

Maine Revised Statutes
Title 35-A: PUBLIC UTILITIES
Chapter 13: PROCEDURE

§1320. REVIEW OF COMMISSION ACTION

The following procedures apply to an appeal of a decision of the commission. [1987, c. 141, Pt. A, §6 (NEW).]

1. Final decisions. An appeal from a final decision of the commission may be taken to the Law Court on questions of law in the same manner as an appeal taken from a judgment of the Superior Court in a civil action.

[1987, c. 141, Pt. A, §6 (NEW) .]

2. Parties. Any person who has participated in commission proceedings, and who is adversely affected by the final decision of the commission is deemed a party for purposes of taking an appeal.

[1987, c. 141, Pt. A, §6 (NEW) .]

3. Terms. Where a law or rule regulating the taking of an appeal from the Superior Court in a civil action uses the terms "the court," "the clerk," "the clerk of the courts," or a similar term, they shall for purposes of an appeal from the commission mean "the commission," "the administrative director of the commission," or other appropriate term, respectively.

[1987, c. 141, Pt. A, §6 (NEW) .]

4. Notice of appeal. The notice of appeal shall be accompanied by a brief statement of the nature of the proceeding before the commission, a copy of the decision, order or ruling complained of, a statement of the grounds upon which the order or ruling is claimed to be unlawful and a certificate that the attorney for the appellant is of the opinion that there is probable ground for the appeal as to make it a fit subject for judicial inquiry and that it is not intended for delay.

[1987, c. 141, Pt. A, §6 (NEW) .]

5. Additional court review. An appeal may also be taken in the same manner as an appeal under subsection 1, when the justness or reasonableness of a rate, toll or charge by any public utility or the constitutionality of any ruling or order of the commission is in issue, notwithstanding that the ruling or order is not final.

[1987, c. 141, Pt. A, §6 (NEW) .]

6. Law Court jurisdiction is exclusive. The Law Court has exclusive jurisdiction over appeals and requests for judicial review of final decisions and of rulings and orders subject to subsections 1 and 5, with the exception of the Superior Court's jurisdiction to review rules under Title 5, section 8058.

[1987, c. 141, Pt. A, §6 (NEW) .]

7. Stay. While an appeal under subsection 1 is pending, no injunction may issue suspending or staying any order of the commission and the appeal shall not excuse any person or corporation from complying with and obeying any order or decision or any requirement of any order or decision of the commission or operate in any manner to stay or postpone the enforcement of the order or decision, except in the cases and upon the

terms as the commission orders. While an appeal under subsection 5 is pending final determination by the court, the Chief Justice, or in his absence any other justice, may enjoin or stay the effect of the ruling or order upon the terms and conditions as he determines proper.

[1987, c. 141, Pt. A, §6 (NEW) .]

8. Additional evidence. No evidence beyond that contained in the record of the proceedings before the commission may be introduced before the court, except that in cases where issues of confiscation or of constitutional right are involved, the court may order additional evidence it determines necessary for the determination of issues to be taken before the commission upon the terms and conditions the court determines proper. If the court orders additional evidence to be taken, the commission shall promptly hear and report that evidence to the court, so that the proof may be brought as nearly as reasonably possible down to the date of its report to the court. The commission may, after hearing the evidence, modify its findings as to facts and its original decision or orders by reason of the additional evidence so taken, and it shall file with the court that amended decision or orders and those modified or new findings. If the commission modifies or amends its original decision or orders, the appealing party or any other party aggrieved by the modified or amended decision or order may file with the court, within such time as the court may allow, a specification of errors claimed to have been made by the commission in the modified decision or orders, which specifications or errors shall be considered by the court in addition to the errors asserted in the original complaint on appeal.

[1987, c. 141, Pt. A, §6 (NEW) .]

9. Certification of decision, costs. The result of the appeal shall be certified by the clerk of the Law Court to the administrative director of the commission and to the clerk of the Superior Court for Kennebec County. The prevailing party shall recover costs to be taxed by the Superior Court in accordance with the law for the taxation of costs on appeal in civil actions. Execution for these costs shall be issued from the Superior Court of Kennebec County in the same manner as in actions originating in the court. Double costs shall be assessed by the court upon any party whose appeal appears to the court not to be a fit subject for judicial inquiry or appears to be intended for delay.

[1987, c. 141, Pt. A, §6 (NEW) .]

SECTION HISTORY

1987, c. 141, §A6 (NEW) .

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