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Private & Special Law
123rd Legislature
Second Regular Session

Chapter 35

S.P. 422 - L.D. 1221

An Act To Amend the Charter of the Kennebunk Light and Power District

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

Sec. 1. P&SL 1951, c. 53, §3 is repealed and the following enacted in its place:

Sec. 3. Territorial limits. The territorial limits within which the district may sell, distribute and furnish electricity for light, heat and power to individuals, partnerships, firms and corporations are the entire territory of the Town of Kennebunk; and the territorial limits of the Kennebunk Light and Power District include those parts of the Town of Lyman, the Town of Wells and the Town of Arundel, formerly known as North Kennebunkport, that the Kennebunk Light and Power District was providing service on November 7, 2006 and may include in addition those portions of the Town of Lyman, the Town of Wells and the Town of Arundel in which at the time no other public utility was furnishing electric service. Extension of service by the district to any area of the Town of Kennebunk beyond the territory served by the district on November 7, 2006, may not occur unless the district has acquired by purchase the plants, properties, rights, privileges and franchises of any other public utility furnishing electric service to the public in that area of the Town of Kennebunk. Notwithstanding the Maine Revised Statutes, Title 35-A, sections 2102, 2105 and 2110 as amended, extension of service by the district within the Town of Kennebunk is not subject to the consent of the Public Utilities Commission. Extension of service by the district within the Town of Lyman, the Town of Wells and the Town of Arundel after November 7, 2006 is subject to the consent of the Public Utilities Commission in accordance with the Maine Revised Statutes, Title 35-A, sections 2102, 2105 and 2110 as amended.

Sec. 2. P&SL 1951, c. 53, §4 is amended to read:

Sec. 4. Power of sale and purchase. The Kennebunk Light and Power District is authorized to acquire by purchase the plants, properties, rights, privileges and franchises of any public utility now furnishing electric service to the public within the territorial limits of the district and after acquisition shall have, hold, exercise and enjoy in its own name all of the plants, properties, rights, privileges and franchises as though originally granted to it, and the public utility is authorized to convey its plants, properties, rights, privileges and franchises to the Kennebunk Light and Power District. Any public utility now furnishing electric service to the public within the territorial limits of saidthe district is hereby authorized to acquire by purchase the plants, properties, rights, privileges and franchises of the Kennebunk Light and Power District and after acquisition shall have, hold, exercise and enjoy in its own name all of said plants,

properties, rights, privileges and franchises as though originally granted to it, and ~~said~~the Kennebunk Light and Power District is hereby authorized to convey its plants, properties, rights, privileges and franchises to ~~sueh~~the public utility.

Sec. 3. Stranded costs. If the Kennebunk Light and Power District purchases the plants, properties, rights, privileges and franchises of a public utility pursuant to Private and Special Law 1951, chapter 53, section 4, as amended by this Act, the district shall pay to the utility an amount to be determined by the Public Utilities Commission to be a reasonable allocation of the utility's stranded costs. The Public Utilities Commission shall make its determination of the amount the district must pay based on the commission's initial determination of the utility's stranded costs pursuant to the Maine Revised Statutes, Title 35-A, section 3208. Beginning on the date of purchase, the Kennebunk Light and Power District becomes liable for those stranded costs allocated to the district by the Public Utilities Commission under this Act. The method and timing of payments by the district to the utility must be established by agreement between the district and the utility or, agreement failing, on a schedule determined by the Public Utilities Commission.

Sec. 4. Resolve disagreements; independent appraisal. The Public Utilities Commission is authorized to resolve by hearing and order:

1. Any disagreement or dispute between the Kennebunk Light and Power District, referred to in this section as "the district," and any public utility as to the valuation of facilities that the district seeks to acquire under Private and Special Law 1951, chapter 53, section 4, as amended by this Act;

2. Any disagreement or dispute between the district and the public utility regarding payment to compensate the public utility's remaining customers for costs incurred as a result of the migration of customers to the district as the result of any acquisition of facilities by the district under Private and Special Law 1951, chapter 53, section 4, as amended by this Act;

3. Any issue with respect to the severance or realignment of facilities rated 50 kilovolts or below resulting from any acquisition of facilities by the district from the public utility; and

4. Any disagreement or dispute regarding the use of poles and related issues during any transfer of property resulting from the acquisition of facilities by the district from the public utility.

In the event that there is a disagreement or dispute between the district and the public utility as to the valuation of facilities, the Public Utilities Commission shall obtain an independent appraisal of the value of the facilities from a person with expertise in the appraisal of electric utility properties. The district and the public utility shall jointly select the person to conduct the appraisal or, agreement failing, the Public Utilities Commission shall make the selection. The party seeking to purchase the franchise and facilities of the other party shall pay the cost of the appraisal.

Sec. 5. Referendum; effective date. This Act takes effect only for the purpose of permitting its submission to the legal voters within the Town of Kennebunk at an election called for that purpose and held by December 31, 2009. The election must be called, advertised and conducted according to the law relating to municipal elections, except that the registrar of voters is not required to prepare or the clerk to post a new list of voters. For purposes of registration of voters, the registrar of voters must be in session the secular day next preceding the election. The subject matter of this Act is reduced to the following question:

“Do you favor allowing Kennebunk Light and Power District to provide retail electric service throughout the entire Town of Kennebunk if the district arranges the purchase of Central Maine Power Company's facilities within the town?”

The voters shall indicate by a cross or check mark placed against the word “Yes” or “No” their opinion of the same.

The results must be declared by the municipal officers of the Town of Kennebunk and due certificate of the results filed by the clerk with the Secretary of State.

This Act takes effect for all purposes immediately upon its approval by a majority of the legal voters voting at the election. Failure to achieve the necessary approval in any referendum does not prohibit subsequent referenda consistent with this section, as long as the referenda are held prior to December 31, 2009.

Sec. 6. Legislative intent. It is the intent of the Legislature that this Act may not be cited as legislative precedent supporting the enactment of other legislation affecting the service area of any public utility other than the Kennebunk Light and Power District.

Sec. 7. Effective date. This Act takes effect upon passage of the referendum notwithstanding the Maine Revised Statutes, Title 35-A, section 2102, 2105 or 2110 and Private and Special Law 1951, chapter 53, section 19.

Effective pending referendum, unless otherwise indicated.