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ENERGY, UTILITIES AND TECHNOLOGY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
126TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1263, L.D. 1761, Bill, “An Act To Ensure That Large Public Utility Reorganizations Advance the Economic Development and Information Access Goals of the State”

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

Sec. 1. 35-A MRSA §708, sub-§2, ¶A, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

A. Unless exempted by rule or order of the commission, no reorganization may take place without the approval of the commission. No reorganization may be approved by the commission unless it is established by the applicant for approval that the reorganization is consistent with the interests of the utility's ratepayers and investors. ~~The commission shall rule upon all requests for approval of a reorganization within 60 days of the filing of the request for approval. If it determines that the necessary investigation cannot be concluded within 60 days, the commission may extend the period for a further period of no more than 120 days.~~ In granting its approval, the commission shall impose such terms, conditions or requirements as, in its judgment, are necessary to protect the interests of ratepayers. These conditions ~~shall~~ must include provisions ~~which assure the following that ensure:~~

(1) That the commission has reasonable access to books, records, documents and other information relating to the utility or any of its affiliates, except that the Public Utilities Commission may not have access to trade secrets unless it is essential to the protection of the interests of ratepayers or investors. The commission shall afford trade secrets and other information such protection from public disclosure as is provided in the Maine Rules of Civil Procedure;

(2) That the commission has all reasonable powers to detect, identify, review and approve or disapprove all transactions between affiliated interests;

(3) That the utility's ability to attract capital on reasonable terms, including the maintenance of a reasonable capital structure, is not impaired;

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- 1 (4) That the ability of the utility to provide safe, reasonable and adequate service
2 is not impaired;
- 3 (5) That the utility continues to be subject to applicable laws, principles and
4 rules governing the regulation of public utilities;
- 5 (6) That the utility's credit is not impaired or adversely affected;
- 6 (7) That reasonable limitations be imposed upon the total level of investment in
7 nonutility business, except that the commission may not approve or disapprove of
8 the nature of the nonutility business;
- 9 (8) That the commission has reasonable remedial power including, but not
10 limited to, the power, after notice to the utility and all affiliated entities of the
11 issues to be determined and the opportunity for an adjudicatory proceeding, to
12 order divestiture of or by the utility in the event that divestiture is necessary to
13 protect the interest of the utility, ratepayers or investors. A divestiture order ~~shall~~
14 must provide a reasonable period within which the divestiture ~~shall~~ must be
15 completed; and
- 16 (9) That neither ratepayers nor investors are adversely affected by the
17 reorganization.

18 **Sec. 2. 35-A MRSA §708, sub-§2, ¶A-1** is enacted to read:

19 A-1. Unless exempted by rule or order of the commission, in addition to the
20 requirements under paragraph A, before approving a reorganization in which any of
21 the public utilities that are parties to the proposed transaction is a public utility that
22 has gross annual state revenues exceeding \$50,000,000, the commission:

23 (1) For a reorganization that involves a telephone utility, must find that the
24 proposal will advance the economic development and information access goals of
25 the State as set forth in section 7101, subsections 2 and 4;

26 (2) Must find that the reorganization does not result in changes to the location
27 and the accessibility of the public utility's management and operations, or the
28 proportion and number of the public utility's employees who reside in the State,
29 that would adversely affect safety, reliability or quality of service; and

30 (3) Shall impose such terms, conditions or requirements as in the commission's
31 judgment are necessary to ensure that the reorganization provides an affirmative
32 benefit to the public.

33 **Sec. 3. 35-A MRSA §708, sub-§6** is enacted to read:

34 **6. Time for approval.** The commission shall rule upon all requests for approval of a
35 reorganization, except the approval of a reorganization subject to subsection 2, paragraph
36 A-1, within 60 days of the filing of the request for approval. If the commission
37 determines that the necessary investigation cannot be concluded within 60 days, the
38 commission may extend the period for a further period of no more than 120 days.'

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SUMMARY

This amendment is the minority report of the committee. The amendment replaces the bill. The amendment requires the Public Utilities Commission to consider additional requirements before approving a reorganization involving a public utility with gross annual state revenues greater than \$50,000,000. The commission may approve the reorganization only when it is satisfied that the proposal will advance the economic development and information access goals of the State for a reorganization that involves a telephone utility; that the reorganization does not result in changes to the location and the accessibility of the public utility's management and to employment levels in a manner that would adversely affect safety, reliability or quality of service; and that the reorganization provides an affirmative benefit to the public. The amendment also removes the requirement that the Public Utilities Commission rule upon a request for the reorganization of a large public utility within 180 days.

FISCAL NOTE REQUIRED

(See attached)