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An Act To Streamline Ratemaking for Consumer-owned Water Utilities

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

Sec. 1. 35-A MRSA §310, sub-§3, ¶A, as amended by PL 2007, c. 127, §1, is further amended to read:

A. Municipal or quasi-municipal corporations that are water utilities within the definition of section 102, any provisions in any charter notwithstanding, and that elect to proceed pursuant to the terms of section 6104 or 6104-A, unless by the express terms of section 6104 or 6104-A the provisions of this section are made applicable to those corporations;

Sec. 2. 35-A MRSA §6104-A is enacted to read:

§ 6104-A. Consumer-owned water utilities; streamlined ratemaking

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 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 and at least \$250,000 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 during the most recent fiscal year.

2. Application of this section; qualification; supporting materials. Notwithstanding section 310 or section 6104, any consumer-owned water utility that meets the requirements of this subsection may elect to increase rates pursuant to this section. To qualify for a rate increase under this section, a consumer-owned water utility must have negative net income in the 2 consecutive fiscal years immediately preceding the year in which the rate increase is proposed. The consumer-owned water utility must file with the commission supporting documentation demonstrating the 2 years of negative net income as provided in this subsection.

A. A consumer-owned water utility that is required to file balance sheets under section 504, shall file copies for the 3 most recent years of the balance sheet together with other annual financial information the commission may prescribe to be filed pursuant to section 504, subsection 2, including the operating statement or other statements showing annual operating income and expenses.

B. A consumer-owned water utility that is excused from filing balance sheets pursuant to section 504, subsection 3 shall file copies for the 3 most recent years of financial statements from financial audits or reviews of the utility or other information documenting the operating income and expenses of the utility considered acceptable by the commission.

The consumer-owned water utility shall file its proposed rate increase, in accordance with the limits established in subsection 3, along with a copy of the required documentation supporting the proposed rate increase with the commission and the Public Advocate at least 30 days prior to the public meeting required under subsection 4. A copy of the required documentation supporting the proposed rate increase must be made available to customers for examination at the offices of the utility for at least 30 days prior to the public meeting. The utility shall promptly provide any readily available relevant additional material or information requested by a customer, the commission or the Public Advocate.

3. Maximum rate increase. The maximum rate increase that a consumer-owned water utility may propose under this section:

- A. Is 2% of current rates if the utility is a large consumer-owned water utility;
- B. Is 3.5% of current rates if the utility is a medium consumer-owned water utility; and
- C. Is 5% of current rates if the utility is a small consumer-owned water utility.

The cumulative total of rate increases under this section may not exceed 10% over 5 years.

4. Utilities that set rates under this section; public meeting required. Consumer-owned water utilities that qualify to increase rates under this section may not increase any rate, toll or charge without first holding a public meeting at which the Public Advocate and any customer may provide comment and may question the officials present regarding the proposed rate increase.

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 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. The published and individual notices 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. The published and individual notices must inform customers of the 10-person complaint process under section 1302. Copies of the notice must be sent to the commission and the Public Advocate at least 14 days prior to the meeting.

6. Public meeting; vote of governing body; minutes. At the commencement of each public meeting held pursuant to this section, the consumer-owned water utility shall inform those present of the reason for the rate change. Each public meeting held pursuant to this section must include a public

comment period. After the public meeting, the governing body of the consumer-owned water utility shall hold a meeting to deliberate and vote on the proposed rate increase, which may be modified on the basis of the public comment received during the public meeting. The consumer-owned water utility shall take minutes of the public meeting and the subsequent meeting of the governing body.

Within 30 days of the public meeting, the consumer-owned water utility shall file with the commission and the Public Advocate a copy of the minutes of that meeting, which must include a record of the public comment received. Within 30 days of the meeting of the governing body of the consumer-owned water utility held under this subsection, the consumer-owned water utility shall file with the commission and the Public Advocate a copy of the minutes of that meeting, which must include the vote of the governing body, along with responses of the governing body to the public comment received. A copy of the minutes of each meeting must be made available to customers for examination at the offices of the utility.

7. Filing changed rates. The consumer-owned water utility shall file its changed rates with the commission within 30 days of the vote of the governing body of the consumer-owned water utility under subsection 6, but not sooner than 10 days following the vote.

8. Effective date established for rate change. Subject to the notice and waiver requirements of section 307, consumer-owned water utilities electing to set rates under this section may establish an effective date for a rate change of at least one month, but not more than 9 months, from the date the rates are filed with the commission under subsection 7.

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.

10. 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.

Effective September 12, 2009