

THE 2013  
MAINE  
OMNIBUS  
ENERGY  
BILL

---

What You  
Need to Know

*"An Act to Reduce Energy Costs, Increase Energy Efficiency, Promote Electric System Reliability and Protect the Environment"*

LD 1559, P.L. 2013, Ch. 369

The 2013 Maine Omnibus Energy Bill was one of the highlights of the recent legislative session. It had its beginnings in Representative Ken Fredette's desire to do something about energy costs for Maine consumers. Governor LePage highlighted reducing the cost of energy as one of his priorities in his 2013 State of the State message; and the Director of his Energy Office, Patrick Woodcock, guided the preparation of the Governor's energy bills, which included many ideas that were ultimately incorporated into the Omnibus Bill. The two chairs of Maine's Energy, Utilities & Technology Committee, Senator John Cleveland and Representative Barry Hobbins, worked closely with their Republican counterparts on the Committee, Senator Edward Youngblood and Representative Larry Dunphy throughout the bill's evolution to law.

Eventually, the Committee took the Fredette and LePage bills, as well as parts of eight other bills, and combined them into the Omnibus Energy Bill. The bill was voted out of committee 12-1, and received broad bipartisan support, with enactment votes of 131-7 in the House and 29-6 in the Senate. The bill became law on July 2, 2013, after the Governor's veto was overridden in the House 121-11 and after a letter from the Governor was read in the Senate urging that his veto be overridden, leading to a 35-0 vote to override in the Senate.

The Omnibus Energy Bill consists of eight parts, covering the energy landscape on topics, including the cost of electricity and natural gas in Maine, ocean energy, greenhouse gases, energy efficiency, home heating, municipal street lights, review of transmission line proposals, and rate relief.

### PART A

#### **Increases funds for efficiency and conservation generated from Energy Infrastructure Corridors**

- P.L. 2007, Ch. 656 set up a process for evaluating and designating energy infrastructure corridors in Maine to encourage their use while generating revenue to benefit Maine ratepayers.



- The original law provided that 90 percent of corridor revenue be deposited in a fund to benefit ratepayers, with 10 percent going to Maine DOT. In 2012, this allocation was changed to 10 percent for ratepayer benefit and 90 percent to Maine DOT (for a secondary road fund).

THE 2013  
MAINE  
OMNIBUS  
ENERGY  
BILL

---

What You  
Need to Know

- The Omnibus Energy Bill changes the allocation so that 80 percent of revenues benefit ratepayers and 20 percent goes to Maine DOT.

**Improves energy efficiency, reduces heating costs, and provides targeted rate relief**

- Amends the goals of Maine's efficiency statute by first directing the Public Utilities Commission (PUC) and Efficiency Maine Trust (EMT) to reduce residential and business energy costs and improve energy security by pursuing all cost-effective energy efficiency options, for saving electricity, natural gas, and heating fuel.



- As of 2012, EMT has spent about \$24 million in order to save Mainers from spending almost \$128 million on the equivalent of nearly 2 billion kilowatt-hours of electricity.
- Approves EMT budget for FYs 2013-14 and 2014-15, providing \$14.3 and \$14.5 million, respectively, in base funding for electric and natural gas efficiency.
- Approves EMT's new contracts with Maine utilities for energy efficiency projects at large commercial and industrial customers.
  - Leverages existing federal dollars to provide low-interest loans to support such projects.
- Gives the PUC improved oversight over efficiency programs.
- Provides additional funding for energy efficiency over the next two fiscal years without adding any surcharges on ratepayers.
  - EMT currently relies on a flat .145¢/kilowatt-hour "systems benefit charge" to fund electricity-saving programs, providing about \$13.5 million per year in ratepayer-derived funds.
  - The prior law allowed EMT to propose, and the PUC and legislature to approve, additional assessments with no specified cap. This section is repealed, effective January 1, 2015.
  - The Omnibus Energy Bill will add about \$7.5 million per year in FY 2013-14 and 2014-15 in funding for electric efficiency and conservation programs from the Maine Yankee litigation settlement fund/(Maine Yankee) as a way to bridge spending from the current program to the new long-term funding level; this amounts to 55 percent of the Maine Yankee.
  - For the next two fiscal years, the remaining 45 percent is targeted for rate relief to provide "the maximum benefit to Maine's economy" in the judgment of the PUC.
  - With Maine Yankee's contribution, total EMT statewide funding for electric efficiency programs will be at least \$25 million in each of the next two fiscal years.

THE 2013  
MAINE  
OMNIBUS  
ENERGY  
BILL

---

What You  
Need to Know

- In 2015-16, the Maine Yankee contribution to efficiency funding is capped at \$2 million.
- In total, over \$17 million from Maine Yankee is earmarked during the next three fiscal years to be used by EMT for energy efficiency and conservation programs.
- After FY 2015-16, any further settlement funds are to be used by the PUC to have the maximum benefit to Maine's economy.
- Beginning in 2015, provides a long-term source of efficiency funding from ratepayers with a cap of 4 percent of total retail electricity and transmission and distribution sales in Maine.
  - Requires EMT to identify and justify all cost-effective, reliable and achievable energy efficiency opportunities, but the cost passed on to ratepayers cannot exceed 4 percent of total retail electricity sales in Maine.
  - Note that the American Council for an Energy-Efficient Economy estimated that Maine's efficiency spending in 2011 represented about 1.6 percent of statewide utility revenues.
- Protects low-income customers and small businesses by providing either existing efficiency program funding levels for these customers or a dedicated percentage of all funds available for efficiency and conservation.
  - Could mean an increase of about \$1 million annually for these two customer groups, or an increase of 38 percent.
- Directs Regional Greenhouse Gas Initiative (RGGI) proceeds, estimated to increase from about \$4 to \$11 million annually, to lower commercial and industrial energy costs, reduce residential heating demand in a fuel-neutral way, and provide rate relief.
  - Historically, RGGI auction proceeds have supported industrial energy efficiency projects, which have provided over \$32 million in energy benefits at a cost to EMT of only about \$4.5 million.
  - For the next three fiscal years, 50 percent of RGGI proceeds will be used to lower commercial and industrial energy consumption and thereby greenhouse gas emissions and costs.
  - Over this same period, 35 percent of RGGI proceeds will also be used to help residential consumers reduce energy used for home heating, such as by installing higher efficiency heating systems using natural gas or biomass; and 15 percent of RGGI proceeds will be disbursed directly to ratepayers in a way that maximizes economic benefit in Maine.
- Expands natural gas conservation programs from one gas utility in the state to all natural gas utilities and requires funding of all cost-



effective, reasonable, and achievable efficiency opportunities; allows all gas customers to participate.

## PART B

**Seeks to lower electricity and natural gas costs by eliminating the \$200 million “energy tax” that Mainers currently pay for natural gas and electricity**

■ Authorizes the PUC to contract for and resell new natural gas pipeline capacity into New England of up to 200 million cubic feet per day (an estimate of Maine’s proportional share in New England, recognizing that we have substantial buildout ahead of us) and for no more than \$75 million in annual costs.



- This will help reduce the “basis differential” cost of natural gas in New England that is caused by pipeline constraints into the region by facilitating the financing and development of a new gas pipeline into New England.
- This could reduce the cost of electricity and gas in Maine by upwards of \$200 million/yr. and also reduce the cost of natural gas for Maine homes and businesses that use natural gas for heat, cooking, or commercial processes.
- There are no costs to be paid if a pipeline is not built and if gas does not flow.
- Prior to any proceeding, the PUC must determine that regional efforts will not provide comparable benefits within the same time frame under consideration. In addition, the PUC must determine that private efforts to contract for such capacity and build one or more new pipelines will not provide comparable benefits within the same time period.
- The PUC will likely conduct a proceeding to solicit proposals for pipeline capacity purchase and then will negotiate with one or more pipeline companies, in coordination with the Energy Office and the Public Advocate.
- A contract may not be finally approved until it has been approved by the Governor.
- If the PUC resells capacity at a profit, proceeds will go into a trust for the ratepayers of Maine to be used to reduce their energy costs.
- If the PUC cannot or does not resell the pipeline capacity, it will be available for use by interruptible users, who will reimburse the PUC for all or part of the capacity cost.
- If the PUC does not recoup all costs, then electric and gas ratepayers, and all other gas consumers will be apportioned costs based on the relative benefit each customer or customer class receives as determined by the PUC. Customers or their representatives will be able to participate in this PUC determination.

**PretiFlaherty**  
ENERGY LAW GROUP

THE 2013  
MAINE  
OMNIBUS  
ENERGY  
BILL

---

What You  
Need to Know

THE 2013  
MAINE  
OMNIBUS  
ENERGY  
BILL

---

What You  
Need to Know

## PART C

### **Improves controls over the cost of electricity transmission, and provides a more thorough review of Non-Transmission Alternatives (“NTAs”)**

- Gives the PUC improved tools to evaluate whether electricity transmission lines or alternatives are the least-cost way to address identified needs.
  - Promotes solutions that are cheaper and better for the environment than transmission projects such as distributed generation, energy storage, small-scale renewables, conservation, efficiency, and demand response.

## PART D

### **Updates the Regional Greenhouse Gas Initiative and seeks to promote fuel-switching**

- Aligns Maine’s carbon emissions budget with other RGGI states’ budgets.
- This is expected to result in an increase in the cost of RGGI allowances and therefore an increase in state funds derived from RGGI; it is likely that RGGI funds available to the state may increase from about \$4 million annually to about \$11 million annually.
- Directs the Department of Environmental Protection and PUC to develop incentives for consumers to reduce greenhouse gas emissions by switching from oil and coal to alternative fuels such as natural gas, biomass, or other renewables.



## PART E

### **Introduces competition into municipal street lighting**

- Requires transmission and distribution utilities to give municipalities options to participate in the ownership and management of their own street lighting systems.
  - Under prior law, these utilities had complete monopolies over the street light systems throughout Maine.

## PART F

### **Requires the Public Utilities Commission to help cut energy costs**

- The PUC must “assist in minimizing the cost of energy available to the State’s consumers” to minimize energy costs in Maine and to set rates to achieve “economic efficiency.”
  - Amends the PUC’s 100-year old charter to put energy cost minimization on equal footing with safe, reasonable, and adequate service.

THE 2013  
MAINE  
OMNIBUS  
ENERGY  
BILL

---

What You  
Need to Know

## PART G

### Expands utility heat pump programs

- Authorizes further expansion of utility pilot programs to offer electric heat pumps.
- Allows the number of heat pumps to be provided to customers to exceed the current limit of 500 if approved by the PUC.
- Allows the heat pump program(s) to continue through December 2014.
- Specifies that PUC may allow utilities to offer incentives to participating customers and recover those costs through special rates for those customers.

## PART H

### Ensures funding and allows expansion of ocean energy options

- Makes a necessary change required by repeal of the previous system benefit charge in order to ensure continued funding availability for ocean energy projects.
- Allows the PUC to consider the University of Maine's deep-water, floating offshore wind pilot project, in addition to Statoil's Hywind offshore wind proposal.
- See also LD 1472, An Act To Provide for Economic Development with Offshore Wind Power (P.L. 2013, ch 378), which supersedes this part of the omnibus law.



## KEY ENERGY ATTORNEYS



As Chair of the Energy & Utilities Practice Group, Anthony W. Buxton creates solutions to business energy problems, including the challenge of high-energy costs. He has structured entities to finance, construct and/or operate energy projects, including hydroelectric, wind, biomass, and solid waste facilities from 400 kilowatts to 200 megawatts in size, as well as transmission, LNG and ethanol projects. Tony can be reached at **207-623-5300** or **abuxton@preti.com**.



Steven A. Hudson supports clients by taking their interests before Maine legislators and regulatory groups. He has represented manufacturers, energy developers, telephone companies, and electric utilities on a broad range of legislative issues affecting their interests. Steve was a key player in the passage of Maine's newest comprehensive energy legislation, which addressed Maine's energy infrastructure and completely restructured Maine's energy efficiency efforts. Steve can be reached at **207-623-5300** or **shudson@preti.com**.

THE 2013  
MAINE  
OMNIBUS  
ENERGY  
BILL

---

What You  
Need to Know



Todd J. Griset helps clients make critical decisions on energy and utilities matters. Todd's clients range from startups to Fortune 500 companies, and include developers and owners of renewable and traditional energy projects as well as industrial and commercial energy consumers and trade associations. He advises clients on permitting and regulatory affairs, as well as transactions relating to infrastructure, manufacturing and energy assets. Todd can be reached at **207-623-5300** or **tgriset@preti.com**.



Robert "Benji" Borowski joined Preti Flaherty's Portland office in 2011 and focuses his practice on Energy Law. Benji can be reached at **207-791-3000** or **rborowski@preti.com**.