

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-THREE

S.P. 146 - L.D. 325

An Act to Require Transparency in Public Utility Advertising Expenditures

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

Sec. 1. 35-A MRSA §302, as enacted by PL 1987, c. 141, Pt. A, §6, is repealed and the following enacted in its place:

§302. Limitations on rates

1-A. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Affiliated interest" has the same meaning as in section 707, subsection 1, paragraph A.

B. "Consumer-owned transmission and distribution utility" has the same meaning as in section 3201, subsection 6.

C. "Consumer-owned water utility" has the same meaning as in section 6101, subsection 1-A.

D. "Grassroots lobbying" has the same meaning as in Title 3, section 312-A, subsection 7-B.

E. "Lobbying" has the same meaning as in Title 3, section 312-A, subsection 9.

F. "Public charity" has the same meaning as in Title 5, section 194, subsection 1.

G. "Trade association" means a group of for-profit corporations collaborating to fund joint advocacy.

2. Limitations on rates. The following expenses, whether paid directly or indirectly, through reimbursement or otherwise, incurred by a public utility or an affiliated interest may not be included or incorporated in operating expenses to be recovered in rates:

A. Contributions or gifts to political candidates, political parties, political or legislative committees or any committee or organization working to influence referendum petitions or elections;

B. Contributions to a trade association, chamber of commerce or public charity, including, but not limited to, a charity managed by the public utility or affiliated interest. This paragraph does not apply to a consumer-owned water utility;

C. Expenditures for lobbying or grassroots lobbying; and

D. Educational expenditures, as defined by the commission by rule under section 302-A, unless approved by the commission as serving a public interest. Educational expenditures include expenditures relating to information delivered to the public or to public utility customers by radio, television, the Internet, print and other media or through sponsorships, paid endorsements and public relations campaigns. This paragraph does not apply to a consumer-owned transmission and distribution utility or a consumer-owned water utility.

3. Political, charitable and educational expenses annual report. A public utility shall file a report annually with the commission containing a written, itemized description of any expenses that may not be included or incorporated in the public utility's operating expenses under subsection 2. The report must also include a written, itemized description of the expenses that may not be included or incorporated in the public utility's operating expenses under subsection 2 that are relevant to the business interests of the public utility paid by a membership organization, as defined by the commission by rule under section 302-A, of which the public utility is a member. For each expense, the report must include the date, the payee, the amount and a description of the purpose of the expense.

4. Major political activities quarterly report. In addition to the report required under subsection 3, if a public utility or an affiliated interest engages in major political activities, as defined by the commission by rule under section 302-A, the public utility shall file a quarterly report containing a written description of those major political activities and the expenditures associated with those activities. For each expenditure, the report must include the date, the payee, the amount and a description of the purpose of the expenditure.

5. Public inspection. The public utility shall make available for public inspection all materials filed with the commission in accordance with subsections 3 and 4. The commission shall make available the annual reports filed by public utilities in accordance with this section on its publicly accessible website with notice of the availability of the reports prominently displayed on the website.

Sec. 2. 35-A MRSA §302-A, as enacted by PL 2005, c. 204, §1, is amended to read:

§302-A. Rules governing political activities, promotional advertising, charitable contributions, educational expenditures and institutional advertising

~~Rules adopted by the~~ The commission shall adopt rules necessary to implement section 302, including, but not limited to, rules concerning promotional advertising; promotional allowances, including, but not limited to, the granting of promotional rebates or credits; advertising to promote corporate image or goodwill; contributions to public charities as defined in Title 5, section 194, subsection 1; educational expenditures; or political activities, including major political activities, by a public utility or an affiliated interest as defined in section 707, subsection 1, paragraph A. Rules adopted under this section are major substantive routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. Rules on these matters in effect on the effective date of this section remain

~~in effect and do not require legislative approval but any changes to such rules are subject to review and approval in accordance with Title 5, chapter 375, subchapter 2-A.~~

Sec. 3. Rulemaking. By November 1, 2023, the Public Utilities Commission shall initiate rulemaking to amend its rules under the Maine Revised Statutes, Title 35-A, section 302-A to implement the requirements of this Act. The commission's rules may not require public utilities to file more than one annual report related to advertising and political activities except as required under Title 35-A, section 302, subsection 4.