

MAINE STATE LEGISLATURE

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NEW DRAFT

EIGHTY-THIRD LEGISLATURE

Senate Document

No. 259

S. P. 100

In Senate, Mar. 22, 1927.

Reports and new draft tabled by Mr. Smith of Somerset pending consideration. Reports and new draft ordered printed.

ROYDEN V. BROWN, Secretary.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND TWENTY-SEVEN

AN ACT to Provide for the Exportation of Surplus Power.

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

Section 1. The phrase "surplus power," wherever used
2 in this act, means hydro-electric power which in the case
3 of a public utility company is in excess of the amount of
4 power required to supply all the reasonable demands for
5 electric power within the territory in Maine in which said
6 company is authorized to do a public utility business and
7 in the case of any other person, firm or corporation is in
8 excess of the amount required to supply all reasonable de-
9 mands for electric power in the market in Maine available
10 to it, taking into account in all cases the demands which
11 may be made under the provisions of section six of chapter
12 sixty of the revised statutes.

Sect. 2. Corporations for the purpose of purchasing electric
2 current or energy however generated, upon the terms and
3 conditions hereinafter prescribed in this act, and not other-
4 wise, from such persons, firms or corporations only as ob-
5 tain and observe the terms of the permit hereinafter pro-
6 vided for and the provisions of this act, and for the pur-
7 pose of transporting, transmitting, and selling the same only
8 in accordance with the provisions of this act may be organ-
9 ized under the general law in the manner prescribed in chap-
10 ter fifty-one of the revised statutes and acts amendatory
11 thereof or additional thereto, provided, however, that no
12 corporation organized under this act shall, nor shall it have
13 the power or authority to own, operate or control any hydro-
14 electrical generating plant or electrical company within the
15 meaning of the definition of "electrical company" as con-
16 tained in section fifteen of chapter fifty-five of the revised
17 statutes of Maine for nineteen hundred and sixteen.

Sect. 3. Such persons, firms and corporations only as ob-
2 tain the permit hereinafter provided for in this act, are here-
3 by authorized to sell such surplus power as may be pre-
4 scribed in said permit to corporations organized under this
5 act for so long a time only as they and the corporations or-
6 ganized under this act observe the terms and conditions of
7 this act and of said permit.

Sect. 4. So long as the terms and conditions of this act
2 and of said permit be observed by both the corporation or-
3 ganized under authority of this act and the person, firm or

4 corporation from whom it purchases electricity under the
5 terms and conditions of this act and such permit, the cor-
6 poration organized under this act shall have authority to
7 transport and transmit the same within the state of Maine
8 and to transport, transmit, sell and deliver the same outside
9 the state of Maine in accordance with the provisions of this
10 act and not otherwise. No corporation organized under
11 authority of this act shall, nor shall it have authority to,
12 sell electric current or energy within the territorial limits
13 of the state of Maine.

Sect. 5. Any person, firm or corporation owning or op-
2 erating a hydro-electric power plant in Maine or owning
3 an undeveloped water power in Maine which is producing
4 or is capable of producing surplus power may file a peti-
5 tion with the public utilities commission of the state of Maine
6 setting forth such facts as are necessary to prove such ca-
7 pacity or potential capacity to produce surplus power as
8 herein defined, asking the public utilities commission of the
9 state of Maine for permission to sell the whole or such
10 part of said surplus power as the public utilities commission
11 may determine to a corporation organized under the provi-
12 sions of this act. Whereupon the public utilities commis-
13 sion shall appoint a hearing thereon and order public notice
14 thereof in the state newspaper and at least two other daily
15 papers published in the state of Maine, to be published
16 daily, except Sunday, three weeks successively before the
17 date of hearing, and shall further cause a copy of said pe-

18 tition and order of notice to be served on the secretary of
19 state in behalf of said state, which service may be made on
20 the secretary of state, by leaving a copy of said petition
21 and order of notice thereon at the office of the secretary
22 of state in the state house at Augusta at least fourteen
23 days before the date of hearing; the state shall be repre-
24 sented at said hearing by the attorney general, if requested
25 by the governor. If at the hearing the facts stated in said
26 petition are found to be true, the public utilities commission
27 shall issue a permit to said petitioner authorizing it to sell
28 and deliver to said corporation, organized under this act,
29 such surplus power, and at such rates as the public utilities
30 commission may determine. Said permit shall be expressly
31 limited to continue for so long a time only as said petitioner
32 is able to meet and supply, and does meet and supply, all
33 demands for electric current for use in the available mar-
34 ket therefor in the state of Maine in the territory in which
35 it is authorized to sell the same, including that required to
36 supply other public utilities in accordance with the provi-
37 sions of section six of chapter sixty of the revised statutes
38 of nineteen hundred and sixteen, in accordance with such
39 conditions as may be prescribed and at such rates as may
40 be approved by said public utilities commission. Said per-
41 mit shall further expressly provide that it shall continue
42 in force only so long as both the petitioner therefor and
43 the corporation formed under this act to whom permission
44 is granted said petitioner to sell surplus power shall ob-

45 serve and abide by the terms and conditions of said permit,
46 of this act, and the terms and conditions of the contract
47 with the state of Maine hereinafter referred to. Said per-
48 mit, however, shall not issue unless and until the said peti-
49 tioner shall, in consideration of its issue, sign a contract
50 to and in favor of the state of Maine, agreeing to abide
51 by the terms of said permit and that, during the continu-
52 ance of said permit, it will not either sell or transport or
53 sell to be transported beyond the state of Maine any electric
54 current or energy, generated by water power, other than
55 under that or a similar permit, or as permitted under sec-
56 tion one of chapter sixty of the revised statutes of nine-
57 teen hundred and sixteen, without express authority there-
58 for granted to it by special act of the legislature of the state
59 of Maine, and that it will not, while said permit is in force,
60 violate the terms of section one of chapter sixty of the re-
61 vised statutes of nineteen hundred and sixteen.

Sect. 6. No person, firm or corporation, to whom such a
2 permit is issued shall sell, nor shall any corporation organ-
3 ized under this act have any authority under its corporate
4 powers to purchase any electricity or electric energy under
5 this act unless the contract of sale shall contain a clause
6 making such contract dependent upon the observance by
7 both parties thereto of the terms and conditions of this act
8 respectively applicable to them, the terms and conditions of
9 said permit, and said contract with the state of Maine.

Sect. 7. When such permit is issued, and only so long

2 as the terms of the same are observed by the corporation
3 organized under this act and by said party to whom said
4 permit is issued, and the contract with the state of Maine
5 above referred to is kept by said petitioner, petitioner may
6 continue to sell and deliver said surplus power to the cor-
7 poration organized under this act, notwithstanding the pro-
8 vision of section one of chapter sixty of the revised stat-
9 utes of nineteen hundred and sixteen, and shall not be sub-
10 ject to the penalties of section two of said chapter, and
11 the corporation organized under this act may, during said
12 time, transport and transmit within the state of Maine and
13 transport, transmit, sell and deliver said surplus power pur-
14 chased under said permit beyond the limits of the state of
15 Maine.

Sect. 8. If any person, firm or corporation to whom a
2 permit is issued under this act violates the terms of said
3 permit or contract with the state of Maine provided for in
4 the preceding sections, upon the filing of a bill in equity in
5 behalf of the state of Maine by the attorney general and
6 prayer therefor, an injunction may issue, restraining said
7 permittee from further sale and delivery of electricity and
8 electric current in violation of said permit and contract,
9 and the supreme judicial court in equity is hereby expressly
10 granted jurisdiction to hear and determine said bill in ac-
11 cordance with the usual practice in equity.

Sect. 9. Any person, firm, or corporation to whom a per-
2 mit is issued under this act may surrender said permit by

3 written notice thereof, filed with said public utilities com-
4 mission; and if any person, firm or corporation, to whom
5 a permit is issued under this act violates any of the terms
6 or conditions of this act, or the terms of said permit or of
7 the contract with the state of Maine, or if any corporation
8 organized under this act, purchasing electricity under a per-
9 mit provided for in this act, violates any of the terms or
10 conditions of this act, the public utilities commission, after
11 notice and hearing, may cancel such permit.

Sect. 10. No corporation shall be organized under the
2 authority of this act with a capital of less than one hundred
3 thousand dollars (\$100,000); and subscriptions to its cap-
4 ital stock to at least said amount shall be made at the time
5 of its organization; no corporation organized under this act
6 shall do any other business than perfect its organization be-
7 fore said amount of capital stock be actually paid into its
8 treasury.

Sect. 11. No corporation organized under authority of
2 this act shall, nor shall it have authority to, accept delivery
3 of any electric current or energy from any person, firm or
4 corporation to whom a permit is issued under the provi-
5 sions of this act, nor shall any person, firm or corporation
6 to whom a permit is issued under the authority of this act
7 deliver current or energy to a corporation formed under
8 the authority of this act, at any place within one-fourth of
9 a mile from the boundary of the state of Maine; provided,
10 however, nothing in this section shall prevent delivery and

11 acceptance of delivery at the generating plant of the per-
12 mittee, if such plant be less than one-fourth of a mile from
13 said boundary.

Sect. 12. Permits to cross public highways may be granted
2 to corporations organized under authority of this act by
3 the same authorities, and in the same manner, as permits
4 to cross such highways are granted to other electric com-
5 panies in the state of Maine; provided, however, that upon
6 petition therefor the public utilities commission of the state
7 of Maine shall prepare and furnish plans and specifications
8 for the construction of said transmission line at the point
9 where it crosses such highway, and said transmission line
10 where it crosses such highway shall be built and constructed
11 only in accordance with the plans and specifications so fur-
12 nished.

Sect. 13. Provided, however, that no permit shall issue to
2 any public utility authorized to distribute and sell electric
3 current or energy within any portion of the state of Maine,
4 unless said permit contains an express condition that it
5 shall become void unless said public utility shall expend
6 annually, for a term of ten (10) years from the date of
7 its first sale of such electricity to said transmission com-
8 pany, a sum equal to one-half the gross receipts received
9 by it for the energy so sold to said transmission company,
10 up to a maximum expenditure for any one year of two
11 hundred fifty thousand dollars (\$250,000) for the construc-
12 tion of rural electric facilities as hereinafter defined in this

13 section, said expenditure to be under the direction of the
14 public utilities commission of Maine; provided further that
15 no such utility shall be required to construct any such rural
16 facilities in any towns other than those in which it or its
17 subsidiaries are authorized to distribute and sell electricity.
18 Should the public utilities commission of Maine decide aft-
19 er public hearing, notice of which is published in three (3)
20 successive issues of all newspapers printed and published
21 in any of said towns and for three (3) successive weeks
22 in the state newspaper, that the expense of constructing
23 further rural electric facilities in the towns which said pub-
24 lic utility or its subsidiaries are authorized to distribute and
25 sell electric current or energy would be so great in propor-
26 tion to the benefits to be realized as to make construction
27 of such further rural electric facilities distinctly against
28 public interest, said public utilities commission may order
29 said public utility to cease said construction and said utility
30 shall be relieved by said order from its obligation so to do.
31 For the purpose of this act, rural electric facilities are here-
32 by defined as any facilities necessary to and useful in the
33 distribution of electricity to all inhabitants of Maine ex-
34 cept those residing or doing business within a village having
35 a population of more than five hundred (500) people. If,
36 at the end of any year, any public utility company, to which
37 a permit is issued under this act, has failed to make the
38 whole of the expenditure for rural electrification required
39 under said permit and this act for the year just elapsed,

40 said public utility company shall and may make up said
41 amount by an expenditure in the next succeeding year with-
42 out forfeiting said permit. The public utilities commission
43 of Maine is hereby expressly authorized and given such
44 authority as is necessary to enable it to carry out the provi-
45 sions of this section.

It is further hereby expressly provided that if securities
2 are issued against or based upon rural electric facilities con-
3 structed in accordance with and in performance of the con-
4 dition of the permit as prescribed in this section, the pro-
5 ceeds of such securities shall be used exclusively in the con-
6 struction of rural electric facilities as defined in this sec-
7 tion.

Sect. 14. Any corporation organized under the provisions
2 of this act which shall either purchase or accept for trans-
3 mission any electric current or energy from any person,
4 firm or corporation not having the permit provided for in
5 this act or whose permit has been revoked by the public
6 utilities commission of Maine, as provided for in this act,
7 shall forfeit its franchise or right to do business to the
8 State of Maine in quo warranto proceedings upon petitions
9 or information brought in the name of the governor of the
10 State of Maine, the attorney general or secretary of state,
11 or either of them, returnable to the supreme judicial court
12 sitting in equity, in term time or vacation, and said court
13 shall have and hereby is vested with full and complete jur-
14 isdiction of the subject matter contained therein. And this

15 section of this act is hereby made a part of the charter of
16 each and every corporation formed under this act as though
17 set forth in its articles of association and statement of pur-
18 poses, and is further expressly made a limitation on its cor-
19 porate powers and a condition of its right to exercise its
20 franchise.

Sect. 15. It is hereby expressly declared to be the pur-
2 pose and intent of this act to provide to those persons,
3 firms and corporations who make use of its provisions a
4 way in which they can sell their surplus power, over and
5 above that required to supply the market therefor in Maine
6 as defined herein, for export from the state of Maine, to
7 the end that so long as they make use of its provisions the
8 users of electricity in Maine shall have a constant and ade-
9 quate supply of electric energy to the extent of the facilities
10 of such persons, firms or corporations for furnishing the
11 same.

Sect 16. This act shall be submitted for approval or re-
2 jection to the duly qualified voters of the state of Maine
3 at an election to be held on the second Monday in Septem-
4 ber in the year A. D. nineteen hundred twenty-seven. The
5 aldermen of cities, the selectmen of towns and the assessors
6 of the several plantations in this state, are hereby empow-
7 ered and directed to notify the inhabitants of their re-
8 spective cities, towns and plantations to meet in the man-
9 ner prescribed by law for calling and holding biennial meet-
10 ings of said inhabitants for the election of senators and

11 representatives to give their votes upon this act and the
12 question shall be: "Shall 'the act to provide for the ex-
13 portation of surplus power,' as defined and restricted in
14 said act, permitting the sale outside of Maine of hydro-
15 electric power not needed in Maine, be accepted?" And
16 the inhabitants of said cities, towns and plantations shall vote
17 by ballot on said question, those in favor of the same express-
18 ing it by making a cross within the square opposite the word
19 "yes" upon their ballots and those opposed to the question
20 by making a cross within the square opposite the word "no"
21 upon their ballots, and the ballots shall be received, sorted,
22 counted and declared in open ward, town and plantation
23 meetings, and returns made to the office of the secretary
24 of state in the same manner as votes for governor and
25 members of the legislature, and the governor and council
26 shall count the same, and if it shall appear that a majority
27 of the inhabitants voting on the question are in favor of
28 the act, the governor shall make known the fact by his
29 proclamation, and thereupon this act shall become law. The
30 secretary of state shall prepare and furnish to the several
31 cities, towns and plantations ballots and blank returns in
32 conformity with the foregoing, accompanied by a copy
33 thereof.

MAJORITY REPORT

The Joint Committee on Public Utilities, Interior Waters, Judiciary, to which was referred the Bill, entitled "An Act to provide for the organization of electric transmission companies,

with limited powers, and to provide for issuing permits to electrical companies and others to sell electricity thereto for transportation and sale outside of the State of Maine under certain specified conditions," have had the same under consideration, and ask leave to report the same in a new draft under the title of "An Act to provide for the exportation of surplus power" and that it ought to pass.

Per Order,

GRANVILLE
MAHER
RICHARDSON
CHASE
DUNBAR
FRED B. GREENLEAF
BISHOP
WING of Kingfield
PATTERSON
HALE
DOUGLAS
POWERS
TUCKER
MILLIKEN
PIPER*
J. SHERMAN DOUGLAS,

For the Committee.

MINORITY REPORT

The Joint Committee on Public Utilities, Interior Waters,

Judiciary, to which was referred the Bill, entitled "An Act to provide for the organization of electric transmission companies, with limited powers, and to provide for issuing permits to electrical companies and others to sell electricity thereto for transportation and sale outside of the State of Maine under certain specified conditions," have had the same under consideration, and ask leave to report that the same ought not to pass.

Per Order,

J. EDWARD DRAKE

H. J. DUDLEY

BLIN W. PAGE

J. HERBERT COMINS

HARRY M. HUGHES

ALBERT W. BRIGGS

ROBERT D. THURSTON

ARTHUR A. CRAFTS

GEORGE C. LORD

E. L. ALDRICH, Topsham

CHAS. B. CARTER

GEORGE C. WING, Jr., Auburn

OAKES

C. D. BARTLETT of Bangor,