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House of Representatives, January 29, 2021

An Act Regarding Public Utility Assessments, Fees and Penalties

Received by the Clerk of the House on January 27, 2021. Referred to the Committee on Energy, Utilities and Technology pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script, reading "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative BERRY of Bowdoinham.

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

2 **Sec. 1. 35-A MRSA §116, sub-§1**, as amended by PL 2013, c. 600, §1, is further
3 amended to read:

4 **1. Entities subject to assessments.** Every transmission and distribution, gas,
5 telephone and water utility and ferry subject to regulation by the commission and every
6 qualified telecommunications provider is subject to an assessment on its intrastate gross
7 operating revenues to produce sufficient revenue for expenditures allocated by the
8 Legislature for the Public Utilities Commission Regulatory Fund established pursuant to
9 this section. The budget for the Public Utilities Commission Regulatory Fund is subject to
10 legislative review and approval in accordance with subsection 2. The portion of the total
11 assessment applicable to each category of public utility or qualified telecommunications
12 provider is based on an accounting by the commission of the portion of the commission's
13 resources devoted to matters related to each category. The commission shall develop a
14 reasonable and practicable method of accounting for resources devoted by the commission
15 to matters related to each category of public utility or qualified telecommunications
16 provider. Assessments on each public utility or qualified telecommunications provider
17 within each category must be based on the utility's or qualified telecommunications
18 provider's gross intrastate operating revenues. Within each category of public utility, the
19 assessment must be apportioned and applied separately to investor-owned utilities and
20 consumer-owned utilities. The portion of the assessment applicable to investor-owned
21 utilities and consumer-owned utilities within each category must be determined based on
22 an accounting by the commission of the portion of the commission's resources devoted to
23 matters related to investor-owned utilities and the portion devoted to matters related to
24 consumer-owned utilities. The commission shall determine the assessments annually prior
25 to May 1st and assess each utility or qualified telecommunications provider for its pro rata
26 share for expenditure during the fiscal year beginning July 1st. Each utility or qualified
27 telecommunications provider shall pay the assessment charged to the utility or qualified
28 telecommunications provider on or before July 1st of each year. Any increase in the
29 assessment that becomes effective subsequent to May 1st may be billed on the effective
30 date of the act authorizing the increase.

31 A. The assessments charged to utilities and qualified telecommunications providers
32 under this section are just and reasonable operating costs for rate-making purposes.

33 B. For the purposes of this section, "intrastate gross operating revenues" means:

34 (1) In the case of all utilities except telephone utilities, revenues derived from filed
35 rates except revenues derived from sales for resale;

36 (2) In the case of a telephone utility, all intrastate revenues, except revenues
37 derived from sales for resale, whether or not the rates from which those revenues
38 are derived are required to be filed pursuant to this Title; and

39 (3) In the case of a qualified telecommunications provider, all intrastate revenues
40 except revenues derived from sales for resale.

41 C. Gas utilities subject to the jurisdiction of the commission solely with respect to
42 safety are not subject to any assessment.

1 D. The commission may correct any errors in the assessments by means of a credit or
2 debit to the following year's assessment rather than reassessing all utilities or qualified
3 telecommunications providers in the current year.

4 E. The commission may exempt utilities or qualified telecommunications providers
5 with annual intrastate gross operating revenues under \$50,000 from assessments under
6 this section.

7 For purposes of this section, "qualified telecommunications provider" means a provider of
8 interconnected voice over Internet protocol service that paid any assessment under this
9 subsection, whether voluntarily, by agreement with the commission or otherwise, prior to
10 March 1, 2012.

11 **Sec. 2. 35-A MRSA §116, sub-§8**, as amended by PL 2019, c. 226, §1, is further
12 amended to read:

13 **8. Public Advocate assessment.** Every utility or qualified telecommunications
14 provider subject to assessment under this section is subject to an additional annual
15 assessment on its intrastate gross operating revenues to produce sufficient revenue for
16 expenditures allocated by the Legislature for operating the Office of the Public Advocate.
17 The portion of this assessment applicable to each category of public utility or qualified
18 telecommunications provider is based on an accounting by the Public Advocate of
19 resources devoted to matters related to each category. The Public Advocate shall develop
20 a reasonable and practicable method of accounting for resources devoted by the Public
21 Advocate to matters related to each category of public utility or qualified
22 telecommunications provider. Assessments on each public utility or qualified
23 telecommunications provider within each category must be based on the utility's or
24 qualified telecommunications provider's gross intrastate operating revenues. Within each
25 category of public utility, the assessment must be apportioned and applied separately to
26 investor-owned utilities and consumer-owned utilities. The portion of the assessment
27 applicable to investor-owned utilities and to consumer-owned utilities within each category
28 must be determined based on an accounting by the Public Advocate of the portion of the
29 resources of the Office of the Public Advocate devoted to matters related to investor-owned
30 utilities and the portion devoted to matters related to consumer-owned utilities. The
31 revenues produced from this assessment are transferred to the Public Advocate Regulatory
32 Fund and may ~~only~~ be used only to fulfill the duties specified in chapter 17. The
33 assessments charged to utilities and qualified telecommunications providers under this
34 subsection are considered just and reasonable operating costs for rate-making purposes.
35 The Public Advocate shall develop a method of accounting for staff time within the Office
36 of the Public Advocate. All professional and support staff shall account for their time in
37 such a way as to identify the percentage of time devoted to public utility and qualified
38 telecommunications provider regulation and the percentage of time devoted to other duties
39 that may be required by law.

40 A. The Public Advocate shall submit its budget recommendations, using a zero-based
41 budgeting process or other process or method directed by the State Budget Officer, as
42 part of the unified current services budget legislation in accordance with Title 5,
43 sections 1663 to 1666. The assessments and expenditures provided in this section are
44 subject to legislative approval. The Public Advocate shall make an annual report of its

1 planned expenditures for the year and on its use of funds in the previous year. The
2 Public Advocate may also receive other funds as appropriated by the Legislature.

3 B. The Public Advocate may use the revenues provided in accordance with this section
4 to fund the Public Advocate and 10 employees and to defray the costs incurred by the
5 Public Advocate pursuant to this Title, including administrative expenses, general
6 expenses, consulting fees and all other reasonable costs incurred to administer this
7 Title.

8 C-1. Funds that are not expended at the end of a fiscal year do not lapse but must be
9 carried forward to be expended for the purposes specified in this section in succeeding
10 fiscal years.

11 **Sec. 3. 35-A MRSA §120, sub-§2-A** is enacted to read:

12 **2-A. Filing fees and penalties; legislation.** Any filing fees or penalties collected in
13 the previous year under this Title that have not been adjusted in the previous 5 years. For
14 filing fees or penalties reported pursuant to this subsection, the commission shall submit,
15 along with the annual report, draft legislation to adjust the dollar value of the filing fee or
16 penalty based on the actuarially compounded Consumer Price Index since the fee or penalty
17 was last adjusted. After receiving the annual report, the committee may report out a bill
18 based on the draft legislation submitted pursuant to this subsection;

19 **Sec. 4. 35-A MRSA §120, sub-§2-B** is enacted to read:

20 **2-B. Commission expenses; investor-owned and consumer-owned utilities.**
21 Beginning in 2022, for each category of public utility listed in section 116, subsection 1:

22 A. The portion of commission resources devoted to matters related to investor-owned
23 utilities and the portion of commission resources devoted to matters related to
24 consumer-owned utilities; and

25 B. The commission's expenses per dollar of intrastate gross operating revenue for
26 investor-owned utilities and for consumer-owned utilities;

27 **Sec. 5. 35-A MRSA §708, sub-§4**, as enacted by PL 1987, c. 141, Pt. A, §6, is
28 amended to read:

29 **4. Filing fee.** Within 30 days after the application for approval of a reorganization is
30 filed pursuant to subsection 2, the commission may order the applicant to pay a filing fee
31 not to exceed \$50,000; .05% of the estimated total value of the corporation or entity
32 resulting from the proposed reorganization if the commission determines that the
33 application may involve issues ~~which will~~ that would necessitate significant additional
34 costs to the commission, ~~except that, if a reorganization would result in the transfer of~~
35 ownership and control of a public utility or the parent company of a public utility, the
36 commission shall order the applicant to pay to the commission a filing fee in an amount
37 equal to .05% of the estimated total value of the corporation or entity resulting from the
38 proposed reorganization. The applicant may request the commission to waive all or a
39 portion of the filing fee. The commission shall rule on the request for waiver within 30
40 days. Notwithstanding any other provision of law, filing fees paid as required in this
41 subsection ~~shall~~ must be segregated, apportioned and expended by the commission for the
42 purposes of processing the application. Any portion of the filing fee that is received from

1 an applicant and is not expended by the commission to process the application ~~shall~~ must
2 be returned to the applicant.

3 **Sec. 6. 35-A MRSA §1702, sub-§6, ¶A** is enacted to read:

4 A. Beginning in 2022, the annual report must include, for each category of public
5 utility listed in section 116, subsection 1, an accounting of:

6 (1) The portion of the Public Advocate's resources devoted to matters related to
7 investor-owned utilities and the portion of resources devoted to matters related to
8 consumer-owned utilities; and

9 (2) The Public Advocate's expenses per dollar of intrastate gross operating revenue
10 for investor-owned utilities and for consumer-owned utilities.

11 **Sec. 7. Fee and penalty revision.** The Public Utilities Commission shall submit
12 legislation to the Second Regular Session of the 130th Legislature to adjust the dollar value
13 of filing fees and penalties required under the Maine Revised Statutes, Title 35-A based on
14 the actuarially compounded Consumer Price Index for each filing fee or penalty since it
15 was enacted or established, rounding to the nearest multiple of \$100 if the filing fee or
16 penalty is below \$10,000 and to the nearest multiple of \$1,000 if the filing fee or penalty
17 is \$10,000 or greater.

18 SUMMARY

19 This bill does the following:

20 1. It requires the Public Utilities Commission and the Public Advocate, respectively,
21 in calculating assessments charged to public utilities to apportion the assessment within
22 each category of public utility, that is, transmission and distribution, gas, telephone and
23 water, between investor-owned utilities and consumer-owned utilities based on an
24 accounting of the portion of the commission's resources and the Public Advocate's
25 resources, respectively, devoted to matters related to investor-owned utilities and the
26 portion devoted to matters related to consumer-owned utilities.

27 2. It requires the commission, in its annual report, to report on any filing fees or
28 penalties collected from public utilities in the previous year that have not been adjusted in
29 the previous 5 years and to provide draft legislation to adjust the dollar value of filing fees
30 and penalties based on the actuarially compounded Consumer Price Index for each fee and
31 penalty since the last adjustment.

32 3. It requires the commission and the Public Advocate to report annually, beginning
33 in 2022, on the portion of resources devoted to matters related to investor-owned utilities
34 and the portion of resources devoted to matters related to consumer-owned utilities and on
35 commission and Public Advocate expenses, respectively, per dollar of intrastate gross
36 operating revenue for investor-owned utilities and consumer-owned utilities.

37 4. It amends the law governing filing fees for reorganizations of utilities to authorize
38 the commission to order a filing fee of up to .05% of the estimated total value of the
39 reorganization and to require the commission to order payment of a filing fee equal to .05%
40 of the estimated total value of the reorganization if a reorganization would result in the
41 transfer of ownership and control of a public utility or the parent company of a public
42 utility. Under current law the commission may charge a filing fee of up to \$50,000 to an
43 applicant seeking approval for a reorganization.

1 5. It requires the commission to submit legislation to the Second Regular Session of
2 the 130th Legislature to adjust all fees and penalties paid by public utilities based on the
3 actuarially compounded Consumer Price Index for each fee or penalty since enactment.