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An Act To Revise Maine's Utility Reorganization Laws

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

Sec. 1. 35-A MRSA §708, sub-§2, ¶A, as enacted by PL 1987, c. 141, Pt. A, §6, is repealed and the following enacted in its place:

A. Unless exempted by rule or order of the commission, reorganization may not take place without the approval of the commission.

(1) Before authorizing a reorganization subject to this section, when a public utility that is a party to the proposed transaction has gross annual Maine revenues exceeding \$50,000,000, the commission must find that the proposal will:

(a) Advance the economic development and information access goals of the State as set forth in section 7101, subsections 2 and 4 to the extent applicable to the type of utility involved;

(b) Result in short-term and long-term economic benefits to ratepayers; and

(c) Be consistent with the interests of the utility's investors.

(2) With respect to the reorganization of a public utility other than a public utility subject to subparagraph (1), a reorganization may not be approved by the commission unless it is established by the applicant for approval that the reorganization is consistent with the interests of the utility's ratepayers and investors.

(3) The commission shall rule upon all requests for approval of a reorganization within 60 days of the filing of the request for approval. If it determines that the necessary investigation cannot be concluded within 60 days, the commission may extend the period for a further period of no more than 120 days, except that these time limits do not apply to a reorganization subject to subparagraph (1). In granting its approval, the commission may impose such terms, conditions or requirements as, in its judgment, are necessary to protect the interests of ratepayers. These conditions may include provisions that ensure the following:

(a) That the commission has reasonable access to books, records, documents and other information relating to the utility or any of its affiliates, except that the commission may not have access to trade secrets unless it is essential to the protection of the

interests of ratepayers or investors. The commission shall afford trade secrets and other information such protection from public disclosure as is provided in the Maine Rules of Civil Procedure;

(b) That the commission has all reasonable powers to detect, identify, review and approve or disapprove all transactions between affiliated interests;

(c) That the utility's ability to attract capital on reasonable terms, including the maintenance of a reasonable capital structure, is not impaired;

(d) That the ability of the utility to provide safe, reasonable and adequate service is not impaired;

(e) That the utility continues to be subject to applicable laws, principles and rules governing the regulation of public utilities;

(f) That the utility's credit is not impaired or adversely affected;

(g) That reasonable limitations be imposed upon the total level of investment in nonutility business, except that the commission may not approve or disapprove the nature of the nonutility business;

(h) That the commission has reasonable remedial power, including, but not limited to, the power, after notice to the utility and all affiliated entities of the issues to be determined and the opportunity for an adjudicatory proceeding, to order divestiture of or by the utility in the event that divestiture is necessary to protect the interests of the utility, ratepayers or investors. A divestiture order must provide a reasonable period within which the divestiture must be completed; and

(i) That neither ratepayers nor investors are adversely affected by the reorganization.

Sec. 2. 35-A MRSA §708, sub-§4, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

4. Filing fee. Within 30 days after the application for approval of a reorganization is filed pursuant to subsection 2, the commission may order the applicant to pay a filing fee not to exceed \$50,000, if the commission determines that the application may involve issues ~~which~~that will necessitate significant additional costs to the commission, except that in the case of any utility subject to subsection 2, paragraph A, subparagraph (1), the commission may order the applicant to pay a filing fee not to exceed \$100,000. The applicant may request the commission to waive all or a portion of the filing fee. The commission shall

rule on the request for waiver within 30 days. Notwithstanding any other provision of law, filing fees paid as required in this subsection shall be segregated, apportioned and expended by the commission for the purposes of processing the application. Any portion of the filing fee that is received from an applicant and is not expended by the commission to process the application shall be returned to the applicant.

Sec. 3. 35-A MRSA §1101, sub-§1-A is enacted to read:

1-A. Standard of approval for sales, mergers and consolidations of large utilities.

Before authorizing a merger, consolidation, sale or other disposition of property subject to subsection 1, when a public utility that is a party to the proposed transaction has gross annual Maine revenues exceeding \$50,000,000, the commission must find that the proposal will:

- A. Advance the economic development and information access goals of the State as set forth in section 7101, subsections 2 and 4 to the extent applicable to the type of utility involved;
- B. Result in short-term and long-term economic benefits to ratepayers; and
- C. Be consistent with the interests of the utility's investors.

Sec. 4. Application. Notwithstanding the Maine Revised Statutes, Title 1, section 302, those sections of this Act that repeal and replace Title 35-A, section 708, subsection 2, paragraph A; amend Title 35-A, section 708, subsection 4; and enact Title 35-A, section 1101, subsection 1-A apply to any decision made by the Public Utilities Commission after the effective date of this Act, including decisions made involving proceedings pending before the commission prior to the effective date of this Act.

SUMMARY

This bill requires the Public Utilities Commission to approve a merger, consolidation, reorganization or sale involving a Maine public utility with revenues greater than \$50,000,000 only if the commission is satisfied that the proposal will advance the economic development and information access goals of the State, result in economic benefits to ratepayers and be consistent with the interests of investors. In the case of a utility with annual revenues totaling \$50,000,000 or less, the applicable standard for approval is the same standard as is currently applicable.