



127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 1399

S.P. 520

In Senate, May 12, 2015

An Act To Improve Natural Gas Price Competitiveness for Maine's Manufacturers

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
Secretary of the Senate

Presented by Senator BURNS of Washington. (GOVERNOR'S BILL)
Cosponsored by Representative MAKER of Calais and
Representative: TURNER of Burlington.

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

2 **Sec. 1. 35-A MRSA §1913** is enacted to read:

3 **§1913. Backstop agreements for natural gas pipeline capacity**

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

6 A. "Backstop agreement" means an agreement entered into between an interstate
7 natural gas pipeline and a designated replacement shipper pursuant to which the
8 designated replacement shipper agrees, upon a default of an eligible customer, to
9 enter into a service agreement with an interstate natural gas pipeline for an amount of
10 the eligible customer's long-term interstate natural gas pipeline capacity under the
11 same rates, terms and conditions as the eligible customer and for the remainder of the
12 term of the eligible customer's contract term.

13 B. "Designated replacement shipper" means one or more gas utilities or transmission
14 and distribution utilities required by the commission to enter into an agreement with
15 an interstate natural gas pipeline for the long-term interstate natural gas pipeline
16 capacity of an eligible customer.

17 C. "Eligible customer" means a commercial or industrial business or a subsidiary of
18 that business that is located in this State and has an agreement for a term of not less
19 than 15 years to transport a maximum daily quantity of 7,500 dekatherms per day of
20 natural gas.

21 D. "Eligible natural gas pipeline capacity" means new or incremental natural gas
22 pipeline capacity for the delivery of natural gas into this State or to delivery points
23 within this State.

24 **2. Order requiring execution of capacity backstop agreement.** Upon application
25 of an eligible customer in accordance with subsection 5, the commission may require by
26 written order that one or more gas utilities or transmission and distribution utilities enter
27 into a backstop agreement, within 60 days of the commission's order, with applicable
28 interstate natural gas pipelines for long-term interstate natural gas pipeline capacity that
29 becomes available in the event of a default of the eligible customer, if the commission
30 finds that the designated replacement shipper is capable of meeting the requirements of
31 this section. The commission's order must identify the amount of long-term interstate
32 natural gas pipeline capacity for a backstop agreement. Upon a commission order
33 requiring execution of a backstop agreement pursuant to this section, the commission
34 shall reduce the cumulative total capacity of energy cost reduction contracts established
35 under section 1904 by the capacity of the backstop agreement.

36 Within 20 days of receipt of an application under subsection 5 for an order under this
37 section, the commission shall consult with the Office of the Public Advocate and the
38 utility or utilities recommended by the eligible customer as the designated replacement
39 shipper. The commission's review of an application under this section is nonadjudicatory.
40 The commission shall approve or reject the application within 60 days by issuance of a
41 written order.

1 **3. Limitation on resale of natural gas capacity.** A backstop agreement approved
2 by the commission must provide that the eligible customer's resale of natural gas pipeline
3 capacity may not exceed 15% profit excluding any natural gas capacity transportation
4 charges. If resale profits exceed 15%, the additional revenue must be used to reduce
5 transmission and distribution rates in the location of the eligible customer's electric utility
6 service area in a manner determined by the commission.

7 **4. Commission criteria.** The commission shall approve a request from an eligible
8 customer and order one or more gas utilities or transmission and distribution utilities to
9 enter into a backstop agreement with interstate natural gas pipelines pursuant to
10 subsection 2 if the commission finds:

11 A. The designation of the utility or utilities as a designated replacement shipper will
12 enhance the viability of an eligible natural gas pipeline capacity project;

13 B. The eligible natural gas pipeline capacity project will increase natural gas
14 transmission capacity into the State and will further the legislative findings in section
15 1903;

16 C. The risks to utility ratepayers of an eligible customer's default are reasonable
17 when compared to the benefits to be achieved for the eligible customer and the State
18 as a result of the new or incremental natural gas pipeline capacity to be provided;

19 D. The gas utility or transmission and distribution utility, or its parent guarantor, has
20 and continues to maintain a long-term senior, unsecured debt rating, or in the absence
21 of a long-term senior, unsecured debt rating, a local long-term issuer rating or an
22 issuer rating, as applicable, of at least Baa3 with a stable outlook from Moody's
23 Investors Service, Inc. and of at least BBB- with a stable outlook from Standard and
24 Poor's Corporation; and

25 E. The eligible customer is unable to meet or maintain the creditworthiness standards
26 required to obtain eligible natural gas pipeline capacity.

27 **5. Application.** An eligible customer may apply to the commission to designate a
28 utility as a designated replacement shipper and the application must provide a nonbinding
29 recommendation of one or more utilities to be the shipper required to enter into a
30 backstop agreement.

31 **6. Actions presumed prudent; recovery of costs incurred.** A gas utility's or
32 transmission and distribution utility's actions undertaken in furtherance of a commission
33 order under this section, including execution of a backstop agreement, are presumed to be
34 prudent and require no further commission approval. Notwithstanding anything to the
35 contrary in subsection 1, paragraph A, with the approval of the commission, a gas utility
36 or transmission and distribution utility required to enter into a backstop agreement for
37 eligible interstate pipeline capacity as a designated replacement shipper under this section
38 may recover in rates all costs reasonably incurred including administrative costs.

39 **7. Limitation.** The commission may not order a backstop agreement under this
40 section after December 31, 2018. The commission may continue to administer contracts
41 entered into prior to December 31, 2018 and enter into agreements regarding the resale of

1 natural gas pipeline capacity purchased through a backstop agreement after December 31,
2 2018.

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SUMMARY

4 This bill authorizes the Public Utilities Commission to order one or more gas utilities
5 or transmission and distribution utilities to enter into a backstop agreement under which a
6 designated replacement shipper agrees to enter into a service agreement with an interstate
7 natural gas pipeline for the long-term interstate natural gas pipeline capacity of an eligible
8 customer.