

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1611

I.B. 2

House of Representatives, April 11, 2023

**An Act to Create the Pine Tree Power Company, a Nonprofit,
Customer-owned Utility**

Transmitted to the Clerk of the 131st Maine Legislature by the Secretary of State on April 10, 2023 and ordered printed.

R. B. Hunt
ROBERT B. HUNT
Clerk

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

Sec. 1. 5 MRSA §12004-G, sub-§36 is enacted to read:

36.

Public Utilities Pine Tree Power Company Board \$110/Day and Expenses 35-A MRSA §4002

Sec. 2. 21-A MRSA §354, sub-§5, ¶G, as enacted by PL 1985, c. 161, §6, is amended to read:

G. For a candidate for State Representative, at least 50 and not more than 80 voters; and

Sec. 3. 21-A MRSA §354, sub-§5, ¶H, as enacted by PL 1985, c. 161, §6, is amended to read:

H. For a candidate for county charter commission member, at least 50 and not more than 80 voters.; and

Sec. 4. 21-A MRSA §354, sub-§5, ¶I is enacted to read:

I. For a candidate for member of the Pine Tree Power Company Board under Title 35-A, section 4002, subsection 2, paragraph A, at least 300 and not more than 400 voters.

Sec. 5. 21-A MRSA §1011, first ¶, as amended by PL 2013, c. 334, §2, is further amended to read:

This subchapter applies to candidates for all state and county offices and to campaigns for their nomination and election. Candidates for municipal office as described in Title 30-A, section 2502, subsection 1 and candidates for the Pine Tree Power Company Board as described in Title 35-A, section 4002 are also governed by this subchapter. The commission does not have jurisdiction over financial activities to influence the nomination or election of candidates for federal office.

Sec. 6. 35-A MRSA §1511-A is enacted to read:

§1511-A. Fitness to serve

The commission shall find a transmission and distribution utility with 50,000 or more customers unfit to serve and shall require and ensure the sale of the utility, to be completed within 24 months, if 4 or more of the following statements are true of the utility:

1. Customer satisfaction. The utility has been rated for 2 or more of the past 5 years among the lowest decile of utilities of a similar size for customer satisfaction on a nationally recognized survey of United States utility business or residential customers;

2. Reliability. The utility has been found by the commission or by the United States Energy Information Administration for 2 or more of the past 5 years to have overall reliability in terms of outage minutes per year, with or without major event days, in the lowest decile of utilities of a similar size in the country;

3. Affordability. In 2 or more of the past 5 years, the utility charged residential delivery rates reasonably estimated to be in the highest decile among utilities of a similar size in the country, based on data from the United States Energy Information

1 Administration and based on the commission's analysis of average delivery rates as a
2 proportion of the average total bill for integrated utilities;

3 **4. Employees.** The utility has within the previous year contracted with a business to
4 perform work valued at more than \$100,000 that could reasonably have been performed by
5 qualified, nonexempt employees of the utility;

6 **5. Security.** The utility owns critical infrastructure vital to the security and welfare of
7 the State and is presently owned, either wholly or in a part greater than 5%, by a government
8 that does not represent or govern the captive customers of the utility;

9 **6. Customer obligations.** The utility, due to its corporate structure, requires that
10 customers pay for the cost of the utility's corporate taxes, and also pay for shareholder
11 profits exceeding 10% on prudent capital investment in transmission infrastructure, with
12 little to no risk for poor performance;

13 **7. Disaster assistance.** The utility, due to its corporate structure, may require that
14 customers pay directly or indirectly for 90% or more of damages to the utility's assets
15 caused by extreme weather events, and may also deny the utility access to federal
16 emergency management assistance to reduce or eliminate these costs; or

17 **8. Priorities.** The utility, due to its corporate structure and fiduciary obligations, is
18 unable to place the needs of customers, workers or the State's climate and connectivity
19 goals ahead of the desires of shareholders to earn a profit.

20 **Sec. 7. 35-A MRSA §3501, sub-§1, ¶D,** as amended by PL 2019, c. 311, §2, is
21 further amended to read:

22 D. The portion of any municipal or quasi-municipal entity located in the State
23 providing transmission and distribution services; and

24 **Sec. 8. 35-A MRSA §3501, sub-§1, ¶E,** as amended by PL 2019, c. 311, §2, is
25 further amended to read:

26 E. Any transmission and distribution utility wholly owned by a municipality located
27 in the State; and

28 **Sec. 9. 35-A MRSA §3501, sub-§1, ¶F** is enacted to read:

29 F. The Pine Tree Power Company established in chapter 40.

30 **Sec. 10. 35-A MRSA §3502, first ¶,** as amended by PL 1999, c. 398, Pt. A, §86
31 and affected by §§104 and 105, is further amended to read:

32 Notwithstanding section 310, any consumer-owned transmission and distribution
33 utility, except for the Pine Tree Power Company established in chapter 40, that proposes
34 to increase rates, tolls or charges by not more than 15% of the utility's annual operating
35 revenues or proposes to decrease rates, tolls or charges in any amount may elect to set rates
36 pursuant to this section and section 3503.

37 **Sec. 11. 35-A MRSA §3506** is enacted to read:

38 **§3506. Voter approval conditioned on parity**

39 Notwithstanding any other provision of law, neither utility debt nor the incurrence of
40 utility debt is subject to statewide voter approval, unless and until voter approval of utility

1 debt and of the incurrence of such debt is required equally for both investor-owned and
2 consumer-owned utilities operating in the State.

3 **Sec. 12. 35-A MRSA c. 40** is enacted to read:

4 **CHAPTER 40**

5 **PINE TREE POWER COMPANY**

6 **§4001. Definitions**

7 As used in this chapter, unless the context otherwise indicates, the following terms
8 have the following meanings.

9 **1. Acquired utility.** "Acquired utility" means an investor-owned transmission and
10 distribution utility whose facilities or property are purchased or intended for purchase
11 pursuant to this chapter.

12 **2. Board.** "Board" means the Pine Tree Power Company Board established in Title
13 5, section 12004-G, subsection 36.

14 **3. Company.** "Company" means the Pine Tree Power Company established in section
15 4002.

16 **4. Cost of service.** "Cost of service" means the total amount that must be collected by
17 the company to recover its costs but does not include any return on capital investment
18 unless a return is required as security for debt service.

19 **5. Customer-owner.** "Customer-owner" means a person to whom the company
20 provides electricity.

21 **6. Generating source.** "Generating source" means a machine or device that produces
22 electric energy by any means.

23 **7. Utility facility.** "Utility facility" means any portion of a plant used or useful in
24 providing transmission and distribution utility service and includes, but is not limited to,
25 transmission lines, office buildings, equipment and transportation equipment.

26 **8. Utility property.** "Utility property" means any tangible or intangible asset, liability,
27 obligation, plan, proposal, share, agreement or interest of a utility; any facility in
28 development or planning by the utility as of January 1, 2020; and, without limitation, the
29 entire utility and any part or portion of the utility.

30 **§4002. Pine Tree Power Company established; purpose**

31 The Pine Tree Power Company is established to provide for its customer-owners in this
32 State reliable, affordable electric transmission and distribution services in accordance with
33 this chapter.

34 **1. Company purposes.** The company shall use its access to low-cost capital and its
35 ability to manage the electric transmission and distribution system in a manner that is not
36 focused on ensuring shareholder profits for the following purposes:

37 A. To deliver electricity to the company's customer-owners in a safe, affordable and
38 reliable manner;

1 B. To ensure excellence, timeliness and accuracy in billing, metering and customer
2 service;

3 C. To provide an open, supportive and competitive platform to develop and deploy
4 renewable generation, storage, efficiency and beneficial electrification technologies;

5 D. To assist the State in rapidly meeting or exceeding the climate action plan goals
6 established in Title 38, chapter 3-A;

7 E. To improve the State's Internet connectivity through more affordable access to
8 utility poles and other infrastructure in unserved or underserved areas of the State, as
9 defined in section 9202, subsection 5;

10 F. To advance economic, environmental and social justice and to benefit company
11 workers and all communities in the State;

12 G. To provide for transparent and accountable governance; and

13 H. To support, secure and sustain economic growth and benefits for the State.

14 **2. Governance; board.** The company is created as a body corporate and politic and
15 is governed by the Pine Tree Power Company Board in accordance with this section.

16 The board is composed of 13 voting members, 7 of whom are elected members and 6 of
17 whom are designated members chosen by the elected members. All members must be
18 residents of the State.

19 A. As of the last date for filing a nomination petition under Title 21-A, section 354,
20 each of the 7 elected members must be a legal citizen of the United States for at least
21 5 years, must be at least 21 years of age, must be a legal Maine resident for at least one
22 year, must be a resident of the area the member represents as provided in this paragraph
23 for at least 3 months and may not hold a state elected office. Each elected member
24 represents 5 of the State's 35 State Senate districts, as set out in Title 21-A, section
25 1203-B, as follows:

- 26 (1) One member represents State Senate districts 1 to 5;
- 27 (2) One member represents State Senate districts 6 to 10;
- 28 (3) One member represents State Senate districts 11 to 15;
- 29 (4) One member represents State Senate districts 16 to 20;
- 30 (5) One member represents State Senate districts 21 to 25;
- 31 (6) One member represents State Senate districts 26 to 30; and
- 32 (7) One member represents State Senate districts 31 to 35.

33 If during an elected member's term the member's place of residence as a result of
34 reapportionment is no longer included in the area the member was elected to represent,
35 the member may continue to serve the remainder of the term.

36 B. The 6 designated members must be selected by the elected members. The
37 designated members must collectively possess expertise and experience across the
38 following 6 areas:

- 39 (1) Utility law, management, planning, operations, regulation or finance;
- 40 (2) The concerns of utility employees and other workers;

- 1 (3) The concerns of commercial or industrial electricity consumers;
2 (4) Electricity generation, storage, efficiency, delivery, cybersecurity, connectivity
3 or related technologies;
4 (5) Planning, climate mitigation, adaptation or the environment; and
5 (6) Economic, environmental and social justice, including the needs of low-
6 income and moderate-income persons.

7 C. Candidates for election to the board pursuant to paragraph A are eligible for funding
8 through the Maine Clean Election Act, in amounts and under terms commensurate with
9 those for candidates for the State Senate. The Commission on Governmental Ethics
10 and Election Practices, established pursuant to Title 5, section 12004-G, subsection 33,
11 shall adopt rules to implement this paragraph. Rules must include, at a minimum, the
12 procedures for qualifying and certification and for allocation of distributions from the
13 fund and other provisions necessary to ensure consistency with the provisions of the
14 Maine Clean Election Act. Rules adopted pursuant to this paragraph are major
15 substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

16 D. Candidates for election to the board pursuant to paragraph A are subject to the
17 requirements of Title 21-A, chapter 13.

18 E. The nomination of candidates for elected members of the board is governed by Title
19 21-A, chapter 5, subchapter 2, and the determination of the election is governed by
20 Title 21-A, section 723-A. The Secretary of State may adopt rules governing the
21 election of members of the board and shall consult with the commission in developing
22 the rules. Rules adopted under this paragraph are routine technical rules as defined in
23 Title 5, chapter 375, subchapter 2-A.

24 **3. Term of office.** An elected member of the board serves for a term of 6 years and a
25 designated member of the board serves for a term of 6 years. An elected member serves
26 from January 1st to December 31st and a designated member serves from March 1st to the
27 end of February. A majority of members shall declare a vacancy on the board upon the
28 resignation, death or incapacitation of an elected member, in the event that a member is
29 absent without leave of the chair for at least half of all board meetings held in a 180-day
30 period or in the event of a member's gross and continual neglect of duty. If there is a
31 vacancy on the board of a designated member, it must be filled within 180 days in the same
32 manner as described in subsection 2, paragraph B, and the person selected to fill a vacancy
33 serves for the unexpired term of the member whose vacancy the person is filling. If there
34 is a vacancy on the board of an elected member, the board shall notify the Secretary of
35 State, who shall establish a deadline of no sooner than 60 days after being notified of the
36 vacancy to accept nomination petitions for a special election. A special election must be
37 held within 180 days of notification of the vacancy and declared in the manner prescribed
38 by Title 21-A, section 366. The person elected to fill a vacancy serves for the unexpired
39 term of the member whose vacancy the person is filling. Designated members may be
40 reselected and elected members may be reelected.

41 **4. Quorum and chair.** Seven members of the board constitute a quorum. The board
42 shall elect from its members a chair and a vice-chair. The vice-chair shall serve as acting
43 chair in the absence of the chair.

1 **5. Voting.** Except as otherwise provided in this Title, all decisions of the board must
2 be made by a majority vote of the members present. Whenever possible, the board shall
3 attempt to achieve consensus among members.

4 **6. Bylaws; due diligence.** Prior to making a purchase price offer for any utility facility
5 or utility property, the board shall adopt bylaws, retain expert professional staff and
6 consultants, secure initial financing, conduct due diligence as it considers necessary and
7 develop a transition plan and a business plan for the company.

8 **7. Board review.** Four years after the first meeting of the board, the board shall review
9 the effectiveness of the company governance structure and shall report to the joint standing
10 committee of the Legislature having jurisdiction over energy and utilities matters the
11 outcome of this review. The report may suggest necessary changes to the governance
12 structure of the company. The committee may report out legislation pertaining to the
13 recommendations in the report.

14 **§4003. Powers and duties; acquisition of utility facilities and utility property**

15 **1. Powers; generally.** The company is a consumer-owned transmission and
16 distribution utility and has all the powers and duties of a transmission and distribution
17 utility under this Title, as affected by the provisions of chapter 35, within the service
18 territories of the investor-owned transmission and distribution utilities whose utility
19 facilities it acquires under this chapter.

20 **2. Limits on company; generating property.** The company may not own or operate
21 a generating source or purchase electric capacity or energy from a generating source, except
22 as the commission may approve in order to allow the company to maintain or improve
23 system reliability.

24 **3. Private sector, competitive, performance-based operations.** The company shall
25 contract by means of a competitive public solicitation the services of at least one qualified
26 nongovernmental entity, referred to in this chapter as "the operator" or "the operations
27 team," to provide cost-effective, private sector operations, maintenance, customer accounts
28 management and customer service and information and to assist as necessary in regulatory
29 affairs, capital planning and administrative services. The company may not contract with
30 an operator that has managed a company found to be unfit within the previous 10 years.
31 The company may contract with separate operators for each of the service territories of the
32 acquired utilities, or to meet discrete operations, maintenance or other requirements. In
33 requesting and evaluating bids pursuant to this section, the board shall consider anticipated
34 costs; professional, operational and managerial experience; familiarity with the systems to
35 be administered; and ability to improve customer service and employee morale. The
36 company may establish additional criteria for its solicitation and shall determine the period
37 and the specific terms of each operations contract. The commission shall review and
38 approve, reject or approve with conditions any contract between the company and an
39 operator before it takes effect. A contract with an operations team must reward proven
40 performance, not the provision of capital, and must provide for the efficient and effective
41 fulfillment of the company's purposes under section 4002.

42 **4. Retention of employees.** The operator shall hire any person who was an employee
43 of the acquired utility at the time the company acquired the utility facilities who is a
44 qualified, nonexempt employee subject to collective bargaining agreements of the acquired
45 utility and may hire any other person who was an employee of the acquired utility with the

1 exception of those employees on the executive board of the acquired utility. To ensure
2 continuity and an experienced local workforce, the operations team shall offer to these
3 employees a retention bonus of 8% of annual gross pay for the first year of work and 6%
4 of annual gross pay for the 2nd year of work. This bonus must be payable on the earlier of
5 the anniversary of the date of hire by the operator and the date of a termination of
6 employment that occurs following the date of hire, as long as the termination is due to the
7 employee's death or disability, by the employer without cause or by the employee for good
8 reason. The operations team shall maximize opportunities for internal promotion,
9 additional staffing and on-the-job training for all employees and may not contract with
10 other businesses to perform work that could reasonably have been performed by qualified,
11 nonexempt employees of the operations team.

12 **5. Rights of employees.** The employees of the operations team retained to operate the
13 company's facilities are private employees. Notwithstanding any provision of law to the
14 contrary, the company shall at a minimum accord all qualified, nonexempt employees and
15 their representatives the same rights as would an investor-owned transmission and
16 distribution utility. The operator may not limit or impair the ability and right of its
17 employees to strike or to engage in any work stoppage or slowdown and may not hire
18 replacement employees permanently during an employee strike. The operator shall notify
19 employee representatives of new hires and shall allow representatives of employees
20 reasonable access to work sites during work hours. The operator shall assume all retirement
21 benefit obligations to the employees of and retirees of an acquired utility, unless these
22 obligations have remained with the acquired utility, its corporate parent or a pension plan
23 trust regulated by the federal Employee Retirement Income Security Act of 1974. The
24 operator shall honor and maintain the terms of any collective bargaining agreements in
25 effect at the time the company acquired the investor-owned transmission and distribution
26 utility for the remaining term of any collective bargaining agreement, except that, when 2
27 or more contracts exist, the employees' wages, salaries and benefits must be made
28 reasonably equal to the higher of those provided in the contracts or must exceed those
29 previously paid by the acquired utility.

30 Upon the conclusion of a contract pursuant to subsection 3, the company, in soliciting for
31 a new contract, shall give preference to service providers that agree to maintain or improve
32 the terms of the collective bargaining agreement in existence on the conclusion of the prior
33 contract.

34 **6. Acquisition of utility facilities and utility property.** Notwithstanding any other
35 provision of this Title, rules adopted under this Title or any other applicable law to the
36 contrary, the company shall purchase or acquire by the exercise of the right of eminent
37 domain all utility facilities in the State owned or operated or held for future use by any
38 investor-owned transmission and distribution utility, in accordance with this subsection,
39 and may also purchase or acquire by the exercise of the right of eminent domain in
40 accordance with this subsection any other investor-owned transmission and distribution
41 utility property should the board determine such an acquisition to be in the interest of its
42 customer-owners. The company shall finance the purchase or acquisition of utility
43 facilities or utility property under this subsection by issuing debt in accordance with chapter
44 9. The board may not purchase or acquire by the right of eminent domain any utility
45 facilities or utility property under this subsection until 12 months after the effective date of
46 this chapter or 6 months after the first meeting of the board, whichever is later.

1 A. Within 18 months after the effective date of this chapter or 12 months after the first
2 meeting of the board, whichever is later, unless further delayed to a date certain by a
3 vote of at least 9 members of the board, the company shall:

4 (1) Identify the utility facilities and any other utility property in the State owned
5 or operated or held for future use by any investor-owned transmission and
6 distribution utility to be purchased by the company;

7 (2) Determine a purchase price offer to be made for the utility facilities and other
8 utility property. The purchase price offer must include compensation for the cost
9 of preparing and submitting necessary regulatory filings, including but not limited
10 to those required by the federal Department of Energy, Federal Energy Regulatory
11 Commission; and

12 (3) Deliver notice of the purchase price offer, including detailed description of the
13 utility facilities and other utility property to be purchased, to the investor-owned
14 transmission and distribution utility that owns, operates or holds for future use the
15 subject utility facilities and utility property.

16 By a vote of at least 9 members of the board, the company may delay by up to one year
17 the purchase of the utility facilities and any other utility property of one of the 2
18 investor-owned transmission and distribution utilities in the State and proceed with the
19 purchase of the utility facilities and any other utility property of the other investor-
20 owned transmission and distribution utility in the State. A delay approved by the board
21 under this paragraph may be renewed once in the same manner for up to one additional
22 year.

23 B. After the receipt of a notice of the purchase price offer under paragraph A,
24 subparagraph (3), the investor-owned transmission and distribution utility may, within
25 30 days of the date of receipt, submit a counteroffer to the company. If the company
26 rejects the counteroffer, within 30 days of the date of receipt of the rejection the
27 investor-owned transmission and distribution utility may petition the Superior Court of
28 Kennebec County to determine and order an alternative purchase price for the subject
29 utility facilities or utility property in accordance with this paragraph. The purchase
30 price determined by the court must include compensation for the cost of preparing and
31 submitting necessary regulatory filings, including but not limited to those required by
32 the federal Department of Energy, Federal Energy Regulatory Commission. After the
33 filing of a petition by an investor-owned transmission and distribution utility under this
34 paragraph, the Superior Court, as expeditiously as possible, shall:

35 (1) Select, in consultation with the company and the petitioner, a referee or referees
36 with relevant expertise and capabilities to determine a recommended purchase
37 price for the utility facilities and utility property;

38 (2) Complete a trial or hearing, as appropriate, for the presentation of evidence to
39 referees, who shall submit a recommended purchase price to the court; and

40 (3) Render a decision and, based upon the recommended purchase price submitted
41 under subparagraph (2) and any other information available to the court, order a
42 purchase price to be paid by the company to the petitioner for possession and
43 ownership of the subject utility facilities and utility property.

1 The decision of the Superior Court under this paragraph is appealable to the Law Court
2 as in any civil action.

3 C. The taking of utility facilities and utility property by the company is governed by
4 this paragraph.

5 (1) Notwithstanding chapter 65 or any other provision of law to the contrary, if a
6 petition is filed under paragraph B and if the company and subject utilities do not
7 reach an agreement, the company shall, after any appeals are resolved, immediately
8 take the subject utility facilities and utility property identified in paragraph A at the
9 final price rendered by the court.

10 (2) Notwithstanding chapter 65 or any other provision of law to the contrary, if a
11 petition is not filed under paragraph B and if the company and subject utilities do
12 not reach an agreement, the company shall immediately take the subject utility
13 facilities and utility property identified in paragraph A at the purchase price offer.

14 Within 45 days of the date upon which the purchase price is either mutually agreed upon
15 by the company and the investor-owned transmission and distribution utility or is finally
16 determined through the judicial process set forth under paragraph B, the investor-owned
17 transmission and distribution utility shall prepare and submit any regulatory filings
18 necessary to the transfer of subject utility facilities and utility property, including but not
19 limited to those required by the federal Department of Energy, Federal Energy Regulatory
20 Commission. If the investor-owned transmission and distribution utility does not prepare
21 and submit such filings within 45 days, the company may request that the commission
22 investigate the utility's failure to prepare and submit the filings. Upon such a request from
23 the company, the commission shall, in a timely manner, investigate the utility's failure to
24 prepare and submit the filings. If the commission finds the investor-owned transmission
25 and distribution utility unreasonably delayed or failed to prepare and submit the filings, or
26 failed to prosecute and pursue federal regulatory approvals of the transfer in good faith, the
27 commission shall direct the utility to do so by a date certain and may order other remedies,
28 including deducting the cost of preparing and submitting such regulatory filings from the
29 purchase price or otherwise preventing the utility from recouping the cost and requiring the
30 utility to pay for costs to other parties caused by the delay.

31 If at any time during the process prescribed in this subsection the company and either of
32 the investor-owned transmission and distribution utilities reach an agreement on the
33 purchase price of all utility facilities and utility property in the State owned or operated or
34 held for future use by that investor-owned transmission and distribution utility, the sale
35 may be finalized in accordance with that agreement.

36 The commission shall impose such conditions on the acquisition of all utility facilities and
37 utility property in the State owned or operated or held for future use by any investor-owned
38 transmission and distribution utility as it determines are necessary to protect the public
39 interest during the period between the effective date of this chapter and the date on which
40 ownership and control are fully assumed by the company and the operations team. The
41 commission shall take all necessary actions to ensure that the investor-owned transmission
42 and distribution utilities and their owners cooperate fully, promptly and cost-effectively
43 with the company during the transition in ownership and control. The commission may
44 allow recovery by or reimbursement to the utility of necessary expenses associated with
45 the transition. At a minimum, the utility must be required to plan, construct, operate and

1 maintain facilities and to cooperate with customers, generators and other stakeholders to
2 the same extent that the commission would require of any transmission and distribution
3 utility and to provide the company such information as may be necessary to meet its
4 responsibilities under this Title, including but not limited to a detailed inventory of assets.

5 **7. Existing obligations.** All existing agreements, obligations and contracts, including
6 but not limited to long-term contract obligations and net energy billing agreements of an
7 investor-owned transmission and distribution utility, must be transferred to the company
8 and any counterparty to an agreement, obligation or contract shall accept the assignment of
9 the investor-owned transmission and distribution utility to the company.

10 **8. Regional transmission.** The service territories of the company initially remain in
11 the transmission system to which they belonged on the effective date of this chapter until
12 changed by majority vote of the board.

13 **9. Names.** The company may adopt one or more alternative or regional names to
14 distinguish its service territories or for any other purpose.

15 **10. Rules.** The company may adopt rules pursuant to Title 5, chapter 375, subchapter
16 2-A for establishing and administering the company and carrying out its duties. Rules
17 adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter
18 375, subchapter 2-A.

19 **11. Bylaws.** The company shall adopt bylaws, through the board, consistent with this
20 section for the governance of its affairs.

21 **12. Consumer-owned transmission and distribution utilities; application.** This
22 subsection controls the treatment of consumer-owned transmission and distribution utilities
23 and the application of law to the company.

24 A. This chapter may not be construed to affect the powers, authorities or
25 responsibilities of any consumer-owned transmission and distribution utility other than
26 the company created under this chapter. The company may not oppose the extension
27 of the service territory of a consumer-owned transmission and distribution utility
28 existing prior to the effective date of this chapter to include the entirety of a
29 municipality in which the consumer-owned transmission and distribution utility
30 provides electric service as long as the company is reasonably compensated for the
31 assets and appurtenances required.

32 B. Notwithstanding any other provision of this chapter or any other provision of law
33 to the contrary, the company is subject to section 310; section 3104; section 3132,
34 subsection 2-D; sections 3132-A, 3132-B, 3132-C and 3132-D; section 3144; section
35 3210-C, subsections 3, 7 and 11; sections 3212 and 3212-B; and section 3214,
36 subsection 2-A.

37 **13. Board staff; initial activities.** The board shall hire qualified and professional
38 staff, including but not limited to a director or manager, chief financial officer, support staff
39 and legal counsel. Assistance and counsel may be provided to the board by the Office of
40 the Treasurer of State, the Office of the Attorney General, the Maine Municipal Bond Bank,
41 the Finance Authority of Maine, the commission, the Office of the Public Advocate and
42 any other state entity. All initial activities and expenditures of the board prior to the final
43 acquisition of utility facilities and utility property must be funded by short-term debt of the
44 company, to be retired in the initial financing and acquisition of the investor-owned

1 transmission and distribution utility facilities and utility property. Notwithstanding any
2 provision of the law to the contrary, debt incurred by the board for its initial activities and
3 expenditures is presumed to be prudently incurred on behalf of the customers of the
4 investor-owned transmission and distribution utilities and is recoverable in rates, except
5 where proven to be imprudent beyond a reasonable doubt. To the extent that the company's
6 initial activities are specifically attributable to one but not both acquired utilities, those
7 separately attributable costs must be recovered from ratepayers of the utility to which they
8 are attributable.

9 **§4004. Cost-of-service rates**

10 The rates and all other charges of the company must be sufficient to pay in full the cost
11 of service, including the cost of debt and property taxation.

12 **§4005. No use of state funds or tax dollars**

13 Debt or liability of the company is not a general obligation or moral obligation of the
14 State or any agency or instrumentality of the State other than the company, and neither the
15 State nor any agency or instrumentality of the State other than the company guarantees any
16 debt or liability of the company.

17 **§4006. No debt or liability of the State**

18 The company serves a public purpose in the carrying out of the provisions of this
19 chapter, but debt or liability of the company is not a general obligation or moral obligation
20 of the State.

21 **§4007. Voter approval**

22 Notwithstanding any other provision of law enacted on or before the date upon which
23 this chapter is enacted, if this chapter is approved by voters of the State at a statewide
24 election, debt or liability of the company is not subject to additional voter approval.

25 **§4008. Property and income tax status**

26 **1. Property tax.** Notwithstanding Title 36, chapter 105, subchapter 4, the company
27 is subject to property taxation pursuant to the laws of the State and must pay property tax
28 in the same manner as an investor-owned transmission and distribution utility. Rates
29 charged by the company must include sufficient amounts to pay property taxes due under
30 this subsection.

31 **2. Income tax.** Notwithstanding any provision of law to the contrary, income of the
32 company is exempt from all taxation or assessment by the State or any political subdivision
33 of the State. All bonds, notes and other evidences of indebtedness issued by the company
34 in accordance with chapter 9 are legal obligations of the company, and the company is a
35 quasi-municipal corporation within the meaning and for the purposes of Title 30-A, section
36 5701. All bonds, notes and other evidences of indebtedness issued by the company are
37 legal investments for savings banks in this State and are exempt from state income tax.

38 **3. Tax increment financing agreements.** If an investor-owned transmission and
39 distribution utility acquired by the company is subject to a tax increment financing
40 agreement under Title 30-A, chapter 206, the company acquires the same rights and
41 responsibilities as applied to the investor-owned transmission and distribution utility under
42 the agreement.

1 **§4009. Termination of the company**

2 The company may not be dissolved or cease operations except by authorization of law
3 and only if all debt and liabilities of the company have been paid or a sufficient amount for
4 the payment of all debt and liabilities has been placed in an irrevocable trust for the benefit
5 of the holders of the debt and only if any remaining equity of the company is returned in
6 an equitable manner to the customers of the company.

7 **§4010. Freedom of access; confidentiality**

8 The proceedings and records of the company are subject to the freedom of access laws,
9 Title 1, chapter 13, except as specifically provided in this section.

10 **1. Confidential records.** The following records are designated as confidential for
11 purposes of Title 1, section 402, subsection 3, paragraph A:

12 A. A record obtained or developed by the company that a person, including the
13 company, to whom the record belongs or pertains has requested be designated
14 confidential and that the company has determined contains information that gives the
15 owner or a user an opportunity to obtain a business or competitive advantage over
16 another person that does not have access to the information, except through the
17 company's records, or access to which by others would result in a business or
18 competitive disadvantage, loss of business or other significant detriment to any person
19 to whom the record belongs or pertains; and

20 B. A record that contains usage or other nonpublic information regarding a customer
21 of a transmission and distribution utility in the State.

22 The company shall provide to a legislative committee, on written request signed by the
23 chairs of that committee, any information or records, including information designated
24 confidential under this subsection, specified in the written request. The information or
25 records may be used only for the lawful purposes of the committee and in any action arising
26 out of any investigation conducted by the committee, subject to protective order.

27 **2. Exceptions.** Notwithstanding subsection 1, the following are not confidential and
28 are public records:

29 A. Any otherwise confidential information the confidentiality of which the company
30 determines to have been satisfactorily and effectively waived;

31 B. Any otherwise confidential information that has already lawfully been made
32 available to the public; and

33 C. Impersonal, statistical or general information.

34 **3. Disclosure prohibited; further exceptions.** A board member, employee, agent,
35 other representative of the company or other person may not knowingly divulge or disclose
36 records designated confidential by this section, except that the company, in its discretion
37 and in conformity with legislative freedom of access criteria in Title 1, chapter 13,
38 subchapter 1-A, may make or authorize any of the following disclosures of information:

39 A. If necessary in connection with processing any application for, obtaining or
40 maintaining financial assistance for any person;

41 B. To a financing institution or credit reporting service;

- 1 C. Information necessary to comply with any federal or state law, regulation or rule or
2 with any agreement pertaining to financial assistance;
- 3 D. If necessary to ensure collection of any obligation in which the company has or
4 may have an interest;
- 5 E. In any litigation or proceeding in which the company has appeared, introduction for
6 the record of any information obtained from records designated confidential by this
7 section; and
- 8 F. Pursuant to a subpoena, request for production of documents, warrant or other order,
9 as long as the order appears to have first been served on the person to whom the
10 confidential information sought pertains or belongs and as long as the order appears on
11 its face or otherwise to have been issued or made lawfully.

12 **§4011. Annual report**

13 By April 15th of each year, beginning no more than one year after the first meeting of
14 the board, the company shall submit a report to the joint standing committee of the
15 Legislature having jurisdiction over energy and utilities matters summarizing the activities
16 and performance of the company in meeting its obligations to its customer-owners and its
17 responsibilities under sections 4002 and 4003 during the preceding calendar year and its
18 plans for the current year and subsequent 5 years. Each annual report must describe in
19 detail how the company's decisions, operations and use of low-cost financing have
20 supported and will support the State's progress toward the climate action plan goals
21 established in Title 38, chapter 3-A and how such financing has affected and will affect job
22 creation and gross state product.

23 **§4012. Initial 5-year plan**

24 Within 18 months of the date in which the company and the operations team fully take
25 ownership and control of all utility facilities in the State owned or operated or held for
26 future use by any investor-owned transmission and distribution utility, the company shall
27 submit to the commission for approval a 5-year plan to meet initial affordability, reliability,
28 decarbonization and connectivity goals.

29 **1. Plan minimum requirements.** At a minimum, the 5-year plan under this section
30 must also include a program to:

- 31 A. Establish lower rates for low-income residential customers;
- 32 B. Build across the State accessible, rapid charging infrastructure for electric vehicles;
- 33 C. Reduce make-ready and pole attachment costs for open-access fiber-optic cable in
34 unserved and underserved areas of the State as defined in section 9202, subsection 5;
35 and
- 36 D. Make rapid investments in the distribution network to upgrade reliability and to
37 improve capacity for interconnections of new renewable generation and storage
38 facilities.

39 **Sec. 13. Review of laws and report.** The Public Utilities Commission shall
40 examine all laws that may be affected by this Act or need to be changed as a result of this
41 Act, including laws governing the Pine Tree Power Company as established under the
42 Maine Revised Statutes, Title 35-A, section 4002, and laws relating to investor-owned

1 transmission and distribution utilities that may be eliminated as a result of this Act. The
2 commission shall determine any modifications to laws that may be necessary or appropriate
3 as a result of this Act or to effectuate the purposes of this Act and shall submit proposed
4 legislation to the joint standing committee of the Legislature having jurisdiction over
5 energy, utilities and technology matters no later than 6 months after the first meeting of the
6 Pine Tree Power Company Board under Title 35-A, section 4002. The joint standing
7 committee of the Legislature having jurisdiction over energy, utilities and technology
8 matters may report out a bill relating to the subject matter of this Act and to the
9 commission's report.

10 **Sec. 14. Staggered terms of initial members of Pine Tree Power Company**
11 **Board.** Notwithstanding the Maine Revised Statutes, Title 35-A, section 4002, subsection
12 3, the terms of the initial members of the Pine Tree Power Company Board must be
13 staggered as provided in this section.

14 1. The initial designated members of the board serve as follows, determined by lot by
15 those members after their selection: 2 members serve 6-year terms, 2 members serve 4-year
16 terms and 2 members serve 2-year terms.

17 2. The initial elected members of the board serve as follows, determined by lot by
18 those members after their election: 3 members serve 6-year terms, 2 members serve 4-year
19 terms and 2 members serve 2-year terms.

20 **Sec. 15. Code of ethics; recommendations.** On or before February 15, 2024, the
21 Office of the Attorney General shall submit to the joint standing committee of the
22 Legislature having jurisdiction over state and local government matters recommendations
23 regarding the establishment of a code of ethics applicable to the members of the Pine Tree
24 Power Company Board, as established in the Maine Revised Statutes, Title 5, section
25 12004-G, subsection 36. After receiving the recommendations, the joint standing
26 committee may report out a bill related to those recommendations to the Second Regular
27 Session of the 131st Legislature.

28 **Sec. 16. Effective date.** That section of this Act that enacts the Maine Revised
29 Statutes, Title 35-A, section 1511-A takes effect January 1, 2025.

30 **SUMMARY**

31 This initiated bill creates the Pine Tree Power Company, a privately operated,
32 nonprofit, consumer-owned utility controlled by a board the majority of the members of
33 which are elected. The company's purposes are to provide for its customer-owners in this
34 State reliable, affordable electric transmission and distribution services and to help the State
35 meet its climate, energy and connectivity goals in the most rapid and affordable manner
36 possible.

37 The Pine Tree Power Company is not permitted to use general obligation bonds or tax
38 dollars of the State. The company finances itself by issuing debt against its future revenues
39 to purchase the facilities of investor-owned electric transmission and distribution utilities
40 in the State. The fair market value of the acquisition is either negotiated or determined by
41 a refereed process. The Pine Tree Power Company Board contracts a nongovernmental
42 team to operate the facilities, and the operations team is required to retain all workers of
43 the purchased utilities.

1 The company is subject to property taxation and must pay property tax in the same
2 manner as an investor-owned transmission and distribution utility. The company is subject
3 to ratemaking and other oversight by the Public Utilities Commission and is required to
4 administer programs for net energy billing, nonwires alternatives, supply procurement and
5 low-income assistance programs.

6 The company is governed by a board of 13 members, 7 of whom are each elected to
7 represent 5 State Senate districts, as well as 6 designated expert members. The board is
8 subject to freedom of access laws and to laws preventing conflicts of interest.

9 The initiated bill also directs the Public Utilities Commission beginning January 1,
10 2025 to find a transmission and distribution utility unfit to serve and to direct the sale of
11 the utility if the utility meets certain criteria.