



131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1655

S.P. 660

In Senate, April 13, 2023

An Act to Amend the Laws Governing Consumer-owned Water Utilities

Submitted by the Public Utilities Commission pursuant to Joint Rule 204
Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator LAWRENCE of York.

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

2 **Sec. 1. 35-A MRSA §505, sub-§1**, as amended by PL 2019, c. 586, §1, is further
3 amended to read:

4 **1. Consumer-owned water utilities.** Except as provided in this subsection, the
5 commission may not require under this section that a qualified small water utility cause to
6 be conducted an annual audit of its accounts. For purposes of this subsection, "qualified
7 small water utility" means a consumer-owned water utility with gross annual revenues ~~that~~
8 ~~do not exceed \$250,000~~ of less than \$500,000.

9 A. A qualified small water utility with gross annual revenues of ~~\$50,000~~ \$100,000 or
10 less shall for any year used as a test year for rate-making purposes cause to be
11 conducted, in accordance with generally accepted auditing standards, an audit of its
12 accounts by an independent certified public accountant licensed to practice in the State.
13 The commission, for good cause shown by the qualified small water utility, may waive
14 the requirements of this paragraph.

15 B. A qualified small water utility with gross annual revenues greater than ~~\$50,000~~
16 \$100,000:

17 (1) Shall cause to be conducted, in accordance with generally accepted auditing
18 standards, an annual review of its accounts by an independent certified public
19 accountant licensed to practice in the State; and

20 (2) Not less than once every 5 years and for any year used as a test year for rate-
21 making purposes, shall cause to be conducted, in accordance with generally
22 accepted auditing standards, an audit of its accounts by an independent certified
23 public accountant licensed to practice in the State.

24 Nothing in this subsection limits or affects any other reporting, review, auditing or other
25 requirement imposed by a creditor of the qualified small water utility or by any other
26 applicable law or government authority.

27 **Sec. 2. 35-A MRSA §901**, as enacted by PL 1987, c. 141, Pt. A, §6, is amended by
28 adding at the end a new paragraph to read:

29 The requirements of this chapter do not apply to a consumer-owned water utility as
30 defined in section 6101, subsection 1-A.

31 **Sec. 3. 35-A MRSA §6104, sub-§3**, as amended by PL 1995, c. 255, §9, is further
32 amended to read:

33 **3. Notice of proposed rate change and hearing.** The consumer-owned water utility
34 shall, at least 14 days prior to the hearing, ~~publish a notice of the proposed rate change and~~
35 ~~the hearing, including the date, time, place and purpose of the hearing, in a newspaper of~~
36 ~~general circulation in the area encompassed by the consumer-owned water utility and give~~
37 ~~one~~ provide notice of the proposed rate change and the date, time, place and purpose of the
38 hearing to ~~each of its customers~~ in a manner prescribed by the commission. ~~The published~~
39 ~~and individual notices~~ Any such notice must include a statement describing the amount of
40 the rate change and the percentage change for each customer class, the customer's right to
41 request information relating to the present and proposed rates, the right to an open and fair
42 hearing and the right to further hearings before the commission, and the availability of
43 assistance from the Public Advocate. ~~The published and individual notices~~ Any such notice

1 must inform customers that they can petition the commission to investigate the proposed
2 rate change and must include a statement that signatures on petitions filed pursuant to
3 subsection 7 are invalid unless accompanied by the printed names and addresses of the
4 signers. ~~The published and individual notices~~ Any such notice must also inform customers
5 that the utility will, upon request, provide customers with petition forms that include space
6 for signatures and the printed names and addresses of the signers. Copies of ~~the notice~~ all
7 notices must be sent to the commission and the Public Advocate at least 14 days prior to
8 the hearings.

9 **Sec. 4. 35-A MRSA §6104, sub-§10**, as amended by PL 1987, c. 490, Pt. B, §12,
10 is further amended to read:

11 **10. Review of rates under section 310.** Nothing in this section prohibits a consumer-
12 owned water utility from petitioning the commission for review pursuant to section 310 ~~in~~
13 ~~the first instance.~~

14 **Sec. 5. 35-A MRSA §6104-A, sub-§1**, as enacted by PL 2009, c. 237, §2, is
15 amended to read:

16 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
17 following terms have the following meanings.

18 A. "Large consumer-owned water utility" means a consumer-owned water utility with
19 total annual revenues of at least ~~\$750,000~~ \$1,000,000 during the most recent fiscal
20 year.

21 B. "Medium consumer-owned water utility" means a consumer-owned water utility
22 with total annual revenues of less than ~~\$750,000~~ \$1,000,000 and at least ~~\$250,000~~
23 \$500,000 during the most recent fiscal year.

24 C. "Small consumer-owned water utility" means a consumer-owned water utility with
25 total annual revenues of less than ~~\$250,000~~ \$500,000 during the most recent fiscal year.

26 **Sec. 6. 35-A MRSA §6104-A, sub-§5**, as amended by PL 2011, c. 106, §1, is
27 further amended to read:

28 **5. Notice of proposed rate increase and public meeting.** The consumer-owned
29 water utility shall, at least 14 days prior to the public meeting required under subsection 4,
30 ~~publish a~~ provide notice ~~of the proposed rate increase and the meeting, including the date,~~
31 ~~time, place and purpose of the meeting, in a newspaper of general circulation in the area~~
32 ~~encompassed by the consumer-owned water utility and give one~~ notice of the proposed rate
33 change and the date, time, place and purpose of the meeting to ~~each of its customers~~ in a
34 manner prescribed by the commission. ~~The published and individual notices~~ Any such
35 notice must include a statement describing the amount of the rate increase and the
36 percentage change for each customer class, the customer's right to request information
37 relating to the present and proposed rates and the availability of assistance from the Public
38 Advocate. Copies of ~~the notice~~ all notices must be sent to the commission and the Public
39 Advocate at least 14 days prior to the meeting.

40 **Sec. 7. 35-A MRSA §6104-A, sub-§9**, as enacted by PL 2009, c. 237, §2, is
41 amended to read:

1 **§6431. Consolidation of consumer-owned water utilities into a single consumer-owned**
2 **water utility**

3 **1. Petition.** Upon a petition of 2 or more consumer-owned water utilities for the
4 consolidation of the consumer-owned water utilities into a single consumer-owned water
5 utility, the commission shall initiate a proceeding to determine whether the proposed
6 consolidation is in the public interest.

7 **2. Differing rates request.** Two or more consumer-owned water utilities may request
8 in the petition submitted in accordance with subsection 1 to have differing geographically
9 based rate structures consistent with the service areas serviced by the petitioning utilities if
10 the commission approves consolidation into a single consumer-owned water utility. The
11 commission may disallow the use of differing rate structures if the commission finds it is
12 not in the best interest of ratepayers.

13 **3. Notice to customers; public meeting.** Prior to the filing of a petition pursuant to
14 subsection 1, the consumer-owned water utilities seeking consolidation must first hold a
15 public meeting at which any customer may provide comment and may question the officials
16 present regarding the proposed consolidation. The consumer-owned water utilities shall,
17 at least 14 days prior to the public meeting required under this subsection, provide notice
18 of the proposed consolidation and the meeting in a manner prescribed by the commission,
19 including the date, time, place and purpose of the meeting to each of its customers. The
20 notice must include a statement describing the consolidation. A public meeting held
21 pursuant to this subsection must include a public comment period prescribed by the
22 commission. After the public meeting, the governing bodies of the consumer-owned water
23 utilities shall hold a meeting to deliberate and vote on the proposed consolidation, which
24 may be modified on the basis of public comments received during the public meeting. The
25 consumer-owned water utilities shall take minutes of the public meeting and the subsequent
26 meeting of the governing bodies. Upon good cause shown, the commission may waive one
27 or more of the requirements of this subsection.

28 **4. Proceeding; approval.** Upon a petition filed pursuant to subsection 1, the
29 commission shall provide in a proceeding customers of the petitioning consumer-owned
30 water utilities and other interested persons the opportunity to comment on or object to the
31 proposed consolidation. Upon the conclusion of the proceeding, the commission shall issue
32 a written decision. The commission may approve the consolidation petition or
33 modifications of the petition upon a finding that the consolidation is in the public interest,
34 subject to any reasonable conditions imposed by the commission.

35 **5. Rulemaking.** The commission may adopt rules to implement this section. Rules
36 adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter
37 375, subchapter 2-A.

38 **§6432. Consolidated consumer-owned water utility charter requirements;**
39 **commission authority**

40 **1. Commission responsibility; charter creation.** If the commission approves a
41 petition of 2 or more consumer-owned water utilities for consolidation into a single
42 consumer-owner water utility in accordance with section 6431, by January 15th annually,
43 the commission shall provide the joint standing committee of the Legislature having
44 jurisdiction over utilities matters with a report on the consolidation of the utilities that
45 includes a draft charter created in accordance with this section for the newly created

1 consumer-owned water utility. The committee shall report out a bill for each newly created
2 water utility provided in the report.

3 **2. Charter requirements.** A consolidated consumer-owned water utility charter
4 drafted by the commission pursuant to subsection 1 must:

5 A. Meet the requirements for a standard district in accordance with chapter 64; and

6 B. Specify that the consolidated consumer-owned water utility shall acquire all, and
7 not less than all, of the plants, properties, assets, franchises, rights and privileges owned
8 by the consumer-owned water utilities being consolidated, including, without
9 limitation, all lands, buildings, waters, water rights, springs, wells, reservoirs, tanks,
10 standpipes, mains, pumps, pipes, machinery, fixtures, hydrants, meters, services, tools,
11 equipment and appliances used or useful in supplying water for domestic, sanitary,
12 commercial, industrial and municipal purposes. The consideration to be paid for the
13 plants, properties, assets, franchises, rights and privileges is the assumption by the
14 consolidated consumer-owned water utility of all of the outstanding debts, obligations
15 and liabilities of the consumer-owned water utilities being consolidated, including,
16 without limitation, the assumption by the consolidated consumer-owned water utility
17 of any outstanding notes or bonds of the consumer-owned water utilities being
18 consolidated that are due on or after the date of the assumption.

19 SUMMARY

20 This bill does the following.

21 1. It increases the gross annual revenues thresholds that trigger audits for qualified
22 small water utilities.

23 2. It exempts consumer-owned water utilities from specific requirements, including
24 authorization by the Public Utilities Commission for the issuance of stocks, bonds and
25 notes.

26 3. It removes the requirement that consumer-owned water utilities publish notices of
27 public hearings and rate changes in a newspaper and instead provides the commission with
28 the authority to prescribe the manner in which notice is provided to customers.

29 4. It increases the total annual revenues thresholds that classify what qualifies as a
30 small, medium and large consumer-owned water utility.

31 5. It creates an expedited rate adjustment mechanism for consumer-owned water
32 utilities to allow for up to a 1.5% increase in the current total annual revenue as long as
33 proper notice is provided; however, it does allow the commission to suspend the
34 adjustment.

35 6. It creates a process for 2 or more consumer-owned water utilities to petition the
36 commission to consolidate into a single utility and requires the commission to report
37 annually on consolidation activities to the joint standing committee of the Legislature
38 having jurisdiction over utilities matters and include in that report draft charter language to
39 be reported out of committee that creates the new consolidated utility.

40 7. It clarifies language.