

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1984 to June 20, 1985
Chapters 384-End

AND AT THE

FIRST SPECIAL SESSION

November 13, 1985

PUBLISHED BY THE DIRECTOR OF REVISOR OF STATUTES IN
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Co., Inc.
Augusta, Maine
1985

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION
CONTINUED

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND TWELFTH LEGISLATURE

1985

CHAPTER 433

H.P. 1145 - L.D. 1652

AN ACT to Promote Industrial Stability.

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

Sec. 1. 10 MRSA c. 110, sub-c. II-A is enacted to read:

SUBCHAPTER II-AINDUSTRIAL STABILITY PROGRAM§1035. Purpose

The Legislature finds that the ability of major electricity intensive industrial firms to continue to contribute to the economic strength of the State by providing jobs; purchasing goods and services from Maine suppliers; paying income, property and other taxes; and stimulating business activity may be endangered by their increased costs of electric power caused by the introduction into retail electric rates of the costs of new or abandoned generating plants and related charges. Many of these firms have, for a long time, been a significant element of state and local economies. It is characteristic of many of these firms that the cost of electricity is a significant element of their costs of producing and selling their products.

The Legislature finds that it is the proper role for the State, for the benefit of the people of the State, to assist in efforts which will allow those firms to adjust to conditions created by increasing electricity costs so as to develop new products and processes which will allow them to continue to operate in the State.

The Legislature finds that there is a need to develop a long-term policy for addressing the adverse effect of increases in electricity rates on major industrial firms and that the first steps should provide a concrete demonstration of the State's financial commitment to provide energy impact assistance.

The Legislature finds that the use of funds as provided in this subchapter will serve an essential public purpose and is essential to the welfare of the State and its inhabitants. Any benefit which may

accrue to individuals or to business corporations or associations, as a result of any activity authorized by this subchapter, is deemed by the Legislature to be incidental to the public purpose which will be served by carrying out this subchapter.

§1036. Pilot program

1. Pilot program. There shall be a pilot program carried out under this subchapter for the purpose of providing assistance to a qualifying applicant and to take concrete action to fulfill the objectives of this subchapter.

A. Only a firm that uses an electro-thermal process for manufacture of molded fibre products for later sale may be selected for the pilot program, provided that it engages in a program to reduce its electricity costs.

B. The assistance shall extend over a 2-year period commencing July 1, 1985.

C. In addition to its other powers, the Finance Authority of Maine shall administer the pilot program under the following conditions.

(1) Assistance shall be available only after the authority has issued a certificate of financial need. Prior to issuance of this certificate, the authority must determine that the firm employs at least 500 people in the State, that the firm has suffered a pretax operating loss at its Maine facilities for at least 2 of its 4 most recent complete fiscal years preceding the date of application for assistance under this subchapter and that its net annual costs for electrical energy are greater than 10% of the total manufacturing costs at the facility at the time of application. The authority shall also consider state and community benefit, proposed or actual cost minimization measures of the applicant to include energy conservation measures proposed or implemented by the applicant, use of reasonable available interruptible electricity tariffs and compliance with other state and federal laws and rules. The authority may require that the firm submit annual financial reports, including a statement on the report by a certified public accountant in accordance with American Insti-

tute of Certified Public Accountants' State-
ment of Auditing Standards, Section 622, re-
lating to the pertinent facilities.

(2) The authority shall decide upon the ap-
plication and, if appropriate, issue a cer-
tificate within 60 days of the submission of
a complete application.

(3) Upon submission of the application, the
firm shall pay to the authority a filing fee
of \$10,000.

D. The Industrial Stability Fund is established
and shall be administered by the authority. All
sums appropriated for the pilot program shall be
deposited in the Industrial Stability Fund.
Funds may be expended for financial assistance.
Eligible expenses incurred in a previous year
when insufficient sums were available for assist-
ance shall be reimbursed in any subsequent year
when sums are available in the fund. Any bal-
ances in this fund at the close of a fiscal year
shall be carried forward to the next fiscal year.

E. Assistance shall be made available to the
firm:

(1) To pay an amount equal to the differ-
ence between the electric rates in effect on
July 1, 1985, and those in effect at any la-
ter date during the period in which the firm
is eligible for state assistance pursuant to
the pilot program for the actual usage of
the firm not to exceed annually 95% of the
average annual usage of the firm at its per-
tinent facilities for the last 5 years pre-
ceding application;

(2) To pay the costs of capacity and ener-
gy, including, but not limited to, purchases
from Canada, to be available for use and
used to supplement any power supply that may
be obtained directly by the firm, provided
that the payments be no greater than those
for which the firm would be eligible under
subparagraph (1); or

(3) To pay a combination of costs under
subparagraphs (1) and (2) not to exceed the
payments for which the firm would be eligi-
ble under subparagraph (1).

F. The seller of electricity shall be paid directly by the authority for amounts eligible for state assistance under paragraph E. The seller of electricity shall be paid directly by the firm for all other amounts payable for the purchase of capacity and energy.

Sec. 2. 35 MRSA §15, sub-§15-A is enacted to read:

15-A. Rate stability. "Rate stability" includes the implementation of rate changes to any existing customer class, of the magnitude or on such a schedule as to not be seriously adverse to the existing class of customers.

Sec. 3. 35 MRSA §69, first ¶ is amended to read:

Whenever the commission receives notice of any change or changes proposed to be made in any schedule of rates filed with said commission under the provisions of law, it shall have power at any time before the effective date of such change or changes, either upon complaint or upon its own motion and after reasonable notice, to hold a public hearing and make investigation as to the propriety of such proposed change or changes. At any such hearing involving any change or changes as above specified, the burden of proof to show that such change is reasonable shall be upon the public utility. After such hearing and investigation, the commission may make such order with reference to any new rate, joint rate, fare, rental, toll, classification, charge, rule, regulation or form of contract or agreement proposed as would be proper in a proceeding initiated upon complaint or upon motion of the commission in any rate investigation. In implementing the order, the commission shall assure rate stability.

Sec. 4. 35 MRSA §94, sub-§1, as enacted by PL 1983, c. 723, §1, is amended to read:

1. Rate design and conservation improvements. The Public Utilities Commission shall mandate, after notice and hearing on the proposed schedule, a scheduled phasing-in of the improvements in electric utility rate design and related regulatory programs approved under section 93 and is authorized to order utilities to develop and implement electric utility rate design improvements approved by the commission on temporary, pilot and experimental basis, affecting either a portion or all of any class of consumers of any utility as the commission may determine is appro-

appropriate to carry out the purposes of this Act, and order other energy conservation techniques, programs and innovations relating to electric public utility service that, in the commission's judgment, are practicable, just and reasonably related to fulfilling the purposes of this chapter. In ordering any rate design improvements or any other programs for implementing energy conservation techniques and innovations referred to in section 93, the commission shall consider rate stability and shall assure the revenue requirements of the utility.

Sec. 5. 35 MRSA §294, first ¶ is amended to read:

If upon such formal public hearing the rates, tolls, charges, schedules or joint rates shall be found to be unjust, unreasonable, insufficient or unjustly discriminatory or otherwise in violation of chapters 1 to 17, the commission shall have power to fix and order substituted therefor such rate or rates, tolls, charges or schedules as shall be just or reasonable. If upon such public hearing it shall be found that any regulation, measurement, practice, act or service complained of is unjust, unreasonable, insufficient or unjustly discriminatory or otherwise in violation of any of the provisions of chapters 1 to 17 or if it is found that any service is inadequate or that any reasonable service cannot be obtained, the commission shall have power to establish and substitute therefor such other regulations, measurements, practice, service or acts, and to make such order respecting and such changes in such regulations, measurements, practice, service and acts as shall be just and reasonable. In determining the justness and reasonableness of the order, the commission shall assure rate stability.

Sec. 6. Commission on Industrial Stability. There is established a Commission on Industrial Stability to be appointed by the Governor by Executive Order. The commission shall include members from the Legislature, electric utilities, industry, labor and the executive branch. The commission shall examine the effects of increased electric energy costs on industrial stability and prepare recommendations for assisting firms to adjust to higher electricity costs. In preparing its report and recommendations, the commission shall utilize, insofar as possible, the criteria used in the pilot program in the design of a program of general application. The commission shall submit its report to the Governor

and the Legislature no later than December 1, 1985. Members of the commission shall serve without remuneration.

Sec. 7. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1986-87

FINANCE AUTHORITY OF MAINE

Industrial Stability Fund

All Other \$900,000

Effective September 19, 1985.

CHAPTER 434

S.P. 197 - L.D. 523

**AN ACT to Increase the Number of Superior
Court Justices and District Court
Judges.**

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

Sec. 1. 4 MRSA §101, as amended by PL 1983, c. 688, §2 and c. 825, §1, is repealed and the following enacted in its place:

§101. Constitution of court

The Superior Court, as established, shall consist of 15 justices until June 30, 1986, and 16 justices thereafter, and such Active Retired Justices as may be appointed and serving on the court, learned in the law and of sobriety of manners. The Chief Justice of the Superior Court shall assign the Justices of the Superior Court to preside at various locations of the court. Whenever it becomes necessary, the Chief Justice of the Supreme Judicial Court may designate a Justice of the Supreme Judicial Court or any Active Retired Justice of the Supreme Judicial Court to hold a term of Superior Court. The Chief Justice of the Superior Court may, when necessary, assign an Active Retired Justice of the Superior Court to hold a term of Superior Court. The Chief Justice of the Superior Court may designate any Justice of the Superior Court and the Chief Justice of the Supreme Judicial Court