

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 98-824

September 28, 1999

PUBLIC UTILITIES COMMISSION
Sale of Capacity and Energy of
Undivested Generation Assets;
Extension of Divestiture Deadline
(Chapter 307)

SUPPLEMENTAL
ORDER FINALLY
ADOPTING RULE AND
STATEMENT OF
POLICY BASIS

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

In this Supplemental Order, we finally adopt a rule implementing the requirements for the utility sale of capacity and energy from undivested generation assets and extensions of the deadline for the divestiture of generation assets.

On February 22, 1999, the Commission provisionally adopted a rule governing the sale of power from undivested assets and divestiture extensions. Because the rule was denominated as a "major substantive" rule by 35-A M.R.S.A. § 3204(3) and (4), it required legislative approval under 5 M.R.S.A. §§ 8071-8074. In compliance with those provisions, the Commission submitted the rule to the Legislature for its approval.

On May 18, 1999, Resolves 1999, Chapter 38 became effective. This Chapter authorized the final adoption of the rule with three changes to the language of the rule.

On June 21, 1999, the Commission issued an Order Finally Adopting Rule and Statement of Policy Basis that adopted the rule.¹

In addition to the Resolve, the Legislature enacted Public Law 1999, ch. 398, Sec. N-2 that directs that the following two modifications be made to Chapter 307:

1. Change the rule to provide that the Commission shall grant an extension of the divestiture deadline if it finds that the extension would be likely to improve the sale value of those assets on the market or would be likely to reduce the level of the utility's stranded costs; and
2. Delete section 10, subsection B of the rule that requires that if the Commission grants an extension, the utility shall transfer to a distinct corporate entity by March 1, 2000 the generation assets to which the extension applies.

¹ Section 8072(8) of Title 5 requires agencies to finally adopt major substantive rules within 60 days of the effective date of the legislation approving the rule.

Chapter 398, however, did not take effect until September 18, 1999. Section N-2 specifically states that the Commission is not required to hold hearings or conduct other formal proceedings to modify its major substantive rule in accordance with this section and such modifications do not require review or approval by the Legislature. Accordingly, we issue this supplemental order finally adopting rule that make the changes required by Chapter 398.

Accordingly, we

O R D E R

1. That the attached Chapter 307, Sale of Capacity and Energy; Extensions for Divestiture of Assets is hereby finally adopted; and

2. That the Administrative Director shall file the finally adopted rule and related materials with the Secretary of State; and

3. That the Administrative Director shall send copies of this Order and attached rule to:

A. All electric utilities in the State;

B. All persons who have filed with the Commission within the past year a written request for notices of rulemakings;

D. All persons who have filed comments in Docket No. 98-824; and

E. The Executive Director of the Legislative Council (20 copies).

4. That the Administrative Director shall notify all persons on the Commission's list of persons who wish to receive notice of all electric restructuring proceedings that the rule was adopted and is available upon request.

Dated at Augusta, Maine, this 28th day of September, 1999.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch

Nugent
Diamond