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In Senate, April 13, 2023

An Act to Extend the Time for Certain Public Utilities Commission Proceedings

Submitted by the Public Utilities Commission pursuant to Joint Rule 204.
Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator LAWRENCE of York.

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

2 **Sec. 1. 35-A MRSA §307**, as amended by PL 1999, c. 398, Pt. A, §13 and affected
3 by §§104 and 105, is repealed and the following enacted in its place:

4 **§307. Changes in schedules; notice; suspension; rate increase limit**

5 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
6 following terms have the following meanings.

7 A. "Final determination of the public utility's revenue requirement" means a decision
8 by the commission on the merits of a public utility's request after consideration of at
9 least the public utility's direct case in support of its request.

10 B. "General increase in rates" means a change in a rate, toll or charge of a public utility,
11 the effect of which is to increase the annual operating revenue of the public utility by
12 more than 1%. "General increase in rates" does not include a rate change made for the
13 sole purpose of implementing a gas cost adjustment rate pursuant to section 4703 or a
14 rate change made for the sole purpose of implementing an energy conservation
15 adjustment rate pursuant to section 3154.

16 **2. Notice requirements.** A public utility may not change a schedule, including a
17 schedule of joint rates, unless the public utility provides notice to the commission 30 days
18 prior to the time the changes are to take effect. The public utility must indicate all proposed
19 changes on the schedule in effect at the time notice is provided. For good cause shown, the
20 commission may allow changes after less than the notice specified in this subsection or
21 modify the requirements of this section and section 308 with respect to publishing, posting
22 and filing of a schedule, either in a particular instance or by rule applicable to a special
23 circumstance or condition.

24 At the commission's discretion, the commission may require the information relating to
25 changes described in this subsection to be filed in a general increase in rates at the same
26 time as the schedules are filed. The commission may require a public utility whose gross
27 revenues exceed \$5,000,000 annually to notify the commission not more than 2 months in
28 advance of filing a general increase in rates under this section that a filing is planned and
29 to disclose the approximate amount of the increase and the approximate rate of return and
30 include a general statement of the major issues that might be presented and the approximate
31 rate of return the utility would be seeking.

32 **3. Suspension pending investigation.** Pending an investigation and order pursuant
33 to section 310, subsection 1, at any time within the period preceding the effective date of
34 the schedule the commission may suspend the operation of the schedule or any part of the
35 schedule by filing with the schedule and delivering to the public utility affected a statement
36 of its reasons for the suspension. The suspension may not be for a period longer than 12
37 months from the effective date of the order of suspension unless:

38 A. All parties agree to extend the suspension beyond 12 months; or

39 B. The commission determines that the party seeking the extension would be
40 unreasonably disadvantaged because of circumstances beyond that party's control
41 unless the extension were granted, as long as the party prior to the request for extension
42 had prosecuted its case in good faith and with due diligence.

1 **4. General rate increase case limitation.** A public utility may not file a schedule for
2 a general increase in rates pursuant to this section within one year of a prior filing for a
3 general increase in rates pursuant to this section, unless the proceeding initiated by a prior
4 filing was terminated without a final determination of the public utility's revenue
5 requirement or with approval of the commission. The limitation of this subsection does not
6 prevent a public utility, at any time, from notifying the commission in advance, either
7 voluntarily or in accordance with a commission requirement under this section, of plans by
8 the public utility to file a general increase in rates.

9 Nothing in this subsection may be construed to limit a public utility's right, at any time, to
10 petition pursuant to section 1322 for temporary rate relief.

11 **Sec. 2. 35-A MRSA §310**, as amended by PL 2009, c. 237, §1, is further amended
12 by amending the section headnote to read:

13 **§310. Investigation of proposed changes in rates of public utilities; ~~suspension~~**
14 **~~pending investigation~~**

15 **Sec. 3. 35-A MRSA §310, sub-§2**, as enacted by PL 1987, c. 141, Pt. A, §6, is
16 repealed.

17 **Sec. 4. 35-A MRSA §310, sub-§3**, as amended by PL 2009, c. 237, §1, is further
18 amended to read:

19 **3. Exception: Municipal and quasi-municipal water utilities and consumer-**
20 **owned transmission and distribution utilities.** This section and section 307, subsection
21 3 does not apply to:

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

27 A-1. Municipal or quasi-municipal corporations that are water utilities within the
28 definition of section 102, any provisions in any charter notwithstanding, and that file a
29 change in a schedule pursuant to section 307 that changes rates, tolls or charges for
30 service other than the provision of water, only if the cumulative revenue impact of all
31 such changes that become effective within any consecutive 12-month period does not
32 exceed 1% of the utility's total annual revenue; or

33 B. Consumer-owned transmission and distribution utilities organized in accordance
34 with chapter 35, unless by the express terms of chapter 35 the provisions of this section
35 are made applicable to those districts.

36 **Sec. 5. 35-A MRSA §707, sub-§3, ¶A**, as enacted by PL 1987, c. 141, Pt. A, §6,
37 is amended to read:

38 A. Unless the commission disapproves it within 60 days of filing, a contract or
39 arrangement filed with the commission under this section is deemed approved. The
40 commission may, however, suspend the effective date of the contract or arrangement
41 for an additional 60 days if necessary to enable the commission to complete its review
42 of the contract or arrangement or for a longer period by agreement of all the parties or
43 by the commission if the commission determines that the party seeking the extension

1 would be unreasonably disadvantaged because of circumstances beyond that party's
2 control unless the extension were granted, as long as the party prior to the request for
3 extension had prosecuted its case in good faith and with due diligence.

4 **Sec. 6. 35-A MRSA §708, sub-§2, ¶A**, as amended by PL 2019, c. 353, §2, is
5 further amended to read:

6 A. Unless exempted by rule or order of the commission, a reorganization may not take
7 place without the approval of the commission. A reorganization may not be approved
8 by the commission unless it is established by the applicant for approval that the
9 reorganization is consistent with the interests of the utility's ratepayers and investors.
10 If a reorganization would result in the transfer of ownership and control of a public
11 utility or the parent company of a public utility, a reorganization may not be approved
12 by the commission unless it is established by the applicant for approval that the
13 reorganization provides net benefits to the utility's ratepayers. The commission shall
14 rule upon all requests for approval of a reorganization within 60 days of the filing of
15 the request for approval. If it determines that the necessary investigation cannot be
16 concluded within 60 days, the commission may extend the period for a further period
17 of no more than 120 days, unless this period is extended either by agreement of all the
18 parties or by the commission upon its determination that the party seeking the extension
19 would be unreasonably disadvantaged because of circumstances beyond that party's
20 control unless the extension were granted, as long as the party prior to the request for
21 the extension had prosecuted its case in good faith and with due diligence. In granting
22 its approval, the commission shall impose such terms, conditions or requirements as,
23 in its judgment, are necessary to protect the interests of ratepayers. These conditions
24 must include provisions that ensure the following:

- 25 (1) That the commission has reasonable access to books, records, documents and
26 other information relating to the utility or any of its affiliates, except that the Public
27 Utilities Commission may not have access to trade secrets unless it is essential to
28 the protection of the interests of ratepayers or investors. The commission shall
29 afford trade secrets and other information such protection from public disclosure
30 as is provided in the Maine Rules of Civil Procedure;
- 31 (2) That the commission has all reasonable powers to detect, identify, review and
32 approve or disapprove all transactions between affiliated interests;
- 33 (3) That the utility's ability to attract capital on reasonable terms, including the
34 maintenance of a reasonable capital structure, is not impaired;
- 35 (4) That the ability of the utility to provide safe, reasonable and adequate service
36 is not impaired;
- 37 (5) That the utility continues to be subject to applicable laws, principles and rules
38 governing the regulation of public utilities;
- 39 (6) That the utility's credit is not impaired or adversely affected;
- 40 (7) That reasonable limitations be imposed upon the total level of investment in
41 nonutility business, except that the commission may not approve or disapprove of
42 the nature of the nonutility business;
- 43 (8) That the commission has reasonable remedial power including, but not limited
44 to, the power, after notice to the utility and all affiliated entities of the issues to be

1 determined and the opportunity for an adjudicatory proceeding, to order divestiture
2 of or by the utility in the event that divestiture is necessary to protect the interest
3 of the utility, ratepayers or investors. A divestiture order must provide a reasonable
4 period within which the divestiture must be completed; and

5 (9) That neither ratepayers nor investors are adversely affected by the
6 reorganization, and if the reorganization would result in the transfer of ownership
7 and control of a public utility or the parent company of a public utility, that the
8 reorganization provides net benefits to the utility's ratepayers.

9 **Sec. 7. 35-A MRSA §3132, sub-§2**, as amended by PL 2017, c. 201, §1, is further
10 amended to read:

11 **2. Construction of transmission line.** Except as otherwise provided in subsection
12 3-A, whenever any person proposes to erect within this State a transmission line capable
13 of operating at 69 kilovolts or more, that person shall file a petition for the approval of the
14 proposed line in accordance with subsection 2-C. The petition for approval must be set
15 down for public hearing. The commission shall issue its order within ~~9~~ 12 months after the
16 petition is filed unless this period is extended either by agreement of all the parties or by
17 the commission upon its determination that the party seeking the extension would, because
18 of circumstances beyond that party's control, be unreasonably disadvantaged unless the
19 extension were granted, as long as the party to that time had prosecuted its case in good
20 faith and with due diligence.

21 At the time of filing of a petition for approval of a proposed line under this section, the
22 person filing the petition shall send a copy of the petition by certified mail to the municipal
23 officers of the municipality or municipalities in which the line is to be located.

24 SUMMARY

25 This bill extends the time period during which the Public Utilities Commission may
26 make determinations on rate increases, affiliate transactions, reorganizations and
27 certificates of public convenience and necessity. It allows for an extension of a period of
28 suspension of the operation of a schedule of a public utility under certain circumstances. It
29 extends the period of approval for a petition for a proposed transmission line from 9 to 12
30 months.