

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

AK
ROS.

Rep B

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34

L.D. 1959

Date: 4/13/22

(Filing No. S-551)

REPORT B
ENERGY, UTILITIES AND TECHNOLOGY

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE
SENATE
130TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "B" to S.P. 697, L.D. 1959, "An Act To Ensure Transmission and Distribution Utility Accountability"

Amend the bill by striking out everything after the enacting clause and inserting the following:

Sec. 1. 5 MRSA §12021, sub-§6, ¶D-1 is enacted to read:

D-1. An investor-owned public utility under Title 35-A, section 113, subsection 6;

Sec. 2. 5 MRSA §12025 is enacted to read:

§12025. Exception for investor-owned public utility

Notwithstanding any provision of this subchapter to the contrary, an investor-owned public utility under Title 35-A, section 113, subsection 6 is not subject to any of the requirements of this subchapter except for section 12022, subsection 3.

Sec. 3. 35-A MRSA §113, sub-§6 is enacted to read:

6. Investor-owned utility selection of vendors. An investor-owned public utility shall, no later than November 1, 2022, comply with the requirements of Title 5, section 12022, subsection 3 to ensure that the utility secures the best value in its procurements. For the purposes of this subsection, "investor-owned public utility" means a public utility that operates as a for-profit corporation owned by shareholders and is not wholly owned by its customers. The commission by rule may define when competitive procurement by an investor-owned utility under Title 5, section 12022, subsection 3 may be waived, including when the utility is responding to emergencies or in other situations in which the commission determines competitive procurement is impractical. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 4. 35-A MRSA §301, sub-§1-A is enacted to read:

1-A. Minimum service standards and report card for transmission and distribution utilities. The commission shall adopt rules in accordance with this subsection governing the evaluation of transmission and distribution utility service that serves more

COMMITTEE AMENDMENT

ROS

1 than 50,000 customers in the State, which must take into account the specific characteristics
2 of each utility and its service territory. Rules adopted pursuant to this subsection are major
3 substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

4 A. The rules must include specific, quantitative metrics pertaining to utility operations
5 and activities relating to each of the following categories:

6 (1) Service quality, including but not limited to reliability of service and timeliness
7 of restoring service after outages;

8 (2) Customer service, including but not limited to timeliness and accuracy of bills;

9 (3) Customer satisfaction, using a statistically valid survey selected by the
10 commission;

11 (4) Field services, including but not limited to communication with and
12 responsiveness to municipalities, businesses and individuals; and

13 (5) Distributed energy resources interconnection.

14 B. The commission shall set reporting requirements for each metric, including data
15 specifications and reporting periods, adequate to track progress in areas of
16 performance.

17 C. The commission shall designate service standards based on thresholds of
18 performance.

19 D. For each service standard, the commission shall require quarterly filing of
20 quantifiable data sufficient for the commission to calculate and publish a quantitative
21 score for the service standard.

22 E. The commission shall impose administrative penalties for designated thresholds of
23 poor performance for service standards in accordance with section 1508-A, subsection
24 1, paragraph E unless the utility demonstrates good cause for its failure to meet the
25 standard.

26 F. The commission shall publish quarterly reports containing scores for the service
27 standards in paragraph A, subparagraphs (1), (2), (4) and (5) for each utility. The
28 commission shall publish reports containing scores for the service standard in
29 subparagraph (3) at least annually.

30 G. Once every 3 years, the commission may audit the data reported by a utility for
31 each standard.

32 H. A failure by a utility to accurately report data in accordance with the requirements
33 of this section is a violation of this section subject to an administrative penalty under
34 section 1508-A.

35 **Sec. 5. 35-A MRSA §301, sub-§5 is enacted to read:**

36 **5. Transmission and distribution utility report required; audits.** If the commission
37 has not made a rate determination within the preceding 2 years for a transmission and
38 distribution utility that serves more than 50,000 customers, the utility shall submit a report
39 to the commission that includes a comparison of the utility's actual costs with cost estimates
40 used in the utility's most recent rate case to set rates. Upon a finding of the commission
41 that there was a difference of more than 5% between the transmission and distribution
42 utility's actual costs and estimated costs, the commission may:

ROS

1 A. Require an audit of the transmission and distribution utility in accordance with
2 section 113; or

3 B. Disallow cost recovery in the transmission and distribution utility's future rate cases.

4 This subsection takes effect January 15, 2024.

5 **Sec. 6. 35-A MRSA §301, sub-§6** is enacted to read:

6 **6. Transmission and distribution utility expenditures; comparison.** No later than
7 November 1, 2022, the commission shall initiate a proceeding to conduct a detailed
8 comparison of the annual expenditures of each transmission and distribution utility in the
9 State with the annual expenditures of other comparable transmission and distribution
10 utilities located in the United States. When conducting this analysis, the commission shall
11 identify specific categories in which spending by a transmission and distribution utility
12 significantly deviated from those expenditures of comparable transmission and distribution
13 utilities. For the purposes of this subsection, a comparable transmission and distribution
14 utility is one that is of approximately equal size in the United States. The commission may
15 use the results of this analysis in future rate cases involving a transmission and distribution
16 utility. The commission may undertake a new comparison or update an existing one in
17 accordance with this subsection at any time the commission determines is necessary. This
18 subsection applies only to a transmission and distribution utility that serves more than
19 50,000 customers in the State.

20 **Sec. 7. 35-A MRSA §1316**, as amended by PL 1999, c. 398, Pt. A, §21 and affected
21 by §§104 and 105, is further amended to read:

22 **§1316. Testimony presented by employees of public utilities or, competitive service**
23 **electricity providers, affiliated interests or utility contractors to legislative**
24 **committees ~~and to,~~ the Public Utilities Commission and the Public Advocate**

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

27 A. "Employee" means a person who currently performs or formerly performed
28 a service for wages or other remuneration under a contract of hire, expressed or implied,
29 but does not include an independent contractor for a public utility, competitive
30 electricity provider, affiliated interest or utility contractor.

31 A-1. "Affiliated interest" has the same meaning as in section 707, subsection 1,
32 paragraph A.

33 B. "Employer" means a public utility or, competitive service electricity provider,
34 affiliated interest or utility contractor licensed to do business in this State with one or
35 more employees.

36 C. "Legislative committee" means a joint standing committee or a joint select
37 committee of the Legislature, a task force, commission or council or any other
38 committee established by the Legislature and composed wholly or partly of Legislators
39 for the purpose of conducting legislative business.

40 D. "Own time" means an employee's vacation or personal time, earned as a condition
41 of employment.

ROS

1 E. "Utility contractor" means a person that provides goods or services to a public utility
2 or competitive electricity provider.

3 **2. Right of employees to provide testimony.** ~~Employees of a public utility or~~
4 ~~competitive service provider have the right to represent themselves and to testify before or~~
5 ~~provide information to a legislative committee or, the commission or the Public Advocate~~
6 ~~on their own time. An employee of a public utility or competitive service provider who~~
7 ~~complies with this section may not be denied the right to testify before or provide~~
8 ~~information to a legislative committee or, the commission or the Public Advocate.~~

9 **2-A. Right of utility contractors to provide testimony.** A utility contractor has the
10 right to testify before or provide information to a legislative committee, the commission or
11 the Public Advocate.

12 **3. Discharge of, threats to or discrimination against employees of utility service**
13 **providers for testimony presented to legislative committees or, the commission or the**
14 **Public Advocate.** ~~Unless otherwise provided for, a A supervisor may not discharge,~~
15 ~~threaten or otherwise discriminate against an employee of a public utility or competitive~~
16 ~~service provider regarding the employee's compensation, terms, conditions, location or~~
17 ~~privileges of employment because the employee, in compliance with this section, in good~~
18 ~~faith testifies before or provides information to a legislative committee or to, the~~
19 ~~commission or the Public Advocate regarding the operation of the business of a public~~
20 ~~utility or competitive service electricity provider or because the employee brings the~~
21 ~~subject matter of the testimony or information to the attention of a person having~~
22 ~~supervisory authority.~~

23 This subsection does not apply to an employee who has testified before or provided
24 information to a legislative committee or to, the commission or the Public Advocate unless
25 the employee has first brought the subject matter of the testimony or information in writing
26 to the attention of a person having supervisory authority with the employer and has allowed
27 the employer a reasonable time to address the subject matter of the testimony or
28 information. If appropriate, the employer shall respond in writing.

29 **4. Exceptions.** ~~The protection protections created in subsection subsections 3 does~~
30 ~~and 9 do not apply to testimony or information that, upon reasonable inquiry by the~~
31 ~~employee or utility contractor, would be found to be false, slanderous, libelous or~~
32 ~~defamatory or to testimony that violates a term or condition of a collectively bargained~~
33 ~~agreement or to testimony that discloses trade secrets or corporate strategy, the disclosure~~
34 ~~of which would result in harm to the employer.~~

35 **5. Civil actions for injunctive relief or other remedies by employees.** ~~An employee~~
36 ~~of a public utility or competitive service provider who alleges a violation of rights under~~
37 ~~this section and who has made reasonable efforts to exhaust all grievance procedures, as~~
38 ~~provided for in the contract of employment or which that otherwise may be available at the~~
39 ~~employee's place of employment, may bring a civil action, including an action for~~
40 ~~injunctive relief, within 90 days after the occurrence of that alleged violation or after the~~
41 ~~grievance procedure or similar process terminates. The action may be brought in the~~
42 ~~Superior Court for the county where the alleged violation occurred, the county where the~~
43 ~~complainant resides or the county where the person against whom the civil complaint is~~
44 ~~filed resides. An employee must establish each and every element of the employee's case~~
45 ~~by a preponderance of the evidence.~~

ROS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43

5-A. Civil actions for injunctive relief or other remedies by utility contractors. A utility contractor that alleges a violation of rights under this section may bring a civil action, including an action for injunctive relief, within 90 days after the occurrence of that alleged violation. The action may be brought in the Superior Court for the county where the alleged violation occurred, the county where the complainant resides or the county where the person against whom the civil complaint is filed resides. A utility contractor must establish each element of the utility contractor's case by a preponderance of the evidence.

6. Remedies ordered by court. A court, in rendering a judgment in an action brought pursuant to this section, may order reinstatement of the employee, the payment of back wages, full reinstatement of fringe benefits and seniority rights or any combination of these remedies. A If an employee or utility contractor is the prevailing party, a court may also shall award the prevailing party employee or utility contractor all or a portion of the costs of litigation, including reasonable attorneys' attorney's fees and witness fees, if the court determines that the award is appropriate.

7. Collective bargaining rights Agreements. This section does not diminish or impair the rights of a person under any collective bargaining agreement. A public utility, competitive electricity provider or affiliated interest may not enter into an agreement preventing employees from exercising their rights to testify before or provide information to a legislative committee, the commission or the Public Advocate pursuant to this section.

8. Jury trial; common-law rights. Any action brought under this section may be heard by a jury. Nothing in this section derogates any common-law rights of an employee or employer.

9. Contracts with utility contractors. If a utility contractor, in compliance with this section and in good faith, testifies before or provides information to a legislative committee, the commission or the Public Advocate, a public utility or competitive electricity provider may not respond to such action by the utility contractor by:

- A. Terminating or threatening to terminate a contract with the utility contractor; or
- B. Harming or threatening to harm the utility contractor financially.

10. Notice of rights required. A public utility and a competitive electricity provider shall notify the public utility's and the competitive electricity provider's employees, affiliated interests and utility contractors of their rights under this section.

11. Penalties. The commission shall impose penalties for violations of this section. This subsection does not apply in the case of an employee of a utility contractor alleging a violation under subsection 3.

12. Rulemaking. The commission may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 8. 35-A MRS §1508-A, sub-§1, as amended by PL 2021, c. 108, §§3 and 4 and c. 318, §7, is repealed and the following enacted in its place:

1. Penalty. Unless otherwise specified in law, the commission shall, in an adjudicatory proceeding, impose an administrative penalty as specified in this section.

- A. For violations of this Title, a commission rule or a commission order by a public utility, voice service provider, dark fiber provider, wholesale competitive local

COMMITTEE AMENDMENT

- 1 exchange carrier or competitive electricity provider, the commission may impose an
2 administrative penalty for each violation in an amount between .10% and .25% of the
3 annual gross revenue that the public utility, voice service provider, dark fiber provider,
4 wholesale competitive local exchange carrier or competitive electricity provider
5 received from sales in the State. Each day a violation continues constitutes a separate
6 offense. The maximum administrative penalty for any related series of violations may
7 not exceed 5% of the annual gross revenue that the public utility, voice service
8 provider, dark fiber provider, wholesale competitive local exchange carrier or
9 competitive electricity provider received from sales in the State.
- 10 B. For a violation in which a public utility, voice service provider, dark fiber provider,
11 wholesale competitive local exchange carrier or competitive electricity provider was
12 explicitly notified by the commission that it was not in compliance with the
13 requirements of this Title, a commission rule or a commission order and that failure to
14 comply could result in the imposition of administrative penalties, the commission shall
15 impose an additional administrative penalty between .10% and .25% of the annual
16 gross revenue that the public utility, voice service provider, dark fiber provider,
17 wholesale competitive local exchange carrier or competitive electricity provider
18 received from sales in the State.
- 19 B-1. In addition to any penalty imposed on a competitive electricity provider under
20 paragraph A or B, the commission may:
- 21 (1) For a willful violation of this Title by any 3rd-party sales agent undertaking
22 the retail sale or marketing of electricity on behalf of a competitive electricity
23 provider, impose an additional administrative penalty on the competitive electricity
24 provider in an amount that does not exceed \$5,000 or .25% of the annual gross
25 revenue that the 3rd-party sales agent received from sales and commissions in the
26 State. Each day a violation continues constitutes a separate offense. The maximum
27 administrative penalty for any related series of violations may not exceed \$500,000
28 or 5% of the annual gross revenue that 3rd-party sales agent received from sales
29 and commissions in the State, whichever amount is lower; and
- 30 (2) For a violation in which a 3rd-party sales agent was explicitly notified by the
31 commission that it was not in compliance with the requirements of this Title, a
32 commission rule or a commission order and that failure to comply could result in
33 the imposition of administrative penalties or the termination of the 3rd-party sales
34 agent's registration, impose an administrative penalty that does not exceed
35 \$500,000 and may terminate the registration of the 3rd-party sales agent.
- 36 C. The commission may impose an administrative penalty in an amount that does not
37 exceed \$1,200 on any person that is not a public utility, voice service provider, dark
38 fiber provider, wholesale competitive local exchange carrier, competitive electricity
39 provider or 3rd-party sales agent undertaking the retail sale or marketing of electricity
40 on behalf of a competitive electricity provider and that violates this Title, a commission
41 rule or a commission order. Each day a violation continues constitutes a separate
42 offense. The administrative penalty may not exceed \$29,000 for any related series of
43 violations.
- 44 D. The commission shall impose an administrative penalty on a transmission and
45 distribution utility in an amount that does not exceed 10% of its annual gross revenue

ROS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41

received from ratepayers in the State that fails for 2 consecutive calendar quarters or otherwise consistently fails to meet a standard established by the commission pursuant to section 301, subsection 1-A, paragraph A. Each calendar quarter that the transmission and distribution utility fails to meet the standard constitutes a separate offense. The commission shall use the proceeds from the penalty imposed under this paragraph to reduce energy costs for low-income customers.

Sec. 9. 35-A MRSA §1509, as amended by PL 2003, c. 505, §24, is further amended to read:

§1509. Limitation on imposing penalty

An action that may result in the imposition of an administrative penalty under this chapter must be commenced within 5 20 years after the cause of action accrues.

Sec. 10. 35-A MRSA §1513 is enacted to read:

§1513. Divestiture of underperforming investor-owned transmission and distribution utility

The commission shall initiate an adjudicatory proceeding in accordance with this section and section 708, subsection 2, paragraph A, subparagraph (8) to determine whether divestiture of an investor-owned transmission and distribution utility is warranted if the utility consistently fails to meet the service standards established in section 301, subsection 1-A, paragraph A, consistently fails to meet the requirements of section 301, subsection 1 or is unable to fulfill its statutory duties as a public utility because it is financially impaired or if a proceeding is requested by the Public Advocate. If, at the conclusion of the adjudicatory proceeding, the commission determines that divestiture of an investor-owned transmission and distribution utility is warranted, the following procedures apply.

1. Consideration of proposals to acquire the utility or its assets. The commission shall request proposals from qualified buyers interested in acquiring the transmission and distribution utility or its assets.

2. Determination by the commission. The commission shall order the owner of the investor-owned transmission and distribution utility to divest the utility if a proposal from a qualified buyer:

A. Will result, over the long term, in net benefits to ratepayers in the form of lower rates or better service than the rates and service provided by the transmission and distribution utility;

B. Will result in greater local control of the utility's management and operations in a manner that improves the ability of local management to protect the interests of the utility's ratepayers in this State;

C. Is for a fair and reasonable purchase price; and

D. Demonstrates that the buyer has sufficient financial and technical capability, expertise and experience to own and operate the utility and the ability to comply with all of the legal requirements, including but not limited to compliance with Title 38, section 576-A and section 577, subsection 1, for an investor-owned transmission and distribution utility.

ROS

1 If more than one proposal meets the criteria established in this subsection, the commission
2 shall order divestiture in accordance with the proposal that results in the greatest net
3 benefits to ratepayers.

4 **Sec. 11. 35-A MRSA §1514** is enacted to read:

5 **§1514. Franchise of investor-owned transmission and distribution utility**

6 The franchise of each investor-owned transmission and distribution utility in the State
7 expires 20 years from the date of its most recent reorganization under section 708. The
8 commission shall determine whether to renew a franchise or to award the franchise to a
9 different entity following the procedures for a divestiture under section 1513.

10 **Sec. 12. 35-A MRSA §3146** is enacted to read:

11 **§3146. Climate change protection plan**

12 No later than July 1, 2023, and every 3 years thereafter, a transmission and distribution
13 utility shall submit to the commission a 10-year plan that includes specific actions for
14 addressing the expected effects of climate change on the utility's assets needed to transmit
15 and distribute electricity to its customers. The commission shall request input from
16 interested parties on the transmission and distribution utility's plan and shall order the
17 transmission and distribution utility to take any action the commission determines is
18 reasonable and necessary to ensure that the utility will be able to continue to meet the
19 requirements of section 301, subsection 1 for the foreseeable future.

20 **Sec. 13. 35-A MRSA §3147** is enacted to read:

21 **§3147. Integrated grid planning**

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

24 A. "Covered utility" means a large, investor-owned transmission and distribution utility
25 as defined in section 3201, subsection 12.

26 B. "Environmental justice" means the fair treatment and meaningful involvement of all
27 persons regardless of race, color, national origin or income with respect to the
28 development, implementation and enforcement of environmental laws, rules,
29 regulations and policies.

30 C. "Grid plan" means a 10-year integrated grid plan for a covered utility developed in
31 accordance with this section designed to improve system reliability and resiliency and
32 enable cost-effective compliance with the greenhouse gas reduction obligations and
33 climate policies pursuant to Title 38, section 576-A and section 577, subsection 1.

34 D. "Hosting capacity" means a threshold at a circuit at which new distributed energy
35 resources will result in upgrades or changes to the electrical distribution system and
36 require cost considerations of related upgrades and changes.

37 **2. Plan development.** The commission shall develop and implement grid plans for
38 covered utilities in order to transition to a clean, affordable and reliable electric grid in a
39 cost-effective manner. The commission may contract with an independent organization to
40 assist in development of a grid plan and shall hold technical conferences or stakeholder
41 workshops before the grid plan is developed to define requirements and inform data,
42 assumptions, methodologies and tools that will assist the commission in determining what

ROS

1 actions if any it will direct a covered utility to take. In developing the grid plan, the
2 commission shall solicit input from regional transmission entities with respect to
3 transmission system planning and experts in distribution system design with respect to
4 distribution system planning. Covered utilities shall provide the information requested by
5 the commission in order to develop a grid plan.

6 **3. Plan submission.** No later than December 15, 2023, and every 3 years thereafter,
7 the commission shall seek public comment on grid plans developed in accordance with this
8 section. The commission shall open an adjudicatory proceeding or proceedings on each
9 covered utility's grid plan and shall ensure to the greatest extent practicable that any
10 information related to the grid plan is provided in a form accessible to interested parties
11 and all relevant data and distribution planning modeling tools are available to stakeholders
12 subject to commercial nondisclosure requirements, confidential energy infrastructure
13 requirements, codes of conduct and other commercial requirements, commission
14 requirements and Federal Energy Regulatory Commission requirements. The commission
15 shall require each covered utility to implement the grid plan. For the initial grid plan, the
16 commission may provide a phase-in schedule to allow a covered utility to comply with
17 components incrementally. The commission shall develop reporting metrics, establish
18 baselines and track progress in implementing the grid plan.

19 **4. Plan revision and enforcement.** The commission may, at any time as it determines
20 necessary, revise a grid plan to address any deficiencies in the grid plan and may order a
21 covered utility to take any reasonable actions to align its business, programs, operations
22 and investments with the plan. The commission may assess administrative penalties in
23 accordance with section 1508-A for any failure by a covered utility to follow any
24 commission order to align its business, programs, operations and investments with the plan.

25 **5. Contents of plan.** A grid plan developed under this section must:

26 A. Describe how the covered utility's assets and operations will be used to achieve the
27 goals and implement the strategies of the State's climate action plan under Title 38,
28 section 577 with specific reference to the climate action plan and incorporate relevant
29 information from reports and analysis completed by other state agencies and quasi-
30 independent state entities;

31 B. Evaluate the electric system of the covered utility and its relationship to the regional
32 grid;

33 C. Include a 3-year action plan to optimize near-term grid investments and operations
34 consistent with the grid plan;

35 D. For strategies related to customer energy consumption and usage characteristics,
36 reference and incorporate all relevant elements of the Efficiency Maine Trust triennial
37 plan developed under section 10104, subsection 4, including all of the trust's analysis
38 of cost-effective potential for energy efficiency savings; plans to implement energy
39 efficiency programs, demand management programs, beneficial electrification
40 programs such as heat pump and electric vehicle initiatives and energy storage
41 initiatives; and analysis of nonwires alternative opportunities;

42 E. Include more than one planning scenario and mechanisms for achieving grid plan
43 goals, which may include, but are not limited to, policies, programs, rates, use of

ROS

- 1 software or technology and infrastructure planning, including nonwires alternatives;
- 2 and
- 3 F. Include, at a minimum, the following:
- 4 (1) Forecasts of projected load, including forecasts of end-use electrification,
- 5 energy efficiency and distributed energy resources;
- 6 (2) Baseline energy supply data and assessments, including but not limited to
- 7 planned generation retirements and new generation that is planned or needed
- 8 including generation of electricity from renewable sources and from energy storage
- 9 installations;
- 10 (3) An analysis of hosting capacity, including locational benefits of distributed
- 11 energy resources and areas of existing or potential system congestion;
- 12 (4) An analysis of available and emerging technologies necessary to enable load
- 13 management and flexibility; and
- 14 (5) An assessment of the environmental, equity and environmental justice effects
- 15 of the grid plan.

16 **Sec. 14. Plan status to committee.** No later than October 15, 2023, the Public
 17 Utilities Commission shall provide an interim report regarding the status of the
 18 development of grid plans under the Maine Revised Statutes, Title 35-A, section 3147 to
 19 the joint standing committee of the Legislature having jurisdiction over energy and utility
 20 matters. No later than July 15, 2024, the commission shall submit a final report on the
 21 development of grid plans to the committee. The joint standing committee of the
 22 Legislature having jurisdiction over energy and utility matters may report out a bill in
 23 connection with the interim report provided by the commission to the Second Regular
 24 Session of the 131st Legislature and the final report provided by the commission to the
 25 First Regular Session of the 132nd Legislature.

26 **Sec. 15. Adoption of rules by Public Utilities Commission establishing**
 27 **minimum requirements.** No later than June 30, 2023, the Public Utilities Commission
 28 shall adopt the rules required by the Maine Revised Statutes, Title 35-A, section 301,
 29 subsection 1-A.

30 **Sec. 16. Assessment of resources needs at Public Utilities Commission.** No
 31 later than December 1, 2022, the Public Utilities Commission shall provide to the joint
 32 standing committee of the Legislature having jurisdiction over energy and utility matters a
 33 report that includes an assessment of staffing and resources that may be necessary to
 34 implement the Maine Revised Statutes, Title 35-A, section 3147. After receiving the report,
 35 the committee may report out legislation on the subject matter of the report to the 131st
 36 Legislature in 2023.

37 **Sec. 17. Public Utilities Commission; report.** The Public Utilities Commission
 38 shall review laws and rules within its authority for requirements applicable to public
 39 utilities that are substantially similar to the requirements for a governing body of an entity
 40 under the Maine Revised Statutes, Title 5, section 12022, other than subsection 3 of that
 41 section. By January 1, 2023, the commission shall provide the joint standing committee of
 42 the Legislature having jurisdiction over energy and utility matters with a report that
 43 includes the following:

COMMITTEE AMENDMENT

ROS

COMMITTEE AMENDMENT "B" to S.P. 697, L.D. 1959 (S-551)

- 1 1. Identification of the laws and rules applicable to public utilities that the commission
- 2 finds to be substantially similar to Title 5, section 12022; and
- 3 2. Consideration of the feasibility of requiring investor-owned utilities to comply with
- 4 the requirements of Title 5, section 12022, if those requirements are not otherwise
- 5 established by laws and rules that are substantially similar.
- 6 After reviewing the report, the joint standing committee may report out related
- 7 legislation to the 131st Legislature in 2023.

8 **Sec. 18. Appropriations and allocations.** The following appropriations and
9 allocations are made.

10 **PUBLIC UTILITIES COMMISSION**

11 **Public Utilities - Administrative Division 0184**

12 Initiative: Provides allocations for contracted services.

13	OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
14	All Other	\$0	\$200,000
15			
16	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$0</u>	<u>\$200,000</u>

17 **Public Utilities - Administrative Division 0184**

18 Initiative: Provides allocations for 5 Staff Attorney positions and 6 Utility Analyst positions
19 and associated All Other costs.

20	OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
21	POSITIONS - LEGISLATIVE COUNT	0.000	11.000
22	Personal Services	\$0	\$590,546
23	All Other	\$0	\$105,996
24			
25	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$0</u>	<u>\$696,542</u>

26
27 **PUBLIC UTILITIES COMMISSION**

28	DEPARTMENT TOTALS	2021-22	2022-23
29			
30	OTHER SPECIAL REVENUE FUNDS	\$0	\$896,542
31			
32	DEPARTMENT TOTAL - ALL FUNDS	<u>\$0</u>	<u>\$896,542</u>

33
34 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
35 number to read consecutively.

36 **SUMMARY**

37 This amendment replaces the bill. The amendment:

- 38 1. Defines investor-owned public utilities as reporting entities for the purposes of the
- 39 Maine Revised Statutes, Title 5, chapter 379, subchapter 3;

COMMITTEE AMENDMENT

ROS

COMMITTEE AMENDMENT " B " to S.P. 697, L.D. 1959 (S-SS1)

- 1 2. Exempts investor-owned public utilities from the requirements of Title 5, chapter
2 379, subchapter 3, except section 12022, subsection 3, which is related to the development
3 and adoption of written policies and procedures governing the selection of vendors;
- 4 3. Requires each investor-owned public utility to comply with Title 5, section 12022,
5 subsection 3 no later than November 1, 2022 and allows the Public Utilities Commission
6 to adopt rules to determine when the requirements of Title 5, section 12022, subsection 3
7 may be waived;
- 8 4. Requires the commission to adopt rules governing the evaluation of transmission
9 and distribution utility performance and establishing metrics for utility operations and
10 activities related to service quality, customer service, field services and distributed energy
11 resources interconnection. The commission must publish quarterly report cards on utility
12 performance and must impose administrative penalties for a utility's poor performance
13 unless the utility demonstrates good cause for its failure to meet the service standards;
- 14 5. Authorizes the commission to perform audits and disallow cost recovery for certain
15 transmission and distribution utilities when the commission has not made a rate
16 determination in the preceding 2 years;
- 17 6. Requires the commission to conduct a detailed expenditure analysis for certain
18 transmission and distribution utilities;
- 19 7. Clarifies and adds protections for utility contractors and employees of utilities,
20 competitive electricity providers, affiliated interests and utility contractors who provide
21 testimony to legislative committees, the commission or the Public Advocate;
- 22 8. Changes the commission's existing administrative penalty statute to require that the
23 commission impose administrative penalties in accordance with Title 35-A, section 1508-A
24 and modifies the method for calculating the penalties. It corrects a technical conflict in
25 existing law. It also adds a new administrative penalty provision specific to violations of
26 the service standard requirements in Title 35-A, section 301, subsection 1-A;
- 27 9. Changes the time limitation for the commission's imposition of an administrative
28 penalty from 5 years to 20 years;
- 29 10. Provides for a process to determine whether an underperforming investor-owned
30 utility should be required to divest its utility assets to a qualified buyer;
- 31 11. Establishes that the franchise of each investor-owned transmission and distribution
32 utility expires 20 years from the date of its most recent reorganization and requires the
33 commission to determine whether to renew the franchise or award the franchise to a
34 different entity;
- 35 12. Requires transmission and distribution utilities to develop and submit to the
36 commission a 10-year plan including specific actions for addressing the expected effects
37 of climate change;
- 38 13. Requires the commission to develop integrated grid plans for certain transmission
39 and distribution utilities using information provided by the transmission and distribution
40 utilities. The grid plan must be designed to improve system reliability and resiliency and
41 enable cost-effective achievement of greenhouse gas reduction and climate policy goals;

ROS

COMMITTEE AMENDMENT "B" to S.P. 697, L.D. 1959 (S-SS1)

1
2
3
4
5
6
7
8
9
10
11
12

14. Requires the commission to provide reports to the joint standing committee of the Legislature having jurisdiction over energy and utility matters regarding the status of the integrated grid plan development no later than October 15, 2023 and July 15, 2024;

15. Requires the commission to adopt rules to implement the requirements of Title 35-A, section 301, subsection 1-A no later than June 30, 2023; and

16. Requires the commission to provide a report to the joint standing committee of the Legislature having jurisdiction over energy and utility matters including an assessment of staffing and resources that may be necessary to implement the integrated grid planning provisions in Title 35-A, section 3147.

The amendment adds an appropriations and allocations section.

FISCAL NOTE REQUIRED

(See attached)

COMMITTEE AMENDMENT



130th MAINE LEGISLATURE

LD 1959

LR 2562(03)

An Act To Ensure Transmission and Distribution Utility Accountability

Fiscal Note for Bill as Amended by Committee Amendment "B" (S-SS1)
Committee: Energy, Utilities and Technology
Fiscal Note Required: Yes

Fiscal Note

	FY 2021-22	FY 2022-23	Projections FY 2023-24	Projections FY 2024-25
Appropriations/Allocations				
Other Special Revenue Funds	\$0	\$896,542	\$2,724,115	\$2,405,412
Revenue				
Other Special Revenue Funds	\$0	\$896,542	\$2,728,115	\$2,405,412

Correctional and Judicial Impact Statements

This bill may increase the number of civil suits filed in the court system. The additional workload associated with the minimal number of new cases filed in the court system does not require additional funding at this time. The collection of additional filing fees may increase General Fund revenue by minor amounts.

Fiscal Detail and Notes

This bill establishes new performance standards for transmission and distribution utilities operating in the State and creates new oversight responsibilities for the Public Utilities Commission (PUC). The bill includes ongoing allocations of \$696,542 starting in fiscal year 2022-23 for 6 Utility Analyst positions, 5 Staff Attorney positions and associated All Other costs. The bill also includes allocations of \$200,000 in fiscal year 2022-23 for contracted services related to the additional reporting requirements outlined in the bill. The anticipated cost of these contracted services will be \$850,000 in fiscal 2023-24 and \$450,000 in fiscal year 2024-25. The PUC is funded by an assessment set to produce sufficient revenue for the expenditures allocated by the Legislature for operating the PUC. The increased allocations in this bill require a corresponding increase in revenue from the assessment on transmission and distribution utilities.