

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

SECOND REGULAR SESSION
January 5, 2000 to May 12, 2000

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 11, 2000

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

J.S. McCarthy Company
Augusta, Maine
2000

~~By February 15, 1998, the~~ The commission shall ~~provisionally~~ adopt rules establishing terms and conditions for standard-offer service. Rules adopted under this subsection are ~~major-substantive~~ routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

Sec. 4. 35-A MRSA §3212, sub-§2, as amended by PL 1999, c. 398, Pt. F, §1, is further amended to read:

2. Selection of standard-offer service providers. After terms and conditions for standard-offer service have been established under subsection 1, the commission shall administer a bid process to select a standard-offer service provider for that transmission and distribution utility's service territory. By December 1, 1999, the commission shall review the bid submissions for each transmission and distribution utility and select the standard-offer service provider or providers for that utility's service territory.

A. The commission shall determine the general credit data and specific information from general load and usage data that transmission and distribution utilities must provide to potential standard-offer service bidders, including, but not limited to, monthly demand and energy consumption and the number of customers in each customer class. The commission shall ensure that individual customer confidentiality is preserved in this process and that a transmission and distribution utility releases customer-specific data only with the customer's permission. If the transmission and distribution utility incurs additional costs to develop and produce the required data, the commission shall permit that utility to recover those costs through transmission and distribution rates.

B. The commission shall establish the maximum duration of a standard-offer service contract after considering all relevant factors, including, but not limited to, market risks and the need for price stability and contract flexibility.

C. A competitive electricity provider that is an affiliate of a large investor-owned transmission and distribution utility may submit bids to provide standard-offer service for up to 20% of the electric load within the service territory of the large investor-owned transmission and distribution utility with which it is affiliated. To prevent the unfair use of information possessed by a large investor-owned transmission and distribution utility, the commission shall ensure that a utility seeking to bid on standard-offer service has no greater access to relevant information than is provided to other potential bidders.

D. A consumer-owned transmission and distribution utility and a small investor-owned transmission and distribution utility may submit bids to provide standard-offer service for that utility's service territory. To prevent the unfair use of information possessed by a consumer-owned transmission and distribution utility or a small investor-owned transmission and distribution utility, the commission shall ensure that a utility seeking to bid on standard-offer service has no greater access to relevant information than is provided to other potential bidders.

~~By February 15, 1998, the~~ The commission shall ~~provisionally~~ adopt rules establishing a methodology for structuring the bidding process for standard-offer service in order to implement the provisions of this subsection. In adopting rules, the commission shall consider methods to ensure, to the extent possible, at least 3 providers of standard-offer service in each transmission and distribution utility service territory, as long as the method does not result in any significant adverse impacts on rates paid by consumers. Rules adopted under this subsection are ~~major-substantive~~ routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

Notwithstanding any other provision of this Title, the commission may, in the event of a default by a standard-offer service provider, require the transmission and distribution utility in whose service territory the provider was providing standard-offer service to arrange and to provide for default service. Notwithstanding any other provision of this Title, the commission may, in the event that the commission receives no bids to provide standard-offer service in a transmission and distribution utility's territory or the commission determines that the bids it receives are inadequate or unacceptable, require the transmission and distribution utility to arrange and to provide for default service. The arrangement and provision of such default service by a transmission and distribution utility does not constitute selling electric energy or capacity at retail for purposes of section 3205, subsection 2.

Notwithstanding Title 5, section 1831, the commission is not subject to rules adopted by the State Purchasing Agent in conducting the competitive bidding process required under this section.

See title page for effective date.

CHAPTER 578

H.P. 1638 - L.D. 2289

An Act to Provide Standard-offer Service to Certain Customers

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, it is necessary that all electricity consumers have access to standard-offer services beginning March 1, 2000; and

Whereas, certain customers are connected to the electric grid at a location that may make it uneconomic for competitive electricity providers to provide service; and

Whereas, the Public Utilities Commission currently lacks the authority to direct transmission and distribution utilities to provide standard-offer service to its customers except in certain prescribed situations; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 35-A MRSA §3212, sub-§2, as amended by PL 1999, c. 398, Pt. F, §1, is further amended by amending the 2nd blocked paragraph to read:

Notwithstanding any other provision of this Title, the commission may, in the event of a default by a standard-offer service provider, require the transmission and distribution utility in whose service territory the provider was providing standard-offer service to arrange and to provide for default service. Notwithstanding any other provision of this Title, the commission may, in the event that the commission receives no bids to provide standard-offer service in a transmission and distribution utility's territory or the commission determines that the bids it receives are inadequate or unacceptable, require the transmission and distribution utility to arrange and to provide for default service. Notwithstanding any other provision of this Title, the commission may require a transmission and distribution utility to provide default service to its customers that are not located within either the New England independent system operator control area or the Maritimes control area; and default service pursuant to this sentence must be provided to customers at the same price and on the same terms and conditions as standard-offer service is provided to the customers of the transmission and distribution utility in the standard-offer class in which the customer is eligible to receive service. The arrangement and provision of such default service by a transmission and distribution utility does not constitute selling electric energy or

capacity at retail for purposes of section 3205, subsection 2.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective March 22, 2000.

CHAPTER 579

H.P. 1637 - L.D. 2288

An Act to Eliminate Regulation of Public Heating Utilities

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

Sec. 1. 5 MRSA §200-B, sub-§1, as amended by PL 1999, c. 398, Pt. A, §1 and affected by §105, is further amended to read:

1. Public utility services. As used in this section, the term "public utility services" means services furnished by a public utility as defined in Title 35-A, section 102, subsections 7, 8, ~~42~~, 14, 15, 19, 20-B and 22 whether or not subject to the jurisdiction of the Public Utilities Commission.

Sec. 2. 35-A MRSA §102, sub-§12, as enacted by PL 1987, c. 141, Pt. A, §6, is repealed.

Sec. 3. 35-A MRSA §102, sub-§13, as amended by PL 1999, c. 398, Pt. A, §7 and affected by §§104 and 105, is further amended to read:

13. Public utility. "Public utility" includes every gas utility, natural gas pipeline utility, transmission and distribution utility, telephone utility, water utility, ~~public heating utility~~ and ferry, as those terms are defined in this section, and each of those utilities is declared to be a public utility. "Public utility" does not include the operation of a radio paging service, as that term is defined in this section, or mobile telecommunications services unless only one entity or an affiliated interest of that entity, as defined in section 707, subsection 1, paragraph A, exclusively controls the use of the radio frequency spectrum assigned by the Federal Communications Commission to provide mobile service to the service area.

Nothing in this subsection precludes:

A. The jurisdiction, control and regulation by the commission pursuant to private and special act of the Legislature;

B. The commission's jurisdiction and control over and regulation of a public utility that pro-