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Date: (Filing No. H- )

**ENERGY, UTILITIES AND TECHNOLOGY**

Reproduced and distributed under the direction of the Clerk of the House.

**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
131ST LEGISLATURE  
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1356, L.D. 2132, “An Act to Clarify the Right to Appeal Certain Public Utilities Commission Decisions”

Amend the bill by striking out the title and substituting the following:

**'An Act to Clarify the Right to Appeal Certain Public Utilities Commission Decisions and to Address Alternative Dispute Resolution Requirements'**

Amend the bill by striking out everything after the enacting clause and inserting the following:

**'Sec. 1. 35-A MRSA §1303, sub-§3** is enacted to read:

**3. Informal consumer complaint resolution process; Superior Court alternative dispute resolution conference.** After participating in a nonadjudicatory, informal consumer complaint resolution process conducted by the consumer assistance and safety division of the commission to resolve a billing dispute between a customer and a public utility, the customer or the public utility may request a certification from the commission that the parties participated in such an informal consumer complaint resolution process. Notwithstanding any court rule or requirement regarding alternative dispute resolution to the contrary, a customer or public utility that receives a commission certification in accordance with this subsection may not be required to participate in an alternative dispute resolution conference in connection with a claim for that billing dispute if it is filed with the Superior Court or filed with the District Court and removed to the Superior Court.

**Sec. 2. 35-A MRSA §1303, sub-§4** is enacted to read:

**4. Commission investigation of consumer complaints for billing disputes; de novo proceeding.** After participating in a nonadjudicatory, informal consumer complaint resolution process conducted by the consumer assistance and safety division of the commission to resolve a billing dispute between a customer and a public utility, the customer or public utility may petition the commission for a de novo adjudicatory proceeding to investigate the billing dispute. Except as provided in paragraph B, the commission shall conduct the adjudicatory proceeding and make a final decision on the

**COMMITTEE AMENDMENT**

1 merits of the billing dispute and the final decision of the commission is subject to review  
2 by the Law Court under the provisions of section 1320.

3 A. Notwithstanding any provisions of this Title to the contrary, the commission may  
4 adopt rules governing the conduct of a de novo adjudicatory proceeding pursuant to  
5 this subsection that:

6 (1) Limit any prehearing discovery;

7 (2) Establish rules of evidence consistent with the Maine Administrative Procedure  
8 Act;

9 (3) Allow the evidentiary record to be limited to written testimony; and

10 (4) Limit any post-hearing opportunities for filing written briefs.

11 Rules adopted pursuant to this subsection are routine technical rules as defined in Title  
12 5, chapter 375, subchapter 2-A.

13 B. The commission may not conduct a de novo adjudicatory proceeding pursuant to  
14 this subsection if the customer has filed a claim in court pursuant to section 1501  
15 against the utility for the same billing dispute for which relief is sought under this  
16 subsection except when the court has dismissed the claim on procedural or  
17 jurisdictional grounds and has not issued a decision on the merits.

18 C. If a customer has filed a petition for a de novo adjudicatory proceeding in  
19 accordance with this subsection, the customer may not recover civil damages pursuant  
20 to section 1501 if the customer’s claim seeks relief for the same billing dispute for  
21 which relief is sought under this subsection except when the commission has dismissed  
22 the billing dispute on procedural or jurisdictional grounds and has not issued a decision  
23 on the merits.

24 **Sec. 3. 35-A MRSA §1501, first ¶**, as enacted by PL 1987, c. 141, Pt. A, §6, is  
25 amended to read:

26 If Except as provided in section 1303, subsection 4, paragraph C, if a public utility  
27 violates this Title, causes or permits a violation of this Title or omits to do anything that  
28 this Title requires it to do, it may be liable in damages to the person injured as a result.  
29 Recovery under this section does not affect a recovery by the State of the penalty prescribed  
30 for the violation.

31 **Sec. 4. Appropriations and allocations.** The following appropriations and  
32 allocations are made.

33 **PUBLIC UTILITIES COMMISSION**

34 **Public Utilities - Administrative Division 0184**

35 Initiative: Provides funding for 2 Utility Analyst positions and 2 Staff Attorney positions  
36 and associated All Other costs.

37 <b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2023-24</b>	<b>2024-25</b>
38 POSITIONS - LEGISLATIVE COUNT	0.000	2.000
39 Personal Services	\$0	\$478,621
40 All Other	\$0	\$61,616
41	_____	_____

1 OTHER SPECIAL REVENUE FUNDS TOTAL \$0 \$540,237

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3 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section  
4 number to read consecutively.

5 **SUMMARY**

6 This amendment replaces the bill and changes the title. The amendment does the  
7 following.

8 1. It provides that after participating in a nonadjudicatory, informal consumer  
9 complaint resolution process conducted by the consumer assistance and safety division of  
10 the Public Utilities Commission to resolve a billing dispute between a customer and a  
11 public utility, the customer or the public utility may request a certification from the  
12 commission that the parties participated in the informal consumer complaint resolution  
13 process. The customer or public utility that receives a commission certification may not be  
14 required to participate in an alternative dispute resolution conference in connection with a  
15 claim for that billing dispute if a claim for that billing dispute is filed with the Superior  
16 Court or filed with the District Court and removed to the Superior Court.

17 2. It allows a customer or a public utility to petition the commission for a de novo  
18 adjudicatory proceeding to investigate a billing dispute after participating in a  
19 nonadjudicatory, informal consumer complaint resolution process conducted by the  
20 consumer assistance and safety division of the commission to resolve a billing dispute. The  
21 commission must conduct the de novo adjudicatory proceeding and make a final decision  
22 on the merits of the billing dispute and the final decision of the commission is subject to  
23 review by the Law Court. The commission may adopt routine technical rules governing the  
24 conduct of a de novo adjudicatory proceeding.

25 3. It prohibits the commission from conducting a de novo adjudicatory proceeding if  
26 the customer has filed a claim in court against the utility for the same billing dispute except  
27 when the court has dismissed the claim on procedural or jurisdictional grounds and has not  
28 issued a decision on the merits.

29 4. It provides that, if a customer of a public utility has filed a petition for a de novo  
30 adjudicatory proceeding, the customer may not recover civil damages against the utility if  
31 the customer's claim seeks relief for the same billing dispute for which relief is sought  
32 through the commission except when the commission has dismissed the billing dispute on  
33 procedural or jurisdictional grounds and has not issued a decision on the merits.

34 **FISCAL NOTE REQUIRED**

35 **(See attached)**