

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **An Act To Ensure Just and Reasonable Sewer Utility Rates**

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

**Sec. 1. 35-A MRSA §102, sub-§13**, as amended by PL 2009, c. 539, §1, is further amended to read:

**13. Public utility.** "Public utility" includes every gas utility, natural gas pipeline utility, transmission and distribution utility, telephone utility, water utility, sewer utility and ferry, as those terms are defined in this section, and each of those utilities is declared to be a public utility. "Public utility" does not include the operation of a radio paging service, as that term is defined in this section, or mobile telecommunications services unless only one entity or an affiliated interest of that entity, as defined in section 707, subsection 1, paragraph A, exclusively controls the use of the radio frequency spectrum assigned by the Federal Communications Commission to provide mobile service to the service area. "Public utility" includes a smart grid coordinator as defined in section 3143, subsection 1, paragraph B.

Nothing in this subsection precludes:

- A. The jurisdiction, control and regulation by the commission pursuant to private and special act of the Legislature;
- B. The commission's jurisdiction and control over and regulation of a public utility that provides, in addition to other services, radio paging service or mobile telecommunications services;
- C. The commission's jurisdiction and control over and regulation of basic exchange telephone service offered by a provider of mobile telecommunications services if, after investigation and hearing, the commission determines that the provider is engaged in the provision of basic exchange telephone service; and
- D. Negotiations for, or negates agreements or arrangements existing on the effective date of this paragraph relating to, rates, terms and conditions for interconnection provided by a telephone utility to a company providing radio paging or mobile telecommunications services.

**Sec. 2. 35-A MRSA §102, sub-§16-B** is enacted to read:

**16-B. Sewer utility.** "Sewer utility" means a sanitary district established under Title 38, chapter 11 or a sewer district as defined in Title 38, section 1251.

**Sec. 3. 35-A MRSA Pt. 5-A** is enacted to read:

### **PART 5-A**

### **SEWER**

## **CHAPTER 55**

### **RATE REGULATION OF SEWER UTILITIES**

#### **§ 5501. Definitions**

For the purposes of this chapter, unless the context otherwise indicates, the term "customer" means, in the case of residential accounts, any one adult residing in a household where the sewer utility's service is provided and, in the case of all other accounts, a corporate officer, a partner or a proprietor.

#### **§ 5502. Sewer utility regulation limited to rate regulation; rules**

A sewer utility is subject to regulation as a public utility under this Title only for purposes of rate regulation by the commission in accordance with this Part. The commission shall adopt rules necessary to carry out the purposes of this Part, including rules specifying those provisions of this Title to which a sewer utility is subject for purposes of rate regulation in accordance with this Part. Except as specified in this Part and rules adopted in accordance with this section, a sewer utility is not otherwise subject to regulation under this Title. Rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

#### **§ 5503. Petitions; rate regulation**

The commission shall investigate proposed changes in the rates of a sewer utility in accordance with this section and rules adopted by the commission under section 5502.

**1. Petitions.** In accordance with this subsection, customers of a sewer utility may petition the commission to investigate proposed changes in the rates of the sewer utility.

A. The petition must be signed by customers of the sewer utility in accordance with paragraph B, identify a lead petitioner and be delivered to the commission and the treasurer of the sewer utility within 30 days of the public hearing on the rate change required under Title 38, section 1202 or Title 38, section 1252, subsection 1.

(1) The commission shall require sewer utilities to provide notice of the petition procedures established under this section both before and at the beginning of public hearings required under Title 38, section 1202 or Title 38, section 1252, subsection 1. The notice must include a statement that signatures on petitions are valid only if accompanied by the printed names and addresses of the signers. The commission shall require sewer utilities, upon request, to provide customers with petition forms that include space for signatures and the printed names and addresses of the signers.

B. The petition must contain a number of signatures equal to 15% of the customers of the sewer utility or 1,000 customers, whichever is less, unless the rate increase is more than 50% of the sewer utility's annual operating revenues, in which case the number of signatures must be 15% of the customers of the sewer utility or 500 customers, whichever is less. No more than one customer may

sign on behalf of an account. A person may not sign on behalf of more than one account unless the person is a customer under each account. Signatures are valid only if accompanied by the printed names and addresses of the signers.

C. Within 10 days from the receipt of a petition under this subsection, a sewer utility shall notify the commission and the lead petitioner whether it intends to contest any aspect of the validity of the petition. If the sewer utility intends to challenge the validity of the individual signatures on the petition, it shall identify, in the notice to the commission and lead petitioner, the specific signatures it is challenging and state the grounds for the challenging of each signature. If a sewer utility files the notice of intent to challenge the validity of the petition, the sewer utility shall provide the commission and lead petitioner with a list of its customers.

D. If a petition bears a sufficient total number of signatures but an insufficient number of printed names and addresses of the signers, the lead petitioner has 7 days from receipt of notice of the sewer utility's challenge pursuant to paragraph C to obtain the correct number of printed names and addresses of the signers. If the petition is sufficiently corrected to address all of the concerns of the sewer utility, the commission is not required to hold a hearing pursuant to paragraph E.

E. If the sewer utility notifies the commission in accordance with paragraph C that it intends to contest the validity of the petition and the petition is not sufficiently corrected pursuant to paragraph D, the commission shall, within 30 days of receiving notice from the sewer utility pursuant to paragraph C, conduct a hearing and issue its decision regarding the validity of the petition.

**2. Supporting materials.** A sewer utility shall file a copy of all materials supporting the proposed rate change with the commission and the Public Advocate. The sewer utility shall promptly provide any readily available relevant additional information requested by the commission or the Public Advocate. Upon review of the materials, the commission may order the sewer utility to correct mathematical or clerical errors.

**3. Investigation of rate changes.** If the commission and the treasurer of the sewer utility receive a valid petition in accordance with subsection 1, the commission shall suspend, investigate, review and change the rate in accordance with section 310. Rates established by the commission must be just and reasonable in accordance with section 301. No suspension order issued by the commission for the purposes of this section is effective for a period greater than 9 months from the date the materials supporting the rate change were filed under subsection 2.

**Sec. 4. 38 MRSA §1202,** as amended by PL 1981, c. 466, §12, is further amended by adding after the 3rd paragraph a new paragraph to read:

The notice of the public hearing must include a notice regarding rate regulation by the commission pursuant to Title 35-A, Part 5-A, as required under Title 35-A, section 5503. At the commencement of the public hearing, the district shall also provide a similar notice, as required by the commission under Title 35-A, section 5503.

**Sec. 5. 38 MRSA §1252, sub-§1,** as enacted by PL 1981, c. 466, §13, is amended to read:

**1. Adoption of new rates.** Prior to the adoption of a new rate schedule, the trustees shall hold a public hearing regarding the proposed rate schedule. The trustees shall publish the proposed rates and notice of the public hearing not less than once in a newspaper having a general circulation in the district not less than 7 days prior to the public hearing. The district shall mail to each ratepayer a notice of the public hearing and the proposed new rate at least 14 days prior to the public hearing.

The notice of the public hearing must include a notice regarding rate regulation by the commission pursuant to Title 35-A, Part 5-A, as required under Title 35-A, section 5503. At the commencement of the public hearing, the district shall also provide a similar notice, as required by the commission under Title 35-A, section 5503.

## SUMMARY

This bill gives the Public Utilities Commission authority to investigate rate changes of sewer districts and sanitary districts, jointly referred to as "sewer utilities," if the commission receives a petition that meets certain criteria requesting it to do so. If the commission receives a valid petition, the rate must be suspended, investigated, reviewed and changed in accordance with the Maine Revised Statutes, Title 35-A, section 310. The bill includes a process for sewer utilities to challenge the validity of the petition. The bill gives the commission authority to adopt rules regarding rate regulation.