Nontransmission alternatives investigation.** The nonwires alternative
11 coordinator shall conduct an investigation of nontransmission alternatives to construction
12 of a proposed transmission line and make recommendations to the commission regarding
13 approval of all or portions of a proposed transmission line. In considering whether to
14 approve or disapprove all or portions of a proposed transmission line pursuant to
15 subsection 5, the commission shall consider the results of ~~an~~ the investigation by ~~an~~
16 ~~independent 3rd party, which may be the commission or a contractor selected by the~~
17 ~~commission,~~ and recommendations of the nonwires alternative coordinator of
18 nontransmission alternatives to construction of the proposed transmission line. The
19 investigation must set forth the total projected costs of the transmission line as well as the
20 total projected costs of the alternatives over the effective life of the proposed transmission
21 line.

22 **Sec. 8. 35-A MRSA §3132, sub-§3,** as amended by PL 2009, c. 123, §3, is
23 further amended to read:

24 **3. Transmission line rebuilding or relocation projects.** Each transmission and
25 distribution utility shall file annually with the commission and the nonwires alternative
26 coordinator a schedule of transmission line rebuilding or relocation projects that it intends
27 to carry out during the next 5 years concerning transmission lines that will become, or
28 will remain at, voltages of 69 kilovolts or more. The schedule must describe each project,
29 showing the length, location and estimated cost.

30 If the commission determines that an investigation of any transmission line rebuilding or
31 relocation project is warranted, it shall notify the transmission and distribution utility
32 within 60 days of the annual filing and the transmission and distribution utility is then
33 required to comply with the provisions of this section with respect to that project. The
34 absence of commission notification requiring the utility to file a petition does not
35 preclude such notification in subsequent years.

36 **Sec. 9. 35-A MRSA §3132, sub-§3-A,** as amended by PL 2009, c. 123, §4, is
37 further amended to read:

38 **3-A. Minor transmission line construction projects.** Each domestic transmission
39 and distribution utility shall file annually with the commission and the nonwires
40 alternative coordinator a schedule of minor transmission line construction projects that it
41 intends to carry out during the next 5 years concerning transmission lines that will be

1 capable of operating at 69 kilovolts or more. A minor transmission line construction
2 project is a transmission line construction project the cost of which does not exceed 25%
3 of the utility's current annual transmission property depreciation charge. The schedule
4 must describe each project, showing the length, location and estimated cost.

5 If the commission determines that an investigation of any minor transmission line
6 construction project is warranted, it shall notify the transmission and distribution utility
7 within 60 days of the annual filing and the utility must then comply with the provisions of
8 this section with respect to that project. The absence of commission notification
9 requiring the utility to file a petition does not preclude such notification in subsequent
10 years.

11 **Sec. 10. 35-A MRSA §3132-A**, as amended by PL 2017, c. 201, §§5 and 6, is
12 further amended to read:

13 **§3132-A. Construction of transmission and distribution projects prohibited without**
14 **approval of the commission**

15 A person may not construct any transmission or distribution project without approval
16 from the commission. For the purposes of this section, "transmission or distribution
17 project" means any proposed transmission or distribution line and its associated
18 infrastructure capable of operating at less than 69 kilovolts and projected to cost in excess
19 of ~~\$20,000,000~~ \$500,000.

20 **1. Submission requirement.** A person that proposes to undertake in the State a
21 transmission or distribution project must provide the commission with a description of the
22 need for the proposed transmission or distribution project and the results of the
23 investigation required under subsection 1-A.

24 **1-A. Nonwires alternatives investigation; recommendation.** The nonwires
25 alternative coordinator shall conduct an investigation of nonwires alternatives to
26 construction of a proposed transmission or distribution project and make
27 recommendations to the commission regarding approval of all or portions of the proposed
28 transmission or distribution project. In considering whether to approve or disapprove all
29 or portions of a proposed transmission or distribution project pursuant to subsection 2, the
30 commission shall consider the results of ~~an the~~ investigation by ~~an independent 3rd party,~~
31 ~~which may be the commission or a contractor selected by the commission,~~ of
32 ~~nontransmission alternatives to construction of the proposed transmission project and~~
33 recommendations of the nonwires alternative coordinator. The investigation must set
34 forth the total projected costs of the transmission or distribution project as well as the
35 total projected costs of the nonwires alternatives over the effective life of the proposed
36 transmission or distribution project.

37 **2. Approval; consideration of nonwires alternatives.** In order for a transmission
38 or distribution project to be approved, the commission must consider whether the
39 identified need over the effective life of the proposed transmission or distribution project
40 can be economically and reliably met using ~~nontransmission~~ nonwires alternatives at a
41 lower total cost. During its review the commission shall consider the recommendations
42 provided pursuant to subsection 1-A and shall give preference to nontransmission

1 nonwires alternatives that are identified as able to address the identified need for the
2 proposed transmission or distribution project at lower total cost to ratepayers. Of the
3 identified ~~nontransmission~~ nonwires alternatives, the commission shall give preference to
4 the lowest-cost ~~nontransmission~~ nonwires alternatives. When the costs to ratepayers of
5 the identified ~~nontransmission~~ nonwires alternatives are reasonably equal, the
6 commission shall give preference to the alternatives that produce the lowest amount of
7 local air emissions, including greenhouse gas emissions.

8 **3. Exception.** A transmission or distribution project that is constructed, owned and
9 operated by a generator of electricity solely for the purpose of electrically and physically
10 interconnecting the generator to the transmission system of a transmission and
11 distribution utility is not subject to this section.

12 **Sec. 11. 35-A MRSA §3132-B** is enacted to read:

13 **§3132-B. Distribution system planning studies**

14 Each transmission and distribution utility shall prepare and file annually with the
15 commission and the nonwires alternative coordinator, established under section 1701,
16 subsection 2-A, a distribution system planning study. The study must describe the
17 transmission and distribution utility's distribution system capacity and load by circuit,
18 identify the utility's growth-related needs during the next 5 years to ensure reliability of
19 the electric grid and provide a schedule of proposed investments and associated costs.

20 **Sec. 12. 35-A MRSA §3143, sub-§1, ¶B,** as enacted by PL 2009, c. 539, §2, is
21 repealed.

22 **Sec. 13. 35-A MRSA §3143, sub-§2, ¶¶D and E,** as enacted by PL 2009, c.
23 539, §2, are amended to read:

24 D. The State currently lacks a comprehensive smart grid policy but faces critical
25 decisions regarding the implementation of smart grid functions and associated
26 infrastructure, technology and applications, and the commission and the Legislature
27 will play central roles in making those decisions; ~~and~~

28 E. It is vital that a smart grid policy be developed in order to ensure that all
29 ratepayers and the State as a whole are afforded the benefits of smart grid functions
30 and associated infrastructure, technology and applications; ~~and~~

31 **Sec. 14. 35-A MRSA §3143, sub-§2, ¶F** is enacted to read:

32 F. It is in the public interest to establish a nonwires alternative coordinator for the
33 State.

34 **Sec. 15. 35-A MRSA §3143, sub-§5,** as enacted by PL 2009, c. 539, §2, is
35 repealed.

36 **Sec. 16. 35-A MRSA §3143, sub-§§8 to 10,** as enacted by PL 2009, c. 539, §2,
37 are amended to read:

1 **8. Cost recovery.** The commission shall, upon petition, permit a transmission and
2 distribution utility to adjust its rates to recover the utility's ~~prudently incurred~~ incremental
3 costs associated with the operations of the nonwires alternative coordinator, costs of
4 procuring nonwires alternatives and otherwise implementing smart grid functions and
5 associated infrastructure, technology and applications or otherwise taking reasonable
6 actions consistent with the policies of this section, to the extent that the costs are not
7 already reflected in the utility's rates and the adjustment does not result in rates that are
8 unjust or unreasonable. A grant by a utility in an amount approved by the commission to
9 the University of Maine System for smart grid research and development is deemed to be
10 a ~~prudently incurred~~ an incremental cost associated with implementing smart grid
11 functions.

12 **9. Report.** ~~The commission, as part of its annual report pursuant to section 120, In~~
13 the annual report required under section 1702, the Public Advocate shall include a report
14 on the progress of the State in achieving the purposes of this section. The ~~commission~~
15 Public Advocate may include in its report any recommendations for changes to law to
16 promote the purposes of this section.

17 **10. Consumer education.** ~~A~~ If a transmission and distribution utility that or the
18 Efficiency Maine Trust implements smart grid functions, the utility or the trust shall, to
19 the extent the commission determines appropriate, provide information to customers
20 about the purpose and goals of smart grid functions, the ways in which smart grid
21 functions, including but not limited to time-of-use pricing, may involve customer
22 interaction and how the implementation of smart grid functions can benefit customers.

23 **Sec. 17. 35-A MRSA §10104, sub-§4, ¶G** is enacted to read:

24 G. In developing the triennial plan, or an annual update plan under subsection 6, the
25 trust may include, as part of its budget for electric efficiency and conservation
26 programs under section 10110, the costs of providing nonwires alternatives in
27 accordance with a procurement plan for nonwires alternatives under section 1701,
28 subsection 2-A.

29 SUMMARY

30 This bill establishes the position of nonwires alternative coordinator in the Office of
31 the Public Advocate. The duties of the nonwires alternative coordinator include
32 investigation and identification of nonwires alternatives to proposed transmission lines
33 and proposed transmission projects and evaluation of the costs and benefits of nonwires
34 alternatives compared to utility capital investments in the transmission and distribution
35 system. The bill requires the nonwires alternative coordinator to include and collaborate
36 with transmission and distribution utilities, the Efficiency Maine Trust and interested
37 parties in conducting the coordinator's review and analysis of proposed utility capital
38 investments and nonwires alternatives. The duties of the coordinator also include making
39 recommendations for nonwires alternatives to the Public Utilities Commission, proposing
40 procurement plans for nonwires alternatives and implementing procurement plans
41 approved by the commission. The bill specifies that a procurement plan for nonwires
42 alternatives may provide for the Efficiency Maine Trust to procure and deliver, through

1 its existing programs, nonwires alternatives, and it authorizes the Efficiency Maine Trust,
2 in its triennial plan or annual update plan, to include the costs of providing nonwires
3 alternatives in its budget for electric efficiency and conservation programs.

4 The bill amends the law governing the construction of transmission lines and the
5 construction of transmission or distribution projects by transmission and distribution
6 utilities. It defines a transmission or distribution project as a transmission or distribution
7 line operating at less than 69 kilovolts projected to cost over \$500,000; current law
8 defines a transmission project as a transmission line operating at less than 69 kilovolts
9 projected to cost over \$20,000,000. The bill requires the nonwires alternative
10 coordinator to conduct an investigation of proposed transmission lines and proposed
11 transmission or distribution projects prior to approval of any line or project by the Public
12 Utilities Commission. It requires the commission to consider the results of the
13 investigation conducted by and the recommendations of the nonwires alternative
14 coordinator regarding nonwires alternatives to the proposed transmission line or
15 transmission or distribution project.

16 The bill requires each transmission and distribution utility to file an annual schedule
17 of transmission line rebuilding or relocation projects and minor transmission line
18 construction projects with the nonwires alternative coordinator in addition to with the
19 Public Utilities Commission. It also establishes a requirement for each transmission and
20 distribution utility to prepare and file annually with the commission and the nonwires
21 alternative coordinator a distribution system planning study describing system capacity
22 and load and growth-related needs for the upcoming 5 years to ensure electric grid
23 reliability.

24 The bill makes several changes to the law on smart grid infrastructure policy. It
25 establishes that it is in the public interest to establish a nonwires alternative coordinator
26 for the State. It allows utilities to adjust rates to recover incremental costs associated with
27 operations of the nonwires alternative coordinator and costs of procuring nonwires
28 alternatives and eliminates the requirement that incremental costs be prudently incurred
29 to be recoverable. It requires the Public Advocate's annual report to include a report on
30 the State's progress on smart grid infrastructure.