

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-THREE

S.P. 660 - L.D. 1655

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

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

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

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

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

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

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

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

Nothing in this subsection limits or affects any other reporting, review, auditing or other requirement imposed by a creditor of the qualified small water utility or by any other applicable law or government authority. The commission, for good cause shown by the qualified small water utility, may waive the requirements of this subsection.

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

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

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

3. Notice of proposed rate change and hearing. The consumer-owned water utility shall, at least 14 days prior to the hearing, ~~publish a notice of the proposed rate change and the hearing, including the date, time, place and purpose of the hearing, in a newspaper of general circulation in the area encompassed by the consumer-owned water utility and give one~~ provide notice of the proposed rate change and the date, time, place and purpose of the hearing to each of its customers in a manner prescribed by the commission. ~~The published and individual notices~~ Any such notice must include a statement describing the amount of the rate change and the percentage change for each customer class, the customer's right to request information relating to the present and proposed rates, the right to an open and fair hearing and the right to further hearings before the commission, and the availability of assistance from the Public Advocate. ~~The published and individual notices~~ Any such notice must inform customers that they can petition the commission to investigate the proposed rate change and must include a statement that signatures on petitions filed pursuant to subsection 7 are invalid unless accompanied by the printed names and addresses of the signers. ~~The published and individual notices~~ Any such notice must also inform customers that the utility will, upon request, provide customers with petition forms that include space for signatures and the printed names and addresses of the signers. Copies of ~~the notice~~ all notices must be sent to the commission and the Public Advocate at least 14 days prior to the hearings.

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

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

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

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

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

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

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

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

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

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

9. Review of rates under section 310. Nothing in this section prohibits a consumer-owned water utility from petitioning the commission for review pursuant to section 310 or filing a rate change pursuant to section 6104 ~~in the first instance.~~

Sec. 8. 35-A MRSA §6104-B is enacted to read:

§6104-B. Consumer-owned water utilities; expedited rate adjustments

1. Application of this section. Notwithstanding section 310, 6104 or 6104-A, a consumer-owned water utility may elect to adjust rates pursuant to this section.

2. Maximum rate adjustment. The maximum rate adjustment that a consumer-owned water utility may propose under this section is 1.5% of current total annual revenue. A consumer-owned water utility may not propose a rate adjustment under this section more than once every 11 months.

3. Notice of proposed rate increase. The consumer-owned water utility shall, at least 30 days prior to the effective date of the rate adjustment, provide notice of the proposed rate change to the commission, to the Public Advocate and to its customers in a manner prescribed by the commission. Any such notice must include a statement describing the amount of the rate adjustment, the percentage change for each customer class and a brief explanation of the reason for the rate adjustment. A consumer-owned water utility that elects to adjust rates pursuant to this section and has been granted an exemption from sections 6104 and 6104-A by the commission in accordance with section 6114 is exempt from the requirement to file the notice of the proposed rate change with the commission and the Public Advocate under this subsection.

4. Filing changed rates. The consumer-owned water utility shall file, in a manner prescribed by the commission, its adjusted rates with the commission and the Public Advocate at least 30 days prior to the effective date of the rate change.

5. Effective date established for rate change. Subject to the notice and waiver requirements of section 307, a consumer-owned water utility electing to adjust rates under this section may establish an effective date for a rate adjustment of at least one month, but

not more than 9 months, from the date the rates are filed with the commission under subsection 3.

6. Investigation of rates. Nothing in this section prohibits a consumer-owned water utility from petitioning the commission for investigation pursuant to section 310 or filing a rate change pursuant to section 6104 or 6104-A.

7. Correction of errors. Upon review of a rate filing made pursuant to this section, the commission may order the consumer-owned water utility to correct mathematical or clerical errors.

8. Suspension of the adjustment. Notwithstanding any provision of this section to the contrary, the commission may at any time within the period preceding the effective date of the rate adjustment suspend the adjustment by filing with the proposed adjustment and delivering to the consumer-owned water utility a statement of its reasons for the suspension. The suspension may not be for a period longer than 12 months from the effective date of the order of suspension.

Sec. 9. 35-A MRSA c. 64-A is enacted to read:

CHAPTER 64-A

CONSUMER-OWNED WATER UTILITY CONSOLIDATION

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

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

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

3. Notice to customers; public meeting. Prior to the filing of a petition pursuant to subsection 1, the consumer-owned water utilities seeking consolidation must first hold a public meeting at which any customer may provide comment and may question the officials present regarding the proposed consolidation. The consumer-owned water utilities shall, at least 14 days prior to the public meeting required under this subsection, provide notice of the proposed consolidation and the meeting in a manner prescribed by the commission, including the date, time, place and purpose of the meeting to each of its customers. The notice must include a statement describing the consolidation. A public meeting held pursuant to this subsection must include a public comment period prescribed by the commission. After the public meeting, the governing bodies of the consumer-owned water utilities shall hold a meeting to deliberate and vote on the proposed consolidation, which may be modified on the basis of public comments received during the public meeting. The

consumer-owned water utilities shall take minutes of the public meeting and the subsequent meeting of the governing bodies. Upon good cause shown, the commission may waive one or more of the requirements of this subsection.

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

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

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

1. Commission responsibility; charter creation. If the commission approves a petition of 2 or more consumer-owned water utilities for consolidation into a single consumer-owned water utility in accordance with section 6431, the commission shall provide the joint standing committee of the Legislature having jurisdiction over utilities matters a report on the consolidation of the utilities that includes a draft charter created in accordance with this section for the approved consumer-owned water utility. The committee may report out a bill for each approved water utility listed in the report.

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

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

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