

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 98-457

September 28, 1999

PUBLIC UTILITIES COMMISSION
Standards of Conduct
for Transmission and Distribution
Utilities and Affiliated
Competitive Electricity Providers
(Chapter 304)

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 standards of conduct for transmission and distribution utilities and affiliated competitive electricity providers.

On December 7, 1998, the Commission provisionally adopted a rule governing standards of conduct between utilities and their affiliated electricity providers. Because the rule was denominated as a “major substantive” rule by 35-A M.R.S.A. §§ 3205(4) and 3206(2), 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 36 became effective. This Chapter authorized the final adoption of the standards of conduct rule with three changes to the language of the rule. On June 29, 1999, the Commission issued an Order Finally Adopting Rule and Statement of Policy Basis that adopted the standards of conduct rule with the legislatively mandated changes.¹

In addition to the Resolve, the Legislature enacted Public Law 1999, ch. 398, Sec. G-5 that directs that the following two modifications be made to Chapter 304:

1. Addition of a provision providing that an investor-owned electric utility may not subsidize the business of its affiliated competitive provider at ratepayer expense in a manner not specifically authorized by 35-A M.R.S.A. § 3205; and
2. Modification of the penalty provisions to increase the administrative penalties from a maximum of \$10,000 to a maximum of \$100,000 and provide for disgorgement of profits in addition to the administrative penalty for violations of the standards of conduct.

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 G-5 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 with the changes required by Chapter 398.

Accordingly, we

ORDER

1. That the attached Chapter 304, Standards of Conduct for Transmission and Distribution Utilities and Affiliated Competitive Electricity Providers is hereby finally adopted;
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. 98-457; 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