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## **An Act To Protect Electricity Consumers of Northern Maine**

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

**Sec. 1. 35-A MRSA §3132, sub-§2**, as amended by PL 2007, c. 148, §3, is further amended to read:

**2. Construction of transmission line.** Except as otherwise provided in subsection 3-A, whenever any person proposes to erect within this State a transmission line capable of operating at 100 kilovolts; or more; or a transmission line capable of operating at 69 kilovolts or more ~~that is proposed to be financed, permitted, constructed, owned in whole or in part or operated by the Northern Maine Transmission Corporation pursuant to Title 10, chapter 1003 or financed by the Finance Authority of Maine pursuant to Title 10, section 1053, subsection 6, paragraph F,~~ that person shall file a petition for the approval of the proposed line. The petition for approval of the proposed transmission line must contain such information as the commission by rule prescribes. The petition for approval must be set down for public hearing. The commission shall issue its order within 6 months after the petition is filed unless this period is extended either by agreement of all the parties or by the commission upon its determination that the party seeking the extension would, because of circumstances beyond that party's control, be unreasonably disadvantaged unless the extension were granted, provided that the party to that time had prosecuted its case in good faith and with due diligence.

At the time of filing of a petition for approval of a proposed line under this section, the person filing the petition shall send a copy of the petition by certified mail to the municipal officers of the municipality or municipalities in which the line is to be located.

**Sec. 2. 35-A MRSA §3132, sub-§2-A**, as enacted by PL 2003, c. 506, §13, is amended to read:

**2-A. Other projects requiring approval.** The commission shall by rule or order adopt standards and procedures for processing an application from an applicant that is not a transmission and distribution utility for a certificate of public convenience and necessity under this section for a transmission line capable of operating at 69 kilovolts or more ~~that is proposed to be financed, permitted, constructed, owned in whole or in part or operated by the Northern Maine Transmission Corporation pursuant to Title 10, chapter 1003 or financed by the Finance Authority of Maine pursuant to Title 10, section 1053, subsection 6, paragraph F.~~ Except as the commission determines otherwise appropriate, the standards and procedures must conform as far as possible with those that would apply to an application from a transmission and distribution utility. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 3. 35-A MRSA §3132, sub-§2-B**, as enacted by PL 2003, c. 506, §13, is amended to read:

**2-B. Standards for certain projects.** The commission ~~may~~shall deny a certificate of public convenience and necessity for a transmission line capable of operating at ~~69~~69.115 kilovolts or more that is proposed to be financed, permitted, constructed, owned in whole or in part or operated by the Northern

~~Maine Transmission Corporation pursuant to Title 10, chapter 1003 or financed by the Finance Authority of Maine pursuant to Title 10, section 1053, subsection 6, paragraph Fa~~ person or involves the purchase of transmission capacity or the execution of any significant agreement or contract as defined in section 3133-A, subsection 2 upon a finding that the line is reasonably likely to adversely affect any transmission and distribution utility or its customers.

**Sec. 4. 35-A MRSA §3132, sub-§6,** as amended by PL 2007, c. 148, §5, is further amended to read:

**6. Commission order; certificate of public convenience.** In its order, the commission shall make specific findings with regard to the need for the proposed transmission line. If the commission finds that a need exists, it shall issue a certificate of public convenience and necessity for the transmission line. If the commission finds that rates of consumers in a utility service territory will increase as a foreseeable direct consequence of the operation of the transmission line, the commission may not issue a certificate. If the commission orders or allows the erection of the transmission line, the order is subject to all other provisions of law and the right of any other agency to approve the transmission line. A person may submit a petition for and obtain approval of a proposed transmission line under this section before applying for approval under municipal ordinances adopted pursuant to Title 30-A, Part 2, Subpart 6-A; and Title 38, section 438-A and, except as provided in subsection 4, before identifying a specific route or route options for the proposed transmission line. Except as provided in subsection 4, the commission may not consider the petition insufficient for failure to provide identification of a route or route options for the proposed transmission line. The issuance of a certificate of public convenience and necessity establishes that, as of the date of issuance of the certificate, the decision by the person to erect or construct was prudent. At the time of its issuance of a certificate of public convenience and necessity, the commission shall send to each municipality through which a proposed corridor or corridors for a transmission line extends a separate notice that the issuance of the certificate does not override, supersede or otherwise affect municipal authority to regulate the siting of the proposed transmission line.

**Sec. 5. 35-A MRSA §3136, sub-§2,** as amended by PL 2001, c. 608, §2, is further amended to read:

**2. Right of eminent domain not applicable.** The right of eminent domain granted in subsection 1 does not apply to:

- A. Lands or easements located within 300 feet of an inhabited dwelling;
- B. Lands or easements on or adjacent to any developed or undeveloped water power;
- C. Lands or easements so closely paralleling existing wire lines of other utilities that the proposed transmission lines would substantially interfere with service rendered over the existing lines, except with the consent of the owners;
- D. Lands or easements owned or used by railroad corporations, except as authorized pursuant to section 2311; and
- E. Lands or easements owned by the State.; and

F. Lands or easements associated with the siting, permitting, construction or operation of any transmission infrastructure that would adversely affect the transmission and distribution utility's ratepayers.

**Sec. 6. 35-A MRSA §3137, sub-§1**, as amended by PL 1999, c. 398, Pt. A, §52 and affected by §§104 and 105, is repealed and the following enacted in its place:

**1. Domestic transmission and distribution utility may transmit electricity inside or outside this State.** Notwithstanding any limitation imposed by its charter, each domestic transmission and distribution utility may transmit electricity and acquire and operate anywhere inside or outside this State utility facilities or interests in utility facilities of any nature or form used or required to be used in its service to the public, except that nothing in this section authorizes a utility to distribute electricity in this State:

A. In a way that adversely affects the utility's ratepayers; or

B. To any person or within any area, except as otherwise authorized by its charter or the laws of this State.

**Sec. 7. Northern Maine Long-term Standard Offer.**

**1. Creation of Northern Maine Long-term Standard Offer.** To ensure achievement of improved reliability and wholesale and retail competition for northern Maine, the Public Utilities Commission, referred to in this section as "the commission," shall facilitate the enhancement and reliability of the energy generation infrastructure of northern Maine. The commission shall solicit long-term proposals in connection with the Maine Public Service Company's long-term standard offer for the years 2009 to 2019, to be known as the Northern Maine Long-term Standard Offer, referred to in this section as "the standard offer."

**2. Bids.** The commission shall solicit long-term standard offer bids in an effort to mitigate high energy prices, improve wholesale competition, improve retail competition and improve reliability. A person who bids for any part of the standard offer shall demonstrate that its proposal addresses the following aspects of energy security in northern Maine:

A. The mitigation of high prices, including a demonstration that the performance of its long-term standard offer proposal is likely to be more advantageous to consumers than reasonable alternatives, such as a series of shorter standard offers;

B. The lack of competition, including a demonstration that the performance of its long-term standard offer proposal is likely to improve wholesale and retail competition in northern Maine;

C. Grid and energy supply reliability, including a demonstration that the performance of its long-term standard offer proposal would add to the Northern Maine Independent System Administrator, Inc.'s system reliability and mitigate any known or anticipated reliability issues in northern Maine; and

D. Regional market development, including the maintenance of existing energy generation as well as the incitement of investment in new in-region generation. Seventy percent of the energy to be provided by any bidder in supplying standard offer load must be supplied by in-region generation to ensure generation remains in the Northern Maine Independent System Administrator, Inc. region for long-term reliability.

**3. Procedure.** The commission shall employ the following procedure with regard to soliciting proposals for the standard offer.

A. In addition to the other standard offer bid options that the commission elects to solicit, the commission shall solicit long-term standard offers for northern Maine in 3 separate parts.

(1) Part one must be conducted no later than January 1, 2009 and must secure energy and capacity in the amounts specified in paragraph B for the period March 1, 2009 to February 28, 2019.

(2) Part two must be conducted no later than January 1, 2009 and must secure additional capacity and energy for the period March 1, 2009 to February 28, 2014 in amounts as specified in paragraph C.

(3) Part three must be conducted in 2012 and must secure additional energy and capacity for the period March 1, 2014 to February 28, 2019 in amounts as specified in paragraph C.

B. Currently, the standard offer load has a base load requirement of approximately 36 megawatts, an intermediate or dispatchable requirement of approximately 22 megawatts and a load-following requirement of approximately 16 megawatts. Part one seeks bids for 2/3 of these 3 separate trenches of energy and capacity as:

(1) A 20 megawatts base load requirement, 8,760 hours;

(2) A dispatchable load requirement of all loads above 20 megawatts and below 40 megawatts; and

(3) A load-following requirement of all load at or above 40 megawatts.

C. Part 2 and part 3 bidders must bid on the remaining 1/3 of the standard offer load identified in paragraph B. Part two and part three bidders must address the same criteria, which may be modified by the commission to meet additional public needs. Subject to the exception for utility bids in subsection 4, paragraph A, bidders must have the qualifications required by state law that are in effect at the time the bid is submitted.

D. The same person may bid on parts one, two and three and trenches 1, 2 and 3 within each part, but the commission may elect to choose only one or 2 of the parts and one or 2 of the trenches within each of the 3 parts. Bidders may condition a bid on one part upon acceptance of their bid on one or more other parts or trenches.

E. A bidder must demonstrate that the project sponsor of any new generating capacity relied upon to supply the part one, two or three load has the relevant property rights, permits and authorizations and construction capability and may reasonably obtain financial arrangements to be able to produce electrical energy and capacity when needed to supply the products required for part one, two or three.

F. The commission shall favor proposals that maintain and enhance the reliability of existing generation while directly or indirectly enhancing the development of new reliable in-region generating capacity. In evaluating standard offer bids and other proposals and in comparing such bids to other standard offer bids, the commission shall also consider the extent to which standard offer proposals will directly or indirectly enhance the development of new transmission capacity interconnecting northern Maine with the Independent System Operation-New England grid.

**4. Requirement for bidders for standard offer.** The commission shall ensure that a bidder for the standard offer:

A. Be an entity, including a utility affiliate, authorized under Maine law to supply standard offer service, except that a transmission and distribution utility may submit bids in its own name, contingent on the contract and performance becoming the obligation of its competitive energy provider affiliate in the event that the utility wins one or more of the bids. All costs incurred by a transmission and distribution utility in preparing and submitting long-term standard offer bids must be borne by the utility and not its ratepayers. The commission shall reject as nonconforming any bid that contemplates imposing any generation-related obligation on the utility;

B. Assume full migration risk;

C. Bid for any trench and any of parts one, two and three under section 3. Any such bid may be provided on the basis of either:

(1) Fixed cost \$/Kw-month, plus a \$/MWh adder for marginal priced energy;

(2) Fixed cost \$/Kw-month, plus a \$/MWh adder for energy deliveries priced at a generally recognized market index, fuel price index or spot market price; or

(3) Fixed cost \$/Kw-month, plus a floor and ceiling price for energy priced at a generally recognized market index. Any pricing mechanism, including marginal, unit specific or index, used in the proposal must be acceptable to the commission in its sole discretion. To the extent that a bidder for part two and three provides a proposal on the basis of any option, the part two and three bidder must also provide a fixed price bid and the commission may select either bid; and

D. Satisfy state laws and rules.

**Sec. 8. P&SL 1911, c. 288, §8** is enacted to read:

**Sec. 8. Transmission infrastructure.** Notwithstanding any provisions of this charter, Central Maine Power Company may not:

A. Affiliate with any person who owns or operates any transmission infrastructure that adversely affects the interests of Central Maine Power Company's ratepayers;

B. Participate in the planning, permitting, construction or operation of any transmission infrastructure that adversely affects the interests of the Central Maine Power Company's ratepayers;

or

C. Participate or maintain membership in any organization whose practices, procedures or rules adversely affect the interests of Central Maine Power Company's ratepayers.

**Sec. 9. P&SL 1917, c. 203, §10** is enacted to read:

**Sec. 10. Transmission infrastructure.** Notwithstanding any provisions of this charter, Maine Public Service Company may not:

A. Affiliate with any person who owns or operates any transmission infrastructure that adversely affects the interests of Maine Public Service Company's ratepayers;

B. Participate in the planning, permitting, construction or operation of any transmission infrastructure that adversely affects the interests of Maine Public Service Company's ratepayers; or

C. Participate or maintain membership in any organization whose practices, procedures or rules adversely affect the interests of Maine Public Service Company's ratepayers.

**Sec. 10. P&SL 1959, c. 222, §5** is enacted to read:

**Sec. 5. Transmission infrastructure.** Notwithstanding any provisions of this charter, Bangor Hydro-Electric Company may not:

A. Affiliate with any person who owns or operates any transmission infrastructure that adversely affects the interests of Bangor Hydro-Electric Company's ratepayers;

B. Participate in the planning, permitting, construction or operation of any transmission infrastructure that adversely affects the interests of Bangor Hydro-Electric Company's ratepayers; or

C. Participate or maintain membership in any organization whose practices, procedures or rules adversely affect the interests of Bangor Hydro-Electric Company's ratepayers.

## SUMMARY

This bill changes Maine law to clarify and add requirements for approval of siting transmission lines in order to protect ratepayers. It removes the state-granted right of eminent domain for transmission lines that adversely affect the interests of utility ratepayers. It amends private and special laws of the State to make clear that transmission and distribution utilities chartered in the State may not engage in activities that are adverse to the interests of ratepayers. The bill also attempts to restore the competitive

market in northern Maine by granting authority and establishing procedures for a northern Maine long-term standard offer.