

**STATE OF MAINE**  
125<sup>TH</sup> LEGISLATURE  
SECOND REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed

**JOINT STANDING COMMITTEE ON ENERGY, UTILITIES  
AND TECHNOLOGY**

June 2012

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*Joint Standing Committee on Energy, Utilities and Technology*

**LD 425      An Act To Stimulate Demand for Renewable Resources**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
ROSEN R	ONTP	

This bill was carried over from the First Regular Session of the 125th Legislature.

Current law requires that each competitive electricity provider in this State demonstrate that no less than 30% of its portfolio of supply sources for retail electricity sales in this State is accounted for by eligible resources. This bill amends the definition of "renewable capacity resource" to add waste energy resources. It defines "waste energy resource" as a source of electrical generation that is fueled by municipal solid waste in conjunction with recycling and whose total power capacity does not exceed 35 megawatts. In addition, the waste energy resource is required to meet Maine's air emissions standards for resource recovery facilities and licensing standards for solid waste facilities. It establishes a 3.5% portfolio requirement for electricity from waste energy resources. It allows competitive electricity providers to meet the portfolio requirements for waste energy resources through the use of renewable energy credits or an alternative compliance payment to be set by the Public Utilities Commission.

**LD 935      An Act To Create Fair and Open Competition in Line Extension  
Construction**

**PUBLIC 484**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GUERIN	OTP-AM MAJ OTP-AM MIN	H-695

This bill was carried over from the First Regular Session of the 125th Legislature.

The bill establishes standards governing transmission and distribution utility line extension practices, including standards for charges for line extensions, limits on cost recovery, standards for charges for make-ready work, customer service requirements and requirements for accounting of line extension construction costs.

In a letter to the Office of Public Advocate, the committee requested that office to convene a stakeholder meeting to discuss the bill and to present proposed amendments during the Second Regular Session.

**Committee Amendment "A" (H-695)**

This amendment is the majority report of the committee. It narrows the scope of the bill to transmission and distribution utilities serving more than 500,000 retail customers. It removes specific requirements for determining costs of line extensions and instead requires the Public Utilities Commission to determine the method to be used by such a utility to estimate the cost of line extensions. This amendment removes the requirement that utilities reimburse ratepayers retroactively to the year 2000 for any costs associated with the construction of a line extension that was recovered through electricity rates. This amendment provides that make-ready work by utilities may be charged to customers taking polyphase service but not to customers taking single-phase service; make ready costs for single-phase service may be recovered in rates. The amendment strikes the customer service requirement and contribution in aid of construction provisions in the bill.

**Committee Amendment "B" (H-696)**

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This amendment is the minority report of the committee. It is the same as the majority report except that it does not include the provisions of the minority report relating to charges for make-ready work.

### **Enacted Law Summary**

Public Law 2011, chapter 484 establishes standards governing line extension practices for transmission and distribution utilities serving more than 500,000 retail customers. It requires the Public Utilities Commission to determine the method to be used by these utilities to estimate the cost of line extensions. It provides that make-ready work by these utilities may be charged to customers taking polyphase service but not to customers taking single-phase service; make-ready costs for single-phase service may be recoverable in rates.

**LD 1264     **An Act To Improve the Energy Efficiency of Public Buildings and Create Jobs****

**VETO  
SUSTAINED**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BARTLETT	OTP-AM	S-244

This bill raises energy efficiency standards for public buildings and increases the ability of school units and counties to finance energy-related improvements in public buildings.

Part A raises efficiency standards for state-funded construction.

Part B raises efficiency standards for school construction, involves the Efficiency Maine Trust in the construction project approval process, gives school administrative units increased flexibility in contracting with energy service companies for energy efficiency, load management and distributed renewable energy improvements and makes school administrative units eligible for technical and other assistance from Efficiency Maine Trust in pursuing energy-related improvements.

Part C raises efficiency standards for county buildings and expands counties' ability to contract with energy service companies to achieve energy savings.

Part D raises efficiency standards for municipal buildings.

Part E applies the Maine Municipal Bond Bank's Efficiency Partners Program, which provides loans for efficiency upgrades to municipal and public school buildings, to renewable energy and load management projects.

### **Committee Amendment "A" (S-244)**

This amendment strikes and replaces the bill with the following.

Part A extends existing standards for energy savings design considerations to include cost-effective load management systems.

Part B adds consideration of cost-effective load management systems to existing standards for energy savings design considerations and targets for school construction projects and gives school administrative units increased flexibility in contracting with energy service companies for energy efficiency and load management improvements.

Part C expands counties' ability to contract with energy service companies to include load management systems.

Part D expands the Maine Municipal Bond Bank's Efficiency Partners Program, which provides loans for efficiency

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upgrades to municipal and public school buildings, to include load management projects and expands the bank's aggregation powers for nonprofits and municipalities to include the services of energy service companies and products vendors.

LD1264 was enacted by the Legislature during the First Regular Session of the 125th Legislature and vetoed by the Governor. The veto was sustained by the Legislature on January 10, 2012.

**LD 1614      An Act To Create Efficiency in E-9-1-1 Call Centers      ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
THIBODEAU	ONTP	

This bill changes the goal of the Public Utilities Commission, Emergency Services Communication Bureau to establish a total of 16 to 24 public safety answering points to a requirement that the bureau establish a total of 15 to 17 public safety answering points. It requires the bureau to design the E-9-1-1 system to route a wireless E-9-1-1 call initiated more than one mile from the Interstate 95 or 295 corridor to the public safety answering point serving the municipality in which the tower receiving the call is located unless the bureau determines the wireless calls should be routed to a different public safety answering point. It requires the bureau to design the E-9-1-1 system to route a wireless E-9-1-1 call initiated one mile or less from the Interstate 95 or 295 corridor to the Department of Public Safety. This bill clarifies that municipalities may arrange for public safety answering point service through an agreement with another government entity and prohibits a contract to provide public safety answering point service from having a term of less than 5 years.

**LD 1620      An Act To Amend the Charter of the Ogunquit Sewer District      P & S 24**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HILL	OTP-AM	S-414

This bill modifies the charter of the Ogunquit Sewer District using portions of the Maine Sanitary District Enabling Act as a model, especially as it relates to the sinking fund.

**Committee Amendment "A" (S-414)**

This amendment modifies the charter of the Ogunquit Sewer District to bring it into compliance with the Maine Revised Statutes, Title 38, chapter 12 and affords the sewer district some powers granted to sanitary districts under the Maine Revised Statutes. The amendment:

1. Adds language that describes the procedure to be taken when a public utility crosses the property or line of a railroad corporation;
2. Clarifies how work done by the district must be carried out;
3. Sets out the procedures that the district must follow to borrow money and to issue bonds and notes;
4. Sets out the procedures for setting rates and tolls;

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- 5. Clarifies that landlord access to payment information related to sewer service is governed by Title 38, section 1252, subsection 11;
- 6. Requires the district to coordinate municipal planning and sewer extension planning in accordance with Title 38, section 1252, subsection 9; and
- 7. Strikes those sections of the bill that deal with increases in the debt obligation limit and sinking fund.

**Enacted Law Summary**

Private and Special Law 2011, chapter 24 modifies the charter of the Ogunquit Sewer District to bring it into compliance with the Maine Revised Statutes, Title 38, chapter 12 and affords the sewer district some powers granted to sanitary districts under the Maine Revised Statutes.

**LD 1622      Resolve, Regarding the Laws Governing Electric Industry Restructuring      RESOLVE 154**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SHERMAN	OTP-AM	S-472

This bill amends the laws governing electric industry restructuring by providing that affiliated interests of transmission and distribution utilities, as well as transmission and distribution utilities, are not permitted to own, have a financial interest in or otherwise control generation or generation-related assets located in Maine or used to provide electric service in Maine unless permitted by the Public Utilities Commission.

**Committee Amendment "A" (S-472)**

This amendment changes the bill from an act to a resolve and directs the Public Utilities Commission to submit a report summarizing its findings and decision related to Docket No. 2011-170 pertaining to the request by Bangor Hydroelectric Company for exemption and for reorganization approvals to the joint standing committee of the Legislature having jurisdiction over energy, utilities and technology matters by December 15, 2012.

**Enacted Law Summary**

Resolve 2011, chapter 154 directs the Public Utilities Commission to submit a report summarizing its findings and decision related to Docket No. 2011-170 pertaining to the request by Bangor Hydroelectric Company for exemption and for reorganization approvals to the joint standing committee of the Legislature having jurisdiction over energy, utilities and technology matters by December 15, 2012.

**LD 1644      An Act To Expand the Availability of Natural Gas to Maine Residents      PUBLIC 586 EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KATZ	OTP-AM MAJ OTP-AM MIN	S-461

This bill authorizes the Finance Authority of Maine to issue bonds for energy distribution system projects that expand the supply of natural gas in the State. The authority is authorized to issue a certificate of approval to an

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applicant for a natural gas project only if the applicant contributes at least 25% of the expected cost of the project. This bill also establishes in statute minimum and maximum capital reserve requirements for bonds that are issued for natural gas projects.

**Committee Amendment "A" (S-461)**

This amendment is the majority report. This amendment strikes the bill. It expands the definition of "energy distribution system project" for the purpose of receiving financing assistance from the Finance Authority of Maine to include systems that distribute or transmit oil, biofuels, propane, compressed natural gas or liquefied natural gas. It requires energy distribution system projects regulated by the Public Utilities Commission to provide at least a 25% equity contribution to the cost of the project in order to receive a certificate of approval from the Finance Authority of Maine. This amendment decreases the total debt obligation limit for securities to fund energy distribution system projects from \$330,000,000 to \$180,000,000 and removes the Finance Authority of Maine's authority to set limits for these types of securities annually. Finally, this amendment prohibits the Finance Authority of Maine from issuing revenue obligation securities for energy distribution system projects after January 1, 2018, unless a certificate of approval was issued before that date.

**Committee Amendment "B" (S-462)**

This amendment is the minority report. This amendment strikes and replaces the bill. It requires energy distribution system projects regulated by the Public Utilities Commission to provide at least a 25% equity contribution to the cost of the project in order to receive a certificate of approval from the Finance Authority of Maine. This amendment decreases the total debt obligation limit for securities to fund energy distribution system projects from \$330,000,000 to \$180,000,000 and removes the Finance Authority of Maine's authority to set limits for these types of securities annually. Finally, this amendment prohibits the Finance Authority of Maine from issuing revenue obligation securities for energy distribution system projects after January 1, 2018, unless a certificate of approval was issued before that date.

**Enacted Law Summary**

Public Law 2011, chapter 586 expands the definition of "energy distribution system project" for the purpose of receiving financing assistance from the Finance Authority of Maine to include systems that distribute or transmit oil, biofuels, propane, compressed natural gas or liquefied natural gas. It requires energy distribution system projects regulated by the Public Utilities Commission to provide at least a 25% equity contribution to the cost of the project in order to receive a certificate of approval from the Finance Authority of Maine. It decreases the total debt obligation limit for securities to fund energy distribution system projects from \$330,000,000 to \$180,000,000 and removes the Finance Authority of Maine's authority to set limits for these types of securities annually. Finally, it prohibits the Finance Authority of Maine from issuing revenue obligation securities for energy distribution system projects after January 1, 2018, unless a certificate of approval was issued before that date.

Public Law 2011, chapter 586 was enacted as an emergency measure effective March 29, 2012.

**LD 1676 An Act To Increase Energy Options**

**ONTP**

Sponsor(s)

RAYE

Committee Report

ONTP

Amendments Adopted

This bill grants to communities not served by consumer-owned utilities the opportunity to manage standard-offer electricity supply for the communities in the manner that consumer-owned utilities may manage standard-offer service for the communities they serve.

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**LD 1703 An Act To Create the New Gloucester Water District**

**P & S 19  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
ESPLING SNOWE-MELLO	OTP-AM	H-684

This bill creates the New Gloucester Water District.

**Committee Amendment "A" (H-684)**

This amendment strikes redundant language from the bill. It adds a time frame according to which the trustees of the water district must be appointed and strikes the exception that the registrar of voters is not required to prepare or the clerk to post a new list of voters. Because of the limited time frame to secure funding to address water contamination in the New Gloucester Upper Village, the referendum for the legal voters to approve the creation of the New Gloucester Water District has been scheduled at a time that may occur before legislative approval of the bill as amended. Because of the unique and extraordinary circumstances giving rise to the bill, the bill and this amendment allow for that referendum to be held before legislative approval. If the referendum is held prior to legislative approval and the majority of legal voters approve creation of the water district, the bill as amended will take effect immediately upon the Governor's signature. If the referendum occurs after legislative approval, the bill as amended will take effect if approved by the majority of legal voters voting in the referendum.

**Enacted Law Summary**

Private and Special Law 2011, chapter 19 creates the New Gloucester Water District. The law is subject to referendum approval. Because of unique and extraordinary circumstances giving rise to the law, it allows for the referendum to be held before legislative approval. If the referendum is held prior to legislative approval and the majority of legal voters approve creation of the water district, the law will take effect immediately upon the Governor's signature. If the referendum occurs after legislative approval, the law will take effect if approved by the majority of legal voters voting in the referendum.

Private and Special Law 2011, chapter 19 was enacted as an emergency measure effective January 26, 2012, subject to referendum approval.

**LD 1706 An Act To Protect Maine's Biomass and Forest Products Industries by Allowing Biomass Generators To Enter into Short-term Contracts**

**DIED BETWEEN  
HOUSES**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FITTS	ONTP MAJ OTP-AM MIN	

This bill authorizes the Public Utilities Commission to enter into short-term contracts with qualifying biomass generators. This bill limits the price for the capacity and renewable energy credits generated by a qualifying biomass generator to the projected market price at the time of delivery. The average price of energy generated by a qualifying biomass generator may not exceed the lesser of a rate that, together with revenues from any sales of capacity resources and renewable energy credits, is sufficient for the qualifying biomass generator to be financially capable of normal operations, and 2¢ per kilowatt-hour over the projected wholesale market price of energy at the time of delivery.

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**Committee Amendment "A" (H-809)**

This amendment is the minority report of the committee. This amendment replaces the bill and changes the title. This amendment provides that, upon a determination by the Public Utilities Commission that a biomass facility has not been operating for 90 days or more due to economic hardship, the biomass facility is temporarily eligible as a new renewable capacity resource and for renewable energy credits for a period of 3 years. If during that 3 year period the biomass facility no longer needs the additional revenue from the renewable energy credits, the value of the renewable energy credits must be transferred to the Efficiency Maine Trust for deposit into the conservation program fund established by the Efficiency Maine Trust. The Public Utilities Commission may adopt routine technical rules to implement these provisions.

The amendment further requires the Department of Economic and Community Development to convene a task force to identify ways to improve the economic stability of biomass facilities in this State. The department is required to report to the joint standing committee of the Legislature having jurisdiction over energy and utility matters by March 1, 2013.

This amendment was adopted in the Senate but not in the House.

**Senate Amendment "A" To Committee Amendment "A" (S-539)**

This amendment amends Committee Amendment "A" to remove the requirement that a biomass generator that is unable to operate due to economic hardship must cease operating for at least 90 days before becoming eligible to be counted towards a competitive electricity provider's new renewable capacity resource requirement.

This amendment was adopted in the Senate but not in the House.

**LD 1761 An Act To Improve and Ensure Adequate Funding for E-9-1-1 Services**

**VETO  
SUSTAINED**

Sponsor(s)

FITTS

Committee Report

OTP-AM

Amendments Adopted

H-826

This bill takes initial steps to update the State's emergency services communications laws as the State and the nation prepare to migrate to the next evolutionary step in 9-1-1 service, increases the E-9-1-1 monthly surcharge by 5¢ and changes the E-9-1-1 surcharge remittance from monthly to quarterly for local exchange telephone utilities, cellular or wireless providers and interconnected voice over Internet protocol providers whose average monthly surcharge remittance payment for the prior calendar year is less than \$5,000.

**Committee Amendment "A" (H-826)**

This amendment increases the E-9-1-1 monthly surcharge, which is currently 45¢, to 65¢ for 18 months and then decreases the surcharge to 40¢ thereafter. The amendment also adds an appropriations and allocations section.

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LD 1784 An Act To Reform Telecommunications Regulation

PUBLIC 623

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-869

This bill was reported out by the Joint Standing Committee on Energy, Utilities and Technology pursuant to Resolve 2011, chapter 69, section 1. As required by the resolve, the Public Utilities Commission submitted to the committee on December 30, 2011 its plan to reform telecommunications regulation, including the necessary changes to law to implement its plan. This bill incorporates all the changes to law that the commission indicated are necessary to implement its plan. The committee had not taken a position on the substance of the plan or this bill; the committee reported out the bill for the sole purpose of turning the commission's proposal into a printed bill that could be referred to the committee for an appropriate public hearing and subsequent processing in the normal course.

**Committee Amendment "A" (H-869)**

This amendment replaces the bill. This amendment preserves many of the substantive elements of the bill, but reorganizes them, rewrites some of them, removes others and adds still others. While the basic regulatory structure proposed in the bill is largely maintained, many of its details are modified or replaced.

In general, this amendment establishes a new regulatory structure for the telephone industry. It establishes a regulated basic local flat-rate dial-tone service called "provider of last resort service." Providers of this service, called "service providers," continue to be regulated as public utilities, though many provisions of law currently relating to telephone utilities are modified as they apply to this service. Local exchange carriers also remain subject to Public Utilities Commission jurisdiction to the extent their federal interconnection rights and obligations are regulated or overseen by the commission. All other providers of telephone services either remain unregulated or are largely deregulated, though certain provisions of the Maine Revised Statutes, Title 35-A are amended to apply to some of these entities, notably provisions relating to certain assessments, provisions granting certain rights to build lines in public roadways and across waters and provisions relating to joint use of facilities. A number of provisions of law are repealed entirely, either because they are obsolete or to conform with the streamlined regulatory structure established by the amendment.

Part A of this amendment, which relates mainly to providers of provider of last resort service and local exchange carriers, does the following.

1. It establishes various definitions for the various types of entities that provide telephone or telephone-like service.
2. It establishes provider of last resort service. This service is a basic local service provided by incumbent local exchange carriers unless a carrier petitions to have the service transferred to another entity willing to take on the responsibility and the commission determines the alternative provider can adequately meet the obligations. The service must have the capacity to maintain service during power outages, unless the commission finds that by waiving this requirement benefits would accrue to customers that would exceed the benefits to those customers of preserving the requirement.
3. It provides that customers of the service retain access to the commission for redress of problems relating to the service, regardless of what other services the customer takes from the service provider, but the other services are not thereby made subject to any commission regulation.
4. It provides that certain ancillary services closely related to the service, such as call forwarding and call waiting,

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must be offered, if at all, on an individual basis; the provider may not require the customer to take the ancillary services as a bundle.

5. It provides that the commission retains many of its traditional regulatory powers over the service, though some powers are modified as they apply to service providers, including:

A. The law governing management audits, which is changed to provide that the commission may only conduct such audits if no less burdensome means of obtaining information is available and certain preconditions are met;

B. The law governing accounting standards, which is changed to limit its application only to provider of last resort accounts and to require the commission's standards be based on applicable federal standards;

C. The law governing approval of stocks and bonds, which is modified to permit the commission by rule to exempt providers from some or all of its provisions; and

D. The law governing directories, which is modified to remove requirements for publication of directories but to provide that at least one more edition of directories be published and that going forward customers are given the option of receiving directory information electronically or as a printout of the electronic database.

6. It limits the commission's power to obtain certain information, prohibiting it from requiring:

A. Network maps more detailed than those that have been submitted in the past; and

B. Outage reporting earlier than 7 days after the outage is restored.

7. It provides that the rates for provider of last resort service are initially the current local rates. The commission is directed to establish a stakeholder group to develop the regulatory structure for setting rates going forward, including appropriate cost considerations and standards for the availability and amount of support from the universal service fund established in Title 35-A, section 7104. The commission is directed to report to the joint standing committee of the Legislature having jurisdiction over energy, utilities and technology matters by January 15, 2013, and the committee is authorized to report out a bill on this subject to the First Regular Session of the 126th Legislature.

8. The current alternative form of regulation that applies to the largest incumbent local exchange carrier in the State is altered so that most of its provisions, other than those relating to provider of last resort service, are phased out. The commission is directed to establish in an adjudicatory proceeding a limited set of service quality standards that will apply from August 1, 2012 through July 31, 2013. The commission is also directed to establish by major substantive rule service quality standards going forward, including appropriate incentive penalties for failures to meet the standards. The commission may impose penalties for failures to meet service quality standards only after investigation.

9. It preserves commission jurisdiction over local exchange carriers to the extent their federal interconnection rights and obligations are regulated or overseen by the commission.

10. It provides that providers of interconnected voice over Internet protocol service and dark fiber providers are not subject to regulation by the commission unless otherwise expressly provided in law. Certain discrete provisions do apply to such providers; Part B of the amendment addresses such discrete provisions.

Part B of the amendment, which includes provisions of law that affect a broader array of telephone entities than providers of provider of last resort service and local exchange carriers, does the following.

1. It requires any provider of interconnected voice over Internet protocol service that paid any commission or Office of the Public Advocate assessment under Title 35-A, section 116, whether voluntarily, by agreement with the

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commission or otherwise, prior to March 1, 2012, to continue to pay those assessments.

2. It modifies the commission's authority to obtain information so that with respect to any entity, other than a service provider with respect to provider of last resort service, the commission may only request or order information relating to laws to which the entity is subject and over which the commission has jurisdiction.

3. It provides that all voice service providers that use the public switched network must pay into a state universal service fund and the telecommunications education access fund. It also directs the commission to pursue all activities necessary to maximize the amount of federal support received by voice service providers offering voice and broadband service in the State.

4. It expands the universe of entities that are given the right to construct lines and facilities, including along public roadways, subject to permitting, to include all voice service providers, dark fiber providers and wholesale competitive local exchange carriers. It subjects these entities to the safety codes that apply to public utilities as well as the laws governing tree trimming. It also expands the jurisdiction of the commission to order joint use of equipment and prescribe reasonable compensation and reasonable terms and conditions for the joint use upon complaint to include voice service providers, dark fiber providers and wholesale competitive local exchange carriers.

5. It preserves a number of consumer protection laws, including laws governing customer privacy, caller-ID blocking, unauthorized billing and practices known as "slamming" and "cramming." The amendment streamlines the caller-ID blocking law and the "slamming" law in the same manner as proposed in the bill and prohibits the commission from requiring 3rd-party verification of customer authorization of charges billed by an affiliate of a telephone utility.

Part C of the amendment repeals the following:

1. The law regulating audiotext services;
2. Laws authorizing the commission to grant by rule exemptions for certain telephone utilities from certain provisions of law. These are obsolete provisions, given the modifications to laws made by the amendment;
3. The requirement that in order to obtain approval to furnish service, service providers and local exchange carriers furnish a bond;
4. The law governing emergency use of party lines;
5. The law providing for telephone regulation of cable television companies that offer telephone services;
6. The law requiring a public utility that operates a radio paging service to maintain separate accounts;
7. The law requiring a public utility that provides mobile telecommunications in addition to other public utility services to maintain separate accounts; and
8. As of August 1, 2013, the law authorizing the commission to adopt an alternative form of regulation for telephone utilities.

Part D of the amendment makes several technical changes to laws to conform to the telecommunications regulatory reform accomplished by the amendment. It also:

1. Specifies that rights and obligations under orders relating to the merger of FairPoint Communications, Inc. and Verizon Communications Inc. are unaffected by telecommunications regulatory reform;

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2. Provides that any approval to provide service granted by the Public Utilities Commission under Title 35-A, section 2102 prior to the effective date of this law is unaffected by telecommunications regulatory reform;
3. Directs the commission to examine whether it is appropriate to require any voice service providers that are not required to pay assessments under Title 35-A, sections 116, 7104 and 7104-B to pay such assessments and if so the reasons why they should be included and how they may appropriately and fairly be included. The commission is directed to submit a report of its findings and recommendations to the joint standing committee of the Legislature having jurisdiction over utilities and technology matters by January 15, 2013. The joint standing committee may report out a bill related to the subject of the report to the First Regular Session of the 126th Legislature; and
4. Directs the commission to review the provisions of Title 35-A and the commission's implementing rules relating to or affecting telecommunications to determine what, if any, further changes to law are required to clarify or bring into effect the regulatory changes made by this law. The commission is specifically directed to examine whether the expansion of the application of Title 35-A, section 711 creates any regulatory or other issues that should be addressed. The commission is authorized to submit a bill to the First Regular Session of the 126th Legislature proposing any recommended changes to law to clarify, adjust or bring into effect the regulatory changes made by this law.

### **Enacted Law Summary**

Public Law 2011, chapter 623 establishes a new regulatory structure for the telephone industry. It establishes a regulated basic local flat-rate dial-tone service called "provider of last resort service." Providers of this service, called "service providers," continue to be regulated as public utilities, though many provisions of law currently relating to telephone utilities are modified as they apply to this service. Local exchange carriers also remain subject to Public Utilities Commission jurisdiction to the extent their federal interconnection rights and obligations are regulated or overseen by the commission. All other providers of telephone services either remain unregulated or are largely deregulated, though certain provisions of the Maine Revised Statutes, Title 35-A are amended to apply to some of these entities, notably provisions relating to certain assessments, provisions granting certain rights to build lines in public roadways and across waters and provisions relating to joint use of facilities. A number of provisions of law are repealed entirely, either because they are obsolete or to conform with the streamlined regulatory structure established by this law.

Part A, which relates mainly to providers of provider of last resort service and local exchange carriers, does the following.

1. It establishes various definitions for the various types of entities that provide telephone or telephone-like service.
2. It establishes provider of last resort service. This service is a basic local service provided by incumbent local exchange carriers unless a carrier petitions to have the service transferred to another entity willing to take on the responsibility and the commission determines the alternative provider can adequately meet the obligations. The service must have the capacity to maintain service during power outages, unless the commission finds that by waiving this requirement benefits would accrue to customers that would exceed the benefits to those customers of preserving the requirement.
3. It provides that customers of the service retain access to the commission for redress of problems relating to the service, regardless of what other services the customer takes from the service provider, but the other services are not thereby made subject to any commission regulation.
4. It provides that certain ancillary services closely related to the service, such as call forwarding and call waiting, must be offered, if at all, on an individual basis; the provider may not require the customer to take the ancillary services as a bundle.
5. It provides that the commission retains many of its traditional regulatory powers over the service, though some

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powers are modified as they apply to service providers, including:

- A. The law governing management audits, which is changed to provide that the commission may only conduct such audits if no less burdensome means of obtaining information is available and certain preconditions are met;
  - B. The law governing accounting standards, which is changed to limit its application only to provider of last resort accounts and to require the commission's standards be based on applicable federal standards;
  - C. The law governing approval of stocks and bonds, which is modified to permit the commission by rule to exempt providers from some or all of its provisions; and
  - D. The law governing directories, which is modified to remove requirements for publication of directories but to provide that at least one more edition of directories be published and that going forward customers are given the option of receiving directory information electronically or as a printout of the electronic database.
6. It limits the commission's power to obtain certain information, prohibiting it from requiring:
- A. Network maps more detailed than those that have been submitted in the past; and
  - B. Outage reporting earlier than 7 days after the outage is restored.
7. It provides that the rates for provider of last resort service are initially the current local rates. The commission is directed to establish a stakeholder group to develop the regulatory structure for setting rates going forward, including appropriate cost considerations and standards for the availability and amount of support from the universal service fund established in Title 35-A, section 7104. The commission is directed to report to the joint standing committee of the Legislature having jurisdiction over energy, utilities and technology matters by January 15, 2013, and the committee is authorized to report out a bill on this subject to the First Regular Session of the 126th Legislature.
8. The current alternative form of regulation that applies to the largest incumbent local exchange carrier in the State is altered so that most of its provisions, other than those relating to provider of last resort service, are phased out. The commission is directed to establish in an adjudicatory proceeding a limited set of service quality standards that will apply from August 1, 2012 through July 31, 2013. The commission is also directed to establish by major substantive rule service quality standards going forward, including appropriate incentive penalties for failures to meet the standards. The commission may impose penalties for failures to meet service quality standards only after investigation.
9. It preserves commission jurisdiction over local exchange carriers to the extent their federal interconnection rights and obligations are regulated or overseen by the commission.
10. It provides that providers of interconnected voice over Internet protocol service and dark fiber providers are not subject to regulation by the commission unless otherwise expressly provided in law. Certain discrete provisions do apply to such providers; Part B of the law addresses such discrete provisions.

Part B, which includes provisions of law that affect a broader array of telephone entities than providers of provider of last resort service and local exchange carriers, does the following.

1. It requires any provider of interconnected voice over Internet protocol service that paid any commission or Office of the Public Advocate assessment under Title 35-A, section 116, whether voluntarily, by agreement with the commission or otherwise, prior to March 1, 2012, to continue to pay those assessments.
2. It modifies the commission's authority to obtain information so that with respect to any entity, other than a service provider with respect to provider of last resort service, the commission may only request or order information

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relating to laws to which the entity is subject and over which the commission has jurisdiction.

3. It provides that all voice service providers that use the public switched network must pay into a state universal service fund and the telecommunications education access fund. It also directs the commission to pursue all activities necessary to maximize the amount of federal support received by voice service providers offering voice and broadband service in the State.
4. It expands the universe of entities that are given the right to construct lines and facilities, including along public roadways, subject to permitting, to include all voice service providers, dark fiber providers and wholesale competitive local exchange carriers. It subjects these entities to the safety codes that apply to public utilities as well as the laws governing tree trimming. It also expands the jurisdiction of the commission to order joint use of equipment and prescribe reasonable compensation and reasonable terms and conditions for the joint use upon complaint to include voice service providers, dark fiber providers and wholesale competitive local exchange carriers.
5. It preserves a number of consumer protection laws, including laws governing customer privacy, caller-ID blocking, unauthorized billing and practices known as "slamming" and "cramming." The amendment streamlines the caller-ID blocking law and the "slamming" law in the same manner as proposed in the bill and prohibits the commission from requiring 3rd-party verification of customer authorization of charges billed by an affiliate of a telephone utility.

Part C repeals the following:

1. The law regulating audiotext services;
2. Laws authorizing the commission to grant by rule exemptions for certain telephone utilities from certain provisions of law.
3. The requirement that in order to obtain approval to furnish service, service providers and local exchange carriers furnish a bond;
4. The law governing emergency use of party lines;
5. The law providing for telephone regulation of cable television companies that offer telephone services;
6. The law requiring a public utility that operates a radio paging service to maintain separate accounts;
7. The law requiring a public utility that provides mobile telecommunications in addition to other public utility services to maintain separate accounts; and
8. As of August 1, 2013, the law authorizing the commission to adopt an alternative form of regulation for telephone utilities.

Part D makes several technical changes to laws to conform to the telecommunications regulatory reform accomplished by this law. It also:

1. Specifies that rights and obligations under orders relating to the merger of FairPoint Communications, Inc. and Verizon Communications Inc. are unaffected by telecommunications regulatory reform;
2. Provides that any approval to provide service granted by the Public Utilities Commission under Title 35-A, section 2102 prior to the effective date of this law is unaffected by telecommunications regulatory reform;
3. Directs the commission to examine whether it is appropriate to require any voice service providers that are not



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This resolve provides for legislative review of portions of Chapter 895: Underground Facility Damage Prevention Requirements, a major substantive rule of the Public Utilities Commission.

Approval of this rule was provided in LD 1803; see summary of LD 1803.

<b>LD 1791</b>	<b>Resolve, Regarding Legislative Review of Portions of Chapter 815: Consumer Protection Standards for Electric and Gas Transmission and Distribution Utilities, a Major Substantive Rule of the Public Utilities Commission</b>	<b>RESOLVE 128 EMERGENCY</b>
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<u>Sponsor(s)</u>	<u>Committee Report</u> OTP	<u>Amendments Adopted</u>
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This resolve provides for legislative review of portions of Chapter 815: Consumer Protection Standards for Electric and Gas Transmission and Distribution Utilities, a major substantive rule of the Public Utilities Commission.

### **Enacted Law Summary**

Resolve 2011, chapter 128 authorizes final adoption of Chapter 815: Consumer Protection Standards for Electric and Gas Transmission and Distribution Utilities, a major substantive rule of the Public Utilities Commission.

Resolve 2011, chapter 128 was finally passed as an emergency measure effective March 16, 2012.

<b>LD 1792</b>	<b>Resolve, Regarding Legislative Review of Portions of Chapter 421: Safety and Operation Standards for Liquefied Petroleum Gas (LPG) Distribution Systems, a Major Substantive Rule of the Public Utilities Commission</b>	<b>RESOLVE 143 EMERGENCY</b>
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<u>Sponsor(s)</u>	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-787
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This resolve provides for legislative review of portions of Chapter 421: Safety and Operation Standards for Liquefied Petroleum Gas (LPG) Distribution Systems, a major substantive rule of the Public Utilities Commission.

### **Committee Amendment "A" (H-787)**

This amendment conditionally authorizes portions of Chapter 421: Safety and Operation Standards for Liquefied Petroleum Gas (LPG) Distribution Systems, a major substantive rule of the Public Utilities Commission. The amendment directs the commission to remove the definition of "customer," provisions related to certain snow safety requirements and the requirement for liquefied petroleum gas system operators to promote the "811" and "OK to Dig" notification process. It requires the commission to amend provisions related to operators, "Red Tag" marking requirements, record retention requirements and corrective action periods when a violation is noted.

### **Enacted Law Summary**

Resolve 2011, chapter 143 conditionally authorizes portions of Chapter 421: Safety and Operation Standards for Liquefied Petroleum Gas (LPG) Distribution Systems, a major substantive rule of the Public Utilities Commission.

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The resolve directs the commission to remove the definition of "customer," provisions related to certain snow safety requirements and the requirement for liquefied petroleum gas system operators to promote the "811" and "OK to Dig" notification process. It requires the commission to amend provisions related to operators, "Red Tag" marking requirements, record retention requirements and corrective action periods when a violation is noted.

Resolve 2011, chapter 143 was finally passed as an emergency measure effective March 20, 2012.

**LD 1799 An Act Regarding the Collection of Fees for Prepaid Wireless Service**

**PUBLIC 600**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FITTS	OTP-AM	H-846

This bill establishes a methodology for the determination of the amount of fees imposed on prepaid wireless telecommunications service. Under the bill, the Public Utilities Commission is required to establish by rule the amount of a fee imposed on prepaid wireless telecommunications consumers for contribution to the state universal service fund, if any, and the telecommunications education access fund. The amount of the fee is the result of \$25 multiplied by a percentage determined by the commission by rule.

The bill also reallocates and amends the method of collection of the statewide prepaid wireless E-9-1-1 surcharge levied on prepaid wireless telecommunications service consumers and combines collection of the surcharge with the collection of the fees imposed on prepaid wireless telecommunications consumers for contribution to the state universal service fund and the telecommunications education access fund. The seller of prepaid wireless telecommunications services is required to collect the fees and surcharges from the prepaid wireless consumer for each retail transaction occurring in this State. The amount of the prepaid wireless fee, which is the sum of the 2 fees and the surcharge, must be separately stated on an invoice, receipt or similar document that is provided to the prepaid wireless consumer by the seller, when practicable. The seller is required to remit the fees and surcharges to the State Tax Assessor in the same manner as the sales tax. The State Tax Assessor is required to remit the fees and surcharges to the Public Utilities Commission for disbursement by the commission to the various funds.

**Committee Amendment "A" (H-846)**

This amendment limits the Public Utilities Commission's adjustment of the amount of fees collected for the state universal service fund and the telecommunications education access fund to not more often than once every 24 months. This amendment establishes a fund at the commission to accept the fees from the State Tax Assessor, and this amendment removes some unnecessary language and makes technical changes. It also adds an appropriations and allocations section.

**Enacted Law Summary**

Public Law 2011, chapter 600 establishes a methodology for the determination of the amount of fees imposed on prepaid wireless telecommunications service. Under the law, the Public Utilities Commission is required to establish by rule the amount of a fee imposed on prepaid wireless telecommunications consumers for contribution to the state universal service fund, if any, and the telecommunications education access fund. The amount of the fee is the result of \$25 multiplied by a percentage determined by the commission by rule. The law limits the Public Utilities Commission's adjustment of the amount of fees collected for the state universal service fund and the telecommunications education access fund to not more often than once every 24 months.

The law also amends the method of collection of the statewide prepaid wireless E-9-1-1 surcharge levied on prepaid wireless telecommunications service consumers and combines collection of the surcharge with the collection of the fees imposed on prepaid wireless telecommunications consumers for contribution to the state universal service fund

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and the telecommunications education access fund. The seller of prepaid wireless telecommunications services is required to collect the fees and surcharges from the prepaid wireless consumer for each retail transaction occurring in this State. The amount of the prepaid wireless fee, which is the sum of the 2 fees and the surcharge, must be separately stated on an invoice, receipt or similar document that is provided to the prepaid wireless consumer by the seller, when practicable. The seller is required to remit the fees and surcharges to the State Tax Assessor in the same manner as the sales tax. The State Tax Assessor is required to remit the fees and surcharges to the Public Utilities Commission for disbursement by the commission to the various funds.

**LD 1803    An Act To Implement the Recommendations of the Dig Safe Work Group**

**PUBLIC 588  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-842

This bill amends the so-called dig safe law to exclude liquefied propane gas distribution systems that are not included within the scope of safety regulation of the Public Utilities Commission in its role as an agent to the United States Department of Transportation from the definition of an underground facility. The bill clarifies that the dig safe law applies to state agencies and departments and allows the Public Utilities Commission to impose administrative penalties on any person who violates the dig safe law, including a state agency or department. The administrative penalties paid to resolve violations of the dig safe law are dedicated to further the prevention of damage to underground facilities in specific proportions through funding training by private nonprofit groups; dissemination of damage prevention information through the use of radio, television and print media advertising; and the creating of grants to assist facilities operators in funding mapping of their facilities. Finally, the bill requires the Public Advocate to establish and convene a dig safe work group to facilitate the creation of a centralized one-call system to notify the operators of underground facilities of pending excavations.

### **Committee Amendment "A" (H-842)**

This amendment creates an exemption from the requirement to notify the underground facility damage prevention system, established pursuant to the so-called dig safe law, for grading private unpaved roads. It also changes the circumstances under which an excavator notifies a private landowner of excavations that occur on that landowner's property and the excavator's liability for work completed on that land. This amendment removes the provisions of the bill that directs how the administrative penalties are used. This amendment specifies the membership of the "dig safe" work group, requires the work group convene within 60 days of the effective date of the bill, and adds additional items to the work group's scope of work. Finally, this amendment addresses major substantive rulemaking proposed for authorization in LD 1790, H.P. 1315, "Resolve, Regarding Legislative Review of Portions of Chapter 895: Underground Facility Damage Prevention Requirements, a Major Substantive Rule of the Public Utilities Commission," by conditionally authorizing final adoption of portions of Chapter 895 only if the Public Utilities Commission makes specific changes to the rule.

This amendment also adds an emergency preamble and emergency clause to the bill.

### **Enacted Law Summary**

Public Law 2011, chapter 588 amends the so-called dig safe law. It excludes from the definition of an underground facility liquefied propane gas distribution systems not subject to safety regulation by the Public Utilities Commission. It clarifies that the dig safe law applies to state agencies and departments and allows the Public Utilities Commission to impose administrative penalties on any person who violates the dig safe law, including a state agency or department. It creates an exemption from the requirement to notify the underground facility damage prevention system for grading completed on private unpaved roads. It also changes the circumstances under which an excavator notifies a private landowner of excavations that occur on that landowner's property and the excavator's

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liability for work completed on that land. It requires the Public Advocate to establish and convene a dig safe work group to facilitate the creation of a centralized one-call system to notify the operators of underground facilities of pending excavations.

This law also addresses major substantive rulemaking proposed for authorization in LD 1790, H.P. 1315, "Resolve, Regarding Legislative Review of Portions of Chapter 895: Underground Facility Damage Prevention Requirements, a Major Substantive Rule of the Public Utilities Commission," by conditionally authorizing final adoption of portions of Chapter 895 only if the Public Utilities Commission makes specific changes to the rule.

Public Law 2011, chapter 588 was enacted as an emergency measure effective April 4, 2012.

**LD 1820      An Act To Implement Recommendations To Provide Additional  
Flexibility for Funding Infrastructure Improvements for Water Utilities**

**PUBLIC 602**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-852

This bill was reported by the Joint Standing Committee on Energy, Utilities and Technology pursuant to Public Law 2011, chapter 106, section 2. As required by that public law, the Public Utilities Commission had submitted to the committee on January 15, 2012 a report regarding providing additional flexibility to water utilities for funding infrastructure improvements; the bill incorporates proposed changes to the law as suggested by the commission: It allows a water utility, in accordance with certain requirements and rules adopted by the commission, to fund future infrastructure improvements through recovery in rates and the establishment of a capital reserve fund or to fund completed improvements through the establishment of a surcharge.

### **Committee Amendment "A" (H-852)**

This amendment clarifies the Public Utilities Commission's review of a water utility's capital reserve account and requires that, if the commission investigates a water utility's temporary surcharge to determine if it is just and reasonable, the determination must be made within 75 days. The amendment eliminates the requirement that the commission include in rulemaking the types of capital projects that are eligible for funding under these new provisions. The amendment requires the commission to require by rule that a plan be submitted if a water utility is going to establish and use a capital reserve account.

### **Enacted Law Summary**

Public Law 2011, chapter 602 allows a water utility, in accordance with certain requirements and rules adopted by the commission, to fund future infrastructure improvements through recovery in rates and the establishment of a capital reserve fund or to fund completed improvements through the establishment of a surcharge. If the commission investigates a water utility's temporary surcharge to determine if it is just and reasonable, the determination must be made within 75 days. The commission by rule must require a plan to be submitted if a water utility is going to establish and use a capital reserve account.

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**LD 1834 An Act To Amend the Boothbay Region Water District Charter**

**P & S 25  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MACDONALD JOHNSON	OTP-AM	H-828

This bill amends the Boothbay Region Water District charter by increasing the number of trustees from 5 to 7, including in the district's territory the Town of Southport and providing for how the 2 new trustees from the Town of Southport will be elected. The bill also requires the Boothbay Region Water District to acquire the assets and debt of the Southport water system. These provisions are subject to referendum approval.

**Committee Amendment "A" (H-828)**

This amendment removes, subject to referendum approval, the prohibition on municipal officers of the towns within the Boothbay Region Water District serving as trustees of the district.

**Enacted Law Summary**

Private and Special Law 2011, chapter 25 amends the Boothbay Region Water District charter by increasing the number of trustees from 5 to 7, including in the district's territory the Town of Southport and providing for how the 2 new trustees from the Town of Southport will be elected. It also requires the Boothbay Region Water District to acquire the assets and debt of the Southport water system. These provisions are subject to referendum approval.

Private and Special Law 2011, chapter 25 also removes, subject to separate referendum approval, the current prohibition on municipal officers of the towns within the Boothbay Region Water District serving as trustees of the district.

Private and Special Law 2011, chapter 25 was enacted as an emergency measure effective April 6, 2012, subject to referendum approvals.

**LD 1842 An Act To Amend the Charter of the Bingham Water District and To Direct That Certain Issues Be Studied**

**P & S 26  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUNPHY	OTP-AM	H-879

This bill amends the charter of the Bingham Water District by amending the procedure by which the board of trustees receives compensation, changing the vote to amend the bylaws from a 2/3 vote to a simple majority and authorizing the board of trustees to adopt a resolution that provides that the minimum charge for water service continues to apply to property that is voluntarily disconnected from the system.

**Committee Amendment "A" (H-879)**

This amendment removes a provision of the bill that authorizes the board of trustees of the Bingham Water District to adopt a resolution that provides that the minimum charge for water service continues to apply to property that is voluntarily disconnected from the system.

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This amendment directs the Public Utilities Commission to convene a stakeholder group to examine issues relating to the loss of customers by water utilities and the effect this has on the utilities' ability to pay for infrastructure and the effect on remaining customers. The commission is directed to invite participation from a broad range of interested entities. The stakeholder group is directed to examine whether there are appropriate means by which contributions to system costs may be collected from customers who discontinue service or from property owners whose property has been served or may be served by the system and if so how the collection might be done in a manner that is just and reasonable. The commission must report the findings and recommendations of the stakeholder group, together with any proposals for changes to law to implement the recommendations, to the joint standing committee of the Legislature having jurisdiction over energy, utilities and technology matters by February 15, 2013. The committee is authorized to report out a bill on the subject to the First Regular Session of the 126th Legislature.

### **Enacted Law Summary**

Private and Special Law 2012, chapter 26 amends the charter of the Bingham Water District by amending the procedure by which the board of trustees receives compensation and changing the vote to amend the bylaws from a 2/3 vote to a simple majority.

It also directs the Public Utilities Commission to convene a stakeholder group to examine issues relating to the loss of customers by water utilities and the effect this has on the utilities' ability to pay for infrastructure and the effect on remaining customers. The commission is directed to invite participation from a broad range of interested entities. The stakeholder group is directed to examine whether there are appropriate means by which contributions to system costs may be collected from customers who discontinue service or from property owners whose property has been served or may be served by the system and if so how the collection might be done in a manner that is just and reasonable. The commission must report the findings and recommendations of the stakeholder group, together with any proposals for changes to law to implement the recommendations, to the joint standing committee of the Legislature having jurisdiction over energy, utilities and technology matters by February 15, 2013. The committee is authorized to report out a bill on the subject to the First Regular Session of the 126th Legislature.

Private and Special Law 2012, chapter 26 was enacted as an emergency measure effective April 12, 2012.

### **LD 1863     An Act To Lower the Price of Electricity for Maine Consumers**

**DIED BETWEEN  
HOUSES**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
THIBODEAU	OTP-AM   MAJ OTP-AM   MIN	

This bill removes the 100-megawatt limits for qualifying as a renewable resource or renewable capacity resource for purposes of meeting the State's Class 1 and Class 2 portfolio requirements.

The bill adds new language to the long-term contracting provisions of Title 35-A to provide that the "primary consideration" for the contracts must be anticipated lower prices for ratepayers over the life of the contract. It also resolves a non-substantive conflict in law. The bill modifies the priority listing of resources for long-term contracting to remove preferences for new renewable resources over other capacity resources and to remove a preference for capacity resources that enhance reliability of the grid with no net emission of greenhouse gasses over those that do increase net emissions. Finally, it sets certain limits on long-term contracts: they may not in total encompass more than 25% of total annual statewide electricity usage; they may not require non-renewable resources to purchase CO2 allowances under the regional greenhouse gas in initiative; they may not require renewable resources to purchase renewable energy credits; and they must provide that contracted renewable resources

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automatically satisfy the Class 1 portfolio requirement.

### **Committee Amendment "A" (S-494)**

This amendment, which is the majority report of the committee, does the following.

1. The amendment removes those sections of the bill that propose to remove the 100-megawatt limit on certain renewable resources that qualify under the Class 1 and Class 2 electricity portfolio requirements under the Maine Revised Statutes, Title 35-A, section 3210.
2. It retains the section of the bill that makes a technical correction to Title 35-A, section 3210-C, subsection 2.
3. It replaces the section of the bill that makes certain changes to the Public Utilities Commission's authority to enter into long-term contracts. It makes a technical change that resolves a conflict of laws but otherwise retains the substance of the current law.
4. It retains the section of the bill that makes certain modifications to the law prioritizing capacity resources for long-term contracts, but it clarifies that, consistent with other provisions of that law, the commission shall select resources that are anticipated to lower the cost of electricity to ratepayers.
5. It amends the portion of the bill imposing certain limits on long-term contracts: it retains the provision limiting contracts to no more than 25% of the total annual statewide electricity usage, but removes the other proposed limitations.
6. It adds a provision directing the Public Utilities Commission to request proposals for long-term contracts that will reduce the cost of electricity to ratepayers. The commission is directed to solicit proposals in a manner that does not exclude entities located outside this State or outside this country and, notwithstanding any requirements of Title 35-A, section 3210-C or any other provision of law, must accept proposals that are contingent on modification of or accommodation under any otherwise applicable requirements of law. In its solicitation, the commission must indicate that it will accept proposals that are contingent on modification of or accommodation under any otherwise applicable requirements of law. The commission must examine the proposals and may direct a transmission and distribution utility to enter into a contract that does not require any modification of or accommodation under applicable laws. If the commission determines that an appropriate modification of or accommodation under any otherwise applicable requirement of law would result in a long-term contract that would be in the best interests of ratepayers and reduce the cost of electricity to ratepayers, the commission must submit its recommendations for necessary changes to law to the joint standing committee of the Legislature having jurisdiction over energy, utilities and technology matters by March 15, 2013. The committee is authorized to report out a bill relating to long-term contracts to the First Regular Session of the 126th Legislature.

This amendment was adopted in the House but not in the Senate.

### **Committee Amendment "B" (S-495)**

This amendment, which is the minority report, authorizes the Public Utilities Commission to direct investor-owned transmission and distribution utilities to enter into contracts with electricity resources for the purpose of reducing the price of electricity to ratepayers. The contracts for electricity must be priced at least 10% less than the applicable market clearing price at the time of delivery, except that if the commission determines that a discount price closer to the applicable market clearing price is necessary to achieve the purposes of this section, the commission may by major substantive rule establish a lower discount. Contracts may not involve in aggregate an amount of electric energy that exceeds 10% of the total statewide electric energy load and may not have a term that exceeds 20 years. The commission may require contracts for the electric energy and associated renewable energy credits, with appropriate valuation of each component. Resources under these contracts that otherwise qualify as renewable resources under the portfolio requirements but that exceed the current 100-megawatt limitations will become qualified to meet those portfolio requirements in accordance with rules adopted by the commission. The contracts

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may not involve an amount of qualified renewable resources that exceed in aggregate 50% of the applicable statewide portfolio requirements.

This amendment was adopted in the Senate but not in the House.

**Senate Amendment "B" To Committee Amendment "B" (S-555)**

This amendment modifies Committee Amendment "B" as follows.

1. It provides that the new contracts with renewable resources for the purposes of reducing the price of electricity to ratepayers must comply with the current requirement that the price paid by the investor-owned transmission and distribution utility for any renewable energy credits must be lower than the price received for those renewable energy credits at the time they are sold by the transmission and distribution utility.
2. It removes the provision that allows a generator whose total power production capacity exceeds 100 megawatts to qualify as a renewable capacity resource under the so-called Class 1 portfolio requirement under the Maine Revised Statutes, Title 35-A, section 3210, subsection 3.
3. It limits the amount of electricity that can be contracted from generators whose total power production capacity exceeds 100 megawatts, to the extent those generators, as a result of the contracts, are allowed to qualify for the so-called Class 2 portfolio requirement under the Maine Revised Statutes, Title 35-A, section 3210, subsection 3-A. In the aggregate such contracts may not in any year account for more than 50% of the statewide Class 2 portfolio requirement.

The result of this amendment together with Committee Amendment "B" is to authorize the Public Utilities Commission to direct investor-owned transmission and distribution utilities to enter into contracts with renewable resources for the purpose of reducing the price of electricity to ratepayers. The contracts for electricity must be priced less than the applicable market clearing price at the time of delivery, except that if the commission determines that a discount price closer to the applicable market clearing price is necessary to achieve the purposes of this legislation, the commission may by major substantive rule establish a lower discount. Contracts may not involve in aggregate an amount of electric energy that exceeds 10% of the total statewide electric energy load and may not have a term that exceeds 20 years. The commission may require contracts for the electric energy and associated renewable energy credits, with appropriate valuation of each component. Resources under these contracts that otherwise qualify as renewable resources under the portfolio requirements but that exceed the current 100-megawatt limitations will become qualified to meet those portfolio requirements, commonly known as Class 2 renewable energy credits, in accordance with rules adopted by the commission. Such resources may not qualify for the portfolio requirements applicable to new renewable capacity resources, commonly known as Class 1 renewable energy credits. The contracts may not involve an amount of qualified renewable resources that exceeds in aggregate 50% of the applicable statewide portfolio requirements.

This amendment was adopted in the Senate but not in the House.

**LD 1864 An Act To Improve Efficiency Maine Trust Programs To Reduce Heating Costs and Provide Energy Efficient Heating Options for Maine's Consumers**

**PUBLIC 637**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
THIBODEAU	OTP-AM	S-508

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This bill amends the Efficiency Maine Trust (EMT) Act by:

1. Changing the wording describing the trust, eliminating the word "independent" and adding "body corporate and politic and public instrumentality of the State";
2. Providing that the chair of the EMT board is appointed by the Governor (of the 9 members, 7 are appointed by the Governor, 2 are ex officio);
3. Providing that the budget of the trust is submitted "as part of the budget for State Government";
4. Adding a new indemnification provision providing that each trustee is indemnified by the trust against expenses arising from actions involving the trust;
5. Directing EMT to provide programs in partnership with energy providers and transmission and distribution utilities (T&Ds) to provide consumers with information about energy options;
6. Creating a new efficient electric heating program to help customers supplement or replace less efficient heating systems with efficient electric space or water heating systems. The program would include loans for low-income customers. Funding would come from the electric conservation program funded by the T&D system benefit charge. T&Ds would be authorized to provide on-bill financing for lenders under the program. T&Ds would also be authorized to provide loans under which the T&D would determine financing charges and a rate of return based on its weighted cost of capital and the T&D would recover from EMT any differences between that cost of capital and the financing charges it set; EMT would be required to provide the funds from the conservation program SBC. Any T&D costs not otherwise recovered would be recoverable through its T&D's rates;
7. Modifying the Renewable Resources Fund, which is funded by voluntary contributions, to include funding for energy efficiency projects and to limit the amount of the funds that may annually be provided on a competitive bid basis to university system, the community college system and the maritime academy to the average annual funding provided between July 07 and July 10; and
8. Creating a new home heating equipment rebate program. Rebates would be for installation of efficient home heating equipment, including space and water equipment and including oil, gas, electric, biomass, solar and geothermal systems. Evidence of an energy audit would be a precondition for the rebate. The rebates would be 5% of the price, up to \$500. EMT is directed to identify up to \$1,000,000 from existing resources to fund the program. Additional funding may be derived from existing resources.

### **Committee Amendment "A" (S-508)**

This amendment does the following.

1. It preserves that portion of the bill that renames and expands the Renewable Resource Fund to include energy efficiency, but removes all the other changes made by the bill to that fund.
2. It preserves that portion of the bill that clarifies that the Efficiency Maine Trust is a body corporate and politic and a public instrumentality of the State, but removes the changes to the board made by the bill.
3. It replaces the portion of the bill relating to the Efficiency Maine Trust budget to clarify and maintain the current allocation process for those funds of the trust that are collected by the Public Utilities Commission for use by the trust and subject to allocation. It directs the joint standing committee of the Legislature having jurisdiction over energy matters to make recommendations to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs with respect to any proposed allocation of the trust's funds. It also adds a requirement that the trust provide semiannual budget reports to the joint standing committee of the Legislature having jurisdiction over energy matters that include all the trust's revenues and expenses for the current and next

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fiscal years and that identify any significant departures from the trust's triennial plan. That committee is authorized to report out legislation relating to the trust upon review of the report.

4. It adds a provision directing the Efficiency Maine Trust to provide the joint standing committee of the Legislature having jurisdiction over energy matters an opportunity to provide input during the development of the trust's triennial plan.

5. It preserves that portion of the bill that adds a standard indemnification provision for trustees of the Efficiency Maine Trust.

6. It preserves that portion of the bill that directs the Efficiency Maine Trust to develop in partnership with energy providers and transmission and distribution utilities programs to provide customers with information on energy options to promote efficiency and alternative energy resources.

7. It replaces the portions of the bill that created an efficient electric heat program and home heating equipment rebate program with an authorization for transmission and distribution utilities to develop and implement pilot programs to measure the effectiveness of electric heat pumps and electric thermal storage units. The pilot programs are subject to review and approval by the Public Utilities Commission. Each transmission and distribution utility may provide up to 500 heating units within its service territory. It also directs the Efficiency Maine Trust to report to the joint standing committee of the Legislature having jurisdiction over energy matters by March 31, 2013 on its findings and recommendations relating to efficient heating options for residential and small business consumers.

8. It adds additional provisions that provide that natural gas conservation programs administered by the Efficiency Maine Trust must ensure that the programs benefit the consumers served by the gas utilities assessed under the natural gas conservation programs and directs the Governor's Office of Energy Independence and Security or its successor to assess the trust's effectiveness in delivering these programs.

### **Enacted Law Summary**

Public Law 2012, chapter 637 makes the following changes to the Efficiency Maine Trust.

1. It renames and expands the trust's Renewable Resource Fund to include energy efficiency.

2. It clarifies that the Efficiency Maine Trust is a body corporate and politic and a public instrumentality of the State.

3. It clarifies and maintains the current allocation process for those funds of the trust that are collected by the Public Utilities Commission for use by the trust and subject to allocation. It directs the joint standing committee of the Legislature having jurisdiction over energy matters to make recommendations to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs with respect to any proposed allocation of the trust's funds. It also adds a requirement that the trust provide semiannual budget reports to the joint standing committee of the Legislature having jurisdiction over energy matters that include all the trust's revenues and expenses for the current and next fiscal years and that identify any significant departures from the trust's triennial plan. That committee is authorized to report out legislation relating to the trust upon review of the report.

4. It adds a provision directing the Efficiency Maine Trust to provide the joint standing committee of the Legislature having jurisdiction over energy matters an opportunity to provide input during the development of the trust's triennial plan.

5. It adds a standard indemnification provision for trustees of the Efficiency Maine Trust.

6. It directs the Efficiency Maine Trust to develop in partnership with energy providers and transmission and distribution utilities programs to provide customers with information on energy options to promote efficiency and

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alternative energy resources.

7. It authorizes transmission and distribution utilities to develop and implement pilot programs to measure the effectiveness of electric heat pumps and electric thermal storage units. The pilot programs are subject to review and approval by the Public Utilities Commission. Each transmission and distribution utility may provide up to 500 heating units within its service territory. It also directs the Efficiency Maine Trust to report to the joint standing committee of the Legislature having jurisdiction over energy matters by March 31, 2013, on its findings and recommendations relating to efficient heating options for residential and small business consumers.

8. It requires the Efficiency Maine Trust to ensure its natural gas conservation programs benefit the consumers served by the gas utilities assessed under the natural gas conservation programs. It also directs the Governor's Office of Energy Independence and Security or its successor to assess the trust's effectiveness in delivering these programs.

**LD 1872      An Act To Change the Name of the Governor's Office of Energy Independence and Security      ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
COTTA	ONTP	

This bill changes the name of the Governor's Office of Energy Independence and Security to the Governor's Energy Office. The bill also fixes cross-references to reflect the name change.

The changes proposed by this bill were also proposed, along with changes regarding funding for the office, in LD 1903, An Act To Make Additional Supplemental Appropriations and Allocations and To Change Certain Provisions of the Law for the Fiscal Years Ending June 30, 2012, and June 30, 2013. The Energy, Utilities and Technology Committee voted ONTP on this bill and sent a letter to the Appropriations and Financial Affairs Committee recommending that in LD 1903 the name of the office be changed as proposed. The committee also recommended that the initial funding source for the office should be federal funds, including funds of the State Energy Program, which currently support the office; to the extent these are inadequate to fund the office, the office should be able to receive funds from Efficiency Maine Trust (EMT), but only to the extent activities of the office reasonably relate to the purposes of EMT; any additional funding needs of the office should be paid for from the General Fund or other available resources.

See LD 1903.

**LD 1875      An Act To Provide Transparency in Electricity Pricing for Maine Ratepayers      PUBLIC 590**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FITTS	OTP-AM	H-827

This bill requires the Public Utilities Commission and the Public Advocate to submit their budget recommendations as part of the unified current services budget legislation using a zero-based budgeting process; requires the Public Utilities Commission and the Public Advocate to post a "detailed explanation" of the total impact to ratepayers in dollars per year of all components of rates and price, including supply and transmission and distribution charges and all additional state and federal charges and assessments; and requires transmission and distribution utilities to

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include a line-item on ratepayer statements that provides a total of all additional state and federal charges and assessments.

**Committee Amendment "A" (H-827)**

This amendment provides that the Public Utilities Commission and the Office of the Public Advocate must develop their budgets using a zero-based budgeting process or other process or method directed by the State Budget Officer. It also removes from the bill the provisions relating to notices of state and federal charges and assessments and replaces it with a requirement that the Public Utilities Commission develop information useful to electricity ratepayers regarding the costs and effects of state policies on electricity ratepayers. The commission and the Office of the Public Advocate must post the information on their publicly accessible websites. The commission is also directed to examine means by which transmission and distribution utilities may inform customers of the information developed. The commission is directed to report on its actions, including any recommendations, to the joint standing committee of the Legislature having jurisdiction over energy, utilities and technology matters by February 15, 2013. The committee is authorized to report out a bill relating to the commission's report to the First Regular Session of the 126th Legislature.

**Enacted Law Summary**

Public Law 2011, chapter 590 provides that the Public Utilities Commission and the Office of the Public Advocate must develop their budgets using a zero-based budgeting process or other process or method directed by the State Budget Officer. It requires that the Public Utilities Commission develop information useful to electricity ratepayers regarding the costs and effects of state policies on electricity ratepayers. The commission and the Office of the Public Advocate must post the information on their publicly accessible websites. The commission is also directed to examine means by which transmission and distribution utilities may inform customers of the information developed. The commission is directed to report on its actions, including any recommendations, to the joint standing committee of the Legislature having jurisdiction over energy, utilities and technology matters by February 15, 2013. The committee is authorized to report out a bill relating to the commission's report to the First Regular Session of the 126th Legislature.

**LD 1883 An Act To Clarify the Regulation of Private Natural Gas Pipelines**

**PUBLIC 592**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
RAYE	OTP-AM	S-479

This bill:

1. Specifies that only private natural gas pipelines whose owners and operators are not otherwise regulated by the Public Utilities Commission as a utility are private natural gas pipelines, and specifies that the term "customer" includes the affiliate of a customer, for the purposes of the laws governing such pipelines;
2. Provides that a private natural gas pipeline that delivers natural gas to its affiliate who then liquefies or compresses the natural gas for sale or distribution to others by means other than by a pipeline is not, as a result of the delivery, considered a public utility; and
3. Provides that the owner or operator of an affiliate of a private natural gas pipeline that receives deliveries of natural gas that it liquefies or compresses for sale or distribution to others by means other than by a pipeline is not considered a public utility if the owner or operator of the affiliate is not otherwise regulated by the commission as a public utility.

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**Committee Amendment "A" (S-479)**

This amendment clarifies that the Public Utilities Commission has safety jurisdiction over facilities that are used to liquefy or compress natural gas for sale or distribution to others by means other than a pipeline and that are owned or operated by an affiliate of the owner of a private natural gas pipeline.

**Enacted Law Summary**

Public Law 2011, chapter 592:

1. Specifies that only private natural gas pipelines whose owners and operators are not otherwise regulated by the Public Utilities Commission as a utility are private natural gas pipelines, and specifies that the term "customer" includes the affiliate of a customer, for the purposes of the laws governing such pipelines;
2. Provides that a private natural gas pipeline that delivers natural gas to its affiliate who then liquefies or compresses the natural gas for sale or distribution to others by means other than by a pipeline is not, as a result of the delivery, considered a public utility;
3. Provides that the owner or operator of an affiliate of a private natural gas pipeline that receives deliveries of natural gas that it liquefies or compresses for sale or distribution to others by means other than by a pipeline is not considered a public utility if the owner or operator of the affiliate is not otherwise regulated by the commission as a public utility; and
4. Provides that Public Utilities Commission has safety jurisdiction over facilities that are used to liquefy or compress natural gas for sale or distribution to others by means other than a pipeline and that are owned or operated by an affiliate of the owner of a private natural gas pipeline.

**LD 1901      An Act To Amend the Charter of the Lewiston-Auburn Water Pollution Control Authority      P & S 27**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BEAULIEU	OTP	

This bill amends the charter of the Lewiston-Auburn Water Pollution Control Authority to permit the acting City Administrator of the City of Lewiston or acting City Manager of the City of Auburn or those officials' designees to serve on the board of trustees of the authority when the office of City Administrator or City Manager is vacant.

**Enacted Law Summary**

Private and Special Law 2011, chapter 27 amends the charter of the Lewiston-Auburn Water Pollution Control Authority to permit the acting City Administrator of the City of Lewiston or acting City Manager of the City of Auburn or those officials' designees to serve on the board of trustees of the authority when the office of City Administrator or City Manager is vacant.

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**SUBJECT INDEX**

*Agency Matters -- PUC/OPA/OEIS*

Not Enacted

LD 1872      **An Act To Change the Name of the Governor's Office of Energy Independence and Security**      **ONTP**

*Dig Safe*

Enacted

LD 1803      **An Act To Implement the Recommendations of the Dig Safe Work Group**      **PUBLIC 588  
EMERGENCY**

Not Enacted

LD 1790      **Resolve, Regarding Legislative Review of Portions of Chapter 895: Underground Facility Damage Prevention Requirements, a Major Substantive Rule of the Public Utilities Commission**      **ONTP**

*E911*

Not Enacted

LD 1614      **An Act To Create Efficiency in E-9-1-1 Call Centers**      **ONTP**

LD 1761      **An Act To Improve and Ensure Adequate Funding for E-9-1-1 Services**      **VETO SUSTAINED**

*Electricity*

Enacted

LD 935      **An Act To Create Fair and Open Competition in Line Extension Construction**      **PUBLIC 484**

LD 1622      **Resolve, Regarding the Laws Governing Electric Industry Restructuring**      **RESOLVE 154**

LD 1789      **Resolve, Regarding Legislative Review of Portions of Chapter 316: Long-Term Contracting and Resource Adequacy, a Major Substantive Rule of the Public Utilities Commission**      **RESOLVE 138  
EMERGENCY**

LD 1875      **An Act To Provide Transparency in Electricity Pricing for Maine Ratepayers**      **PUBLIC 590**

Not Enacted

LD 425      **An Act To Stimulate Demand for Renewable Resources**      **ONTP**

LD 1863      **An Act To Lower the Price of Electricity for Maine Consumers**      **DIED BETWEEN  
HOUSES**

*Energy*

Enacted

LD 1864      **An Act To Improve Efficiency Maine Trust Programs To Reduce Heating Costs and Provide Energy Efficient Heating Options for Maine's Consumers**      **PUBLIC 637**

Not Enacted

LD 1264      **An Act To Improve the Energy Efficiency of Public Buildings and Create Jobs**      **VETO SUSTAINED**

LD 1676      **An Act To Increase Energy Options**      **ONTP**

LD 1706      **An Act To Protect Maine's Biomass and Forest Products Industries by Allowing Biomass Generators To Enter into Short-term Contracts**      **DIED BETWEEN  
HOUSES**

*Miscellaneous - Utilities and Energy*

Enacted

LD 1791      **Resolve, Regarding Legislative Review of Portions of Chapter 815: Consumer Protection Standards for Electric and Gas Transmission and Distribution Utilities, a Major Substantive Rule of the Public Utilities Commission**      **RESOLVE 128  
EMERGENCY**

*Natural Gas*

Enacted

LD 1644      **An Act To Expand the Availability of Natural Gas to Maine Residents**      **PUBLIC 586  
EMERGENCY**

LD 1792      **Resolve, Regarding Legislative Review of Portions of Chapter 421: Safety and Operation Standards for Liquefied Petroleum Gas (LPG) Distribution Systems, a Major Substantive Rule of the Public Utilities Commission**      **RESOLVE 143  
EMERGENCY**

LD 1883      **An Act To Clarify the Regulation of Private Natural Gas Pipelines**      **PUBLIC 592**

*Telecommunications*

Enacted

LD 1784      **An Act To Reform Telecommunications Regulation**      **PUBLIC 623**

LD 1799      **An Act Regarding the Collection of Fees for Prepaid Wireless Service**      **PUBLIC 600**

*Water/Sewer - Charters*

**Enacted**

LD 1620	An Act To Amend the Charter of the Ogunquit Sewer District	P & S 24
LD 1703	An Act To Create the New Gloucester Water District	P & S 19 EMERGENCY
LD 1834	An Act To Amend the Boothbay Region Water District Charter	P & S 25 EMERGENCY
LD 1842	An Act To Amend the Charter of the Bingham Water District and To Direct That Certain Issues Be Studied	P & S 26 EMERGENCY
LD 1901	An Act To Amend the Charter of the Lewiston-Auburn Water Pollution Control Authority	P & S 27

*Water/Sewer - General*

**Enacted**

LD 1820	An Act To Implement Recommendations To Provide Additional Flexibility for Funding Infrastructure Improvements for Water Utilities	PUBLIC 602
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