

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2017-00262

May 24, 2018

PUBLIC UTILITIES COMMISSION  
Standards of Conduct for Transmission  
And Distribution Utilities and Affiliated  
Generators (Chapter 308)

ORDER ADOPTING  
FINAL RULE AND  
STATEMENT OF FACTUAL  
AND POLICY BASIS

VANNOY, Chairman; WILLIAMSON and DAVIS, Commissioners

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Through this Order, the Commission adopts final rules to implement recently enacted legislation that permits an investor-owned transmission and distribution (T&D) utility to have generation affiliates subject to statutory restrictions and Commission-adopted standards of conduct.

During its 2017 session, the Legislature enacted an An Act To Clarify the Authority of an Affiliate of a Utility To Own Power Generation Outside of the Utility's Territory. P.L. 2017, ch.287 (codified at 35-A M.R.S.A. § 3204(11)) (Affiliate Act). The Affiliate Act specified that, notwithstanding Title 35-A, section 3204(5), an affiliate of an investor-owned T&D utility may own generation or generation-related assets in accordance with standards of conduct adopted by the Commission through a rulemaking process. The Affiliate Act stated that the required Commission-adopted rules are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

On October 4, 2017, the Commission issued a Notice of Rulemaking (NOR) and a proposed rule containing standards of conduct with respect to affiliate generation (Chapter 308). Consistent with rulemaking procedures, the Commission held a public hearing on December 4, 2017 and received written comments on the proposed rule. On January 5, 2018, the Commission issued an Order that provisionally adopted the rule. As required for major substantive rulemakings, the Commission submitted the provisionally-adopted rule to the Legislature for review.

On April 18, 2018, the Legislature enacted 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. Resolve 2017, ch. 49. The Resolve authorizes the final adoption of Chapter 308 if several provisions are added and certain clarifications made. The Resolve specifies that the Commission is not required to hold hearings or undertake further proceedings prior to final adoption of the rule.

The Commission has added to the rule the provisions and clarifications specified in the Resolve.

Accordingly, the Commission

## ORDERS

1. That the attached rule, Chapter 308, Standards of Conduct for Transmission and Distribution Utilities and Affiliated Generators is, hereby, finally adopted;
2. That the Administrative Director shall file the finally adopted rule and related materials with the Secretary of State;
3. That the Administrative Director shall notify the following of this finally adopted rule:
  - a. All transmission and distribution utilities in the State;
  - b. All persons who have commented in this rulemaking proceeding, Docket No. 2017-00262;
  - c. All persons who have filed with the Commission within the past year a written request for notice of rulemakings.

Dated at Hallowell, Maine, this 24<sup>th</sup> day of May, 2018

BY ORDER OF THE COMMISSION

*/s/Harry Lanphear*

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Harry Lanphear  
Administrative Director

COMMISSIONERS VOTING FOR: Vannoy  
Williamson  
Davis

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 11(D) of the Commission's Rules of Practice and Procedure (65-407 C.M.R. 110) within **20** days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought. Any petition not granted within **20** days from the date of filing is denied.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21** days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.