

**Maine Revised Statute Title 35-A, Chapter 21:
ORGANIZATION, POWERS, SERVICE TERRITORY**

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35-A §2101. ORGANIZATION OF CERTAIN PUBLIC UTILITIES

A public utility for the operation of telephones and for the purpose of making, selling, distributing and supplying gas or electric transmission and distribution service or for the operation of water utilities, ferries or public heating utilities in any municipality, or 2 or more adjoining municipalities, within the State, may be organized as a legal entity authorized under the laws of the State, including Title 13-C. [2001, c. 2, Pt. B, §58 (AFF); 2001, c. 2, Pt. B, §54 (COR).]

SECTION HISTORY

1987, c. 141, §A6 (NEW). 1987, c. 490, §C7 (AMD). 1995, c. 225, §7 (AMD). 1997, c. 707, §2 (AMD). 1999, c. 398, §A29 (AMD). 1999, c. 398, §§A104,105 (AFF). RR 2001, c. 2, §B58 (AFF). RR 2001, c. 2, §B54 (COR).

35-A §2102. APPROVAL TO FURNISH SERVICE

The following provisions apply to furnishing service. [1987, c. 141, Pt. A, §6 (NEW).]

1. Approval required. Except as provided in subsection 2 and in section 4507, a public utility may not furnish any of the services set out in section 2101 in or to any municipality in or to which another public utility is furnishing or is authorized to furnish a similar service without the approval of the commission. The commission may condition approval upon the submission of a bond or other financial security if the commission determines that such a requirement is necessary to ensure that a public utility has the financial ability to meet its obligations under this Title.

A. The commission may not grant approval to a telephone utility under this subsection unless the telephone utility submits evidence satisfactory to the commission that the telephone utility has at least \$250,000 in fixed assets in this State or the telephone utility purchases and maintains a surety bond satisfactory to the commission in the amount of \$250,000 to ensure the telephone utility has the financial ability to meet its obligations under this Title. This paragraph does not apply to a telephone utility authorized to provide telephone service in this State on the effective date of this paragraph. [2007, c. 638, §1 (NEW).]

[2007, c. 638, §1 (AMD) .]

2. Approval not required. Except as provided in section 2104, the commission's approval is not required for a public utility to furnish service in any municipality in which that public utility is furnishing service on October 8, 1967. Approval is not required for the operation of a radio paging service or mobile telecommunications services. Approval is not required for a transmission and distribution utility to distribute electricity to any other transmission and distribution utility.

[1999, c. 398, Pt. A, §30 (AMD); 1999, c. 398, Pt. A, §§104, 105 (AFF) .]

2-A. Northern Maine Transmission Corporation.

[2003, c. 506, §11 (RP) .]

3. Exemption for certain telephone utilities. The commission by rule may exempt a specified telephone utility or group of telephone utilities from obtaining the approval required by subsection 1 if the commission finds that the exemption will not result in unjust or unreasonable rates or inadequate service for any telephone utility customers. The commission may limit the exemption to specified geographic areas. For good cause, as provided in the rule establishing the exemption, the commission may revoke an exemption in whole or in part, including an exemption granted to a single telephone utility. A telephone utility that is exempt from the approval requirement of subsection 1:

A. Before commencing service, shall notify the commission of its intent to commence the exempted service and provide any other information the commission may require; [1997, c. 118, §1 (NEW).]

B. Shall obtain the approval of the commission under subsection 1 to provide any service other than the services specified in the exemption granted by the commission under this subsection; and [1997, c. 118, §1 (NEW).]

C. Remains subject to any other applicable provisions of this Title and commission rules. [1997, c. 118, §1 (NEW).]

Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter II-A and must be submitted to the Joint Standing Committee on Utilities and Energy by January 1, 1999.

[1997, c. 569, §1 (AMD); 1997, c. 569, §2 (AFF) .]

SECTION HISTORY

1987, c. 141, §A6 (NEW). 1991, c. 342, §4 (AMD). 1997, c. 118, §1 (AMD). 1997, c. 569, §1 (AMD). 1997, c. 569, §2 (AFF). 1999, c. 398, §A30 (AMD). 1999, c. 513, §7 (AMD). 1999, c. 398, §§A104,105 (AFF). 2003, c. 505, §28 (AMD). 2003, c. 506, §11 (AMD).

35-A §2103. TRANSMISSION AND DISTRIBUTION UTILITY AND COOPERATIVE AUTHORIZED TO SERVE SAME AREA

After September 1, 1967, where a cooperative organized under chapter 37 and any other transmission and distribution utility are serving or authorized to serve the same municipality, neither the cooperative nor the other utility may bring electrical service to a new location except as provided in this section. [1999, c. 398, Pt. A, §31 (AMD); 1999, c. 398, Pt. A, §§104, 105 (AFF).]

1. Notice. The cooperative or utility must notify the other cooperative or utility and the commission, in writing, of the request by the party for electrical service, where bringing the service requires the extension of existing distribution facilities.

[1987, c. 141, Pt. A, §6 (NEW) .]

2. Filing objections. If, after notice, the other cooperative or utility opposes the bringing of electrical service to the new service location, within 7 days of receipt of the notice of proposed service, it shall:

A. File objections to the bringing of the electrical service with the commission; and [1987, c. 141, Pt. A, §6 (NEW).]

B. Send a copy of its objections to the utility or cooperative and to the party requesting electrical service. [1987, c. 141, Pt. A, §6 (NEW).]

[1987, c. 141, Pt. A, §6 (NEW) .]

3. Decision. If objections are filed, the commission shall immediately set a hearing date, and shall determine whether the cooperative or the other utility shall serve. If, after notice, either the cooperative or the utility fails to file its objections pursuant to subsection 2, it will be conclusively presumed that the cooperative or the utility, as the case may be, has consented to the furnishing of the service.

[1987, c. 141, Pt. A, §6 (NEW) .]

4. Temporary service pending a decision. Pending the final determination of the right to serve, the commission may order temporary service brought to the prospective new service location without prejudice to the rights of any party.

[1987, c. 141, Pt. A, §6 (NEW) .]

SECTION HISTORY

1987, c. 141, §A6 (NEW). 1999, c. 398, §A31 (AMD). 1999, c. 398, §§A104,105 (AFF).

35-A §2104. COMMISSION APPROVAL FOR GAS COMPANIES TO FURNISH SERVICE

1. Approval of commission required; generally. Except as provided in subsection 2, a gas utility may not furnish its service in or to any municipality within the State without the approval of the commission.

[2001, c. 124, §1 (NEW) .]

2. Approval not required; no other utility serving. Notwithstanding section 2102 or 2105, a gas utility authorized to furnish service and serving customers within the State is not required to obtain the approval of the commission to serve in any municipality in which no other gas utility is furnishing similar service unless the commission, in an order issued pursuant to subsection 3, specifically provides otherwise.

[2001, c. 124, §1 (NEW) .]

3. Limited grant of authority. The commission, in an order granting authorization to a person to operate, manage or control a gas utility in any municipality in this State, may expressly limit the area in which the gas utility may provide service without further approval of the commission only if:

A. The commission finds that the financial and technical capacity of the gas utility is limited in a manner that public convenience and necessity require such limited authorization; or [2001, c. 124, §1 (NEW) .]

B. The person seeking authorization requests that the authorization be limited to a particular area. [2001, c. 124, §1 (NEW) .]

[2001, c. 124, §1 (NEW) .]

SECTION HISTORY

1987, c. 141, §A6 (NEW). 1997, c. 707, §3 (AMD). 2001, c. 124, §1 (RPR).

35-A §2105. APPROVAL ONLY AFTER HEARING

1. Approval only after hearing. Except as provided in subsection 2, no approval required by section 2102, 2103 or 2104 and no license, permit or franchise may be granted to any person to operate, manage or control a public utility named in section 2101 in a municipality where there is in operation a public utility engaged in similar service or authorized to provide similar service, until the commission has made a declaration, after public hearing of all parties interested, that public convenience and necessity require a 2nd public utility.

[1987, c. 141, Pt. A, §6 (NEW) .]

2. Declaration without hearing. The commission, may make a declaration without public hearing, if it appears that the utility serving or authorized to serve, the utility seeking approval from the commission to provide service and any customer or customers to receive service agree that the utility seeking approval to serve should provide service.

[1987, c. 141, Pt. A, §6 (NEW) .]

SECTION HISTORY

1987, c. 141, §A6 (NEW).

35-A §2106. TRANSFER OF APPROVAL FOR A RADIO COMMON CARRIER

Consent granted by the commission under section 2102, or under section 2105, held by a radio common carrier may be assigned and transferred with the approval of the commission by holder of the approval. The commission may impose reasonable conditions upon granting its approval. [1987, c. 141, Pt. A, §6 (NEW) .]

SECTION HISTORY

1987, c. 141, §A6 (NEW).

35-A §2107. APPROVAL ONLY TO MAINE CORPORATIONS

No approval required in section 2102, 2103 or 2104 to operate, manage or control a public utility may be granted after October 1, 1975, to a corporation unless it is duly organized under the laws of this State or authorized by those laws to do business in this State. [1987, c. 141, Pt. A, §6 (NEW) .]

SECTION HISTORY

1987, c. 141, §A6 (NEW).

35-A §2108. CORPORATIONS MAY HOLD REAL ESTATE

Corporations organized under section 2101 and former section 2109 may purchase, hold and convey real estate and personal property that are necessary for the purposes for which they are created. [1999, c. 398, Pt. A, §32 (AMD); 1999, c. 398, Pt. A, §§104, 105 (AFF) .]

SECTION HISTORY

1987, c. 141, §A6 (NEW). 1999, c. 398, §A32 (AMD). 1999, c. 398, §§A104,105 (AFF).

35-A §2109. ORGANIZATION OF ELECTRIC CORPORATIONS IN AREAS NOT ADEQUATELY SERVED

(REPEALED)

SECTION HISTORY

1987, c. 141, §A6 (NEW). 1999, c. 398, §§A104,105 (AFF). 1999, c. 398, §A33 (RP).

35-A §2110. EXTENSION OF SERVICE

A public utility organized by Private and Special Act of the Legislature may extend its service as follows. [1987, c. 141, Pt. A, §6 (NEW) .]

1. Commission authorization. The commission may authorize a public utility organized by private and special act of Legislature to furnish or extend its service in, to or through a city or town notwithstanding any territorial limitations, express or implied, in the private and special act of the Legislature by which it was organized or under which it is enfranchised. Within 20 days after the commission's final authorization, the public utility shall file a certificate that shows the authorization with and pay \$20 to the Secretary of State. When the certificate is filed, the public utility's power to extend its service becomes effective.

[1987, c. 141, Pt. A, §6 (NEW) .]

2. The commission's powers and limitations. The commission's powers and limitations, made applicable under this section, are those applicable by law in like cases concerning public utilities organized under Title 13-C or any prior general corporation law.

[2003, c. 344, Pt. D, §23 (AMD) .]

SECTION HISTORY

1987, c. 141, §A6 (NEW). 2003, c. 344, §D23 (AMD).

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