



# 126th MAINE LEGISLATURE

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Legislative Document

No. 1060

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H.P. 753

House of Representatives, March 19, 2013

### An Act To Address Rising Electric Transmission Rates

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Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative NEWENDYKE of Litchfield.  
Cosponsored by Representatives: RYKERSON of Kittery, WINCHENBACH of Waldoboro.

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

2 **Sec. 1. 35-A MRSA §3132, sub-§2-C, ¶¶B and C,** as enacted by PL 2009, c.  
3 309, §2, are amended to read:

4 B. Justification for adoption of the route selected, including comparison with  
5 alternative routes that are environmentally, technically and economically practical;  
6 ~~and~~

7 C. Results of an investigation by an independent 3rd party selected by the  
8 commission of nontransmission alternatives to construction of the proposed  
9 transmission line including. These alternatives include energy conservation, demand  
10 response, distributed generation ~~or~~ and load management. The investigation must set  
11 forth the total projected costs of the transmission line as well as the projected costs of  
12 the alternatives, regardless of the proposed allocation of these costs by the New  
13 England independent system operator; and

14 **Sec. 2. 35-A MRSA §3132, sub-§2-C, ¶D** is enacted to read:

15 D. A description of the need for the proposed transmission line.

16 **Sec. 3. 35-A MRSA §3132, sub-§§2-D and 2-E** are enacted to read:

17 **2-D. Lower-voltage projects requiring commission review and approval.**  
18 Whenever a person proposes to erect in the State a transmission line capable of operating  
19 at less than 69 kilovolts and projected to cost in excess of \$20,000,000, that person must  
20 provide the commission the information set forth in subsection 2-C, paragraphs C and D.

21 **2-E. Standard for lower-voltage projects.** For a project the commission reviews  
22 under subsection 2-D, in order for the project to be approved, the commission must make  
23 a finding that the identified need cannot be economically and reliably met using  
24 nontransmission alternatives. During its review the commission shall give preference to  
25 nontransmission alternatives that have been identified as able to address the identified  
26 need at lower total cost. The commission shall give preference to the alternatives in the  
27 following order:

28 A. Energy efficiency and demand response;

29 B. Renewable distributed generation;

30 C. Distributed generation with no greenhouse gas emissions; and

31 D. Other distributed generation.

32 **Sec. 4. 35-A MRSA §3132, sub-§5,** as enacted by PL 1987, c. 141, Pt. A, §6, is  
33 amended to read:

34 **5. Commission approval of a proposed line.** The commission may approve or  
35 disapprove all or portions of a proposed transmission line and shall make such orders  
36 regarding its character, size, installation and maintenance as are necessary, having regard  
37 for any increased costs caused by the orders. The commission shall give preference to  
38 nontransmission alternatives that have been identified as able to address the identified

1 need at lower total cost. The commission shall give preference to the alternatives in the  
2 following order: energy efficiency and demand response; renewable distributed  
3 generation; distributed generation with no greenhouse gas emissions; and other  
4 distributed generation.

5 **Sec. 5. 35-A MRSA §3132, sub-§6**, as repealed and replaced by PL 2011, c. 281,  
6 §1, is amended to read:

7 **6. Commission order; certificate of public convenience and necessity.** In its  
8 order, the commission shall make specific findings with regard to the public need for the  
9 proposed transmission line. The commission shall make specific findings with regard to  
10 the likelihood that nontransmission alternatives can address the identified public need at  
11 lower total cost. If the commission determines that the nontransmission alternatives can  
12 address the need at lower total cost but represent a larger increased cost to the ratepayers  
13 of the State than the proposed transmission line, the commission shall make reasonable  
14 efforts to achieve an agreement among the states within the New England independent  
15 system operator region to allocate the cost of the nontransmission alternatives among the  
16 ratepayers of the region using the allocation method used for transmission lines or  
17 another allocation method that results in lower increased cost to the ratepayers of the  
18 State. Except as provided in subsection 6-A for a high-impact electric transmission line,  
19 if the commission finds that a public need exists and that the need cannot be  
20 economically and reliably met using nontransmission alternatives, it shall issue a  
21 certificate of public convenience and necessity for the transmission line. In determining  
22 public need, the commission shall, at a minimum, take into account economics,  
23 reliability, public health and safety, scenic, historic and recreational values, state  
24 renewable energy generation goals, the proximity of the proposed transmission line to  
25 inhabited dwellings and alternatives to construction of the transmission line, including  
26 energy conservation, distributed generation or load management. The commission may  
27 not issue a certificate of public convenience and necessity for the transmission line unless  
28 all cost-effective energy efficiency and demand response resources are being acquired in  
29 the service territory of the utility or utilities through which the transmission line runs. If  
30 the commission orders or allows the erection of the transmission line, the order is subject  
31 to all other provisions of law and the right of any other agency to approve the  
32 transmission line. The commission shall, as necessary and in accordance with  
33 subsections 7 and 8, consider the findings of the Department of Environmental Protection  
34 under Title 38, chapter 3, subchapter 1, article 6, with respect to the proposed  
35 transmission line and any modifications ordered by the Department of Environmental  
36 Protection to lessen the impact of the proposed transmission line on the environment. A  
37 person may submit a petition for and obtain approval of a proposed transmission line  
38 under this section before applying for approval under municipal ordinances adopted  
39 pursuant to Title 30-A, Part 2, Subpart 6-A; and Title 38, section 438-A and, except as  
40 provided in subsection 4, before identifying a specific route or route options for the  
41 proposed transmission line. Except as provided in subsection 4, the commission may not  
42 consider the petition insufficient for failure to provide identification of a route or route  
43 options for the proposed transmission line. The issuance of a certificate of public  
44 convenience and necessity establishes that, as of the date of issuance of the certificate, the  
45 decision by the person to erect or construct was prudent. At the time of its issuance of a  
46 certificate of public convenience and necessity, the commission shall send to each

1 municipality through which a proposed corridor or corridors for a transmission line  
2 extends a separate notice that the issuance of the certificate does not override, supersede  
3 or otherwise affect municipal authority to regulate the siting of the proposed transmission  
4 line. The commission may deny a certificate of public convenience and necessity for a  
5 transmission line upon a finding that the transmission line is reasonably likely to  
6 adversely affect any transmission and distribution utility or its customers.

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## SUMMARY

8 This bill requires that the Public Utilities Commission may not issue a certificate of  
9 public convenience and necessity for the construction of a transmission line unless a  
10 description of the need for the proposed transmission line is provided; an analysis of  
11 nontransmission alternatives is conducted by an independent 3rd party selected by the  
12 Public Utilities Commission; the projected cost of the proposed transmission line is  
13 compared to the projected cost of feasible nontransmission alternatives based on total  
14 projected costs, regardless of who pays; preference is given to lower-cost alternatives;  
15 cleaner alternatives are given preference over alternatives that rely on fossil fuels; the  
16 Public Utilities Commission makes specific findings as to whether alternatives can  
17 address the identified need at lower total cost; and all cost-effective energy efficiency and  
18 demand response resources are being acquired in the applicable service territory of the  
19 utility that has proposed the project. This bill requires that, when the commission  
20 determines that the nontransmission alternatives can address the need at lower total cost  
21 but represent a larger increased cost to ratepayers of the State than the proposed  
22 transmission line, the commission make reasonable efforts to achieve an agreement  
23 among the states within the New England independent system operator region to allocate  
24 the cost of the nontransmission alternatives among the ratepayers of the region using the  
25 allocation method used for transmission lines or another allocation method that results in  
26 lower increased cost to ratepayers of the State.

27 This bill also requires that lower-voltage projects that are capable of operating at less  
28 than 69 kilovolts and projected to cost in excess of \$20,000,000 must be reviewed and  
29 approved by the Public Utilities Commission before erection of the transmission line.  
30 The bill also establishes standards the Public Utilities Commission must use to review a  
31 lower-voltage project.