

An Act Regarding Public Utility Assessments, Fees and Penalties

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

Sec. 1. 35-A MRSA §116, sub-§1, as amended by PL 2013, c. 600, §1, is further amended to read:

1. Entities subject to assessments. Every transmission and distribution, gas, telephone and water utility and ferry subject to regulation by the commission and every qualified telecommunications provider is subject to an assessment on its intrastate gross operating revenues to produce sufficient revenue for expenditures allocated by the Legislature for the Public Utilities Commission Regulatory Fund established pursuant to this section. The budget for the Public Utilities Commission Regulatory Fund is subject to legislative review and approval in accordance with subsection 2. The portion of the total assessment applicable to each category of public utility or qualified telecommunications provider is based on an accounting by the commission of the portion of the commission's resources devoted to matters related to each category. The commission shall develop a reasonable and practicable method of accounting for resources devoted by the commission to matters related to each category of public utility or qualified telecommunications provider. Assessments on each public utility or qualified telecommunications provider within each category must be based on the utility's or qualified telecommunications provider's gross intrastate operating revenues. Within each category of public utility, the assessment must be apportioned and applied separately to investor-owned utilities and consumer-owned utilities. The portion of the assessment applicable to investor-owned utilities and consumer-owned utilities within each category must be determined based on an accounting by the commission of the portion of the commission's resources devoted to matters related to investor-owned utilities. The commission shall determine the assessments annually prior to May 1st and assess each utility or qualified telecommunications provider for its pro rata share for expenditure during the fiscal year beginning July 1st. Each utility or qualified telecommunications provider shall pay the assessment charged to the utility or qualified telecommunications provider on or before July 1st of each year. Any increase in the assessment that becomes effective subsequent to May 1st may be billed on the effective date of the act authorizing the increase.

A. The assessments charged to utilities and qualified telecommunications providers under this section are just and reasonable operating costs for rate-making purposes.

B. For the purposes of this section, "intrastate gross operating revenues" means:

- (1) In the case of all utilities except telephone utilities, revenues derived from filed rates except revenues derived from sales for resale;
- (2) In the case of a telephone utility, all intrastate revenues, except revenues derived from sales for resale, whether or not the rates from which those revenues are derived are required to be filed pursuant to this Title; and
- (3) In the case of a qualified telecommunications provider, all intrastate revenues except revenues derived from sales for resale.

C. Gas utilities subject to the jurisdiction of the commission solely with respect to safety are not subject to any assessment.

LD 251, An Act Regarding Public Utility Assessments, Fees and Penalties
Draft Amendment of MWUA
February 25, 2021

D. The commission may correct any errors in the assessments by means of a credit or debit to the following year's assessment rather than reassessing all utilities or qualified telecommunications providers in the current year.

E. The commission may exempt utilities or qualified telecommunications providers with annual intrastate gross operating revenues under \$50,000 from assessments under this section.

F. The percentage of costs allocated to classes of utilities used to determine assessments shall be based on a three-year rolling average of costs assigned to such classes.

For purposes of this section, "qualified telecommunications provider" means a provider of interconnected voice over Internet protocol service that paid any assessment under this subsection, whether voluntarily, by agreement with the commission or otherwise, prior to March 1, 2012.

Sec. 2. 35-A MRSA §116, sub-§8, as amended by PL 2019, c. 226, §1, is further amended to read:

8. Public Advocate assessment. Every utility or qualified telecommunications provider subject to assessment under this section is subject to an additional annual assessment on its intrastate gross operating revenues to produce sufficient revenue for expenditures allocated by the Legislature for operating the Office of the Public Advocate. The portion of this assessment applicable to each category of public utility or qualified telecommunications provider is based on an accounting by the Public Advocate of resources devoted to matters related to each category. The Public Advocate shall develop a reasonable and practicable method of accounting for resources devoted by the Public Advocate to matters related to each category of public utility or qualified telecommunications provider. Assessments on each public utility or qualified telecommunications provider within each category must be based on the utility's or qualified telecommunications provider's gross intrastate operating revenues. Within each category of public utility, the assessment must be apportioned and applied separately to investor-owned utilities and consumer-owned utilities. The portion of the assessment applicable to investor-owned utilities and to consumer-owned utilities within each category must be determined based on an accounting by the Public Advocate of the portion of the resources of the Office of the Public Advocate devoted to matters related to investor-owned utilities. The revenues produced from this assessment are transferred to the Public Advocate Regulatory Fund and may ~~only~~ be used only to fulfill the duties specified in chapter 17. The assessments charged to utilities and qualified telecommunications providers under this subsection are considered just and reasonable operating costs for rate-making purposes. The Public Advocate shall develop a method of accounting for staff time within the Office of the Public Advocate. All professional and support staff shall account for their time in such a way as to identify the percentage of time devoted to public utility and qualified telecommunications provider regulation and the percentage of time devoted to other duties that may be required by law.

A. The Public Advocate shall submit its budget recommendations, using a zero-based budgeting process or other process or method directed by the State Budget Officer, as part of the unified current services budget legislation in accordance with Title 5, sections 1663 to 1666. The assessments and expenditures provided in this section are subject to legislative approval. The Public Advocate shall make an annual report of its planned expenditures for the year and on its use of funds in the previous year. The Public Advocate may also receive other funds as appropriated by the Legislature.

B. The Public Advocate may use the revenues provided in accordance with this section to fund the Public Advocate and 10 employees and to defray the costs incurred by the Public Advocate pursuant to this Title, including administrative expenses, general expenses, consulting fees and all other reasonable costs incurred to administer this Title.

LD 251, An Act Regarding Public Utility Assessments, Fees and Penalties
Draft Amendment of MWUA
February 25, 2021

C-1. Funds that are not expended at the end of a fiscal year do not lapse but must be carried forward to be expended for the purposes specified in this section in succeeding fiscal years.

D. The percentage of costs allocated to classes of utilities used to determine assessments shall be based on a three-year rolling average of costs assigned to such classes.

Sec. 3. 35-A MRSA §120, sub-§2-A is enacted to read:

2-A. Filing fees and penalties; legislation. Any filing fees or penalties collected in the previous year under this Title that have not been adjusted in the previous 5 years. For filing fees or penalties reported pursuant to this subsection, the commission shall submit, along with the annual report, draft legislation to adjust the dollar value of the filing fee or penalty ***based on the actuarially compounded Consumer Price Index since the fee or penalty was last adjusted, or justification for leaving the fee or penalty at the current level, based on actual costs or desired level of deterrence.*** After receiving the annual report, the committee may report out a bill based on the draft legislation submitted pursuant to this subsection;

Sec. 4. 35-A MRSA §120, sub-§2-B is enacted to read:

2-B. Commission expenses; investor-owned and consumer-owned utilities. Beginning in 2022, for each category of public utility listed in section 116, subsection 1:

A. The portion of commission resources devoted to matters related to investor-owned utilities and the portion of commission resources devoted to matters related to consumer-owned utilities; and

B. The commission's expenses per dollar of intrastate gross operating revenue for investor-owned utilities and for consumer-owned utilities;

Sec. 5. 35-A MRSA §708, sub-§4, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

Sec. 5. 35-A MRSA §708, sub-§4, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

4. Filing fee. Within 30 days after the application for approval of a reorganization is filed pursuant to subsection 2, the commission may order the applicant to pay a filing fee ***based on estimated costs***, not to exceed ~~\$100,000~~\$50,000, ~~05% of the estimated total value of the corporation or entity resulting from the proposed reorganization.~~ if the commission determines that the application may involve issues which will that would necessitate significant additional costs to the commission, ~~except that, if a reorganization would result in the transfer of ownership and control of a public utility or the parent company of a public utility, the commission shall order the applicant to pay to the commission a filing fee in an amount equal to 05% of the estimated total value of the corporation or entity resulting from the proposed reorganization.~~ The applicant may request the commission to waive all or a portion of the filing fee. The commission shall rule on the request for waiver within 30 days. Notwithstanding any other provision of law, filing fees paid as required in this subsection ~~shall~~ must be segregated, apportioned and expended by the commission for the purposes of processing the application. Any portion of the filing fee that is received from an applicant and is not expended by the commission to process the application ~~shall~~ must be returned to the applicant.

Sec. 6. 35-A MRSA §1702, sub-§6, ¶A is enacted to read:

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.

LD 251, An Act Regarding Public Utility Assessments, Fees and Penalties
Draft Amendment of MWUA
February 25, 2021

Sec. 7. Fee and penalty revision. The Public Utilities Commission shall submit legislation to the Second Regular Session of the 130th Legislature to adjust the dollar value of filing fees and penalties required under the Maine Revised Statutes, Title 35-A based on the actuarially compounded Consumer Price Index for each filing fee or penalty since it was enacted or established, rounding to the nearest multiple of \$100 if the filing fee or penalty is below \$10,000 and to the nearest multiple of \$1,000 if the filing fee or penalty is \$10,000 or greater.

SUMMARY

This amendment modifies the bill in several respects

1. Requires that the PUC and OPA assessments be allocated to utility classes based on a rolling three year average of costs assigned to each class of utility.
2. Requires that, when the PUC submits a bill to the Legislature with recommendations for adjustments in fees and penalties, such bill may reflect a recommended increase or no change.
3. Requires that filing fees for reorganizations be based on an estimated costs, not to exceed \$100,000.