

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND FOURTEEN

S.P. 710 - L.D. 1784

An Act To Reform Regulation of Consumer-owned Water Utilities

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

Sec. 1. 35-A MRSA §6105, sub-§§2 and 3, as enacted by PL 1987, c. 141, Pt. A, §6, are amended to read:

2. Just and reasonable rates. The governing body shall establish ~~and file~~ rates, tolls or charges ~~which that~~ are just and reasonable and ~~which that~~ provide revenue as may be required to perform its public utility service and to attract necessary capital on just and reasonable terms. The governing body shall provide the rate schedule and any changes to the rate schedule to the commission.

3. Uniform rates. The governing body shall establish ~~and file~~ rates ~~which that~~ are uniform within the territory supplied whenever the installation and maintenance of mains and the cost of service is substantially uniform. If, for any reason, the cost of construction and maintenance or the cost of service in a section of the territory exceeds the average, the governing body may establish ~~and file~~ higher rates for that section, but these higher rates ~~shall must~~ be uniform throughout that section. The governing body shall provide the rate schedule and any changes to the rate schedule to the commission.

Sec. 2. 35-A MRSA §6105, sub-§4, as corrected by RR 2011, c. 2, §39, is amended to read:

4. Purposes. The governing body may establish ~~and file~~ rates under this section to provide revenue for the following purposes, but no other:

- A. To pay the current expenses for operating and maintaining the water system and to provide for normal renewals and replacements;
- B. To provide for the payment of the interest on the indebtedness created or assumed by the utility;
- C. To provide each year a sum equal to not less than 2% nor more than 10% of the term indebtedness represented by the issuance of bonds created or assumed by the utility, ~~which; the~~ sum shall must be turned into a sinking fund and there kept to

provide for the extinguishment of term indebtedness. The money set aside in this sinking fund ~~shall~~ must be devoted to the retirement of the term obligations of the utility and may be invested in such securities as savings banks in the State are allowed to hold;

D. To provide for annual principal payments on serial indebtedness created or assumed by the utility;

E. To provide for a contingency allowance as provided in section 6112;

F. To provide for rate adjustments to reflect the cost of anticipated construction of plants or facilities required by the 1986 amendments to the United States Safe Drinking Water Act, Public Law 93-523, or related projects, except that rates established under this paragraph are not subject to section 6104; and

G. To provide for recovery of the amounts necessary to fund the replacement of water system infrastructure. Those funds must be deposited in a capital reserve account and used in accordance with section 6107-A.

Sec. 3. 35-A MRSA §6107, sub-§3, as amended by PL 1987, c. 490, Pt. B, §16, is further amended to read:

3. Use of funds. The funds generated by the system development charge ~~shall~~ must be deposited into a special account of the consumer-owned water utility dedicated to finance capital outlays for water system expansion caused by an increase in demand for service. The funds from the special account ~~shall~~ may be used only for the purpose of financing the expansion of the system and ~~shall~~ may not be used for the repair or replacement of existing facilities unless the replacement is required as a result of increased demand for service. The system development charge ~~shall~~ may not be treated as income of the consumer-owned water utility nor ~~shall~~ may it be considered part of the rates established and ~~filed~~ provided to the commission pursuant to section 6105.

Sec. 4. 35-A MRSA §6114 is enacted to read:

§6114. Exemption from requirements

The commission may grant exemptions from portions of this Title to individual consumer-owned water utilities or a class of consumer-owned water utilities in accordance with this section. An exemption granted under this section must be granted pursuant to standards and procedures adopted by the commission by rule.

1. General standards. In order to grant an exemption, the commission must make specific findings that the exemption is in the public interest, will not result in unjust or unreasonable rates and will not have a negative impact on the provision of safe, adequate and reliable service and that the affected consumer-owned water utility or class of consumer-owned water utilities has the adequate technical, financial and administrative capacity to perform the waived function or requirement.

2. Initiation of exemption. The commission shall consider an exemption to an individual consumer-owned water utility at the request of a consumer-owned water utility. The commission shall require the consumer-owned water utility to notify its

customers and hold a public hearing before approving the request for exemption. The commission may, on its own motion, grant an exemption to a class of consumer-owned water utilities. The commission shall adopt by rule standards and procedures for granting an exemption to a class of consumer-owned water utilities.

3. Exceptions. The commission may not a grant an exemption under this section from any of the following sections of this Title:

- A. Section 116;
- B. Section 301, subsections 1 to 3;
- C. Section 309, subsection 1;
- D. Section 501;
- E. Section 502;
- F. Section 702;
- G. Section 709;
- H. Section 712;
- I. Section 1101;
- J. Section 1302;
- K. Section 6105;
- L. Section 6109;
- M. Section 6109-B;
- N. Section 6111-C; and
- O. Section 6112.

4. Consumer assistance division. The commission shall ensure that customers of consumer-owned water utilities retain access to the services provided by the consumer assistance division within the commission.

5. Rescission. The commission shall establish by rule a process by which:

- A. Customers of a consumer-owned water utility may petition the commission to rescind an exemption granted under this section to an individual consumer-owned water utility or to a class of consumer-owned water utilities; and
- B. The commission may on its own motion rescind an exemption granted under this section to an individual consumer-owned water utility or to a class of consumer-owned water utilities.

A rescission may be in whole or in part and may be specific to an individual consumer-owned water utility.

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