



125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 1411

H.P. 1037

House of Representatives, April 6, 2011

An Act To Facilitate Transparency and Accountability while Reducing Electricity Costs

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

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative FOSSEL of Alna.

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

2 **Sec. 1. 12 MRSA §685-B, sub-§2-C, ¶C** is enacted to read:

3 C. Notwithstanding any other provision of law, the commission may not issue a
4 permit or license for the construction of a generator as part of a wind energy
5 development unless construction of the generator will result in reduced electricity
6 costs for consumers in this State as determined by the Public Advocate pursuant to
7 Title 35-A, section 1702-B, subsection 3 or a certificate of emergency is issued by the
8 Public Utilities Commission pursuant to Title 35-A, section 3144.

9 **Sec. 2. 35-A MRSA §1702-B** is enacted to read:

10 **§1702-B. Monitoring electricity generators; cost impact determination**

11 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
12 following terms have the following meanings.

13 A. "Generator" means a device located in this State that produces electricity and is
14 required to be reported as a generating unit pursuant to United States Department of
15 Energy Form 860 or a successor form.

16 B. "Generator developer" means a person, firm or corporation proposing or financing
17 the construction of a generator or the representative or agent of that person, firm or
18 corporation.

19 C. "Generator operator" means a person, firm or corporation owning or operating a
20 generator or the representative or agent of that person, firm or corporation.

21 D. "Gross electrical generation" has the same meaning as in Title 38, section 580-A,
22 subsection 14.

23 **2. Monthly state electricity generation report.** Using information provided by
24 generator operators and generator developers, the Public Advocate shall coordinate a
25 monthly state electricity generation report with input from the Department of
26 Environmental Protection, the Governor's Office of Energy Independence and Security
27 within the Executive Department and the commission. The report must include the
28 following information for the month covered by the report:

29 A. Gross electrical generation by each generator;

30 B. The cost per megawatt of electricity generated by each generator;

31 C. The capacity factor for each generator;

32 D. The average hourly day-ahead locational marginal price as reported by the
33 independent system operator of the electric grid;

34 E. The carbon dioxide emissions of each generator;

35 F. The total amount of carbon dioxide emitted in this State each month due to
36 electricity generation;

1 G. If a generator developer applies for a license, permit or certification to any state
2 agency for the construction of a generator, the estimated change in carbon dioxide
3 emissions that would result from the development of that generator certified in
4 accordance with rules adopted by the commission. Rules adopted pursuant to this
5 paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter
6 2-A; and

7 H. Any plans produced by a generator developer or generator operator for the
8 decommissioning or curtailment of a generator.

9 **3. Electricity cost impact analysis.** When a generator developer submits an
10 application for a license, permit or certification to any state agency for the construction of
11 a generator, the Public Advocate, in coordination with the commission, shall conduct an
12 analysis to determine if the construction of that generator will result in reduced electricity
13 costs for consumers in this State. When completed, the analysis must be submitted to any
14 state agency that is reviewing an application for a license, permit or certification for the
15 construction of that generator.

16 **Sec. 3. 35-A MRSA §3144** is enacted to read:

17 **§3144. Electricity generation emergency in public necessity**

18 If the Public Advocate determines that the construction of a generator will not reduce
19 electricity costs to consumers in this State pursuant to section 1702-B, subsection 3, the
20 generator developer may petition the commission to issue a certificate of emergency.

21 The commission by rule shall establish criteria for determining when public necessity
22 requires issuance of a certificate of emergency. The commission, after a hearing, shall
23 issue a certificate under this section if the commission finds that the criteria established
24 by the commission have been met.

25 Rules adopted under this section are routine technical rules pursuant to Title 5,
26 chapter 375, subchapter 2-A.

27 **Sec. 4. 38 MRSA §344, sub-§1-B** is enacted to read:

28 **1-B. Limitation on approval.** Notwithstanding any other provision of law, a permit
29 or license may not be issued under this Title for the construction of a generator unless the
30 construction of the generator will reduce electricity costs for consumers in this State as
31 determined by the Public Advocate pursuant to Title 35-A, section 1702-B, subsection 3
32 or a certificate of emergency is issued by the Public Utilities Commission pursuant to
33 Title 35-A, section 3144.

34 For purposes of this subsection, "generator" has the same meaning as in Title 35-A,
35 section 1702-B, subsection 1, paragraph A.

1 **SUMMARY**

2 This bill requires the Public Advocate to issue a monthly report regarding the
3 performance of electricity generators, including but not limited to output, capacity
4 factors, price of electricity generated and carbon dioxide emissions.

5 The bill prohibits the construction of new electricity generators unless the Public
6 Advocate determines that the construction of the generator will result in reduced
7 electricity costs for consumers in this State or the Public Utilities Commission issues a
8 certificate of emergency.