

# MAINE STATE LEGISLATURE

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EIGHTY-FOURTH LEGISLATURE

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Senate Document

No. 44

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S. P. 81

In Senate, Jan. 24, 1929.

Tabled by Senator Murchie of Washington pending reference, and 2000 copies ordered printed.

ROYDEN V. BROWN, Secretary.

Presented by Senator Carlton of Sagadahoc.

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STATE OF MAINE

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

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AN ACT to Provide for the Exportation of Surplus Power.

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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 elec-  
2 tric current or energy however generated, upon the terms  
3 and conditions hereinafter prescribed in this act, and not  
4 otherwise, from such persons, firms or corporations only  
5 as obtain and observe the terms of the permit hereinafter  
6 provided for and the provisions of this act, and for the  
7 purpose of transporting, transmitting, and selling the same  
8 only in accordance with the provisions of this act may be  
9 organized under the general law in the manner prescribed  
10 in chapter fifty-one of the revised statutes and acts amend-  
11 atory thereof or additional thereto, provided, however, that  
12 no corporation organized under this act shall, nor shall it  
13 have the power or authority to own, operate or control any  
14 hydro-electrical generating plant or electrical company  
15 within the meaning of the definition of "electrical com-  
16 pany" as contained in section fifteen of chapter fifty-five  
17 of the revised statutes of Maine for nineteen hundred and  
18 sixteen.

Sect. 3. Such persons, firms and corporations only as  
2 obtain the permit hereinafter provided for in this act, are  
3 hereby authorized to sell such surplus power as may be  
4 prescribed in said permit to corporations organized under  
5 this act for so long a time only as they and the corpora-  
6 tions organized under this act observe the terms and con-  
7 ditions of 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  
4 or corporation from whom it purchases electricity under  
5 the terms and conditions of this act and such permit, the  
6 corporation organized under this act shall have authority  
7 to transport and transmit the same within the state of Maine  
8 and to transport, transmit, sell and deliver the same out-  
9 side the state of Maine in accordance with the provisions  
10 of this act and not otherwise. No corporation organized  
11 under authority of this act shall, nor shall it have authority  
12 to, 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 petition  
5 with the public utilities commission of the state of Maine  
6 setting forth such facts as are necessary to prove such  
7 capacity 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 commis-  
11 sion may determine to a corporation organized under the  
12 provisions of this act. Whereupon the public utilities com-  
13 mission shall appoint a hearing thereon and order public  
14 notice thereof in the state newspaper and at least two other

15 daily papers published in the state of Maine, to be pub-  
16 lished daily, except Sunday, three weeks successively before  
17 the date of hearing, and shall further cause a copy of said  
18 petition and order of notice to be served on the secretary  
19 of state in behalf of said state, which service may be made  
20 on 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 days  
23 before the date of hearing; the state shall be represented  
24 at said hearing by the attorney general, if requested by the  
25 governor. If at the hearing the facts stated in said peti-  
26 tion 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  
36 to supply other public utilities in accordance with the pro-  
37 visions of section six of chapter sixty of the revised stat-  
38 utes of nineteen hundred and sixteen, in accordance with  
39 such conditions as may be prescribed and at such rates as  
40 may be approved by said public utilities commission. Said  
41 permit 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 observe  
45 and abide by the terms and conditions of said permit, of  
46 this act, and the terms and conditions of the contract with  
47 the state of Maine hereinafter referred to. Said permit,  
48 however, shall not issue unless and until the said petitioner  
49 shall, in consideration of its issue, sign a contract to and  
50 in favor of the state of Maine, agreeing to abide by the  
51 terms of said permit and that, during the continuance of  
52 said permit, it will not either sell or transport or sell to  
53 be transported beyond the state of Maine any electric cur-  
54 rent or energy, generated by water power, other than under  
55 that or a similar permit, or as permitted under section one  
56 of chapter sixty of the revised statutes of nineteen hundred  
57 and sixteen, without express authority therefor granted to  
58 it by special act of the legislature of the state of Maine,  
59 and that it will not, while said permit is in force, violate  
60 the terms of section one of chapter sixty of the revised  
61 statutes of nineteen hundred and sixteen.

Sect. 6. Any public utility which makes application for  
2 a permit to sell and deliver surplus power to a corporation  
3 organized under this act shall expressly declare and agree,  
4 in consideration of the issuance of said permit, that it will,  
5 with the consent of the public utilities commission, buy  
6 from each and every person, firm or corporation owning  
7 a hydro-electric power plant generating, or which may here-

8 after generate, electric power within the territory which  
9 said public utility is authorized by its charter to serve, upon  
10 reasonable terms, and under reasonable conditions, any and  
11 all surplus power for which it has an available market, and  
12 that in such transactions and arrangements it will not dis-  
13 criminate nor favor one party more than another; provided  
14 that the person, firm or corporation selling such aforesaid  
15 surplus power shall extend its lines to connect with the lines  
16 of such public utility, for which extension charter author-  
17 ity is hereby granted. Every permit issued to a public util-  
18 ity shall be on condition that the foregoing shall be observed  
19 and performed under the supervision of the public utilities  
20 commission. Said public utilities commission is hereby  
21 charged with the duty of investigating all complaints here-  
22 under, and is vested with authority to decide all questions  
23 arising under this section and to enforce the provisions here-  
24 of by proper orders and decrees. If any public utility vio-  
25 lates any order or decree of the commission hereunder, said  
26 public utilities commission is hereby authorized to revoke  
27 its permit.

Sect. 7. No person, firm or corporation, to whom such  
2 a permit is issued shall sell, nor shall any corporation or-  
3 ganized under this act have any authority under its cor-  
4 porate powers to purchase any electricity or electric energy  
5 under this act unless the contract of sale shall contain a  
6 clause making such contract dependent upon the observance  
7 by both parties thereto of the terms and conditions of this

8 act respectively applicable to them, the terms and conditions  
9 of said permit, and said contract with the state of Maine.

Sect. 8. 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 the  
11 corporation organized under this act may, during said time,  
12 transport and transmit within the state of Maine and trans-  
13 port, transmit, sell and deliver said surplus power purchased  
14 under said permit beyond the limits of the state of Maine.

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

Sect. 11. No corporation shall be organized under the  
2 authority of this act with a capital of less than one hun-  
3 dred thousand dollars (\$100,000); and subscriptions to its  
4 capital stock to at least said amount shall be made at the  
5 time of its organization; no corporation organized under  
6 this act shall do any other business than perfect its organ-  
7 ization before said amount of capital stock be actually paid  
8 into its treasury.

Sect. 12. 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 provisions  
5 of this act, nor shall any person, firm or corporation to  
6 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

9 of a mile from the boundary of the state of Maine; pro-  
10 vided, however, nothing in this section shall prevent deliv-  
11 ery and acceptance of delivery at the generating plant of  
12 the permittee, if such plant be less than one-fourth of a  
13 mile from said boundary.

Sect. 13. Permits to cross public highways may be grant-  
2 ed 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. 14. Provided, however, that no permit shall issue  
2 to 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 shall  
5 become void unless said public utility shall expend annu-  
6 ally, for a term of ten (10) years from the date of its first  
7 sale of such electricity to said transmission company, a sum  
8 equal to one-half the gross receipts received by it for the  
9 energy so sold to said transmission company, up to a maxi-  
10 mum expenditure for any one year of two hundred fifty

11 thousand dollars (\$250,000) for the construction of rural  
12 electric facilities as hereinafter defined in this section, said  
13 expenditure to be under the direction of the public utilities  
14 commission of Maine; provided further that no such utility  
15 shall be required to construct any such rural facilities in  
16 any towns other than those in which it or its subsidiaries  
17 are authorized to distribute and sell electricity. Should  
18 the public utilities commission of Maine decide after public  
19 hearing, notice of which is published in three (3) succes-  
20 sive issues of all newspapers printed and published in any  
21 of said towns and for three (3) successive weeks in the state  
22 newspaper, that the expense of constructing further rural  
23 electric facilities in the towns in which said public utility or  
24 its subsidiaries are authorized to distribute and sell electric  
25 current or energy would be so great in proportion to the  
26 benefits to be realized as to make construction of such fur-  
27 ther rural electric facilities distinctly against public interest,  
28 said public utilities commission may order said public utility  
29 to cease said construction and said utility shall be relieved  
30 by said order from its obligation so to do. For the purpose  
31 of this act, rural electric facilities are hereby defined as any  
32 facilities necessary to and useful in the distribution of elec-  
33 tricity to all inhabitants of Maine except those residing or  
34 doing business within a village having a population of more  
35 than five hundred (500) people. If, at the end of any year,  
36 any public utility corpany, to which a permit is issued  
37 under this act, has failed to make the whole of the expendi-

38 ture for rural electrification required under said permit and  
39 this act for the year just elapsed, said public utility com-  
40 pany shall and may make up said amount by an expenditure  
41 in the next succeeding year without forfeiting said permit.  
42 The public utilities commission of Maine is hereby express-  
43 ly authorized and given such authority as is necessary to  
44 enable it to carry out the provisions 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 section.

Sect. 15. 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, firm  
4 or corporation not having the permit provided for in this  
5 act or whose permit has been revoked by the public utilities  
6 commission of Maine, as provided for in this act, shall for-  
7 feit its franchise or right to do business to the state of  
8 Maine in quo warranto proceedings upon petitions or infor-  
9 mation brought in the name of the governor of the state  
10 of Maine, the attorney general or secretary of state, or  
11 either of them, returnable to the supreme judicial court sit-  
12 ting in equity, in term time or vacation, and said court shall  
13 have and hereby is vested with full and complete jurisdic-  
14 tion of the subject matter contained therein. And this sec-

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

Sect. 16. It is hereby expressly declared to be the pur-  
2 pose and intent of this act to provide to those persons, firms  
3 and corporations who make use of its provisions a way in  
4 which they can sell their surplus power, over and above that  
5 required to supply the market therefor in Maine as defined  
6 herein, for export from the state of Maine, to the end that  
7 so long as they make use of its provisions the users of elec-  
8 tricity in Maine shall have a constant and adequate supply  
9 of electric energy to the extent of the facilities of such per-  
10 sons, firms or corporations for furnishing the same.

Sect. 17. 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-nine. 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 respective  
8 cities, towns and plantations to meet in the manner pre-  
9 scribed by law for calling and holding biennial meetings of  
10 said inhabitants for the election of senators and representa-  
11 tives to give their votes upon this act and the question shall

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

Sect. 18. If and when, with the consent of Congress, any  
2 agreement or compact shall be entered into by and between  
3 the state of Maine and another state or states relative to  
4 any of the subjects covered by this act, thereupon any and  
5 all provisions of this act shall be subject to the terms of  
6 said agreement or compact, and any and all contracts and

7 permits for the sale of surplus power, as provided for in  
8 this act, shall be governed by and subject to the terms of  
9 said agreement or compact in like manner and with the  
10 same effect as if express provision therefor were obtained  
11 in said contracts and permits.