

STATE OF MAINE

—  
IN THE YEAR OF OUR LORD  
TWO THOUSAND AND EIGHTEEN

—  
H.P. 1244 - L.D. 1799

**Resolve, Regarding Legislative Review of Portions of Chapter 308: Standards of Conduct for Transmission and Distribution Utilities and Affiliated Generators, a Major Substantive Rule of the Public Utilities Commission**

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

**Whereas,** the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

**Whereas,** the above-named major substantive rule has been submitted to the Legislature for review; and

**Whereas,** immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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

**Sec. 1. Adoption. Resolved:** That final adoption of portions of Chapter 308: Standards of Conduct for Transmission and Distribution Utilities and Affiliated Generators, a provisionally adopted major substantive rule of the Public Utilities Commission that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized only if the rule is amended to:

1. Add a provision that specifies that a complaint may be brought for matters within the Public Utilities Commission's jurisdiction by an individual generator for acts or omissions of a transmission and distribution utility that are unreasonable, preferential, discriminatory or anticompetitive and the complaint must be treated in the same manner as a complaint otherwise brought by 10 persons as allowed by Title 35-A, section 1302;

2. Clarify in section 1 of the rule that the rule applies to an affiliated generator that:
  - A. Owns or develops generation or generation-related assets in the ISO-New England, or ISO-NE, or Northern Maine Independent System Administrator, or NMISA, power system;
  - B. Imports generation into the ISO-NE or NMISA power system;
  - C. Is directly interconnected to the ISO-NE or NMISA power system;
  - D. Takes any action or makes any plans toward future ownership or development of generation or generation-related assets in the ISO-NE or NMISA power system; or
  - E. Takes any action or makes any plans to import generation or become directly interconnected to the ISO-NE or NMISA power system;
3. Add in section 2 of the rule a definition of "directly interconnected" to clarify that the term refers to the physical electrical connection of a generator to a transmission and distribution utility's transmission and distribution assets that allows that generator to transport electric power across the transmission and distribution utility's electric plant;
4. Add in section 2 of the rule a definition of "service territory" to clarify that it refers to the geographic area in which a transmission and distribution utility is authorized to provide service based on a finding of need by the Public Utilities Commission or a legislative finding of need;
5. Clarify in section 3, paragraph A of the rule that a transmission and distribution utility may not have an affiliate that owns generation or generation-related assets that are directly interconnected to any facilities owned or operated by the transmission and distribution utility or if the point of interconnection of generation or generation-related assets of the affiliate is within the service territory of the transmission and distribution utility;
6. Add in section 4 of the rule a general standard that explicitly prohibits preferential, discriminatory or other anticompetitive conduct by a transmission and distribution utility;
7. Clarify in section 4, subsection O of the rule that access to books and records is for the purpose of verifying compliance with the standards of conduct and that access to such books and records also applies to books and records that predate an affiliated generator's becoming subject to the rule; and
8. Clarify in section 7 of the rule that the training of employees to ensure compliance with the rule is limited to those employees that have access or may have access to the types of confidential information that is not to be shared.

The Public Utilities Commission is not required to hold hearings or undertake further proceedings prior to final adoption of the rule in accordance with this section.

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