

CHAPTER 17

PUBLIC ADVOCATE

**§1701. Appointment and staff
(CONFLICT)**

1. Appointment of the Public Advocate.

[PL 2009, c. 399, §1 (RP).]

1-A. Appointment of the Public Advocate; term; removal. This subsection governs the appointment, term of service and removal of the Public Advocate.

A. The Governor shall appoint the Public Advocate, subject to review by the joint standing committee of the Legislature having jurisdiction over public utilities matters and to confirmation by the Legislature. [PL 2009, c. 399, §2 (NEW).]

B. The Public Advocate shall serve for a 4-year term of office, beginning on February 1, 2013 and every 4 years thereafter. [PL 2009, c. 399, §2 (NEW).]

C. The Public Advocate may continue to serve beyond the end of the 4-year term until a successor is appointed and qualified. [PL 2009, c. 399, §2 (NEW).]

D. Any vacancy occurring must be filled by appointment for the unexpired portion of the term. [PL 2009, c. 399, §2 (NEW).]

E. Any willful violation of this chapter by the Public Advocate constitutes sufficient cause for removal of the Public Advocate by the Governor, on the address of both branches of the Legislature or by impeachment pursuant to the Constitution of Maine, Article IX, Section 5. [PL 2009, c. 399, §2 (NEW).]

[PL 2009, c. 399, §2 (NEW).]

2. Staff of the Public Advocate. The staff of the Public Advocate consists of such other personnel, including staff attorneys, as the Public Advocate determines necessary to represent the using and consuming public, as required by subsection 1702. All personnel under this subsection must be appointed, supervised and directed by the Public Advocate. The Public Advocate is not subject to the supervision, direction or control of the chair or members of the commission.

[RR 2021, c. 1, Pt. B, §400 (COR).]

2-A. Nonwires alternative policy; coordinator; services. The Public Advocate shall contract with a person or entity, referred to in this subsection as "the nonwires alternative coordinator," to provide services in accordance with this subsection. As used in this subsection, "nonwires alternative" has the same meaning as in section 3131, subsection 4-C. The nonwires alternative coordinator shall:

A. Review small transmission project and distribution project planning studies in accordance with section 3132-B; [PL 2019, c. 298, §3 (NEW).]

B. Investigate and make recommendations regarding nonwires alternatives to proposed capital investments in the transmission and distribution system pursuant to sections 3132, 3132-A and 3132-B and in accordance with section 3132-C; [PL 2019, c. 298, §3 (NEW).]

C. Conduct benefit-cost analyses to evaluate the cost-effectiveness of nonwires alternatives and make recommendations regarding nonwires alternatives and procurement of recommended nonwires alternatives in accordance with sections 3132-C and 3132-D; and [PL 2019, c. 298, §3 (NEW).]

D. Track the implementation of nonwires alternative projects in the State and issue quarterly reports on the projects' progress, including project budgets, timelines, in-service dates, costs incurred, operational savings and other benefits. [PL 2019, c. 298, §3 (NEW).]

The nonwires alternative coordinator shall collaborate with the Efficiency Maine Trust, transmission and distribution utilities and interested parties in performing the services required by this subsection.

The Public Advocate shall include in its annual report required under section 1702, subsection 6 information regarding the services provided by the nonwires alternative coordinator. [PL 2019, c. 298, §3 (NEW).]

3. Salaries of certain employees. The salaries of the following employees of the Public Advocate are within the following salary ranges:

- A. Deputy Public Advocate, salary range 53; [PL 1999, c. 259, §4 (NEW).]
- B. Senior Counsel, salary range 36; [PL 1999, c. 259, §4 (NEW).]
- C. [PL 2011, c. 655, Pt. P, §1 (RP).]
- D. [PL 2019, c. 226, §2 (RP).]
- E. Senior Assistant to the Public Advocate, salary range 26; [PL 2021, c. 195, §2 (AMD).]
- F. **(CONFLICT: Text as amended by PL 2019, c. 226, §2)** Special Assistant to the Public Advocate, salary range 20; and [PL 2019, c. 226, §2 (AMD).]
- F. **(CONFLICT: Text as amended by PL 2019, c. 298, §4)** Special Assistant to the Public Advocate, salary range 25. [PL 2019, c. 298, §4 (AMD).]
- G. Economic Analyst, salary range 36. [PL 2019, c. 226, §2 (NEW).]

The employees listed in this subsection serve at the pleasure of the Public Advocate and are confidential employees. All other employees of the Public Advocate are subject to the Civil Service Law.

The Public Advocate may compensate one or more Senior Counsels at salary range 37 if, in the judgment of the Public Advocate, an increase is necessary to provide competitive salary levels. [PL 2021, c. 195, §2 (AMD).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1999, c. 259, §4 (AMD). PL 2001, c. 476, §1 (AMD). PL 2009, c. 399, §§1, 2 (AMD). PL 2011, c. 655, Pt. P, §1 (AMD). PL 2019, c. 226, §2 (AMD). PL 2019, c. 298, §§3, 4 (AMD). PL 2021, c. 195, §2 (AMD). RR 2021, c. 1, Pt. B, §400 (COR).

§1702. Duties

The duties and responsibilities of the Public Advocate are to represent the using and consuming public in matters within the jurisdiction of the commission, including, but not limited, to the following: [PL 1987, c. 141, Pt. A, §6 (NEW).]

1. Review and recommendations. The Public Advocate may review, investigate and make appropriate recommendations to the commission with respect to:

- A. The reasonableness of rates charged or proposed to be charged by any public utility; [PL 1987, c. 141, Pt. A, §6 (NEW).]
- B. The reasonableness and adequacy of the service furnished or proposed to be furnished by any public utility or competitive service provider; [PL 1999, c. 398, Pt. A, §24 (AMD); PL 1999, c. 398, Pt. A, §§104, 105 (AFF).]
- C. Any proposal by a public utility to reduce or abandon service to the public; [PL 1987, c. 141, Pt. A, §6 (NEW).]

D. The issuance of certificates of public convenience and necessity. Recommendations may include alternative analyses and plans as necessary; [PL 1987, c. 141, Pt. A, §6 (NEW).]

E. Terms and conditions of public utilities; [PL 1987, c. 141, Pt. A, §6 (NEW).]

F. Mergers and consolidations of public utilities; [PL 1987, c. 141, Pt. A, §6 (NEW).]

G. Contracts of public utilities with affiliates or subsidiaries; and [PL 1987, c. 141, Pt. A, §6 (NEW).]

H. Securities, regulations and transactions of public utilities. [PL 1987, c. 141, Pt. A, §6 (NEW).]

[PL 1999, c. 398, Pt. A, §24 (AMD); PL 1999, c. 398, Pt. A, §§104, 105 (AFF).]

2. Intervention. The Public Advocate may intervene in any proceeding before the commission related to the activities under subsection 1, when determined necessary by the Public Advocate. [PL 1987, c. 141, Pt. A, §6 (NEW).]

3. Petition to initiate proceedings. The Public Advocate may petition the commission to initiate proceedings to review, investigate and take appropriate action with respect to the rates or service of any public utility or competitive service provider when determined necessary by the Public Advocate. [PL 1999, c. 398, Pt. A, §25 (AMD); PL 1999, c. 398, Pt. A, §§104, 105 (AFF).]

4. Public complaints. The Public Advocate may investigate complaints affecting the using and consuming public generally, or particular groups, of consumers and, where appropriate, make recommendations to the commission with respect to these complaints. [PL 1987, c. 141, Pt. A, §6 (NEW).]

5. Intervention on behalf of public. The Public Advocate may, on behalf of the using and consuming public, or any particular group of consumers, petition to initiate, or intervene and appear in, any proceedings before the commission, appeals from orders of the commission, or proceedings before state and federal agencies and courts in which the subject matter of the action affects the customers of any utility or competitive service provider doing business in this State. [PL 2019, c. 71, §1 (AMD).]

6. Annual report. The Public Advocate shall prepare and submit an annual report of activities of the Public Advocate to the Governor and to the joint standing committee of the Legislature having jurisdiction over public utilities matters by September 1st of each year, with copies available to all legislators on request.

A. Beginning in 2022, the annual report must include, for each category of public utility listed in section 116, subsection 1, an accounting of:

(1) The portion of the Public Advocate's resources devoted to matters related to investor-owned utilities and the portion of resources devoted to matters related to consumer-owned utilities; and

(2) The Public Advocate's expenses per dollar of intrastate gross operating revenue for investor-owned utilities and for consumer-owned utilities. [PL 2021, c. 318, §8 (NEW).]

[PL 2021, c. 318, §8 (AMD).]

7. Assist customers of consumer-owned transmission and distribution utilities. The Public Advocate shall assist customers of consumer-owned transmission and distribution utilities in reviewing proposed rate increases and preparing questions and testimony for public hearings and, on request of a customer and when determined necessary by the Public Advocate, intervene in the proceedings conducted in accordance with chapter 35.

[PL 1999, c. 398, Pt. A, §27 (AMD); PL 1999, c. 398, Pt. A, §§104, 105 (AFF).]

8. Represent interests of retail customers on regional bodies. The Public Advocate, when the Public Advocate determines it necessary, may serve as a voting member of any regional body whose decisions directly affect the prices or quality of utility services in the State, as long as that service is limited to a seat that is designated for the representation of consumer interests. Service as a voting member of a regional body in accordance with this subsection does not create or constitute a conflict of interest pursuant to section 1709.

[PL 2001, c. 27, §1 (NEW).]

9. Other advocacy forums. The Public Advocate, consistent with the priorities established in section 1702-A and the requirements of this chapter, may represent and promote the interests of the using and consuming public:

A. In appropriate proceedings of the Legislature; and [PL 2011, c. 79, §2 (NEW).]

B. In regional or national forums, including but not limited to any proceeding of an independent system operator or the Federal Energy Regulatory Commission. [PL 2011, c. 79, §2 (NEW).]

[PL 2011, c. 79, §2 (NEW).]

10. Independent representation of the interests of the using and consuming public. The Public Advocate, when taking a position on any matter in any proceeding or forum pursuant to the Public Advocate's authority under this chapter, shall exercise independent judgment to ensure the position:

A. Is consistent with the priorities established in section 1702-A and the requirements of this chapter; and [PL 2011, c. 79, §2 (NEW).]

B. Promotes stabilization and lowering of prices paid by those members of the using and consuming public whose interests the Public Advocate is representing. [PL 2011, c. 79, §2 (NEW).]

[PL 2011, c. 79, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1989, c. 660 (AMD). PL 1999, c. 398, §§A24-27 (AMD). PL 1999, c. 398, §§A104,105 (AFF). PL 2001, c. 27, §1 (AMD). PL 2011, c. 79, §§1, 2 (AMD). PL 2019, c. 71, §1 (AMD). PL 2019, c. 164, §1 (AMD). PL 2021, c. 318, §8 (AMD).

§1702-A. Evaluation of needs and resources

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

A. "Low-income consumers" means residential consumers for whom paying public utility bills is difficult or impossible without some form of assistance or government aid; [PL 1997, c. 166, §1 (NEW).]

B. "Residential consumers" means consumers who take public utility service for domestic purposes; and [PL 1997, c. 166, §1 (NEW).]

C. "Small business consumers" means commercial consumers that employ fewer than 100 employees. [PL 1997, c. 166, §1 (NEW).]

[PL 1997, c. 166, §1 (NEW).]

2. Intent. It is the intent of the Legislature that the resources of the Public Advocate be devoted to the maximum extent possible to ensuring adequate representation of the interests of those consumers whose interests would otherwise be inadequately represented in matters within the jurisdiction of the commission.

[PL 1997, c. 166, §1 (NEW).]

3. Priority. When the interests of consumers differ, the Public Advocate shall give priority to representing the interests of consumers in the following order:

- A. Low-income consumers; [PL 1997, c. 166, §1 (NEW).]
- B. Residential consumers; [PL 1997, c. 166, §1 (NEW).]
- C. Small business consumers; and [PL 1997, c. 166, §1 (NEW).]
- D. Other consumers whose interests the Public Advocate finds to be inadequately represented. [PL 1997, c. 166, §1 (NEW).]

This subsection does not require the Public Advocate to represent the interests of a consumer or group of consumers if the Public Advocate determines that such representation is adverse to the overall interests of the using and consuming public.

[PL 1997, c. 166, §1 (NEW).]

SECTION HISTORY

PL 1997, c. 166, §1 (NEW).

§1703. Appeal from commission orders

The Public Advocate has the same rights of appeal from commission orders or decisions to which the Public Advocate has been a party as other parties to commission proceedings. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§1704. Legal representation

Notwithstanding the provisions of Title 5, section 191, the Public Advocate, or a staff attorney, may act as the counsel for the office of the Public Advocate. The Public Advocate may request the assistance of the Attorney General or employ private counsel for this purpose. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§1705. Relationship with the Attorney General

This section in no way limits the rights of the Attorney General to intervene before the commission or to appeal from commission orders or decisions. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§1706. Expert witnesses

The Public Advocate may employ expert witnesses and pay appropriate compensation and expenses to employ the witnesses. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§1707. Expenses of the Public Advocate

The Public Advocate, within established budgetary limits and as allowed by law, shall authorize and approve travel, subsistence and related necessary expenses of the Public Advocate or members of the staff of the Public Advocate, incurred while traveling on official business. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§1708. Information from utilities

Utilities shall provide to the Public Advocate copies of all reports and other information required to be filed with or which may be submitted to the commission, except to the extent that this requirement is waived, in writing, by the Public Advocate. The Public Advocate has the same right to request data as an intervenor in a proceeding before the commission, and, in addition, may petition the commission for good cause shown to be allowed such other information as may be necessary to carry out the purposes of this chapter. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§1709. Conflicts of interest

In addition to the limitations of Title 5, section 18, the Public Advocate or any employee of the Public Advocate may not have any official or professional connection or relation with, or hold any stock or securities in, any public utility or competitive service provider operating within this State; render any professional service against any such public utility or competitive service provider; or be a member of a firm that renders any such service. [PL 1999, c. 398, Pt. A, §28 (AMD); PL 1999, c. 398, Pt. A, §§104, 105 (AFF).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1999, c. 398, §A28 (AMD). PL 1999, c. 398, §§A104,105 (AFF).

§1710. Restriction

Unless otherwise provided by law, the duties of the Public Advocate are restricted to those relating to matters within the jurisdiction of the commission. [PL 1987, c. 141, Pt. A, §6 (NEW); PL 1987, c. 490, Pt. C, §6 (AMD).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1987, c. 490, §C6 (AMD).

§1711. Railroad service quality

(REPEALED)

SECTION HISTORY

PL 2005, c. 248, §2 (NEW). MRSA T. 35-A §1711, sub-§7 (RP).

§1712. Railroad Crossing Information Council

(REPEALED)

SECTION HISTORY

PL 2007, c. 657, §2 (NEW). PL 2011, c. 79, §3 (RP).

§1713. Information for consumers

In addition to the duties and responsibilities in section 1702, the Public Advocate may publish in printed copy or electronic format, or both, information for consumers in the State relating to regulated services provided by public utilities, unregulated services provided by public utilities and unregulated services provided by any entity relating to telecommunications, electricity delivery or supply and gas delivery or supply. Telecommunications services include, but are not limited to, telephone service, Internet service, video service, wireless phone service, satellite service and voice over Internet protocol service. [PL 2013, c. 79, §1 (NEW).]

SECTION HISTORY

PL 2013, c. 79, §1 (NEW).

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