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H.P. 959

House of Representatives, April 4, 2013

An Act To Ensure Just and Reasonable Sewer Utility Rates

Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative TREAT of Hallowell.
Cosponsored by Senator FLOOD of Kennebec.

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

2 **Sec. 1. 35-A MRSA §102, sub-§13**, as amended by PL 2009, c. 539, §1, is
3 further amended to read:

4 **13. Public utility.** "Public utility" includes every gas utility, natural gas pipeline
5 utility, transmission and distribution utility, telephone utility, water utility, sewer utility
6 and ferry, as those terms are defined in this section, and each of those utilities is declared
7 to be a public utility. "Public utility" does not include the operation of a radio paging
8 service, as that term is defined in this section, or mobile telecommunications services
9 unless only one entity or an affiliated interest of that entity, as defined in section 707,
10 subsection 1, paragraph A, exclusively controls the use of the radio frequency spectrum
11 assigned by the Federal Communications Commission to provide mobile service to the
12 service area. "Public utility" includes a smart grid coordinator as defined in section 3143,
13 subsection 1, paragraph B.

14 Nothing in this subsection precludes:

15 A. The jurisdiction, control and regulation by the commission pursuant to private and
16 special act of the Legislature;

17 B. The commission's jurisdiction and control over and regulation of a public utility
18 that provides, in addition to other services, radio paging service or mobile
19 telecommunications services;

20 C. The commission's jurisdiction and control over and regulation of basic exchange
21 telephone service offered by a provider of mobile telecommunications services if,
22 after investigation and hearing, the commission determines that the provider is
23 engaged in the provision of basic exchange telephone service; and

24 D. Negotiations for, or negates agreements or arrangements existing on the effective
25 date of this paragraph relating to, rates, terms and conditions for interconnection
26 provided by a telephone utility to a company providing radio paging or mobile
27 telecommunications services.

28 **Sec. 2. 35-A MRSA §102, sub-§16-B** is enacted to read:

29 **16-B. Sewer utility.** "Sewer utility" means a sanitary district established under Title
30 38, chapter 11 or a sewer district as defined in Title 38, section 1251.

31 **Sec. 3. 35-A MRSA Pt. 5-A** is enacted to read:

32 **PART 5-A**

33 **SEWER**

34 **CHAPTER 55**

35 **RATE REGULATION OF SEWER UTILITIES**

1 **§5501. Definitions**

2 For the purposes of this chapter, unless the context otherwise indicates, the term
3 "customer" means, in the case of residential accounts, any one adult residing in a
4 household where the sewer utility's service is provided and, in the case of all other
5 accounts, a corporate officer, a partner or a proprietor.

6 **§5502. Sewer utility regulation limited to rate regulation; rules**

7 A sewer utility is subject to regulation as a public utility under this Title only for
8 purposes of rate regulation by the commission in accordance with this Part. The
9 commission shall adopt rules necessary to carry out the purposes of this Part, including
10 rules specifying those provisions of this Title to which a sewer utility is subject for
11 purposes of rate regulation in accordance with this Part. Except as specified in this Part
12 and rules adopted in accordance with this section, a sewer utility is not otherwise subject
13 to regulation under this Title. Rules adopted under this section are routine technical rules
14 as defined in Title 5, chapter 375, subchapter 2-A.

15 **§5503. Petitions; rate regulation**

16 The commission shall investigate proposed changes in the rates of a sewer utility in
17 accordance with this section and rules adopted by the commission under section 5502.

18 **1. Petitions.** In accordance with this subsection, customers of a sewer utility may
19 petition the commission to investigate proposed changes in the rates of the sewer utility.

20 A. The petition must be signed by customers of the sewer utility in accordance with
21 paragraph B, identify a lead petitioner and be delivered to the commission and the
22 treasurer of the sewer utility within 30 days of the public hearing on the rate change
23 required under Title 38, section 1202 or Title 38, section 1252, subsection 1.

24 (1) The commission shall require sewer utilities to provide notice of the petition
25 procedures established under this section both before and at the beginning of
26 public hearings required under Title 38, section 1202 or Title 38, section 1252,
27 subsection 1. The notice must include a statement that signatures on petitions are
28 valid only if accompanied by the printed names and addresses of the signers. The
29 commission shall require sewer utilities, upon request, to provide customers with
30 petition forms that include space for signatures and the printed names and
31 addresses of the signers.

32 B. The petition must contain a number of signatures equal to 15% of the customers
33 of the sewer utility or 1,000 customers, whichever is less, unless the rate increase is
34 more than 50% of the sewer utility's annual operating revenues, in which case the
35 number of signatures must be 15% of the customers of the sewer utility or 500
36 customers, whichever is less. No more than one customer may sign on behalf of an
37 account. A person may not sign on behalf of more than one account unless the person
38 is a customer under each account. Signatures are valid only if accompanied by the
39 printed names and addresses of the signers.

40 C. Within 10 days from the receipt of a petition under this subsection, a sewer utility
41 shall notify the commission and the lead petitioner whether it intends to contest any

1 aspect of the validity of the petition. If the sewer utility intends to challenge the
2 validity of the individual signatures on the petition, it shall identify, in the notice to
3 the commission and lead petitioner, the specific signatures it is challenging and state
4 the grounds for the challenging of each signature. If a sewer utility files the notice of
5 intent to challenge the validity of the petition, the sewer utility shall provide the
6 commission and lead petitioner with a list of its customers.

7 D. If a petition bears a sufficient total number of signatures but an insufficient
8 number of printed names and addresses of the signers, the lead petitioner has 7 days
9 from receipt of notice of the sewer utility's challenge pursuant to paragraph C to
10 obtain the correct number of printed names and addresses of the signers. If the
11 petition is sufficiently corrected to address all of the concerns of the sewer utility, the
12 commission is not required to hold a hearing pursuant to paragraph E.

13 E. If the sewer utility notifies the commission in accordance with paragraph C that it
14 intends to contest the validity of the petition and the petition is not sufficiently
15 corrected pursuant to paragraph D, the commission shall, within 30 days of receiving
16 notice from the sewer utility pursuant to paragraph C, conduct a hearing and issue its
17 decision regarding the validity of the petition.

18 **2. Supporting materials.** A sewer utility shall file a copy of all materials supporting
19 the proposed rate change with the commission and the Public Advocate. The sewer utility
20 shall promptly provide any readily available relevant additional information requested by
21 the commission or the Public Advocate. Upon review of the materials, the commission
22 may order the sewer utility to correct mathematical or clerical errors.

23 **3. Investigation of rate changes.** If the commission and the treasurer of the sewer
24 utility receive a valid petition in accordance with subsection 1, the commission shall
25 suspend, investigate, review and change the rate in accordance with section 310. Rates
26 established by the commission must be just and reasonable in accordance with section
27 301. No suspension order issued by the commission for the purposes of this section is
28 effective for a period greater than 9 months from the date the materials supporting the
29 rate change were filed under subsection 2.

30 **Sec. 4. 38 MRSA §1202,** as amended by PL 1981, c. 466, §12, is further amended
31 by adding after the 3rd paragraph a new paragraph to read:

32 The notice of the public hearing must include a notice regarding rate regulation by
33 the commission pursuant to Title 35-A, Part 5-A, as required under Title 35-A, section
34 5503. At the commencement of the public hearing, the district shall also provide a
35 similar notice, as required by the commission under Title 35-A, section 5503.

36 **Sec. 5. 38 MRSA §1252, sub-§1,** as enacted by PL 1981, c. 466, §13, is amended
37 to read:

38 **1. Adoption of new rates.** Prior to the adoption of a new rate schedule, the trustees
39 shall hold a public hearing regarding the proposed rate schedule. The trustees shall
40 publish the proposed rates and notice of the public hearing not less than once in a
41 newspaper having a general circulation in the district not less than 7 days prior to the

1 public hearing. The district shall mail to each ratepayer a notice of the public hearing and
2 the proposed new rate at least 14 days prior to the public hearing.

3 The notice of the public hearing must include a notice regarding rate regulation by the
4 commission pursuant to Title 35-A, Part 5-A, as required under Title 35-A, section 5503.
5 At the commencement of the public hearing, the district shall also provide a similar
6 notice, as required by the commission under Title 35-A, section 5503.

7 **SUMMARY**

8 This bill gives the Public Utilities Commission authority to investigate rate changes
9 of sewer districts and sanitary districts, jointly referred to as "sewer utilities," if the
10 commission receives a petition that meets certain criteria requesting it to do so. If the
11 commission receives a valid petition, the rate must be suspended, investigated, reviewed
12 and changed in accordance with the Maine Revised Statutes, Title 35-A, section 310.
13 The bill includes a process for sewer utilities to challenge the validity of the petition. The
14 bill gives the commission authority to adopt rules regarding rate regulation.