

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**  
AS PASSED BY THE

**ONE HUNDRED AND TENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
December 3, 1980 to June 19, 1981

**AND AT THE**

**FIRST SPECIAL SESSION**  
August 3, 1981

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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED AT THE  
FIRST REGULAR SESSION

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ONE HUNDRED AND TENTH LEGISLATURE

1981

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such terms and conditions as are appropriate and reasonable or disapprove the proposed development setting forth the reasons therefor or schedule a hearing thereon in the manner hereinafter provided.

Any person as to whose development the board has issued an order without a hearing may request, in writing, within 30 days after notice, a hearing before the board. This request shall set forth, in detail, the findings and conclusions of the board to which such person objects, the basis of the objections and the nature of the relief requested. Upon receipt of the request, the board shall schedule and hold a hearing limited to the matters set forth in the request. Hearings shall be scheduled in accordance with section 484.

Sec. 8. 38 MRSA § 484, sub-§ 5 is enacted to read:

5. Ground water. The proposed development will not pose an unreasonable risk that a discharge to a significant ground water aquifer will occur.

Sec. 9. Effective date. Except for section 5, this Act shall take effect on April 1, 1982.

Effective April 1, 1982, unless otherwise indicated

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## CHAPTER 450

S. P. 638 — L. D. 1653

### AN ACT to Encourage Small Power Production Facilities.

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

Sec. 1. 35 MRSA § 2323, sub-§ 1, as amended by PL 1979, c. 688, § 15, is further amended by adding at the end a new paragraph to read:

For purposes of this chapter, a cogenerator shall be considered not primarily engaged in the generation or sale of electric power if 50% or less of the equity interest in the cogeneration facility is owned by a public utility, a subsidiary of a public utility or an affiliate of a public utility.

Sec. 2. 35 MRSA § 2323, sub-§§ 1-A, 1-B and 1-C are enacted to read:

1-A. Associate. "Associate" means any person or corporation other than a public utility that substantially participates in the ownership or operation of a cogeneration or small power production facility, or any person or corporation that contracts to receive the thermal output of a cogeneration facility.

1-B. Existing transmission and distribution line improvement costs. "Existing transmission and distribution line improvement costs" means

any costs the utility reasonably incurs for upgrading and improving transmission and distribution lines and related facilities that are already operable as part of that utility's existing power grid.

**1-C. Interconnection costs.** "Interconnection costs" means the reasonable costs incurred solely due to connecting the qualifying facility with the existing facilities of the electric utility purchasing the power. Interconnection costs do not include the costs of improvements to existing transmission and distribution lines.

**Sec. 3.** 35 MRSA § 2323, sub-§ 3, as amended by PL 1979, c. 688, § 16, is repealed and the following enacted in its place:

**3. Small power producer.** For purposes of this chapter, a power producer shall not be considered a "small power producer" if more than 50% of the equity interest in the power production facility is owned by a public utility, a subsidiary of a public utility or an affiliate of a public utility.

**Sec. 4.** 35 MRSA § 2324, as enacted by PL 1979, c. 421, § 2, is repealed and the following enacted in its place:

**§ 2324. Control and regulation of generating facilities**

Notwithstanding the definition of a public utility in section 15, subsection 13, a small power production facility and a cogeneration facility, as defined in section 2323, shall not be deemed a public utility and shall not be subject to control or regulation by the Public Utilities Commission, except that the commission may treat all or a portion of the equity investment, whether direct or indirect, by an electric utility in a qualifying cogeneration facility or a qualifying small power production facility as public utility property for retail ratemaking purposes. Commission determination and regulation of rates of public utilities which include purchases of power from a qualifying small power production facility or cogeneration facility shall not be considered control or regulation of these facilities.

**Sec. 5.** 35 MRSA § 2325, sub-§ 2, as enacted by PL 1979, c. 421, § 2, is amended to read:

**2. Use of electricity by the producer.** Any small power producer or cogenerator may generate or distribute electricity through his private property solely for his own use, the use of his tenants or the use of, or sale to, his associates in a small power production or cogeneration facility and not for the use of or sale to others without approval or regulation by the commission.

**Sec. 6.** 35 MRSA § 2325, sub-§ 3 is enacted to read:

**3. Interconnections and existing transmission line improvements.** A small power producer or cogenerator selling electricity to a utility shall be obligated to pay all reasonable interconnection costs. Any existing transmission and

**distribution line improvement costs incurred in order for the utility to utilize fully the power from a qualifying facility shall be equitably apportioned between the utility and the small power producer.**

**Sec. 7.** 35 MRSA § 2326, as enacted by PL 1979, c. 421, § 2, is repealed and the following enacted in its place:

**§ 2326. Transactions**

**The rate paid by the public utility for the purchase of electricity as described in this section shall be determined by the small power producer or cogenerator and the public utility electric company or cooperative. In the event that the small power producer or cogenerator and the public utility electric company or cooperative are unable to agree to a contract for electricity, or to a price for the electricity purchased by the public utility, or to an equitable apportionment of existing transmission and distribution line improvement costs, the commission shall require the utility to purchase the power at such rates and under such terms as the commission shall establish by rule or order. The equitable apportionment of existing transmission and distribution line improvement costs by the commission shall be based upon the benefits to the small power producer or cogenerator and the public utility electric company or cooperative. The commission shall render a decision within 90 days from receipt of a petition signed by a small power producer, cogenerator, public utility electric company or electric cooperative for commission intercession.**

Effective September 18, 1981

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**CHAPTER 451**

**H. P. 1544 — L. D. 1658**

**AN ACT to Phase Down the Inheritance Tax and to Replace the Inheritance Tax with an Estate Tax Equal to the Federal Credit for State Death Tax.**

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

**Sec. 1.** 36 MRSA § 3402 is amended by adding at the end a new sentence to read:

**This chapter and chapters 553 to 565 do not apply to the estate of any person whose death occurs after June 30, 1986.**

**Sec. 2.** 36 MRSA § 3462, first sentence, as amended by PL 1975, c. 384, is further amended to read:

**Property which shall so pass to or for the use of the following persons who shall**