

MAINE STATE LEGISLATURE

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(EMERGENCY)
(New Draft of H.P. 267, L.D. 350)
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1458

H.P. 1075 House of Representatives, May 8, 1987
Reported by Representative VOSE from the Committee on
Utilities and printed under Joint Rule 2.

EDWIN H. PERT, Clerk
Original bill submitted by the Joint Standing Committee
on Utilities, pursuant to Public Law 1985, Chapter 481, Part B.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SEVEN

AN ACT to Recodify the Public Utilities Law.

Emergency preamble. Whereas, Acts of the Legis-
lature do not become effective until 90 days after
adjournment unless enacted as emergencies; and

Whereas, the statutes governing public utilities
affect the vital interests of the people of Maine;
and

Whereas, it is likely that the First Regular Ses-
sion of the 113th Legislature will enact some legis-
lation affecting public utilities; and

Whereas, the laws will be clearer if that new
legislation is prepared with reference to the new,
recodified Title 35-A; and

1 distribute money from the Telecommunications Equip-
2 ment Fund. The plan shall be developed by the Divi-
3 sion of Deafness annually, not later than January
4 1st, in accordance with the rule-making procedures in
5 Title 5, chapter 375. The plan shall provide for the
6 expenditure of money from the fund for the benefit of
7 deaf, hearing impaired and speech impaired persons
8 for the purchase, lease, upgrading, installation,
9 maintenance and repair of special telecommunications
10 equipment capable of serving their needs. Persons
11 who are profoundly deaf or speech impaired so that
12 they cannot use the telephone for expressive or
13 receptive communications, as verified by a written
14 report from an otologist, audiologist or physician
15 are eligible for the assistance from the fund. The
16 plan shall include specific criteria that will govern
17 the priorities assigned to various persons who need
18 this equipment. The criteria shall take into account
19 household income, degree of impairment, need for
20 emergency communications, living arrangements and
21 other factors deemed relevant by the Division of
22 Deafness.

23 Sec. 2. 23 MRSA c. 410, first 2 lines, are re-
24 pealed and the following enacted in their place:

25 PART 5

26 DEPARTMENT OF TRANSPORTATION

27 CHAPTER 410

28 DEPARTMENT OF TRANSPORTATION

29 Sec. 3. 23 MRSA c. 411, first 2 lines, are re-
30 pealed and the following enacted in their place:

31 PART 6

32 WATERBORNE TRANSPORTATION

33 CHAPTER 411

34 MAINE STATE FERRY ADVISORY BOARD

35 Sec. 4. 23 MRSA Pt. 7 is enacted to read:

1 PART 7

2 RAILROADS

3 CHAPTER 601

4 DEFINITIONS AND MISCELLANEOUS

5 §5001. Definitions

6 As used in this Part, unless the context other-
7 wise indicates, the following terms have the follow-
8 ing meanings.

9 1. Railroad. "Railroad" includes every commer-
10 cial, interurban and other railway and each and every
11 branch and extension thereof by whatsoever power oper-
12 ated, together with all tracks, bridges, trestles,
13 rights-of-way, subways, tunnels, stations, depots,
14 union depots, ferries, yards, grounds, terminals,
15 terminal facilities, structures and equipment and all
16 other real estate, fixtures and personal property of
17 every kind used in connection therewith, owned, con-
18 trolled, operated or managed for public use in the
19 transportation of persons or property.

20 2. Railroad company. "Railroad company" includes
21 every corporation or person, their lessees, trustees,
22 receivers or trustees appointed by any court owning,
23 controlling, operating or managing any railroad for
24 compensation within this State.

25 3. Steam railroad or steam railroad company.
26 "Steam railroad" or "steam railroad company" means
27 any railroad or terminal company, however chartered,
28 using steam as its motive power or using Diesel en-
29 gines; and the term "electric railroad" or "electric
30 railroad company" means any railroad or terminal com-
31 pany using electricity as its motive power.

32 4. Transportation of persons. "Transportation of
33 persons" includes every service in connection with or
34 incidental to the safety, comfort and convenience of
35 the person transported and the receipt, carriage and
36 delivery for that person and his baggage.

1 5. Transportation of property. "Transportation
2 of property" includes every service in connection
3 with or incidental to the transportation of property,
4 including in particular its receipt, delivery, eleva-
5 tion, transfer, switching, carriage, ventilation, re-
6 frigeration, icing, dunnage, storage and handling,
7 and the transmission of credit by express or tele-
8 graph companies.

9 §5002. Liability of railroads for payment of labor-
10 ers

11 Every railroad company, in making contracts for
12 the building of its road, shall require sufficient
13 security from the contractors for the payment of all
14 labor thereafter performed in constructing the road
15 by persons in their employment. The company is liable
16 to the laborers employed for labor actually performed
17 on the road if they, within 20 days after the comple-
18 tion of the labor, in writing, notify its treasurer
19 that they have not been paid by the contractors, but
20 the liability terminates unless the laborer commences
21 an action against the company within 6 months after
22 giving the notice.

23 §5003. Collection of judgment against foreign lessee

24 When any foreign railroad company, which is or
25 has been doing business in this State as the lessee
26 of any railroad, refuses or neglects for 60 days af-
27 ter demand to pay and discharge any judgment recov-
28 ered by any person against the company owning that
29 leased road for damages to the property of the person
30 by the doings, misdoings or neglects of the foreign
31 company, its agents or servants, which judgment be-
32 longs to the foreign company to pay and discharge,
33 the Superior Court, on complaint, may compel payment
34 thereof by the foreign corporation and make, pass and
35 enforce all necessary orders, decrees and processes
36 for the purpose.

37 §5004. Judgment creditor may have remedy against
38 lessors

39 When any judgment is recovered and the foreign
40 company neglects, for 60 days, to satisfy it, the
41 judgment creditor may have a civil action against the

1 foreign company for the recovery of the amount of the
2 judgment, with interest and costs.

3 CHAPTER 603

4 ORGANIZATION

5 §5071. Approval of location; proceedings

6 Every corporation organized under this Title, Ti-
7 tle 13-A, or former Title 35, before commencing the
8 construction of its road, shall present to the De-
9 partment of Transportation a petition for approval of
10 location, defining its courses, distances and bounda-
11 ries accompanied with a map of the proposed route;
12 with a profile of the line on the relative scales of
13 profile paper in common use; and with a report and
14 estimate prepared by a skillful engineer from actual
15 survey. The department shall, on presentation of that
16 petition, appoint a day for hearing and the petition-
17 ers shall give such notice as the department deems
18 reasonable and proper, in order that all persons in-
19 terested may have an opportunity to appear and ob-
20 ject. If the department, after hearing the petition,
21 approves the proposed location, the corporation may
22 proceed with the construction, provided they first
23 file with the clerk of the county commissioners of
24 each county through which the road passes a plan of
25 the location of the road, defining its courses, dis-
26 tances and boundaries, and a copy of the plan with
27 the department. The location filed shall not vary,
28 except to avoid expense of construction, from the
29 route first presented to the department. The loca-
30 tion, together with any variation made in that loca-
31 tion, shall be filed within 2 years from the time
32 when the articles of incorporation are filed in the
33 office of the Secretary of State. The Department of
34 Transportation, upon written application, may extend
35 the time of filing the variations in its discretion.
36 No railroad may be made across tide waters where ves-
37 sels can navigate without first obtaining special
38 permission of the Legislature.

39 §5072. Location; subscribers' objections; proceed-
40 ings

1 The railroad shall be located within the time and
2 substantially according to the description of its
3 charter and the location shall be filed with the
4 county commissioners, who shall endorse the time of
5 filing thereon and order that location recorded. When
6 a corporation, by its first location, fails to ac-
7 quire the land actually embraced in its roadway, or
8 the location as recorded is defective or uncertain,
9 it may, at any time, correct and perfect its location
10 and file a new description. In that case, it is lia-
11 ble in damages, by reason of the new or amended loca-
12 tion, only for land embraced therein for which the
13 owner had not previously been paid. Railroad
14 charters, whenever granted, limiting the time within
15 which the railroad must be completed do not affect
16 the portion completed within that time and all
17 charters under which railroads have been constructed
18 for a portion of the line authorized are confirmed
19 and made valid as to that portion.

20

CHAPTER 605

21

MANAGEMENT AND OPERATION

22

SUBCHAPTER I

23

FARES AND TOLLS

24

§5121. Fares and tolls established

25 Any railroad corporation may establish and col-
26 lect for its sole benefit, fares, tolls and charges
27 upon all passengers and property conveyed and trans-
28 ported on its railroad, at such rates as may be de-
29 termined by the directors of the railroad corporation
30 and shall have a lien on its freight therefor, and
31 may from time to time regulate by its directors the
32 use of its road. The rates of fares, tolls, charges
33 and regulations are at all times subject to altera-
34 tion by the Legislature or by such officers or per-
35 sons as the Legislature may appoint for the purpose,
36 anything in the charter of the corporation to the
37 contrary notwithstanding.

38

§5122. Rights of ticket holders

1 No railroad company may limit the right of a
2 ticket holder to any given train, but the ticket
3 holder may travel on any train, whether regular or
4 express, and may stop at any of the stations along
5 the line of the road at which the trains stop. The
6 ticket shall be good for passage for one year from
7 the day it was first issued. Railroad companies may
8 sell excursion, return or other special tickets at
9 less than the regular rates of fare, to be used only
10 as provided on the ticket.

11 §5123. Railroad tickets; cancellation and exchange

12 Section 5122 shall not prevent railroad corpora-
13 tions from establishing necessary rules and regula-
14 tions for the cancellation of tickets and exchange of
15 partially used tickets, but the rules and regulations
16 shall be publicly posted at each ticket office and on
17 all passenger trains and, when practicable, printed
18 upon the tickets. Any ticket or check given in ex-
19 change for the unused portion of a partially used
20 ticket continues in force for the full term of the
21 original ticket, as provided in section 5122.

22 §5124. Sale of limited tickets

23 No person, other than a duly authorized agent of
24 the railroad company issuing a railroad ticket, may
25 sell, offer for sale or loan any railroad ticket lim-
26 ited to the use of a person or persons specified on
27 the ticket at the time of its issuance by the rail-
28 road company, under a penalty of not less than \$10
29 nor more than \$100, for each offense, to be recovered
30 on complaint.

31 §5125. Evading payment of fare or riding freight
32 train

33 No person is entitled to transportation over a
34 steam railroad or upon any ferry or in a taxicab or
35 public automobile, who does not on demand first pay
36 the established fare. Whoever, while being transport-
37 ed over any steam railroad, ferry or in a taxicab or
38 public automobile, willfully refuses on demand to pay
39 the established fare and whoever fraudulently evades
40 payment of the established fare by giving a false an-
41 swer, by traveling beyond the place to which he has

1 paid or by leaving a train, ferry, taxicab or public
2 automobile without paying the established fare,
3 whether that fare is demanded or not, forfeits not
4 less than \$5 nor more than \$20, to be recovered on
5 complaint. No person, without right, may loiter or
6 remain or place or cause to be placed any property or
7 obstruction on the right-of-way of a railroad corpo-
8 ration or on land owned by a railroad corporation ad-
9 joining or adjacent to its right-of-way or, without
10 right, may board or attempt to board or remain on any
11 railroad freight train, freight car, caboose, locomo-
12 tive or work equipment. Any person violating this
13 portion of this section is guilty of a Class E crime.

14 SUBCHAPTER II

15 SERVICES

16 §5141. Intersecting roads

17 Railroads intersecting or crossing each other
18 shall be deemed, for all business purposes, connect-
19 ing roads.

20 §5142. Trains crossing at same hour; exchange of
21 baggage

22 When railroads cross each other and passenger
23 trains are due at the crossing at the same hour, the
24 train first arriving shall wait for the arrival of
25 the other, if it comes within 20 minutes. Each shall
26 afford suitable opportunity for passengers desiring
27 to change with their baggage from one train to the
28 other. The superintendent, conductor and engineer of
29 the road violating this provision forfeits to the
30 State for each offense not less than \$10 nor more
31 than \$50, to be recovered on complaint.

32 §5143. Equal facilities to all expresses

33 Every railroad operating in the State shall fur-
34 nish reasonable and equal facilities and accommoda-
35 tions to all persons engaged in express business for
36 transportation of themselves, agents, servants, mer-
37 chandise and other property; for the use of their
38 stations, buildings and grounds; and for exchanges at
39 points of junction with other roads, under a penalty

1 of not more than \$500, to be recovered by indictment
2 and are liable to the aggrieved party in a civil ac-
3 tion for damages.

4 §5144. Discontinuance of service

5 No railroad or railroad company may discontinue
6 service to any point served prior to January 1, 1982,
7 unless the railroad or railway company has filed with
8 the Department of Transportation and with any municipi-
9 ality affected by the discontinuance of service and,
10 in the case where service is discontinued solely to
11 one shipper, with that shipper, a written notice of
12 intention to discontinue that service. The written
13 notice shall be given at least 30 days prior to dis-
14 continuing the service. This section does not apply
15 to any railroad corporation engaged in interstate
16 commerce while and so long as that corporation is re-
17 quired by federal law to make application to and pro-
18 quire consent from the Interstate Commerce Commission
19 as a condition precedent to any such abandonment of
20 property or discontinuance of service as is contem-
21 plated in this section.

22 SUBCHAPTER III

23 SHARES, COUPONS AND MORTGAGES

24 §5151. Shares

25 Shares in the capital of railroad corporations
26 are personal estate and may be transferred in the
27 same manner and with the same rights as shares in
28 other corporations are transferred.

29 §5152. Rights of coupon holders

30 When coupons for interest issued with bonds are,
31 for a valuable consideration, detached and assigned
32 by delivery, the assignee may maintain a civil action
33 upon them in his own name against the corporation en-
34 gaging to pay them.

35 §5153. Trustees; vacancies; elections affirmed; de-
36 crees enforced

1 When a railroad corporation mortgages its fran-
2 chise for the payment of its bonds or coupons and
3 trustees are appointed by the corporation, by special
4 law or by the mortgage, the bondholders, at a regular
5 meeting called for the purpose and notified as pro-
6 vided may, from time to time, elect by ballot new
7 trustees to fill vacancies, when no other method for
8 filling vacancies is specifically provided in the ap-
9 pointment, special law or mortgage. Any party inter-
10 ested may present the proceedings of the meeting to
11 the Superior Court. The court shall appoint a time of
12 hearing and order such notice to parties interested
13 as it deems proper, and may affirm the elections and
14 make and enforce any decrees necessary for the trans-
15 fer of the trust property to the new trustees. The
16 decrees shall be filed with the clerk of the judicial
17 court where the hearing is had and be recorded by
18 him.

19 §5154. Breach of mortgage; meeting of bondholders

20 The neglect of the corporation to pay any over-
21 due bonds or coupons secured by a mortgage, for 90
22 days after presentment and demand on the treasurer or
23 president of the corporation, is a breach of the con-
24 ditions of the mortgage. Upon such a breach, the
25 trustees shall call a meeting of the bondholders, by
26 publishing the time and place of the meeting for 3
27 weeks successively in the state paper and in some pa-
28 per in the county where the road lies, the last pub-
29 lication to be at least one week before the time of
30 the meeting.

31 §5155. One vote for every \$100 of bonds

32 At such a meeting and all others, each bondholder
33 present shall have one vote for each \$100 of bonds
34 held by him or represented by proxy. They may or-
35 ganize by the choice of a moderator and clerk and de-
36 termine whether the trustees shall take possession of
37 the road and manage and operate it in their behalf.

38 §5156. Trustees taking possession have corporate
39 powers

40 If the bondholders so determine, the trustees
41 shall take possession of the road and all other prop-

1 erty covered by the mortgage and have all the rights
2 and powers and be subject to all the obligations of
3 the directors and corporation of the road and may
4 prosecute and defend suits in their own name as
5 trustees.

6 §5157. Receipts and expenditures; trustees not lia-
7 ble; road surrendered

8 The trustees shall keep an accurate account of
9 the receipts and expenditures of the road and exhibit
10 it, on request, to any officer of the corporation or
11 other person interested. They shall, from the re-
12 ceipts, keep the road, buildings and equipment in re-
13 pair, furnish such new rolling stock as is necessary
14 and the balance, after paying running expenses, shall
15 be applied to the payment of any damages arising from
16 misfeasance in the management of the road and after
17 that, according to the rights of parties under the
18 mortgage. They are not personally liable except for
19 malfeasance or fraud. When all overdue bonds and cou-
20 pons secured by the mortgage are paid, they shall
21 surrender the road and other property to the parties
22 entitled to them.

23 §5158. Bondholders' meetings; reports; compensation
24 and instructions for trustees

25 The trustees shall annually, and at other times
26 on written request of 1/5 of the bondholders in
27 amount, call a meeting of the bondholders in the man-
28 ner prescribed in the bylaws of the corporation for
29 calling a meeting of stockholders and report to them
30 the state of the property, the receipts, expenses and
31 the application of the funds. At the meeting, the
32 bondholders may fix the compensation of the trustees;
33 instruct them to contract with the directors of the
34 corporation or other competent party to operate the
35 road while the trustees have the right of possession,
36 if approved by the bondholders at a regular meeting,
37 otherwise not exceeding 2 years and to pay them the
38 net earnings; or may give them any other instruction
39 that they deem advisable; and the trustees shall con-
40 form thereto, unless inconsistent with the terms of
41 the trust.

42 SUBCHAPTER IV

1 FORECLOSURE AND REDEMPTION OF MORTGAGES

2 §5161. Railroad mortgages foreclosed

3 The trustees, on application of 1/3 of the bond-
4 holders in amount to have railroad mortgage fore-
5 closed, shall immediately give notice thereof, by
6 publishing it 3 weeks successively in the state paper
7 and in some paper, if any, in each county into which
8 the road extends, stating the date and conditions of
9 the mortgage, the claims of the applicants under it,
10 that the conditions of the mortgage have been broken
11 and that for that reason they claim a foreclosure.
12 They shall cause a copy of the notice and the name
13 and date of each newspaper containing it to be re-
14 corded in the registry of deeds in every such county
15 within 60 days from the first publication. Unless,
16 within 3 years from the first publication, the mort-
17 gage is redeemed by the mortgagors or those claiming
18 under them or equitable relief as in cases of the re-
19 demption of mortgage lands is sought, founded on pay-
20 ment or a legal tender of the amount of overdue bonds
21 and coupons or containing an averment that the com-
22 plainants are ready and willing to redeem on the ren-
23 dering of an account, the right of redemption shall
24 be forever foreclosed.

25 §5162. Overdue bonds and coupons for record

26 Each holder of overdue bonds or coupons shall
27 present them to the trustees at least 30 days before
28 the right of redemption expires, to be recorded by
29 them. That right is not lost by the nonpayment of any
30 claims not so presented. The parties having the right
31 to redeem shall have free access to the record of the
32 claims.

33 §5163. Secured creditors become corporation and
34 trustees shall convey to it

35 The foreclosure of the mortgage shall inure to
36 the benefit of all the holders of bonds, coupons and
37 other claims secured thereby. They, their successors
38 and assigns are constituted a corporation as of the
39 date of the foreclosure, for all the purposes and
40 with all the rights and powers, duties and obliga-
41 tions of the original corporation by its charter. The

1 trustees shall convey to that new corporation by
2 deeds all the right, title and interest which they
3 had by the mortgage and the foreclosure, and there-
4 upon they shall be discharged. If they neglect or
5 refuse so to convey, the court, on application for
6 equitable relief, may compel them to do so.

7 §5164. First meeting of new corporation; name; pos-
8 session and use of mortgaged property

9 The new corporation may call its first meeting in
10 the manner provided for calling the first meeting of
11 the original corporation, and may use for that pur-
12 pose the old name, or by a notice, signed by one or
13 more of the bondholders, setting forth the time,
14 place and purpose of the meeting, a copy of which is
15 to be published in a newspaper in the county, if any,
16 otherwise in the state paper, 7 days before the meet-
17 ing. At that meeting, it may adopt a new name by
18 which it shall be known. It may take and hold the
19 possession and have the use of the mortgaged prop-
20 erty, although an action for equitable relief to redeem
21 is pending, and it may become a party defendant to
22 the action. This section applies to all corporations
23 mentioned in section 5185.

24 §5165. Vote to redeem prior mortgage and assessments

25 If any part of the property or franchise is sub-
26 ject to a prior mortgage, the new corporation, at a
27 legal meeting called for that purpose, may vote to
28 redeem the property or franchise and make an assess-
29 ment on all holders of stock, certificates for frac-
30 tions of stock, bonds or coupons in the corporation
31 in proportion to their amounts. The directors shall
32 immediately assess the sum and fix a time and place
33 for the payment of it to the treasurer, who shall
34 publish notice accordingly 6 weeks successively in
35 some newspaper, if any, in each of the counties where
36 the road extends, the last publication to be at least
37 2 weeks before the time fixed for payment.

38 §5166. Sale of stock for nonpayment; rights of de-
39 linquent stockholders

40 If any person fails to pay his assessment within
41 the time fixed, the treasurer shall sell enough of

1 his stock at auction to pay the same, with 12% inter-
2 est and the cost of advertising and selling, by first
3 publishing notice of the sale 3 weeks successively in
4 a newspaper printed in the county where the sale is
5 to be, if any, and if not, in an adjoining county.
6 Upon sale the president and treasurer shall issue a
7 new certificate of stock to the purchaser and the del-
8 inquent stockholder shall surrender his certificate
9 to be canceled and may have a new one for his unsold
10 shares. If he held bonds, coupons or certificates for
11 fractions of stock, he shall not be entitled to com-
12 mute them or to receive any dividends on them until
13 he has paid his assessment, with 12% interest.

14 §5167. Application of funds

15 The directors shall apply the money realized from
16 the assessments solely to the redemption of the prior
17 mortgage until it is fully paid and then all the
18 property, rights and interests secured by the mort-
19 gage vest in the new corporation.

20 §5168. Redemption of prior mortgages by junior mort-
21 gages

22 When a subsequent mortgage of a railroad, its
23 franchise or any part of its other property contains
24 no provision for a sale, or contains a conditional
25 provision depending on the application of a majority
26 in amount of the claims secured thereby and no such
27 application has been made to the trustees, the holder
28 of the mortgage may redeem a prior mortgage on the
29 same property which is under process of foreclosure
30 at any time before it becomes absolute and hold it in
31 trust for those who contributed thereto in proportion
32 to the amount paid by each.

33 §5169. Meeting regarding redemption of prior mort-
34 gages; contribution

35 For such a purpose, the trustees of the subse-
36 quent mortgage, on application of one or more persons
37 interested in the mortgage, made 6 months prior to
38 the absolute foreclosure of the prior mortgage and on
39 payment of reasonable expenses to be incurred there-
40 by, shall call a meeting of all interested and pub-
41 lish a notice of the meeting, stating the time, place

1 and purpose, 3 weeks successively in the state paper
2 and such other papers as they think proper. If at
3 that meeting, or one called by the trustees without
4 application, the holders of a majority of the inter-
5 ests there represented vote to redeem the prior mort-
6 gage, each one may contribute his proportion to the
7 redemption. The trustees shall give immediate notice
8 of the vote by publishing it as above and shall in
9 the notice state the time and place of payment and
10 the amount to be paid on each \$100 as nearly as may
11 be. If anyone fails to pay his proportion, any other
12 person interested in the subsequent mortgage may pay
13 it and succeed to all his rights except as otherwise
14 provided.

15 §5170. Anyone interested in subsequent mortgage may
16 redeem

17 If no meeting is called or it is voted not to re-
18 deem, one or more of the persons interested in the
19 subsequent mortgage may pay to the trustees the
20 amount required to redeem the prior mortgage, and the
21 trustees shall redeem it accordingly and then hold it
22 in trust for the person so paying.

23 §5171. Delinquents pay proportion and rights re-
24 stored; new corporation

25 When a prior mortgage has been redeemed in either
26 mode, and all persons interested in the subsequent
27 mortgage have not paid their proportions, the trust-
28 ees shall publish a notice 10 weeks successively in
29 the state paper, the first publication not to be un-
30 til the right of redeeming the prior mortgage would
31 have expired, that delinquents may pay the same to
32 them or their agents, with 12% interest, within one
33 year from the first publication of the notice. Any
34 person so paying has the same rights as if he had
35 paid originally and those not paying are barred.
36 Money so paid shall be divided ratably to those who
37 advanced the redemption money and they may become a
38 new corporation and new certificates of stock or
39 fractions of stock may be issued in the manner and
40 with the rights, powers and obligations provided.

41 §5172. Redemption by stockholders of old corporation

1 When a prior mortgage is redeemed, any number of
2 the stockholders of the old corporation may redeem it
3 within 2 years thereafter by paying to the trustees
4 of the subsequent mortgage the amount paid, with 10%
5 interest, and the amount secured by the subsequent
6 mortgage due to those who had contributed to redeem
7 the prior mortgage, after deducting the net earnings
8 of the road or adding the net deficiencies, if oper-
9 ated by the trustees of the subsequent mortgage. The
10 stockholders may demand of the trustees an accurate
11 account of the receipts and expenditures and amount
12 due on the mortgage and have the same remedies for a
13 failure as in case of mortgages of real estate. Af-
14 ter the redemption, the redeeming stockholders have
15 all the rights of those from whom they redeemed.

16 §5173. Noncontributors; notice; rights

17 The stockholders, redeeming, shall give notice to
18 the stockholders who have not contributed to the re-
19 demption and the latter shall have the same rights as
20 provided in the case of bondholders.

21 §5174. Extension of redemption time after foreclo-
22 sure commenced

23 The persons interested in a prior mortgage on
24 which a foreclosure is commenced, at a meeting called
25 for the purpose, may extend the time of redemption.
26 Thereupon the trustees of the mortgage, by a suitable
27 writing, delivered to the party entitled to redeem,
28 shall extend the time accordingly.

29 SUCHAPTER V

30 RIGHTS OF PURCHASERS UNDER SALE

31 §5181. Purchasers at sale have rights of original
32 corporation; redemption

33 When the franchise of a railroad and its road,
34 wholly or partly constructed, or the right of redeem-
35 ing the same from a mortgage, are sold by a decree of
36 court by a power of sale in a mortgage, or on execu-
37 tion, the purchasers have all the rights, powers and
38 obligations of the corporation under its charter and
39 may form a new corporation in the manner provided.

1 If the original corporation or those claiming under
2 it have a right to redeem, they may do so in the man-
3 ner provided for the redemption of mortgaged real es-
4 tate, but shall pay, in addition to the amount of the
5 sale and interest, the reasonable expenditures made
6 by the new corporation in completing, repairing and
7 equipping the road, and in the purchase of necessary
8 property, after deducting the net earnings.

9 §5182. Succession to rights and obligations of orig-
10 inal corporation

11 The trustees of bondholders or other parties un-
12 der contract with them operating a railroad and all
13 corporations formed in the modes provided have the
14 same rights, powers and obligations as the old corpo-
15 ration had by its charter and the general laws. All
16 rights and privileges are subject to amendment, al-
17 teration or repeal by the Legislature and to all the
18 general laws concerning railroads, notwithstanding
19 anything to the contrary in the original charter.

20 §5183. Original corporation continues, to close
21 business, and for actions

22 The original corporation shall exist, after the
23 foreclosure of the mortgage, for the sole purpose of
24 closing its unsettled business and the right of ac-
25 tion against it or its stockholders is not impaired.
26 In actions founded on any of the bonds or coupons se-
27 cured by the mortgage, the proportional actual value
28 of the property taken under the mortgage shall be de-
29 ducted.

30 §5184. Courts have jurisdiction of all disputes

31 The Supreme Judicial Court and the Superior
32 Court, in addition to the jurisdiction specifically
33 conferred by this chapter, have jurisdiction of all
34 other matters in dispute, arising under this chapter
35 relating to trustees, mortgages and the redemption
36 and foreclosure of mortgages; but not to take away
37 any rights or remedies that any party has and may
38 elect to enforce by any civil action. In all proceed-
39 ings relating to trustees or to mortgages, their
40 foreclosure and redemption, not otherwise specifical-
41 ly provided for, the law relating to trusts and mort-
42 gages of real estate may be applied.

1 §5185. Application of provisions to mortgages of
2 corporations given to trustees, as if legally
3 foreclosed

4 This subchapter and subchapters III and IV apply
5 to and include all mortgages of franchises, lands,
6 property, hereditaments and rights of property of ev-
7 ery kind whatever, whether previously given or to be
8 given by any corporation to trustees, to secure the
9 payment of scrip or bonds of the corporation, in all
10 cases in which the principal of the scrip or bonds
11 has been due and payable for more than 3 years, and
12 remains unpaid in whole or in part, or on which no
13 interest has been paid for more than 3 years, in the
14 same way and to the same extent as if the mortgage
15 had been legally foreclosed, subject to all rights of
16 redemption, as provided in section 5165. The holders
17 of the scrip or bonds shall have the benefit of this
18 subchapter and subchapters III and IV and all the
19 rights and powers of the corporation under its
20 charter and may form a new corporation in the manner
21 provided in this chapter whenever the holders of the
22 scrip or bonds to an amount exceeding 1/2 of the same
23 so elect in writing. Any subsequent foreclosure, in
24 any method provided by law, of the mortgage given to
25 secure the bonds or scrip, shall inure at once for
26 the benefit of the corporation and vest in the corpo-
27 ration the title acquired by the foreclosure.

28 §5186. Holders of unpaid scrip and bonds may
29 foreclose mortgages

30 A corporation formed by the holders of the scrip
31 or bonds, or if no such corporation has been formed,
32 the holders of not less than a majority of the scrip
33 or bonds, may commence a civil action to foreclose
34 the mortgage and the court may decree a foreclosure
35 thereof, unless the arrears are paid within such time
36 as the court orders.

37 §5187. Capital stock of new corporation; value of
38 shares; no further assessment

39 The capital stock of the new corporation shall be
40 equal to the amount of unpaid bonds and overdue cou-
41 pons secured by the mortgage, taken at their face
42 value at the time of the organization of the new cor-

1 poration, together with the amount required to redeem
2 any prior mortgage and shall be divided into shares
3 of \$100 each. All stock issued shall be taken and
4 considered as paid for in full and shall not be lia-
5 ble to further assessment. No person, taking or hold-
6 ing the stock, may by reason of the taking or holding
7 be liable for the debts of the corporation.

8 §5188. Organization certificate filed with Secretary
9 of State

10 Whenever a corporation is organized under section
11 5163, 5181 or 5185, or under any other law by which a
12 return is not specifically required, the corporation
13 shall file with the Secretary of State a certificate
14 signed and sworn to by the president, treasurer and a
15 majority of the directors of that corporation, set-
16 ting forth the name of the corporation and all facts
17 as to that organization which are necessary to give
18 full information in relation to that organization.
19 The organization of that corporation shall date from,
20 and it shall have the authority and rights of a cor-
21 poration, only after filing the certificate.

22 §5189. New corporation may buy right of redemption

23 Any corporation formed under this chapter by the
24 holders of railroad bonds may acquire, by purchase,
25 the right of redemption under the mortgage securing
26 the bonds.

27 §5190. When franchise lost; action for dissolution

28 Whenever any railroad corporation, by foreclosure
29 of a mortgage or in any other method authorized by
30 law, has finally parted with its franchise to con-
31 struct, operate and maintain the railroad described
32 in its charter, any stockholder may maintain a civil
33 action in the Superior Court for the winding up of
34 the affairs and dissolution of that corporation. In
35 such case the court shall order such notice to all
36 parties interested as it may deem proper and proceed
37 according to the usual course of civil actions. No
38 trustee may be appointed, except upon motion of some
39 party to the proceedings and then only in the discre-
40 tion of the court.

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CHAPTER 607
REAL ESTATE

§6001. Land bought or taken

A railroad corporation, for the location, construction, repair and convenient use of its road, may purchase or take and hold, as for public uses, land and all materials in and upon it. Through woodland and forest the land so taken shall not exceed 6 rods in width unless necessary for excavation, embankment or materials and through all land other than woodland and forest, the land so taken shall not exceed 4 rods in width unless necessary for excavation, embankment or materials.

§6002. Land for improvements; proceedings

Any railroad corporation may purchase or take and hold, as for public uses, additional land or rights in land, at any time required for improving the alignment or grades of its road, for double tracking its road, for protecting the tracks against erosion of adjoining or adjacent land or against the action of the elements, or reasonably necessary in the enhancement of public safety at dangerous curves or crossings; and land or rights therein, for borrow, ballast and gravel pits, necessary tracks, side-tracks, spur tracks, freight or passenger yards, stations, station grounds, approaches to stations and station grounds and to other facilities furnished by the railroad for public use, coal sheds, woodsheds, water tanks, repair shops, car, engine, freight and section houses, section dwelling houses and storage warehouses, or other structures, which the Department of Transportation, after hearing, finds to be reasonably required in the safe, economical and efficient operation of the railroad and in rendering of adequate service to the public. If the owner or owners of that land do not consent, if the parties do not agree as to the necessity for the taking or as to the area to be taken or if the parties are unable to agree as to the fair value of the land, the corporation may make written application to the Department of Transportation requesting its approval of the taking by the railroad corporation for any such public

1 uses, describing the land and appurtenances and
2 naming the persons interested. The department shall
3 then appoint a time for a hearing near the premises
4 and require notice to be given to the persons inter-
5 ested, as they may direct, at least 14 days before
6 that time. The department shall then view the
7 premises; hear the parties; determine how much, if
8 any, of the real estate should be taken for the rea-
9 sonable accommodation of the traffic, the safe opera-
10 tion of the railroad and the appropriate business of
11 the corporation; and enter an order containing a def-
12 inite description of the real estate and furnish the
13 corporation with a true copy of the order. When a
14 certified copy of the order is filed with the regis-
15 try of deeds in the county where the land lies, the
16 land shall be deemed and treated as taken. When land
17 is held by a tenant for life and the reversion is
18 contingent as to the persons in whom it may vest on
19 the termination of the life estate, that fact shall
20 be stated in the application and the department
21 shall, in addition to the notice to the tenant for
22 life, give notice by publication to all others inter-
23 ested, in such manner as it deems proper.

24 §6003. Change in location

25 Any railroad corporation may make any changes in
26 the location of its road which it deems necessary or
27 expedient and the changes shall be recorded where the
28 original location was required by law to be recorded.

29 §6004. Land taken for change

30 Any railroad corporation may purchase, or take
31 and hold as for public uses, land and materials nec-
32 essary for making any changes authorized by section
33 6003, in the manner authorized by its charter or the
34 general provisions of law and may cross highways and
35 town ways in accordance with the law regulating those
36 crossings.

37 §6005. Limitation of right to enter or take land

38 The land taken shall not be entered upon, except
39 to make surveys, before the location has been filed
40 and the damages estimated and secured as provided. No
41 railroad corporation may take, without consent of the

1 owners, meetinghouses, dwelling houses or public or
2 private burying grounds.

3 §6006. Branch tracks

4 Any railroad corporation may locate, construct
5 and maintain branch railroad tracks to any railroad
6 station of another corporation or to connect with an-
7 other railroad or to any mills, mines, quarries,
8 gravel pits, log landing or yard, warehouses and
9 storehouses, airports, piers, docks, shipyards, edu-
10 cational institutions or manufacturing establishments
11 erected, or in process of erection, in any town or
12 township through which the main line of that railroad
13 is constructed, but not within any city without the
14 consent of the city government and for that purpose
15 the corporation shall have all the powers and rights
16 granted and be subject to all the duties imposed upon
17 it by its charter.

18 §6007. Estimate of damages; guardian; security for
19 costs

20 For real estate taken pursuant to section 6002,
21 the owners are entitled to damages to be paid by the
22 corporation. The corporation shall attempt to settle
23 the amount of damages, with the consent of the own-
24 ers, within 60 days from the date of the taking. If
25 all parties do not agree on the amount of damages,
26 they shall be estimated by the county commissioners
27 on written application by either party. The county
28 commissioners shall estimate the damages within one
29 year of the date application is made. When no esti-
30 mate is made within that time, the owner may maintain
31 a civil action or have any remedy provided. The
32 guardian of a person incapable of giving a valid con-
33 veyance whose land is taken may settle and give a
34 valid release for damages. Persons having any inter-
35 est in that land have the rights and remedies of own-
36 ers to the extent of their interest. When requested
37 by the owner, the commissioners shall require the
38 corporation to give security for the payment of dam-
39 ages and costs by depositing, at its risk, with the
40 clerk, specie, notes or obligations of a state or
41 public corporation or other security satisfactory to
42 the party requiring it. When entitled to it, so much
43 of any specie so deposited shall be paid to him as

1 will satisfy his judgment. Notes or obligations so
2 deposited shall be delivered to the officer having a
3 warrant of distress, to be by him sold as personal
4 property is sold on execution, to satisfy the warrant
5 and fees and any balance shall be paid to the trea-
6 surer of the corporation. When it neglects for more
7 than 30 days to give the security required, the owner
8 is entitled to the remedies by injunction.

9 §6008. Petitions for assessment of damages

10 In all cases of petition to the commissioners of
11 any county praying for the assessment of damages on
12 account of any railroad corporation having taken
13 lands in the county, the notice to the adverse party
14 of the time and place of the hearing shall be a per-
15 sonal notice of 14 days or by publication of the pe-
16 tition and order of notice on the petition in some
17 newspaper published in said county, 2 weeks succes-
18 sively, the last publication to be 14 days before the
19 hearing.

20 §6009. Cattle guards and passes; double damages

21 The county commissioners shall order the corpora-
22 tion to make and maintain such cattle guards, cattle
23 passes and farm crossings as they think reasonable
24 and prescribe the time and manner of making them and
25 consider this work in awarding pecuniary damages. If
26 the corporation after 48 hours' notice in writing to
27 its president or superintendent neglects to commence
28 the work or complete it within a reasonable time, the
29 owner may apply to the Superior Court and the court,
30 after due notice to the corporation, shall issue all
31 necessary processes to enforce the specific perform-
32 ance of the orders or restrain it by injunction or
33 the party interested may recover, in a civil action,
34 double the damage that he has sustained by the ne-
35 glect.

36 §6010. Award of damages; terms and conditions

37 The county commissioners in awarding damages for
38 land or other property taken by any railroad company
39 may, on the application of the railroad company, pre-
40 scribe such terms and conditions, in all respects,
41 for the use of the land or property taken, by the

1 owners of the land or property and the railroad com-
2 pany respectively, as will secure the best accommoda-
3 tion of the owners and the proper and convenient use
4 of the land or property by the railroad company. In
5 case of appeal by either party, the only question in
6 issue shall be the amount or measure of damages on
7 the terms and conditions imposed by the commission-
8 ers.

9 §6011. Commissioners' report of damages and rights
10 of parties; notice

11 The county commissioners shall at a regular ses-
12 sion make a report of their general estimate of dam-
13 ages, stating specifically the terms and conditions
14 imposed by them, the rights and obligations of each
15 party and the elements of damage as provided for land
16 taken for highway purposes under section 154, subsec-
17 tions 2, 3 and 4, and cause it to be recorded. Their
18 clerk shall then make out a notice to each person,
19 stating the amount of damages awarded to him and the
20 elements of damage, which shall be served by an offi-
21 cer on those resident in the State and upon others,
22 if any, by a publication 3 weeks successively in a
23 newspaper printed in the county, if any or, if not,
24 in the state paper. The expense of notices shall be
25 added to the costs of the proceedings and paid ac-
26 cordingly.

27 §6012. Appeals; notice and proceedings

28 Any person, aggrieved by the decision or judgment
29 of the county commissioners in relation to damages
30 for land taken for railroad purposes, may appeal to
31 the Superior Court to be held in the county where the
32 land is situated, within 30 days after the report of
33 the commissioners is made, which court shall deter-
34 mine the damages by a committee of reference if the
35 parties so agree or by a verdict of its jury and
36 shall render judgment and issue execution for the
37 damages recovered, with costs to the party prevailing
38 in the appeal. No committee or jury shall alter the
39 requirements in the report of the commissioners. The
40 appellants shall, when the appeal is taken, include
41 in the complaint a statement setting forth substan-
42 tially the facts of the case and shall give written
43 notice of appeal with a copy of the complaint to the

1 opposite party. An appeal may be taken to the Law
2 Court as in other actions.

3 §6013. Deposit of damages, interest and costs

4 When the proceedings are closed, the corporation
5 may deposit with the clerk the amount of damages,
6 with interest from the time when the estimation was
7 recorded, and legal costs, in full satisfaction
8 therefor, unless a demand had been previously made
9 and payment neglected.

10 §6014. When damages not paid

11 When the damages remain unpaid for more than 30
12 days after they are due and demanded, equitable re-
13 lief may be requested by the person entitled to them,
14 praying for an injunction against the use or occupa-
15 tion of his land taken. If proceedings for an estima-
16 tion of damages are not commenced within 3 years and
17 the owner of the land requests equitable relief, the
18 court may estimate the damages, decree their payment
19 and issue an execution. The court, after summary no-
20 tice to the corporation and upon proof of the facts
21 may, without any bond filed, issue an injunction pro-
22 hibiting the use and occupation until all damages and
23 costs are paid. If payment has not been made within
24 90 days, a permanent injunction may be issued; and
25 all rights acquired by taking the land and all rights
26 of property in and to whatever has been placed upon
27 it cease and the owner may maintain an action for its
28 recovery and protection.

29 §6015. Service of process and notice

30 Service of process and notice may be made as pro-
31 cess is served in other actions. Service of an in-
32 junction issued against any person, whether a party
33 to the action or not, may be made upon him and he
34 shall be liable to all the penalties and consequences
35 provided for a breach of it.

36 §6016. Breach of injunction

37 The court may order persons violating the injunc-
38 tion, after service or using the land, to show cause
39 at a time fixed, why a decree should not be entered

1 and execution issued against them individually and
2 their goods and estate, for the damages, interest,
3 costs and for additional damages and costs for breach
4 of the injunction. Upon service and return of the
5 order, the court may enter such decree as is just and
6 equitable against those persons and issue execution
7 accordingly or may proceed against them as for breach
8 of injunction in other civil actions.

9 §6017. Station grounds not to be taken by another
10 company

11 No railroad corporation may take the grounds oc-
12 cupied by any other railroad company and necessary
13 for its use for station purposes, without its con-
14 sent. When application is made to take those
15 grounds, the Department of Transportation, upon no-
16 tice and hearing, shall determine whether the land
17 proposed to be taken is necessary or not and whether
18 any public necessity requires it to be taken.

19 §6018. Use of passenger stations

20 Whenever any railroad passenger station is
21 erected or maintained in any city or town in this
22 State, any railroad corporation having or using a
23 track or passenger station within that city or town
24 may run its passenger trains to and from the station,
25 over any railroad track or tracks leading to the sta-
26 tion, and use the same for the purpose of delivering
27 and receiving through passengers, under such reason-
28 able terms and regulations and over such tracks as
29 may be agreed upon by the owner of the station, the
30 railroad whose tracks are used in running to and from
31 the same and the railroad corporation so desiring its
32 use for that purpose and, in case of disagreement,
33 upon petition, notice and hearing, the Department of
34 Transportation shall fix and determine those terms,
35 tracks and rules. No corporation which denies, in any
36 proceedings, the authority of the Department of
37 Transportation to proceed and make the determination,
38 or which refuses to abide by its decision rendered in
39 the proceedings, may avail itself of this section.

40 §6019. Loitering about or soliciting passengers

1 No person may loiter or remain, without right,
2 within any car or station house of a railroad corpo-
3 ration or upon the platform or grounds adjoining that
4 station after being requested to leave by any rail-
5 road officer. No person or driver or owner of any au-
6 tomobile or other vehicle may solicit passengers in
7 any station or on the station grounds or wharves of
8 any railroad corporation in competition with that
9 railroad corporation without a written permit signed
10 by an officer of the corporation authorized to issue
11 the permit. Whoever violates any provision of this
12 section shall be punished by a fine of not more than
13 \$100.

14 §6020. Law posted

15 The officers of all railroad corporations shall
16 cause a copy of section 6019 to be posted in a con-
17 spicuous place at the several stations along the line
18 of their roads.

19 §6021. Fences; liability for injuries

20 Where a railroad passes through enclosed or im-
21 proved land, or woodlots belonging to a farm, legal
22 and sufficient fences shall be made on each side of
23 the land taken therefor, before the construction of
24 the road is commenced, and the fences shall be main-
25 tained and kept in good repair by the corporation.
26 For any neglect of that duty during the construction
27 of the road, and for injuries thereby occasioned by
28 its servants, agents or contractors, the directors
29 are jointly and severally personally liable. For any
30 subsequent neglect, the corporation shall be fined a
31 sum sufficient to make or repair the fence, to be re-
32 covered by indictment and expended by an agent ap-
33 pointed by the court.

34 §6022. Line fences built on notice of abutter

35 The owner of any enclosed or improved land or
36 woodlot belonging to a farm abutting upon any rail-
37 road, which is finished and in operation, may at any
38 time between the 20th day of April and the end of Oc-
39 tober give written notice to the president, treasurer
40 or any of the directors of the corporation owning,
41 controlling or operating that railroad that the line

1 fence against his land has not been built, or if
2 built, that the fence is defective and needs repair.
3 If the corporation neglects to build or repair the
4 fence for 30 days after receiving notice, it forfeits
5 to the owner \$100, to be recovered in a civil action.

6 §6023. Injuring fences or turning animals into rail-
7 road enclosure

8 Whoever takes down or intentionally injures any
9 fence erected to protect the line of any railroad or
10 turns any horse, cattle or other animal upon or with-
11 in the enclosure of that railroad shall be punished
12 by a fine of not less than \$10 nor more than \$100 or
13 by imprisonment for not less than 10 days nor more
14 than 6 months.

15 §6024. Company liable for trespasses on adjoining
16 land

17 The corporation is liable for trespasses and in-
18 juries to lands and buildings adjoining or in the vi-
19 city of its road committed by a person in its em-
20 ployment or occasioned by its order, if the party in-
21 jured within 60 days after the injured gives notice
22 to the corporation; but its liability does not extend
23 to acts of willful and malicious trespass. The person
24 committing a trespass is also liable.

25 §6025. No title to lands of railroads by adverse
26 possession

27 No title to any real estate or any interest in
28 real estate may be acquired against any railroad cor-
29 poration by adverse possession, however exclusive or
30 long continued.

31 CHAPTER 609

32 MAINE STATE RAILROAD POLICE ACT

33 §6071. Short title

34 This chapter shall be known and may be cited as
35 the "Maine State Railroad Police Act."

36 §6072. Definitions

1 As used in this chapter, unless the context oth-
2 erwise indicates, the following terms have the fol-
3 lowing meanings.

4 1. Qualified person. "Qualified person" means a
5 person who:

6 A. Has met all the education and training re-
7 quirements as outlined under Mandatory Training
8 Law, Title 25, section 2805; and

9 B. Is of good moral character and has no record
10 of conviction of a serious crime.

11 The qualification and in-service training require-
12 ments of paragraph A do not apply to any individual
13 who was employed on a full-time basis by a railroad
14 as a police officer on October 24, 1977.

15 2. Railroad; railroads; railway company. "Rail-
16 road," "Railroads" or "railway company" or any combi-
17 nation of those terms means a corporation engaged as
18 a common carrier in the furnishing or sale of trans-
19 portation by railroad, if subject to the jurisdiction
20 of the Interstate Commerce Commission.

21 §6073. Appointment

22 The Commissioner of Public Safety may commission
23 and rescind the commissions of all railroad police
24 officers in the State. The commissioner may commis-
25 sion and rescind the commissions of railroad police
26 officers recommended and appointed by the chief po-
27 lice officer, or in his absence the chief operating
28 officer of any railroad located wholly or partially
29 within the State. Railroad police officers shall be
30 qualified persons as defined in section 6072, subsec-
31 tion 1, and are subject to the existing rules of the
32 commissioner. Nothing contained in this Act may re-
33 lieve any railroad from any civil liability for acts
34 of a policeman in exercising or attempting to exer-
35 cise the powers conferred by this Act.

36 §6074. Oath of office

37 Each policeman so appointed and commissioned
38 shall, before entering upon the duties of his office,

1 take an oath of office administered by the Commis-
2 sioner of Public Safety.

3 §6075. Powers

4 Each policeman may, in all cases in which the
5 rights of the appointing railroad are involved, exer-
6 cise within this State all powers, including the pow-
7 ers of arrest and the carrying of firearms, for the
8 reasonable purpose of his office.

9 §6076. Disposition of persons arrested

10 The keepers of jails, lockups and station houses
11 in any county, city or town, shall receive all per-
12 sons arrested by railroad police for the commission
13 of any offense against the laws of this State, or the
14 ordinances of any city or town, to be dealt with ac-
15 ording to law and persons arrested shall be received
16 by keepers of jails, lockups or station houses and
17 those persons have the same status as other persons
18 arrested by any other police or peace officer of this
19 State.

20 §6077. Carrying of shield

21 Each policeman so appointed and commissioned
22 shall, when on duty, carry a shield or star with the
23 words "Police," "Railroad Police" or "Railway Police"
24 and the name of the appointing railroad inscribed on
25 the shield. The shield or star shall be of uniform
26 design. This shield or star shall be worn in plain
27 view when in uniform. The policeman shall also carry,
28 when on duty, an identification card issued by the
29 appointing railroad.

30 §6078. Compensation and training

31 The railroad to which each railroad police offi-
32 cer is assigned shall be responsible for the compen-
33 sation and financial cost of training of railroad po-
34 lice officers.

35 §6079. Reciprocity

36 In order to more effectively carry out the pur-
37 poses of this Act, the Governor of this State, re-

1 ferred to as the empowering State, may enter into a
2 reciprocal agreement with the governor of any other
3 state, referred to as the reciprocal state, subject
4 to any regulations prescribed under that agreement,
5 empowering a railroad policeman with the right to
6 perform any police function that can be lawfully ex-
7 ercised by a police officer of the reciprocal state
8 relating to the detection and apprehension of any
9 person committing an offense or offenses against the
10 empowering or the reciprocal state, but only to the
11 extent that the offense is, or offenses are, commit-
12 ted on property owned, operated or maintained by the
13 appointing railroad or committed against property
14 owned or in the possession of that railroad.

15 §6080. Termination of authority

16 Upon termination of employment of any railroad
17 policeman, the powers of that policeman shall cease
18 and terminate. Within 10 days after the termination,
19 the appointing railroad shall, through its designated
20 chief police officer or, in the absence of a chief
21 police officer, its chief operating officer, file a
22 notice of termination of employment of that individu-
23 al with the Commissioner of Public Safety.

24 CHAPTER 611

25 SAFETY PROVISIONS

26 §7001. Brakemen

27 No train of passenger cars, moved by steam, may
28 be run without one trusty and skillful brakeman to
29 every 2 cars.

30 §7002. Danger signals, where disconnected cars left
31 on track; penalty

32 No car disconnected from a train may be left or
33 permitted to remain standing on the main track of any
34 railroad, unless accompanied by danger signals, such
35 as flagging by day and lanterns by night, placed at
36 such distances from the obstruction on the main line
37 of the road as will insure safety to and from moving
38 trains. The signals shall be in the charge of and
39 constantly attended by employees of the corporation
40 owning or operating the road.

1 A railroad corporation violating any provision of
2 this section forfeits for each offense, \$100 to the
3 State, to be recovered in a civil action or by com-
4 plaint and indictment; and the Attorney General shall
5 prosecute for that violation.

6 §7003. Railroad liable for damages from locomotive
7 fire; entitled to benefit of any insurance

8 When a building or other property is injured by
9 fire communicated by a locomotive engine, the corpo-
10 ration using it is responsible for that injury and it
11 has an insurable interest in the property along the
12 route for which it is responsible, and may procure
13 insurance on that property. The corporation shall be
14 entitled to the benefit of any insurance upon such
15 property effected by the owner of the property less
16 the premium and expense of recovery. The insurance
17 shall be deducted from the damages, if recovered be-
18 fore the damages are assessed or, if not, the policy
19 shall be assigned to the corporation which may main-
20 tain an action on the policy, or prosecute, at its
21 own expense, any action already commenced by the in-
22 jured, in either case with all the rights which the
23 insured originally had.

24 §7004. Intoxication of railroad employees on duty

25 Whoever, having charge of a locomotive engine or
26 acting as conductor, brakeman, motorman or switchman,
27 is intoxicated while employed on a railroad shall be
28 punished by a fine of not more than \$100 or by im-
29 prisonment for not more than 6 months.

30 §7005. Negligence of employees

31 Any person employed in conducting trains, who is
32 guilty of negligence or carelessness causing an in-
33 jury, shall be punished by a fine of not more than
34 \$1,000 or by imprisonment for not more than 11
35 months; but the corporation employing him is not
36 thereby exempt from responsibility.

37 §7006. No liability for death of person walking on
38 road

1 No railroad corporation is liable for the death
2 of a person walking or being on its road contrary to
3 law or to its valid rules.

4 §7007. Penalty for being on track or bridge or en-
5 tering track with team

6 Whoever, without right, stands or walks on a
7 railroad track or bridge or passes over such a bridge
8 except by railroad conveyance forfeits not less than
9 \$5 nor more than \$20, to be recovered by complaint.
10 Whoever, without right, enters upon any railroad
11 track with any team, or any vehicle however propelled
12 or drives any team or propels any vehicle upon any
13 railroad track shall be punished by fine of not less
14 than \$50 or by imprisonment for not less than 30
15 days.

16 §7008. Posting of law

17 A printed copy of section 7007 shall be kept
18 posted in a conspicuous place in every railroad pas-
19 senger station; for failure to post, the corporation
20 forfeits not more than \$100 for every offense.

21 §7009. Stranger entering or leaving moving train;
22 liability of corporation not affected

23 Any person, other than a servant or employee of
24 the road, or a passenger holding a ticket for a pas-
25 sage over the road, or mail agent or expressman, who
26 gets upon or leaves any steam engine, tender or car
27 at any place outside of a railroad station while that
28 engine, tender or car is in motion, shall be punished
29 by a fine of not more than \$10 or by imprisonment for
30 not more than 30 days. This provision does not affect
31 the liability of any railroad corporation for inju-
32 ries or damages caused by the fault or negligence of
33 the corporation or its servants.

34 §7010. Changing switch or lights

35 Whoever, without authority, alters, changes or in
36 any manner interferes with any safety switch or
37 switch lights on any railroad shall be punished by a
38 fine of not less than \$100 or by imprisonment for not
39 less than 60 days.

1 §7011. Injuring or tampering with signals

2 Whoever intentionally and without right injures,
3 destroys or molests any signal of a railroad corpora-
4 tion, or any line, wire, post, lamp or other struc-
5 ture or mechanism used in connection with any signal
6 on a railroad or destroys, or in any manner inter-
7 feres with the proper working of, any signal on a
8 railroad, shall be punished by a fine of not more
9 than \$500 or by imprisonment for not more than 2
10 years.

11 §7012. Location of railroad near station of another
12 company

13 No railroad company may construct or maintain a
14 track or run an engine or cars on a street or highway
15 so near any station of another railroad as to endan-
16 ger the safety and convenient access to and use of
17 that station for ordinary station purposes.

18 §7013. Interference with performance of duty

19 Obstruction or interference with the performance
20 of any act authorized or required in this chapter is
21 declared to be a misdemeanor and any person convicted
22 of the same shall be punished by a fine of not more
23 than \$20 or by imprisonment for not more than 30
24 days. Jurisdiction over each such offense is con-
25 ferred on the District Court.

26 §7014. Orders

27 The Superior Court is given full jurisdiction to
28 enforce compliance with any order issued prior to
29 January 1, 1982, by the Public Utilities Commission
30 or any order issued by the Department of Transporta-
31 tion under this chapter. It is the duty of the De-
32 partment of Transportation to see that the rights of
33 the public under this chapter are fully protected.

34 CHAPTER 613

35 MUNICIPAL AID TO CONSTRUCTION

36 §7081. Construction aid; proceedings

1 A city or town by a 2/3 vote, at any legal meet-
2 ing called for the purpose, may raise by tax or loan,
3 from time to time or all at once, a sum not exceeding
4 in all 5% on its regular valuation for the time be-
5 ing, to aid in the construction of railroads in such
6 manner as it deems proper and for that purpose may
7 contract with any person or railroad corporation. At
8 the meetings the legal voters shall ballot, those in
9 favor of the proposition voting "Yes," and those op-
10 posed voting "No." The ballots cast shall be sorted,
11 counted and declared in open town meeting and re-
12 corded and the clerk shall make return of the ballots
13 to the municipal officers who shall examine the re-
14 turn and, if 2/3 of the ballots cast are in favor of
15 the proposition, the officers shall proceed to carry
16 the proposition into effect.

17 §7082. Payment of loan

18 A city or town raising money by loan or under au-
19 thority conferred by special Act of the Legislature
20 shall raise and pay or fund besides the interest,
21 each year after the third, not less than 3% of the
22 principal. Any city or town receiving money, bonds,
23 certificates of indebtedness or other evidence of
24 debt in consideration of exchange, release or sale of
25 its securities held to indemnify the city or town for
26 having loaned its credit or issued its bonds in aid
27 of any railroad shall hold that money, bonds, certif-
28 icates of indebtedness or other evidence of debt, or
29 the proceeds thereof as a trust fund to liquidate the
30 outstanding liabilities so long as they may continue.

31 §7083. Call for meetings in cities and proceedings

32 Meetings for the purposes set out in this chapter
33 in cities shall be called by the municipal officers,
34 on the order of the common council, like meetings for
35 the election of city officers and the council shall
36 set forth in their order the substance of the propo-
37 sition to be inserted in the warrant. At the meet-
38 ings, the voters shall vote in wards by ballot, those
39 in favor of the proposition in the warrant voting
40 "Yes," and those opposed voting "No," and the ballots
41 cast shall be sorted, counted and declared in open
42 ward meeting and recorded. The clerks shall make re-
43 turns of the ballots to the municipal officers who

1 shall examine the them. If 2/3 of the ballots cast
2 are in favor of the proposition, the officers shall
3 proceed to carry it into effect. Lists of voters for
4 use at the meetings shall be prepared in the same
5 manner as for meetings for elections of town or city
6 officers and the lists shall be used at all meetings
7 held under this section and section 7081.

8 §7084. Only one vote a year on same question

9 Whenever a city or town has voted at any legal
10 meeting upon any question of loaning its credit to,
11 or taking stock in, or in any way aiding any person
12 or corporation, the city or town shall not vote again
13 upon the same subject, except at its annual meetings.

14 §7085. Town agents may vote on town stock

15 When a city or town holds stock in a railroad,
16 the municipal officers, or an agent appointed by them
17 in writing, may vote at any meeting of the corpora-
18 tion.

19 §7086. Citizens eligible as directors

20 Whenever any city or town in the State, in its
21 corporate capacity, holds 1/5 or more of the shares
22 in the capital stock of any railroad incorporated by
23 the Legislature, any citizen of the city or town, be-
24 ing a freeholder and resident, is eligible as a di-
25 rector of the railroad company.

26 Sec. 5. 35 MRSA, as amended, is repealed.

27 Sec. 6. 35-A MRSA is enacted to read:

28 TITLE 35-A

29 PUBLIC UTILITIES

30 PART I

31 PUBLIC UTILITIES COMMISSION

32 CHAPTER 1

33 ORGANIZATION, GENERAL POWERS AND DUTIES

1 §101. Statement of purpose

2 The purpose of this Title is to ensure that there
3 is a regulatory system for public utilities in the
4 State which is consistent with the public interest
5 and with other requirements of law. The basic pur-
6 pose of this regulatory system is to assure safe,
7 reasonable and adequate service at rates which are
8 just and reasonable to customers and public utili-
9 ties.

10 §102. Definitions

11 As used in this Title, unless the context other-
12 wise indicates, the following terms have the follow-
13 ing meanings.

14 1. Commission. "Commission" means the Public
15 Utilities Commission.

16 2. Commissioner. "Commissioner" means one of the
17 members of the Public Utilities Commission.

18 3. Corporation. "Corporation" includes municipal
19 and quasi-municipal corporations.

20 4. Customer. "Customer" includes any person,
21 government or governmental division which has applied
22 for and is granted service or which is responsible
23 for payment of the service.

24 5. Electric utility. "Electric utility" includes
25 every person, its lessees, trustees, receivers or
26 trustees appointed by any court owning, controlling,
27 operating or managing any electric plant for compen-
28 sation within this State, except where electricity is
29 generated on or distributed by the producer through
30 private property alone solely for its own use or the
31 use of its tenants and not for sale to others. "Elec-
32 tric utility" includes, but is not limited to, rural
33 electrification cooperatives organized under chapter
34 37, subchapters I to III, generation and transmission
35 cooperatives organized under chapter 37, subchapter
36 IV, municipal power districts organized under chapter
37 39 and the Maine Municipal and Rural Electrification
38 Cooperative Agency organized under chapter 41.

1 6. Electric plant. "Electric plant" includes all
2 real estate, fixtures and personal property owned,
3 controlled, operated or managed in connection with or
4 to facilitate the production, generation, transmis-
5 sion, delivery or furnishing of electricity for
6 light, heat or power, for public use, and all con-
7 duits, ducts or other devices, materials, apparatus
8 or property for containing, holding or carrying con-
9 ductors used or to be used for the transmission of
10 electricity for light, heat or power for public use.

11 7. Ferry. "Ferry" includes every person, its
12 lessees, trustees, receivers or trustees appointed by
13 any court owning, controlling, operating or managing
14 any vessel and which is subject to commissions's ju-
15 risdiction under chapter 51.

16 8. Gas utility. "Gas utility" includes every
17 person, its lessees, trustees, receivers or trustees
18 appointed by any court owning, controlling, operating
19 or managing any gas plant for compensation within
20 this State, except where gas is made or produced on
21 and distributed by the maker or producer through pri-
22 vate property alone solely for its own tenants and
23 not for sale to others, or where the gas is sold in
24 liquid form in individual containers or is delivered
25 in bulk in liquid form to a central tank that serves
26 less than 10 customers and no portion of which is lo-
27 cated in a public place.

28 9. Gas plant. "Gas plant" includes all real es-
29 tate, fixtures and personal property owned, con-
30 trolled, operated or managed in connection with or to
31 facilitate the production, generation, transmission,
32 delivery or furnishing of gas for light, heat or pow-
33 er.

34 10. Natural gas pipeline utility. "Natural gas
35 pipeline utility" includes every person, its lessees,
36 trustees, receivers or trustees appointed by any
37 court owning or operating for compensation within
38 this State any pipeline, including pumping stations,
39 storage depots and other facilities, for the trans-
40 portation, distribution or sale of natural gas, or
41 any person or corporation which has applied to the
42 Federal Energy Regulatory Commission for a certifi-
43 cate of public convenience and necessity or to the

1 Public Utilities Commission for a certificate of au-
2 thorization to operate a natural gas pipeline within
3 the State.

4 11. Person. "Person" includes a corporation,
5 partnership, limited partnership, association, trust,
6 estate or natural person.

7 12. Public heating utility. "Public heating
8 utility" includes every person, their lessees, trust-
9 ees, receivers or trustees appointed by any court
10 owning, controlling, operating or managing a plant
11 for the purpose of selling heat to the general pub-
12 lic, but shall not include any of the persons, their
13 lessees, trustees, receivers or trustees appointed by
14 any court, who sells heat to a limited number of per-
15 sons not in excess of 75,000 square feet of direct
16 radiation or its equivalent.

17 13. Public utility. "Public utility" includes
18 every gas utility, natural gas pipeline utility,
19 electric utility, telephone utility, telegraph utili-
20 ty, water utility, public heating utility and ferry,
21 as those terms are defined in this section and each
22 of those utilities is declared to be a public utili-
23 ty. "Public utility" does not include the operation
24 of a radio paging service, as that term is defined in
25 this section. Nothing in this subsection precludes
26 the jurisdiction, control and regulation by the com-
27 mission pursuant to private and special act of the
28 Legislature.

29 14. Radio common carrier. "Radio common carrier"
30 means a telephone utility that communicates solely by
31 use of radio.

32 15. Radio paging service. "Radio paging service"
33 is a service provided by a communication common car-
34 rier engaged in rendering signaling communication.
35 Signaling communication is one-way communication from
36 a base station to a mobile or fixed receiver, or to
37 multipoint mobile or fixed receivers by audible or
38 subaudible means, for the purpose of activating a
39 signaling device in the receiver or communicating in-
40 formation to the receiver, whether or not the infor-
41 mation is to be retained in record form. It is lim-
42 ited to the following types of communications.

1 A. An optical readout paging service is one
2 which communicates a message to a receiver which
3 displays the message on an optical or tactile
4 readout, either in a permanent form or a tempo-
5 rary form.

6 B. A tone only paging service is one which acti-
7 vates an aural, visual or tactile signaling de-
8 vice when received.

9 C. A tone-voice paging service is one which
10 transmits tone to activate a signaling device and
11 audio circuit in the addressed receiver, follow-
12 ing which a voice-grade signal is transmitted, to
13 be amplified by the audio circuit.

14 16. Rate design stability. "Rate design stabili-
15 ty" means the implementation of interclass cost allo-
16 cation or intraclass rate design changes to any ex-
17 isting customer class, of the magnitude or on such a
18 schedule as to not be seriously adverse to the exist-
19 ing class of customers.

20 17. Telegraph utility. "Telegraph utility" in-
21 cludes every person, its lessees, trustees, receiv-
22 ers or trustees appointed by any court, owning, con-
23 trolling, operating or managing any telegraph line
24 for compensation within this State.

25 18. Telegraph line. "Telegraph line" includes
26 all conduits, ducts, poles, wires, cables, instru-
27 ments and appliances and real estate, fixtures and
28 personal property owned, controlled, operated or man-
29 aged in connection with or to facilitate communica-
30 tion by telegraph, whether such communication is ac-
31 complished with or without the use of transmission
32 wires.

33 19. Telephone utility. "Telephone utility" in-
34 cludes every person, its lessees, trustees, receiv-
35 ers or trustees appointed by any court, owning, con-
36 trolling, operating or managing any telephone line
37 for compensation within this State.

38 20. Telephone line. "Telephone line" includes
39 all conduits, ducts, poles, wires, cables, instru-
40 ments and appliances, specifically including telecom-

1 munications equipment for customers with special
2 needs subject to the provision of section 7504, and
3 all other real estate, fixtures and personal property
4 owned, controlled, operated or managed in connection
5 with or to facilitate communication by telephone,
6 whether that communication is accomplished with or
7 without use of transmission wires.

8 21. Vessel. "Vessel" includes every boat which
9 is owned, controlled, operated or managed for public
10 use in the transportation of persons or property for
11 compensation within this State.

12 22. Water utility. "Water utility" includes ev-
13 ery person, its lessees, trustees, receivers or
14 trustees appointed by any court, owning, controlling,
15 operating or managing any water works for compensa-
16 tion within this State.

17 23. Water works. "Water works" includes all
18 reservoirs, tunnels, shafts, dams, dikes, head gates,
19 pipes, flumes, canals, structures and appliances, and
20 all real estate, fixtures and personal property,
21 owned, controlled, operated or managed in connection
22 with or to facilitate the diversion, development,
23 storage, supply, distribution, sale, furnishing, car-
24 riage, apportionment or measurement of water for mu-
25 nicipal and domestic use.

26 §103. Establishment of commission; powers and du-
27 ties; seal and office

28 1. Establishment. There is established the Pub-
29 lic Utilities Commission which shall consist of 3
30 members.

31 2. Powers and duties. The commission has the
32 following powers and duties.

33 A. All public utilities are subject to the ju-
34 risdiction, control and regulation of the commis-
35 sion and to this Title.

36 B. The commission shall set the basic policies
37 of the Public Utilities Commission and shall regu-
38 late public utilities in accordance with this
39 Title.

1 3. Seal and office. The commission shall have a
2 seal and be provided with office space.

3 §104. Implied powers

4 The provisions of this Title shall be interpreted
5 and construed liberally to accomplish the purpose of
6 this Title. The commission has all implied and in-
7 herent powers under this Title, which are necessary
8 and proper to execute faithfully its express powers
9 and functions specified in this Title.

10 §105. Appointment and term

11 1. Appointment. The Governor shall appoint 3
12 members to the Public Utilities Commission. The ap-
13 pointments shall be subject to review by the joint
14 standing committee of the Legislature having juris-
15 isdiction over public utilities and to confirmation by
16 the Legislature. Members of the commission shall
17 devote full time to their duties.

18 2. Term. The commissioners shall serve for
19 terms of 6 years.

20 A. Each term shall end on March 31st of the 6th
21 year of the term. The terms shall be staggered so
22 that one ends in 1987 and every 6 years thereaf-
23 ter, one ends in 1989 and every 6 years thereaf-
24 ter, and one ends in 1991 and every 6 years
25 thereafter.

26 B. A commissioner may continue to serve beyond
27 the end of this term until a successor is ap-
28 pointed and qualified.

29 C. Any vacancy occurring in the commission shall
30 be filled by appointment for the unexpired por-
31 tion of the term.

32 §106. Chairman of the Public Utilities Commission

33 The following provisions apply to the chairman of
34 the Public Utilities Commission.

35 1. Appointment. The Governor shall designate
36 one member of the commission as chairman.

1 2. General duties. The chairman shall:
2 A. Be the principal executive officer of the
3 commission in carrying out its policies;
4 B. Preside at meetings of the commission; and
5 C. Be responsible for the expedient organization
6 of the commission's work.

7 3. Hearings. For any particular hearing or se-
8 ries of hearings before the commission, the chairman
9 may assign himself or another commissioner to attend.

10 4. Acting chairman. When absent one working day
11 or more, the chairman shall name another commissioner
12 to act as chairman.

13 §107. The Public Utilities Commission staff

14 The following provisions shall apply to the com-
15 mission's staff.

16 1. Appointment. The commission shall appoint:

17 A. An administrative director, a director of fi-
18 nance, a director of technical analysis and a di-
19 rector of consumer assistance;

20 B. With the approval of the Attorney General, a
21 general counsel; and

22 C. An assistant administrative director.

23 2. Salary and conditions of employment. Sala-
24 ries and conditions of employment of employees of the
25 commission shall be as follows.

26 A. The general counsel, the administrative di-
27 rector, the assistant administrative director,
28 the director of finance, the director of techni-
29 cal analysis, the director of consumer assistance
30 and the assistant to the director of consumer as-
31 sistance shall serve at the pleasure of the com-
32 mission and their salaries shall be set by the
33 commission within the ranges established by Title
34 2, section 6-A.

1 B. The compensation of the staff attorney, sea-
2 sonal legal researcher, financial analyst, chief
3 utility accountant and utility accountant III po-
4 sitions shall be fixed by the commission with the
5 approval of the Governor, but the compensation
6 shall not in the aggregate exceed the total
7 amount appropriated or allocated in the commis-
8 sion's budget.

9 C. The salaries of the other subordinate offi-
10 cial and employees of the commission, other than
11 those of the general counsel, the administrative
12 director, the assistant administrative director,
13 the director of finance, the director of techni-
14 cal analysis, the director of consumer assist-
15 ance, the assistant to the director of consumer
16 assistance and the staff attorney, financial ana-
17 lyst, chief utility accountant and utility ac-
18 countant III positions, shall be subject to the
19 Civil Service Law, except as provided in para-
20 graph D.

21 D. The seasonal legal researcher positions are
22 not subject to the Civil Service Law.

23 E. The commissioners and all employees shall re-
24 ceive actual expenses when traveling on official
25 business.

26 3. Commission's access to staff. Each commis-
27 sioner may have access to the Public Utilities Com-
28 mission staff and to any information available to the
29 commission, subject to the Maine Administrative Pro-
30 cedure Act, Title 5, section 9055.

31 4. Delegation of powers and duties to the staff.
32 The commission may delegate to its staff such powers
33 and duties as the commission finds proper. All dele-
34 gations existing as of the effective date of this
35 section are valid.

36 5. Administrative director's duties. The admin-
37 istrative director:

38 A. Shall keep a record of the proceedings of the
39 commission which shall be open to inspection at
40 all times; and

1 B. May certify all official acts of the commis-
2 sion, administer oaths and issue subpoenas, pro-
3 cesses, notices, orders and other documents nec-
4 essary to the performance of the commission's du-
5 ties.

6 6. Assistant administrative director's duties.
7 The assistant administrative director shall assist
8 the director in the performance of his duties and in
9 the absence of the director shall have the same power
10 as the director.

11 7. Commission counsel. The commission may em-
12 ploy counsel in any proceeding, investigation or tri-
13 al.

14 8. Dismissal. After successful completion of a
15 probationary period, the employees occupying the po-
16 sitions of staff attorney, financial analyst, chief
17 utility accountant and utility accountant III may be
18 dismissed, suspended or otherwise disciplined only
19 for cause.

20 §108. Commission action; quorum

21 A majority of the duly appointed commissioners
22 shall constitute a quorum and the act or decision of
23 a majority of commissioners present, if at least a
24 quorum is present, shall be the act or decision of
25 the commission in any formal proceeding before the
26 commission.

27 §109. Conflicts of interest

28 In addition to the limitations of Title 5, sec-
29 tion 18, the following limitations apply to prevent
30 conflicts of interest.

31 1. Public utilities. No member or employee of
32 the commission shall:

33 A. Have any official or professional connection
34 or relation with any public utility operating
35 within this State;

36 B. Hold any stock or securities in any public
37 utility operating within this State;

1 C. Render a professional service against any
2 such public utility; or

3 D. Be a member of a firm which renders service
4 against any such public utility.

5 2. Appointment to civil office. No commissioner
6 may hold any other civil office of profit or trust
7 under the Federal Government or State Government ex-
8 cept the office to notary public.

9 3. Political party. No commissioner may serve
10 on or under a committee of a political party.

11 §110. Removal of commissioner

12 Any willful violation of this Title by a commis-
13 sioner shall constitute sufficient cause for his re-
14 moval by the Governor, on the address of both
15 branches of the Legislature or by impeachment pursu-
16 ant to the Constitution of Maine, Article IX, Section
17 5.

18 §111. Rules; assistance

19 The commission may adopt rules and may employ as-
20 sistance to carry out its responsibilities under this
21 Title.

22 §112. Power to obtain information

23 1. Investigation of management of business. The
24 commission may inquire into the management of the
25 business of all public utilities and shall keep it-
26 self informed as to the manner and method in which
27 each is conducted.

28 2. Facilities and information to be furnished.
29 Every public utility shall furnish the commission
30 with:

31 A. All reasonable facilities for the prompt and
32 faithful discharge of its duties; and

33 B. All information necessary to perform its du-
34 ties and carry into effect this Title. If it is
35 unable to furnish the information, it shall give

1 a good and sufficient reason for the failure, and
2 the reason for the failure shall be verified by
3 an officer, owner or agent of the public utility
4 and returned to the commission at its office
5 within the time fixed by the commission.

6 3. Inspection of books and papers; confidential-
7 ity. The following provisions apply to inspection of
8 books and papers.

9 A. The commission or any commissioner or any
10 person employed by it for that purpose, may upon
11 demand inspect and copy the books, accounts, pa-
12 pers, records and memoranda of any public utility
13 in relation to its business and affairs.

14 B. A person other than a commissioner must
15 produce his authority to make an inspection.

16 C. A person employed by the commission to in-
17 spect utilities documents may not divulge infor-
18 mation ascertained by inspection except:

19 (1) To the commission; or

20 (2) Under direction of the commission.

21 D. Any person who violates this subsection is
22 guilty of a Class E crime.

23 4. Production of documents; failure to obey.
24 The commission may require the production of docu-
25 ments as follows.

26 A. The commission may require, by order or sub-
27 poena to be served on any public utility in the
28 same manner that a summons is served in a civil
29 action in the Superior Court, the production of
30 any books, accounts, papers, records or verified
31 copies of them kept by a public utility or within
32 the control of a public utility in any office or
33 place within or outside the State, so that an ex-
34 amination may be made by the commission or under
35 its direction.

36 B. A public utility or its agent who fails to
37 comply with an order or subpoena commits a civil

1 violation for which a forfeiture of not less than
2 \$50 nor more than \$500 may be adjudged for each
3 offense. Each day of noncompliance constitutes a
4 separate offense.

5 §113. Management audit

6 1. Audit. The commission may require the per-
7 formance of a management audit of the operations of
8 any public utility in order to determine:

9 A. The degree to which a public utility's con-
10 struction program evidences planning adequate to
11 identify realistic needs of its customers;

12 B. The degree to which a public utility's opera-
13 tions are conducted in an effective, prudent and
14 efficient manner judged by the standards prevail-
15 ing in the utility industry;

16 C. The degree to which a public utility
17 minimizes or avoids inefficiencies which other-
18 wise would increase costs to customers; or

19 D. Any other consideration which the commission
20 finds relevant to rate setting under chapter 3,
21 sections 301 and 303.

22 2. Independent auditor. The commission may have
23 a management audit performed by an independent audi-
24 tor. If the commission finds it reasonable and nec-
25 essary to have the audit performed, it may:

26 A. Select the independent auditor;

27 B. Require a public utility to pay for the costs
28 of a management audit of its operations; and

29 C. Require the public utility to execute a con-
30 tract with the independent auditor.

31 3. Costs. The full cost of the management audit
32 shall be recovered from ratepayers. In ordering an
33 audit, the commission shall consider the impact of
34 the cost of the audit upon the ratepayers and other
35 alternatives that are available.

1 §114. Utility personnel records

2 1. Confidential. The following records of public
3 utilities are confidential and, except as other-
4 wise provided in subsection 3, are excluded from the
5 books, accounts, papers, records, memoranda, docu-
6 ments and information otherwise available to the com-
7 mission under this Title and may not be open to pub-
8 lic inspection:

9 A. Materials prepared for and used specifically
10 in the examination or evaluation of applicants
11 for positions with a public utility, including
12 working papers, research materials, records and
13 examinations;

14 B. Records containing the following:

15 (1) Medical information of any kind, in-
16 cluding information pertaining to diagnosis
17 or treatment of mental or emotional disor-
18 ders;

19 (2) Performance evaluations and personal
20 references;

21 (3) Information pertaining to the credit
22 worthiness of a named employee;

23 (4) Information pertaining to the personal
24 history, general character or conduct of
25 members of an employee's immediate family;
26 or

27 (5) Complaints, charges or accusations of
28 misconduct, replies to those complaints,
29 charges or accusations or any other informa-
30 tion or materials that may result in disci-
31 plinary action; or

32 C. Other information to which access by the gen-
33 eral public is prohibited by law.

34 2. Compliance. Failure or refusal by any public
35 utility or any officer, agent or attorney of any pub-
36 lic utility to comply with any order, data request or
37 subpoena calling for the production of those records

1 other than an order issued pursuant to subsection 3,
2 shall not serve as the basis for any civil or criminal
3 fine, penalty or forfeiture.

4 3. In camera inspection. Upon request by the
5 commission staff, the Public Advocate or intervenor
6 in a matter before the commission or upon the commis-
7 sion's own motion and for good cause shown, the commis-
8 sion may order a public utility to produce for in
9 camera inspection by the commission or hearing exam-
10 iner the records designated confidential under sub-
11 section 1. The employee whose records are the sub-
12 ject of such a request shall be notified by the commis-
13 sion of the request and shall be given the oppor-
14 tunity to be heard before an order to produce is is-
15 sued. If the commission or hearing examiner deter-
16 mines after in camera inspection that a record is
17 reasonably relevant to the matter before it and that
18 production of the record is not unjust or unlawful
19 and that the materiality of the record outweighs any
20 harm to the employee from its disclosure, the commis-
21 sion or hearing examiner may order that the record be
22 made a part of the discovery or evident aspects of
23 the proceedings, subject to the terms and conditions
24 that are just, due consideration being given to the
25 privacy interests of the employee involved.

26 §115. Enforcement of state laws

27 The following provisions apply to the enforcement
28 of state laws.

29 1. Commission's duties. The commission shall:

30 A. Inquire into any neglect or violation of
31 state laws by a public utility doing business
32 within the State;

33 B. Inquire into any neglect or violation of
34 state laws by the officers, agents, employees or
35 any person operating the plant of a public utili-
36 ty;

37 C. Enforce this Title and all other laws relat-
38 ing to public utilities; and

1 D. Report all violations of this Title and all
2 other laws relating to public utilities to the
3 Attorney General.

4 2. Duties of the Attorney General and district
5 attorneys. Upon the request of the commission, the
6 Attorney General or the district attorney of the
7 proper county shall:

8 A. Aid in any investigation, hearing or trial
9 conducted under this Title; and

10 B. Institute and prosecute all proceedings for
11 the enforcement of this Title and of all other
12 state laws relating to public utilities and to
13 the punishment of violations.

14 3. Forfeitures and penalties. The following
15 provisions apply to forfeitures and penalties.

16 A. A complaint for the recovery of a forfeiture
17 or penalty may be made by the commission or one
18 of its members.

19 B. A suit to recover any forfeiture or penalty
20 may be brought in the name of the State in the
21 Superior Court in the county where the main of-
22 fice of the public utility is located or in Ken-
23 nebec County.

24 C. An action commenced by the commission shall
25 be prosecuted by the Attorney General.

26 §116. Funding of the commission

27 1. Utilities subject to assessments. Every
28 electric, gas, telegraph, telephone and water utility
29 and ferry subject to regulation by the commission
30 shall be subject to an assessment of not more than
31 .25% on its intrastate gross operating revenues to
32 produce no more than \$2,219,000 in revenues annually
33 beginning in the 1987-88 fiscal year and not more
34 than \$2,309,000 in revenues annually beginning in the
35 1988-89 fiscal year. The commission shall determine
36 the assessments annually prior to May 1st and shall
37 assess each utility for its pro rata share. Each
38 utility shall pay the assessment charged to the util-

1 ity on or before July 1st of each year. Any increase
2 in the assessment that becomes effective subsequent
3 to May 1st may be billed on the effective date of the
4 act authorizing the increase.

5 A. The assessments charged to utilities under
6 this section are just and reasonable operating
7 costs for rate-making purposes.

8 B. For the purposes of this section, "intrastate
9 gross operating revenues" means intrastate reve-
10 nuces derived from filed rates, except revenues
11 derived from sales for resale.

12 C. Gas utilities subject to the jurisdiction of
13 the commission solely with respect to safety
14 shall not be subject to any assessment until the
15 commission has reviewed the scope and cost of
16 that jurisdiction and an assessment or fee struc-
17 ture is authorized by the Legislature.

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

22 2. Legislative approval of budget. The assess-
23 ments and expenditures provided in this section are
24 subject to legislative approval in the same manner as
25 the budget of the Public Utilities Commission is ap-
26 proved. The commission shall make an annual report
27 in accordance with section 120 of its planned expend-
28 itures for the year and on its use of funds in the
29 previous year. The commission shall also receive
30 other funds as appropriated by the Legislature.

31 3. Deposit of funds. All revenues derived from
32 assessments levied against utilities described in
33 this section shall be deposited with the Treasurer of
34 State in a separate account to be known as the Public
35 Utilities Commission Regulatory Fund.

36 4. Use of funds. The Public Utilities Commis-
37 sion may use the revenues provided in accordance with
38 this section to fund 43 employees and 2 seasonal le-
39 gal researchers and to defray the costs incurred by
40 the commission pursuant to this Title, including ad-

1 ministrative expenses, general regulatory expenses,
2 consulting fees and all other reasonable costs in-
3 curring to administer this Title.

4 5. Unexpended funds. Except as specified in
5 this subsection, any amount of the funds that is not
6 expended at the end of a fiscal year shall not lapse,
7 but shall be carried forward to be expended for the
8 purposes specified in this section in succeeding fis-
9 cal years; but any unexpended funds in excess of 7%
10 of the total annual assessment authorized in subsec-
11 tion 1 shall, at the option of the commission, either
12 be presented to the Legislature in accordance with
13 subsection 2 for reallocation and expenditure for
14 commission purposes, or used to reduce the utility
15 assessment in the following fiscal year.

16 6. Violations. Any utility, subject to this
17 section, that willfully fails to pay the assessments
18 in accordance with this section commits a civil vio-
19 lation for which a forfeiture of not more than \$500
20 may be adjudged per day for which payment is not made
21 following the due date.

22 7. Special assessment. Every utility subject to
23 assessment pursuant to this section shall be subject
24 to an additional assessment on its intrastate gross
25 operating revenues to produce no more than \$250,000
26 in revenues annually in fiscal years 1985-86 and
27 1986-87. The revenues produced from this assessment
28 shall be used to make necessary improvements in the
29 facilities housing the Public Utilities Commission at
30 242 State Street, Augusta, Maine. These funds shall
31 be raised and accounted for in accordance with the
32 provisions of the section in a separate Public Utili-
33 ties Commission Facilities Fund, to which any inter-
34 est on the funds collected shall accrue. The author-
35 ity to issue assessments under this subsection shall
36 terminate on June 30, 1987. The assessments charged
37 to utilities under this subsection shall be deemed
38 just and reasonable operating costs for amortization,
39 with carrying costs, in the utility's next rate case,
40 provided that case is filed before January 1, 1990.
41 Any funds remaining in the fund after the improve-
42 ments have been made will either be returned to the
43 utilities or used to reduce the following year's Pub-
44 lic Utilities Commission Regulatory Fund assessment.

1 §117. Reimbursement fund

2 1. Filing fees and expense reimbursements. All
3 money collected by the commission in the form of fil-
4 ing fees, expense reimbursements ordered by the com-
5 mission or payment for services, such as reproduction
6 and distribution of copies of commission decisions
7 and photocopying or for the use of facilities, shall
8 be deposited with the Treasurer of State in an ac-
9 count to be known as the Public Utilities Commission
10 Reimbursement Fund. This account is a continuous
11 carrying account, with appropriate subaccounts, for
12 reimbursement of commission expenses incurred in pro-
13 cessing the associated matters or providing the asso-
14 ciated services or facilities which generated the
15 filing fee, payment or expense reimbursement and so
16 much of the filing fee, payment or expense reimburse-
17 ment as is allocated for these purposes and for re-
18 fund of the unexpended portion of the filing fee.

19 2. State Controller's approval. All payments
20 under this section shall be made to the commission
21 after approval of the State Controller. In no event
22 may the payments exceed the amounts received by the
23 Treasurer of State from the Public Utilities Commis-
24 sion. Upon certification by the administrative di-
25 rector of the commission that certain amounts in the
26 Public Utilities Commission Reimbursement Fund are
27 not required by the commission, the Treasurer of
28 State shall transfer the amounts to the General Fund.

29 3. Fines. Fines collected by the commission
30 which do not constitute a reimbursement of commission
31 expenses shall be deposited in the General Fund of
32 the State Treasury.

33 §118. Participation with other regulatory bodies

34 The commission may participate with other state
35 and federal public utility regulatory bodies, includ-
36 ing the Federal Energy Regulatory Commission and the
37 Federal Communications Commission, or their succes-
38 sors, in joint hearings and studies relating to mutu-
39 ally regulated utilities.

40 §119. Five-year review

1 Commencing with a review in 1985, the commission
2 shall review the laws governing Public Utilities Com-
3 mission operations and areas of jurisdiction every 5
4 years. Upon the review, the commission shall submit
5 to the joint standing committee of the Legislature
6 having jurisdiction over utilities legislation to re-
7 move any outdated provisions.

8 §120. Annual report

9 The commission shall report annually, before Feb-
10 ruary 1st, to the joint standing committee of the
11 Legislature having jurisdiction over public utilities
12 on:

13 1. Budget. The commission's planned expenditures
14 for the year and its use of funds in the previous
15 year; and

16 2. Various fees. The waiver, exemption, receipt
17 and expenditure of any filing fees, expenses, reim-
18 bursements or fines collected under this Title, on a
19 case-by-case basis.

20 CHAPTER 3

21 RATES OF PUBLIC UTILITIES

22 §301. Safe facilities; just and reasonable rates

23 1. Facilities. Every public utility shall fur-
24 nish safe, reasonable and adequate facilities and
25 service.

26 2. Rates. The rate, toll or charge, or any
27 joint rate made, exacted, demanded or collected by
28 any public utility for production, transmission, de-
29 livery or furnishing of electricity, gas, heat or wa-
30 ter; for communications service; or for transporta-
31 tion of persons or property within this State or for
32 any service rendered or to be rendered in connection
33 with any public utility, shall be just and reason-
34 able.

35 3. Unreasonable rates prohibited. Every unjust
36 or unreasonable charge for public utility service is
37 prohibited and declared unlawful.

1 4. Determining rates. In determining just and
2 reasonable rates, the commission:

3 A. Shall provide such revenues to the utility as
4 may be required to perform its public service and
5 to attract necessary capital on just and reason-
6 able terms; and

7 B. May consider whether the utility is operating
8 as efficiently as possible and is utilizing sound
9 management practices.

10 §302. Limitations on rates

11 The following expenses, whether paid directly or
12 indirectly, through reimbursement or otherwise, in-
13 curring by a public utility shall not be included or
14 incorporated in operating expenses:

15 1. Contributions to political groups or candi-
16 dates. Contributions or gifts to political candi-
17 dates, political parties, political or legislative
18 committees or any committee or organization working
19 to influence referendum petitions or elections.

20 §303. Valuation of property for fixing rates

21 In determining just and reasonable rates, tolls
22 and charges, the commission shall fix a reasonable
23 value upon all the property of a public utility used
24 or required to be used in its service to the public
25 within the State and a fair return on that property.
26 In fixing a reasonable value, the commission shall
27 give due consideration to evidence of the cost of the
28 property when first devoted to public use and the
29 prudent acquisition cost to the utility, less depre-
30 ciation on each, and any other material and relevant
31 factors or evidence, but the other factors shall not
32 include current value. In making a valuation, the
33 commission may consult reports, records or other in-
34 formation available to it in the office of any state
35 office or board.

36 §304. Filing of schedules of rates, terms and condi-
37 tions

1 Every public utility shall file with the commis-
2 sion, within a time to be fixed by the commission,
3 schedules which shall be open to public inspection.
4 The schedules shall show all rates, tolls and charges
5 which the utility has established and which are in
6 force at the time for any service performed by it
7 within the State, or for any service in connection
8 with or performed by any public utility controlled or
9 operated by it or in conjunction with it. Every pub-
10 lic utility shall file with and as part of its sched-
11 ules all terms and conditions that in any manner af-
12 fect the rates charged or to be charged for any ser-
13 vice.

14 Public utility schedules which were formerly des-
15 ignated as rules shall be designated as terms and
16 conditions. All such schedules to be filed with the
17 commission shall be designated as terms and condi-
18 tions.

19 §305. Public inspection of schedules

20 A copy of as much of the schedules as the commis-
21 sion determines necessary for the use of the public
22 shall be printed in plain type and kept on file in
23 every office of the public utility which is open to
24 the public and where payments are made by the consum-
25 ers, under such rules as the commission may pre-
26 scribe.

27 §306. Schedule of joint rates

28 A schedule of joint rates or charges that is or
29 may be in force between 2 or more public utilities
30 shall be printed and filed with the commission and
31 made open to the public in accordance with the provi-
32 sions of this chapter.

33 §307. Changes in schedules; notice

34 No change may be made in any schedule, including
35 schedules of joint rates, except upon 30 days' notice
36 to the commission, and all such changes must be
37 plainly indicated upon existing schedules by filing
38 new schedules in lieu of them 30 days prior to the
39 time they are to take effect. The commission may,
40 for good cause shown, allow changes upon less than

1 the notice specified or modify the requirements of
2 this section and section 308 in respect to publish-
3 ing, posting and filing of tariffs, either in partic-
4 ular instances or by a general order applicable to
5 special or peculiar circumstances or conditions.

6 Without the approval of the commission, no utili-
7 ty may file a schedule or schedules for a general in-
8 crease in rates pursuant to this section within one
9 year of a prior filing for a general increase in
10 rates pursuant to this section, unless the proceeding
11 initiated by a prior filing was terminated without a
12 final determination of the utility's revenue require-
13 ment. This requirement does not prevent any utility,
14 at any time, from notifying the commission in ad-
15 vance, either voluntarily or in accordance with a
16 commission requirement under this section, of its
17 plans to file a general increase in rates. Nothing
18 in this section may be construed to limit any
19 utility's right, at any time, to petition pursuant to
20 section 1322 for temporary rate relief. For the pur-
21 pose of this paragraph, a "final determination of the
22 utility's revenue requirement" means a decision on
23 the merits of the utility's request after considera-
24 tion of at least the utility's direct case in support
25 of its request. The commission shall decide whether
26 a final determination has been made in any specific
27 case.

28 For the purposes of this section, a "general in-
29 crease in rates" means any change in the rates, tolls
30 and charges of the public utility, the effect of
31 which is to increase the annual operating revenues of
32 a public utility by more than 1%, provided that this
33 term does not include a rate change made for the sole
34 purpose of implementing a fuel cost adjustment rate,
35 pursuant to section 3101 or section 4703 or a rate
36 change made for the sole purpose of implementing an
37 energy conservation adjustment rate, pursuant to sec-
38 tion 3154.

39 The commission may, in its discretion, require
40 the filing of information relating to the changes to
41 be filed in a general increase in rates at the same
42 time as the schedules are filed. The commission may
43 require utilities, whose gross revenues exceed
44 \$5,000,000 annually, to notify the commission, not

1 more than 2 months in advance of filing a general in-
2 crease in rates under this section, that such a fil-
3 ing is planned and to disclose the approximate amount
4 of the increase, a general statement of the major is-
5 ssues that might be presented and the approximate rate
6 of return the utility would be seeking.

7 §308. Filing of new schedules

8 Copies of all new schedules shall be filed in ev-
9 ery office of a public utility where payments are
10 made by customers 30 days prior to the time they are
11 to take effect, unless the commission prescribes less
12 time as provided in section 307.

13 §309. Adherence to rate schedules; change in form of
14 schedules

15 1. Adherence to schedules. Except as otherwise
16 provided in section 703, it is unlawful for any pub-
17 lic utility to charge, demand, collect or receive,
18 for any service performed by it within the State or
19 for any service in connection with that performance,
20 a greater or lesser compensation than is specified in
21 such printed schedules as may at the time be in
22 force, or to demand, collect or receive any rate,
23 toll or charge not specified in the schedules. The
24 rates, tolls and charges named in the schedule are
25 the lawful rates, tolls and charges until they are
26 changed as provided in this Title.

27 2. Exception. Notwithstanding subsection 1,
28 when a public utility changes its rates, tolls or
29 charges pursuant to any provision of this Title, the
30 commission may for billing purposes, order that the
31 change be applied to some or all service reflected in
32 meter readings on or after the effective date of the
33 change, or to such other period as it determines just
34 and reasonable.

35 3. Form of schedules. The commission may pre-
36 scribe such changes in the form in which the sched-
37 ules are issued by any public utility as the commis-
38 sion finds to be expedient.

39 §310. Investigation of proposed changes in rates of
40 public utilities; suspension pending investi-
41 gation

1 1. Investigation of proposed rate changes. When
2 the commission receives notice of any change proposed
3 to be made in a schedule of rates filed with the com-
4 mission under the provisions of law, it may at any
5 time before the effective date of the change, either
6 upon complaint or upon its own motion and after rea-
7 sonable notice, hold a public hearing and make inves-
8 tigation as to the propriety of the proposed change.
9 The hearing shall be held in accordance with section
10 1304. At any such hearing involving any change, the
11 burden of proof to show that the change is just and
12 reasonable is upon the public utility. After a hear-
13 ing and investigation, the commission may make an or-
14 der with reference to any new rate, joint rate, rent-
15 al, toll, classification, charge, term, condition or
16 form of contract or agreement proposed as would be
17 proper in a proceeding initiated upon complaint or
18 upon motion of the commission in any rate investiga-
19 tion. In implementing the order, the commission
20 shall assure rate design stability.

21 2. Suspension pending investigation. Pending an
22 investigation and order, the commission may at any
23 time within the period preceding the effective date
24 of the schedule suspend the operation of the schedule
25 or any part of it, by filing with the schedule and
26 delivering to the public utility affected a statement
27 of its reasons for the suspension. The suspension
28 shall not be for a longer period than 3 months from
29 the effective date of the order of suspension, but if
30 the investigation can not be concluded within a peri-
31 od of 3 months, the commission may in its discretion
32 extend the time of suspension for 5 additional
33 months.

34 3. Exception: Municipal and quasi-municipal wa-
35 ter utilities and consumer-owned electric utilities.
36 This section shall not apply to:

37 A. Municipal or quasi-municipal corporations
38 which are water utilities within the definition
39 of section 102, any provisions in any charter
40 notwithstanding, and which elect to proceed pur-
41 suant to the terms of section 6104, unless by the
42 express terms of section 6104, the provisions of
43 this section are made applicable to those corpo-
44 rations; or

1 B. Consumer-owned electric utilities organized
2 in accordance with chapter 35, unless by the ex-
3 press terms of chapter 35 the provisions of this
4 section are made applicable to those districts.

5 §311. Comprehensive classification of service

6 The commission shall provide for a comprehensive
7 classification of service for each public utility.
8 The classification may take into account the quantity
9 used, the time when used, the purpose for which used
10 and any other reasonable consideration. Each public
11 utility shall conform its schedules of rates, tolls
12 and charges to the classification.

13 §312. Temporary rates during rate proceeding

14 During any proceeding initiated by a public util-
15 ity by a filing pursuant to section 307 or 1302, the
16 commission may temporarily approve any undisputed
17 amounts of a requested rate increase or rate de-
18 crease. If the parties are unable to agree on an un-
19 disputed amount, any party, at any time after the
20 cross-examination of the utility's direct case has
21 been conducted and all parties have filed their di-
22 rect cases, may request the commission to require the
23 parties to provide a written statement of those is-
24 ssues that are being contested and an estimated dollar
25 value of the extent of the disagreement between the
26 utility and the other party on that issue. The com-
27 mission, after examining the statements of issues
28 presented, may determine an amount which is undis-
29 puted. The commission may include in the undisputed
30 amount the amount put in question by any party other
31 than the utility, if the commission determines that
32 that party has no possibility of ultimately prevail-
33 ing on that issue. The amounts temporarily approved
34 shall be filed by the utility as a temporary schedule
35 which shall be effective from the date of approval of
36 the temporary schedule until the issuance of the fi-
37 nal order in section 307 proceeding.

38 The utility shall notify each customer of the
39 rate increase allowed under this section. The notice
40 shall be mailed with the first bill mailed to each
41 customer after the date of approval and shall state
42 the following:

1 1. Amount of increase. The amount of increase
2 allowed under this section;

3 2. Statement. The fact that that rate increase
4 allowed under this section was undisputed or that al-
5 though disputed it was approved by the commission,
6 subject to partial or full refund if the commission
7 in its final order approves an amount less than the
8 increase allowed by the temporary rate schedule;

9 3. Amount of remaining disputed portion. The
10 amount of the remaining disputed portion of the re-
11 quested rate increase; and

12 4. Disputed portion will be decided. If availa-
13 ble, an estimate of the date when the disputed por-
14 tion will be decided.

15 CHAPTER 5

16 ACCOUNTING

17 §501. Uniform system of accounts

18 Every public utility shall keep and render to the
19 commission in the manner and form prescribed by the
20 commission, uniform accounts of all business trans-
21 acted.

22 1. Other systems prohibited. No public utility
23 may keep any books, accounts, papers or records of
24 its business transacted other than those prescribed
25 or approved by the commission. Nothing contained in
26 this Title shall require any public utility engaged
27 in interstate commerce to act contrary to the re-
28 quirements of any federal law relating to public
29 utilities engaged in interstate commerce.

30 2. Formulation of systems. In formulating a
31 system of accounting for any class of public utili-
32 ties, the commission shall consider any system of ac-
33 counting established by any federal law, commission
34 or department and any system authorized by the na-
35 tional association of the particular class of utili-
36 ties.

37 §502. Forms

1 1. Forms of books and records. The commission
2 shall prescribe the forms of all books, accounts, pa-
3 pers and records required to be kept. Every public
4 utility shall keep and render its books, accounts,
5 papers and records accurately and faithfully in the
6 manner and form prescribed by the commission and
7 shall comply with all directions of the commission
8 relating to its books, accounts, papers and records.

9 2. Utilities with no property in the State. The
10 requirements of this section do not apply to a public
11 utility having no property located within this State.

12 3. Blank forms furnished. The commission shall
13 prepare suitable blank forms for carrying out the
14 purposes of this Title and shall, when necessary,
15 furnish them to each public utility.

16 §503. Account of subsidiary business

17 Every public utility engaged directly or indi-
18 rectly in any other subsidiary business shall, if or-
19 dered by the commission, keep and render separately
20 to the commission the accounts of the subsidiary
21 business in the manner and form set out in section
22 501, in which case all the provisions of this Title
23 shall apply to the books, accounts, papers and
24 records of the subsidiary business.

25 §504. Time for closing accounts; filing balance
26 sheets

27 The following provisions apply to the accounts of
28 public utilities.

29 1. Time for closing accounts. The accounts of
30 all public utilities shall be closed annually on the
31 31st day of December unless the commission fixes a
32 different date.

33 2. Filing of information. A balance sheet as of
34 the date the account is closed shall be promptly
35 taken from the account. Within 3 months after the
36 account is closed the balance sheet together with
37 other information as the commission may prescribe,
38 shall be verified by an officer or owner of the pub-
39 lic utility and filed with the commission.

1 3. Extension. The commission may, for good
2 cause, extend the deadline set out in subsection 2
3 not exceeding one month and may excuse any public
4 utility from filing its returns when the gross reve-
5 nuue of the utility does not exceed \$3,000.

6 §505. Audit of accounts

7 The commission shall provide for the examination
8 and audit of all accounts and all items shall be al-
9 located to the accounts in the manner prescribed by
10 the commission.

11 §506. Inspection of books and records

12 The agents, accountants or examiners employed by
13 the commission shall have authority inside or outside
14 the State under the direction of the commission to
15 inspect and examine the books, accounts, papers,
16 records and memoranda kept by any public utility.

17 CHAPTER 7

18 REGULATION AND CONTROL OF PUBLIC UTILITIES

19 §701. Special privileges forbidden

20 1. Person furnishing facilities incident to ser-
21 vice. No public utility may demand, charge, collect
22 or receive from any person less compensation for any
23 service rendered or to be rendered by the public
24 utility in consideration of the person furnishing a
25 part of the facilities incident to the service.

26 2. Renting facilities. Nothing in this section
27 prohibits a public utility from renting any facili-
28 ties incident to the production, transmission, deliv-
29 ery or furnishing of electricity, gas, heat or water
30 or the conveyance of telephone or telegraph messages
31 and paying a reasonable rental for the facilities.

32 3. Furnishing appliances. Nothing in this sec-
33 tion requires a public utility to furnish any part of
34 the appliances which are situated in or upon the
35 premises of any customer or user, except telephone
36 station equipments upon the subscribers' premises,
37 and unless otherwise ordered by the commission, me-

1 ters and appliances for the measurement of any
2 product or service.

3 4. Classifications of telephone service. Nothing
4 in this section affects scheduled classifications
5 of telephone service in which separate charges are
6 made for facilities and for service or scheduled
7 classifications of rural telephone service in which a
8 portion of the facilities are regularly furnished by
9 the user of the service.

10 §702. Unjust discrimination

11 1. Unjust discrimination. It is unlawful for a
12 public utility to give any undue or unreasonable
13 preference, advantage, prejudice or disadvantage to a
14 particular person.

15 2. Solar energy. No public utility providing
16 electric or gas service may consider the use of solar
17 energy by a customer as a basis for establishing
18 higher rates or charges for energy or service sold to
19 the customer.

20 3. Service and facilities. Every public utility
21 providing electric or gas service, upon reasonable
22 notice, shall furnish to all persons who may apply
23 for facilities and service, suitable facilities and
24 service consistent with policies approved or estab-
25 lished by the commission, without undue delay and
26 without unreasonable discrimination.

27 §703. Rebates; discounts and discrimination

28 1. Free or special rates prohibited. No person
29 may knowingly solicit, accept or receive any rebate,
30 discount or discrimination in respect to any service
31 rendered, or to be rendered by a public utility, or
32 for any related service where the service is rendered
33 free or at a rate less than named in the schedules in
34 force, or where a service or advantage is received
35 other than is specified.

36 2. Free and special rates allowed under certain
37 circumstances. This Title does not prohibit:

1 A. A public utility from granting service at
2 free or reduced rates for charitable or benevo-
3 lent purposes or for national or civilian defense
4 purposes;

5 B. A public utility from supplying water and
6 service free or at reduced or special rates to
7 any person, firm or corporation for fire protec-
8 tion purposes through or by means of any appara-
9 tus or appliances furnished, installed or main-
10 tained by the person, firm or corporation, pro-
11 vided it is approved by the commission; or

12 C. A public utility from making special rates
13 for its employees or in case of emergency ser-
14 vice.

15 3. Existing contracts. The furnishing by a pub-
16 lic utility of a product or service at the rates and
17 upon terms and conditions provided for in a contract
18 in existence January 1, 1913, may not be construed as
19 constituting a discrimination or undue or unreason-
20 able preference or advantage within the meaning spec-
21 ified. When any such contract or contracts are or
22 become terminable by notice of a utility, the commis-
23 sion may order that the contract or contracts be ter-
24 minated by the utility as and when directed by the
25 order. It shall be lawful for a public utility to
26 make a contract for a definite term subject to the
27 commission's approval for its product or service, but
28 the published rates shall not be changed during the
29 term of the contract without the commission's con-
30 sent.

31 4. Forfeiture. A person who violates this sec-
32 tion commits a civil violation for which a forfeiture
33 not to exceed \$1,000 shall be adjudged for each of-
34 fense.

35 §704. Termination of utility services

36 The following provisions apply to termination of
37 a customer's utility service.

38 1. Residential customers. The commission shall
39 adopt and promulgate reasonable rules after a hearing
40 concerning the termination or disconnection of any

1 residential customer's service by an electric, gas,
2 water or telephone utility of the State. These rules
3 shall apply generally to all such utilities within
4 the commission's jurisdiction and shall provide for
5 adequate written notice by that utility to the resi-
6 dential customer that his utility bill has not been
7 paid, and a notice of his prospective termination or
8 disconnection and his right, prior to disconnection,
9 to enter into reasonable installment payment arrange-
10 ments with that utility; to settle any dispute con-
11 cerning the proposed disconnection at an informal
12 hearing with that utility and to appeal the results
13 of that utility's decision to the commission. The
14 rules shall also provide that there may be no termi-
15 nation or disconnection during a limited medical
16 emergency and for a just and reasonable procedure re-
17 garding reconnections of utility service and deposit
18 requirements.

19 2. Nonresidential customers. Each public utili-
20 ty shall file with the commission schedules contain-
21 ing its terms and conditions applicable to termina-
22 tion of utility services to any nonresidential cus-
23 tomers, which terms and conditions shall be subject to
24 the commission's power under this Title. Every pub-
25 lic utility shall comply with its terms and condi-
26 tions. The commission shall adopt rules which pro-
27 vide a procedure for resolution by the commission or
28 its delegate of disputes as to whether a proposed
29 termination by a public utility is in compliance with
30 its terms and conditions. A public utility may not
31 terminate service to a nonresidential customer if the
32 commission or its delegate rules within 7 days of re-
33 ceipt of the request for ruling that the proposed
34 termination is not in compliance with the utility's
35 terms and conditions. If the rules authorize a dele-
36 gate to resolve disputes, the rule shall include a
37 procedure for appeal of the decision to the commis-
38 sion.

39 3. Violation of rules. If the commission finds
40 that a public utility has willfully or recklessly vi-
41 olated any substantive rule promulgated by the com-
42 mission pursuant to the authority granted in this
43 section, the commission may bring a complaint against
44 the public utility before the Administrative Court as
45 provided in Title 5, section 10051, subsection 4, ex-

1 cept that the jurisdiction in the Administrative
2 Court shall not include the issuance, renewal, denial
3 or revocation of a license of a public utility. The
4 Administrative Court may impose fines in accordance
5 with Title 4, section 1156.

6 4. Property loss suffered by a customer. Upon a
7 finding by the Administrative Court of a property
8 loss suffered by a customer causally related to a vi-
9 olation by a public utility set out in subsection 3,
10 the court may order the public utility to compensate
11 the customer for the actual loss, less any set off
12 for a balance found to be due the utility by the cus-
13 tommer for unpaid utility service. That loss may not
14 include consequential damages. No action for damages
15 resulting from a termination which was in willful or
16 reckless violation of the commissions rules may be
17 commenced until at least 60 days after notice of a
18 claim setting forth the nature of the termination and
19 the damages suffered has been provided to the utili-
20 ty. That notice shall be provided to the utility in
21 writing within 30 days of the termination.

22 §705. Utility deposits

23 The following provisions apply to deposits of
24 utility customers:

25 1. Residential customers. No public utility may
26 require any deposit of any residential customer with-
27 out proof that the customer is likely to be a credit
28 risk or to damage the property of the utility. That
29 proof shall be furnished to the customer upon re-
30 quest. Absence of previous experience with the util-
31 ity shall not be proof that the customer is a credit
32 risk or threatens to damage utility property.

33 2. Nonresidential customers. Every public util-
34 ity shall file with the commission schedules contain-
35 ing its terms and conditions for requiring a deposit
36 from nonresidential customers, which terms and condi-
37 tions shall be subject to the commission's power un-
38 der this Title. Every public utility shall comply
39 with its terms and conditions. The commission shall
40 adopt rules which provide a procedure for resolution
41 by the commission or its delegate of disputes as to
42 whether a deposit being required by a public utility

1 is in compliance with its terms and conditions. If
2 the rules authorize a delegate to resolve disputes,
3 the rules shall include a procedure for appeal of the
4 decision to the commission.

5 3. Interest rate on deposits. The commission
6 shall adopt reasonable rules, after hearing, to pro-
7 vide for a just and reasonable interest rate to be
8 paid by the utility on any deposit of any customer.

9 \$706. Tenants not liable for a landlord's utility
10 bills

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

14 A. "Landlord" means any person who rents or
15 leases land or structures to others for compensa-
16 tion or any person who manages or controls the
17 property on behalf of another.

18 B. "Rental property" means property used or oc-
19 cupied by any tenant for which rent is paid to a
20 landlord.

21 C. "Tenant" means any person who pays rent to
22 any landlord for the use or occupation of any
23 land or structure owned by another or who occu-
24 pies or uses the property, regardless of whether
25 the tenancy is subject to a written lease.

26 2. Disconnection of tenant. In every instance
27 where the landlord has applied for and is granted
28 utility service, the landlord is responsible for pay-
29 ment for that service with respect to any rental
30 property. The utility may not demand payment from
31 the tenant for utility service to the tenant because
32 of the landlord's failure to pay for utility service
33 rendered at the rental property. The utility may
34 disconnect the tenant only after affording the tenant
35 notice and opportunity to assume responsibility for
36 future service in accordance with the rules of the
37 commission.

38 3. Lien against the rental property. In addi-
39 tion to whatever other legal remedies the utility may

1 have against the landlord who does not pay for utility
2 service provided to rental property, the utility
3 shall have a lien upon the rental property and on any
4 interest the landlord has in the same, to secure pay-
5 ment for utility services to that property with
6 costs.

7 4. Dissolution of the lien, lien certificate.
8 This lien shall be dissolved unless within 90 days
9 after the date on which the unpaid bill was served,
10 the utility files in the registry of deeds for the
11 county in which the property is located a lien cer-
12 tificate, setting forth the amount of the lien, the
13 name of the landlord, a statement that a lien is
14 claimed on the rental property to secure the payment
15 of utility services, that a demand has been made for
16 that payment and that payment has not been made. At
17 the time of the recording of the lien certificate in
18 the registry of deeds, the utility shall send a copy
19 of the certificate to the landlord by certified mail,
20 return receipt requested. This lien shall be dis-
21 solved unless, within 120 days after the unpaid bill
22 was served, civil action to enforce the lien is
23 brought in the District Court for the division where
24 the rental property is located.

25 5. Enforcement of the lien. The proceedings in
26 the District Court for enforcement of this lien shall
27 be governed by Title 10, sections 3256 to 3260, and
28 3263 and 3264.

29 6. Subsequent purchaser takes title free of
30 lien. Any person who is a bona fide purchaser for
31 value of rental property shall take title to that
32 property free of the lien established under subsection
33 3 unless, before the purchaser's deed is re-
34 corded, the utility has filed the certificate set out
35 in subsection 4. The interest of any mortgagee of
36 rental property shall be affected by the lien estab-
37 lished unless, before the mortgage is recorded, the
38 utility has filed the certificate set out in subsection
39 4.

40 §707. Affiliated interests

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

1 A. "Affiliated interest" means:

2 (1) Any person who owns directly, indirect-
3 ly or through a chain of successive owner-
4 ship, 10% or more of the voting securities
5 of a public utility;

6 (2) Any person, 10% or more of whose voting
7 securities are owned, directly or indirect-
8 ly, by an affiliated interest as defined in
9 subparagraph (1);

10 (3) Any person, 10% or more of whose voting
11 securities are owned, directly or indirect-
12 ly, by a public utility;

13 (4) Any person, or group of persons acting
14 in concert, which the commission may deter-
15 mine, after investigation and hearing, exer-
16 cises substantial influence over the poli-
17 cies and actions of a public utility, pro-
18 vided that the person or group of persons
19 beneficially owns more than 3% of the public
20 utility's voting securities; or

21 (5) Any public utility of which any person
22 defined in subparagraphs (1) to (4) is an
23 affiliated interest.

24 B. "Transaction" means any dealings between a
25 public utility and its affiliated interests as
26 defined in paragraph A which affects, directly or
27 indirectly, any accounting entry of the public
28 utility, as prescribed pursuant to section 501.

29 C. "Voting security" means any security or any
30 proprietary or other interest presently entitling
31 the owner or holder of the security to vote in
32 the direction or management of the affairs of a
33 company.

34 2. Access to accounts and records. The commis-
35 sion may require the production of books, accounts,
36 records, papers and memoranda of any affiliated in-
37 terest which relates, directly or indirectly, to its
38 transactions with a public utility. The commission
39 may, in determining the reasonableness of utility

1 rates, disallow all or a portion of the payments under
2 any transaction, the account or record of which
3 is not made available to the commission.

4 3. Consent by commission. No public utility may
5 extend or receive credit or make or receive a loan to
6 or from an affiliated interest or make any contract
7 or arrangement for the furnishing of management, su-
8 pervision of construction, engineering, accounting,
9 legal, financial or similar services, or for the fur-
10 nishing of any service other than those enumerated
11 with any affiliated interest until the commission
12 finds that the contract or arrangement is not adverse
13 to the public interest and gives the contract or ar-
14 rangement its written approval.

15 A. Unless the commission disapproves it within
16 60 days of filing, a contract or arrangement
17 filed with the commission under this section is
18 deemed approved. The commission may, however,
19 suspend the effective date of the contract or ar-
20 rangement for an additional 60 days if necessary
21 to enable the commission to complete its review
22 of the contract or arrangement.

23 B. The commission may approve a contract or ar-
24 rangement with an affiliated interest undertaken
25 after October 24, 1977, subject to such terms,
26 conditions and requirements as it determines nec-
27 essary to safeguard the public interest. If the
28 contract or arrangement is not consented to or
29 approved by the commission as provided in this
30 section, the commission may disallow, for rate-
31 making purposes, payments or part of any such
32 payments as the commission finds not to be in the
33 public interest, and the commission may, after
34 notice to the affected parties and opportunity
35 for hearing, declare that contract or arrangement
36 prospectively void. Unless otherwise invalid,
37 that contract or arrangement shall remain in ef-
38 fect until declared prospectively void by an ef-
39 fective final order of the commission issued un-
40 der this section no later than 90 days from the
41 date of service of the notice.

42 C. The commission may, in the case of a utility
43 or group of utilities, exempt from this section

1 from time to time classes of transactions as it
2 may specify by rule or order in advance and which
3 in its judgment will not be adverse to the public
4 interest.

5 D. Commission approval of a contract or arrange-
6 ment under this section may not limit or restrict
7 the powers of the commission in determining and
8 fixing any rate, fare, toll, charge, classifica-
9 tion, schedule or joint rate as provided in this
10 Title.

11 4. Waiver. The commission may, by general
12 rules, waive the requirements for filing and for ap-
13 proval of contracts and arrangements described in
14 subsection 3 in cases of:

15 A. Contracts or arrangements made in the ordi-
16 nary course of business for the employment of of-
17 ficers or employees;

18 B. Contracts or arrangements made in the ordi-
19 nary course of business for the purchase of ser-
20 vices, supplies or other personal property;

21 C. Contracts or arrangements where the total ob-
22 ligation to be incurred does not exceed \$500;

23 D. The temporary leasing, lending or interchang-
24 ing of equipment in the ordinary course of busi-
25 ness in case of an emergency; and

26 E. Contracts made by a public utility with any
27 person whose bid is the most favorable to the
28 public utility.

29 However, if the commission finds that any public
30 utility is abusing or has abused the waiver granted
31 in this section in order to evade compliance with
32 this section, the commission may require that public
33 utility to file and receive the commission's approval
34 of all such contracts as provided for in this sec-
35 tion, but the general waiver shall remain in effect
36 as to all other public utilities.

37 5. Violations. Any public utility or affiliated
38 interest which willfully refuses access to books, ac-

1 counts, records, papers and memoranda or fails to ob-
2 tain consent as required by this section after notice
3 by the commission of violation, commits a civil vio-
4 lation for which a forfeiture not to exceed \$1,000
5 may be adjudged for each offense. Each day of viola-
6 tion constitutes a separate offense.

7 §708. Reorganizations

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

11 A. "Reorganization" means any creation, organi-
12 zation, extension, consolidation, merger, trans-
13 fer of ownership or control, liquidation, disso-
14 lution or termination, direct or indirect, in
15 whole or in part, of an affiliated interest as
16 defined in section 707 accomplished by the issue,
17 sale, acquisition, lease, exchange, distribution
18 or transfer of voting securities or property.
19 The commission may decide what other public utili-
20 ty actions constitute a reorganization to which
21 the provisions of this section apply. Reorgani-
22 zations include any reorganization for which a
23 proceeding for approval is pending before any
24 state or federal agency or court on or after July
25 13, 1982. For purposes of this subsection, a re-
26 organization does not include any proceeding un-
27 der the federal antitrust laws or the transfer of
28 voting securities by gift, device or inheritance.

29 B. "Voting security" means any security present-
30 ly entitling the owner or holder of any security
31 to vote in the direction or management of the af-
32 airs of a company or any proprietary or other
33 interest serving the same purposes.

34 2. Reorganization subject to commission approv-
35 al. Reorganization shall be subject to commission
36 approval as follows.

37 A. Unless exempted by rule or order of the com-
38 mission, no reorganization may take place without
39 the approval of the commission. No reorganiza-
40 tion may be approved by the commission unless it
41 is established by the applicant for approval that

1 the reorganization is consistent with the inter-
2 ests of the utility's ratepayers and investors.
3 The commission shall rule upon all requests for
4 approval of a reorganization within 60 days of
5 the filing of the request for approval. If it
6 determines that the necessary investigation can-
7 not be concluded within 60 days, the commission
8 may extend the period for a further period of no
9 more than 120 days. In granting its approval,
10 the commission shall impose such terms, condi-
11 tions or requirements as, in its judgment, are
12 necessary to protect the interests of ratepayers.
13 These conditions shall include provisions which
14 assure the following:

15 (1) That the commission has reasonable ac-
16 cess to books, records, documents and other
17 information relating to the utility or any
18 of its affiliates, except that the Public
19 Utilities Commission may not have access to
20 trade secrets unless it is essential to the
21 protection of the interests of ratepayers or
22 investors. The commission shall afford trade
23 secrets and other information such protec-
24 tion from public disclosure as is provided
25 in the Maine Rules of Civil Procedure;

26 (2) That the commission has all reasonable
27 powers to detect, identify, review and ap-
28 prove or disapprove all transactions between
29 affiliated interests;

30 (3) That the utility's ability to attract
31 capital on reasonable terms, including the
32 maintenance of a reasonable capital struc-
33 ture, is not impaired;

34 (4) That the ability of the utility to pro-
35 vide safe, reasonable and adequate service
36 is not impaired;

37 (5) That the utility continues to be sub-
38 ject to applicable laws, principles and
39 rules governing the regulation of public
40 utilities;

41 (6) That the utility's credit is not im-
42 paired or adversely affected;

1 (7) That reasonable limitations be imposed
2 upon the total level of investment in
3 nonutility business, except that the commis-
4 sion may not approve or disapprove of the
5 nature of the nonutility business;

6 (8) That the commission has reasonable re-
7 medial power including, but not limited to,
8 the power, after notice to the utility and
9 all affiliated entities of the issues to be
10 determined and the opportunity for an adju-
11 dicatory proceeding, to order divestiture of
12 or by the utility in the event that
13 divestiture is necessary to protect the in-
14 terest of the utility, ratepayers or inves-
15 tors. A divestiture order shall provide a
16 reasonable period within which the
17 divestiture shall be completed; and

18 (9) That neither ratepayers nor investors
19 are adversely affected by the reorganiza-
20 tion.

21 B. The commission may intervene on behalf of the
22 State in any proceeding before any state or fed-
23 eral agency or court before which an applica-
24 tion for approval of reorganization is pending. The
25 commission may enter into any binding settlement
26 related to any proceeding in which the commission
27 has intervened and may exercise any powers or
28 rights provided by that settlement and may en-
29 force those powers or rights.

30 3. Waiver. The commission may, by general rule,
31 exempt classes of reorganizations from the require-
32 ments of subsection 2.

33 4. Filing fee. Within 30 days after the appli-
34 cation for approval of a reorganization is filed pur-
35 suant to subsection 2, the commission may order the
36 applicant to pay a filing fee not to exceed \$50,000,
37 if the commission determines that the application may
38 involve issues which will necessitate significant ad-
39 ditional costs to the commission. The applicant may
40 request the commission to waive all or a portion of
41 the filing fee. The commission shall rule on the re-
42 quest for waiver within 30 days. Notwithstanding any

1 other provision of law, filing fees paid as required
2 in this subsection shall be segregated, apportioned
3 and expended by the commission for the purposes of
4 processing the application. Any portion of the fil-
5 ing fee that is received from an applicant and is not
6 expended by the commission to process the application
7 shall be returned to the applicant.

8 §709. Insider transactions

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

12 A. "Insider" means any officer or employee who
13 participates or has authority to participate in
14 major policy-making functions of a public utility
15 or of an affiliated interest, as defined in sec-
16 tion 707, or any director or trustee of a public
17 utility or of an affiliated interest.

18 B. "Insider transaction" means any dealings
19 which affect, directly or indirectly, any ac-
20 counting entry as prescribed pursuant to section
21 501 between a public utility and:

22 (1) An insider of the public utility;

23 (2) A person related to an insider of the
24 public utility;

25 (3) Any other person where the transaction
26 is made in contemplation of the person be-
27 coming an insider of the public utility; or

28 (4) Any other person where the transaction
29 inures to the tangible economic benefit of
30 an insider or a person related to an insid-
31 er.

32 C. "Person" means a corporation, partnership,
33 limited partnership, business association, trust,
34 estate or natural person.

35 D. "Person related to an insider" means:

36 (1) An insider's spouse;

1 (2) An insider's parent or stepparent, or
2 child or stepchild; or

3 (3) Any other relative who lives in an
4 insider's home.

5 2. Approval and disclosure of insider transac-
6 tions. An insider transaction shall be specifically
7 reviewed and approved by the public utility's board
8 of directors or trustees, provided that when an in-
9 sider transaction is part of a series of related
10 transactions involving the same insider, approval of
11 each separate transaction is not required so long as
12 the public utility's board of directors or trustees
13 has reviewed and approved each series of related
14 transactions and the terms and conditions under which
15 the transactions may take place. The minutes of the
16 meeting at which approval is given shall indicate the
17 nature of the transaction or transactions, that the
18 review was undertaken and approval given and the
19 names of individual directors or trustees who voted
20 to approve or disapprove the transaction or transac-
21 tions. In the case of negative votes, a brief state-
22 ment of each dissenting director's or trustee's rea-
23 son for voting to disapprove the proposed insider
24 transaction or transactions shall be included in the
25 minutes if its inclusion is requested by the dissent-
26 ing director or trustee.

27 3. Information pertaining to insider transac-
28 tions. Each public utility shall submit to the com-
29 mission with its annual report a record of insider
30 transactions requiring review and approval under sub-
31 section 2. Each public utility shall make readily
32 available to the commission, upon request, all docu-
33 ments and other materials relied upon by the board in
34 approving each insider transaction, including the
35 name of the insider, the insider's positions or rela-
36 tionship that causes the person to be considered an
37 insider, the date on which the transaction was ap-
38 proved by the board, the type of insider transaction
39 and the relevant terms of the transaction, any other
40 pertinent facts which serve to explain or support the
41 basis for the board's decision and any statements
42 submitted for the minutes or the file by directors or
43 trustees who voted not to approve the transaction
44 setting forth their reasons for the vote.

1 4. Discovery of insider relationship. When a
2 public utility becomes aware of the existence of an
3 insider relationship after entering into a transac-
4 tion for which approval would have been required
5 under subsection 2, the public utility shall promptly
6 report that transaction in writing to the commission.

7 5. Knowledge of proposed insider transaction.
8 Any insider, having knowledge of an insider transac-
9 tion between the public utility and that insider, a
10 person related to that insider or any other person
11 where the transaction inures to the tangible economic
12 benefit of that insider or person related to that in-
13 sider, shall give timely notice of the transaction to
14 the public utility's board of directors or trustees.

15 6. Civil violation; forfeiture. A public utili-
16 ty or insider which willfully violates this section,
17 commits a civil violation for which a forfeiture not
18 to exceed \$1,000 shall be adjudged for each offense.
19 Each day of violation constitutes a separate offense.

20 §710. Accidents investigated; reports

21 If an accident occurs upon the premises of a pub-
22 lic utility or directly or indirectly arises from or
23 is connected with its maintenance or operation, the
24 following provisions apply.

25 1. Accidents resulting in loss of life. If the
26 accident results in the loss of human life, the pub-
27 lic utility shall file a report of the accident in
28 accordance with subsection 4 and the commission shall
29 cause an investigation of the accident to be made im-
30 mediately.

31 2. Accidents resulting in personal injury or
32 property damage. If the accident results in personal
33 injury or damage to property, the public utility
34 shall file a report of the accident in accordance
35 with subsection 4 and the commission may investigate
36 if in its judgment the public interest requires it.

37 3. Investigations. Investigations shall be made
38 in compliance with the following provisions:

1 A. An investigation shall be held in the locali-
2 ty of the accident unless, for the greater conve-
3 nience of those concerned, the commission orders
4 it to be held at some other place. An investiga-
5 tion may adjourn from place to place as may be
6 necessary and convenient.

7 B. The commission shall seasonably notify the
8 public utility of the time and place of investi-
9 gations.

10 C. The public utility shall have an opportunity
11 to be heard during the investigation.

12 D. The commission may make such order or recom-
13 mendation based on its investigation as in its
14 judgment seems just and reasonable.

15 4. Filing accident reports. Every public utili-
16 ty shall file reports of accidents described in sub-
17 sections 1 and 2 with the commission. Accident re-
18 ports shall be filed in compliance with the commis-
19 sion's rules and in the manner and form designated by
20 the commission. Accidents resulting in loss of human
21 life shall be reported immediately by telephone or
22 telegraph followed by a detailed written report.

23 5. Reports not admitted as evidence in an ac-
24 tion. No order or recommendation of the commission
25 or accident report filed with the commission may be
26 admitted as evidence in any action for damages based
27 on or arising out of the loss of life or injury to
28 person or property referred to in this section.

29 §711. Joint use of equipment

30 1. Joint use permitted. The commission may or-
31 der that joint use be permitted and prescribe reason-
32 able compensation and reasonable terms and conditions
33 for the joint use when, after a hearing had upon its
34 own motion or upon complaint of a public utility or
35 cable television system affected, it finds the fol-
36 lowing:

37 A. That public convenience and necessity require
38 the use by one public utility or cable television
39 system of the conduits, subways, wires, poles,

1 pipes or other equipment, or any part of them,
2 on, over or under any street or highway and be-
3 longing to another public utility or cable tele-
4 vision system;

5 B. That joint use will not result in irreparable
6 injury to the owner or other users of the con-
7 duits, subways, wires, poles, pipes or other
8 equipment or in any substantial detriment to the
9 service; and

10 C. That the public utilities or cable television
11 system have failed to agree upon the use or the
12 terms and conditions or compensation for the use.

13 2. Liability of user. If joint use is ordered,
14 the public utility or cable television system to whom
15 the use is permitted shall be liable to the owner or
16 other users of the conduits, subways, wires, poles,
17 pipes or other equipment for damage that may re-
18 sult from its use to the property of the owner or
19 other users.

20 3. Interests of cable television subscribers.
21 Any actions taken or orders issued by the commission
22 under this section shall take into account the inter-
23 ests of the subscribers of the affected cable televi-
24 sion system, as well as the customers of the affected
25 public utilities.

26 §712. Competitive bids

27 Any contract in excess of \$2,000 between a public
28 utility and a contractor for the construction of fa-
29 ilities located on private property for the exclu-
30 sive use of a private individual and for which the
31 private individual is required to pay the total cost
32 directly to the utility, shall be awarded by a system
33 of competitive bidding. Unless there are valid rea-
34 sons to the contrary, contracts shall be awarded to
35 the lowest responsible bidder.

36 CHAPTER 9

37 APPROVAL OF STOCKS, BONDS AND NOTES BY
38 PUBLIC UTILITIES COMMISSION

1 §901. Issuance of stocks, bonds and notes

2 Subject to the requirements of this chapter any
3 public utility, organized and existing or incorpor-
4 ated under the laws of this State and doing business
5 in the State, may issue stocks, bonds which may be
6 secured by mortgages on its property, franchises or
7 otherwise, notes or other evidences of indebtedness
8 payable at periods of more than 12 months after the
9 date of issuance, when necessary for:

10 1. Acquisition of property. The acquisition of
11 property to be used for the purpose of carrying out
12 its corporate powers;

13 2. Construction; facilities. The construction,
14 completion, extension or improvement of its facili-
15 ties;

16 3. Improvement; service. The improvement or
17 maintenance of its service;

18 4. Refinancing. The discharge or lawful refund-
19 ing of its obligations, including capital stock;

20 5. Reimbursement. Reimbursement of its treasury
21 for money used for the acquisition of property, the
22 construction, completion, extension or improvement of
23 its facilities; for the discharge or lawful refunding
24 of its obligations; and which actually were expended
25 from income or from other money in the treasury of
26 the corporation not secured by or obtained from the
27 issue of stocks, bonds, notes or other evidences of
28 indebtedness of the corporation; or

29 6. Other purposes. Any other lawful purpose.

30 §902. Commission authorization required

31 1. Order authorizing issuance. No public utili-
32 ty may make an issuance as described in section 901,
33 except as provided in section 906, unless it has made
34 a written application, setting forth information the
35 commission may require and has secured from the com-
36 mission an order authorizing the issue and the amount
37 of the issue and stating that in the opinion of the
38 commission the proceeds of the issuance of the

1 stocks, bonds, notes or other evidences of indebted-
2 ness is required in good faith for purposes enumer-
3 ated in section 901.

4 2. Matters which may be considered. In determin-
5 ing whether to grant its authorization, the commis-
6 sion may consider the reasonableness of the purpose
7 or purposes for which the proceeds of the issue will
8 be applied, other resources which the utility has
9 available or may have available for those purposes,
10 the justness and reasonableness of the estimated cost
11 to the utility of the issue and the effect of the is-
12 sue upon the utility's capital structure. The com-
13 mission's decision shall be in writing and shall con-
14 tain findings setting forth the reasons for the deci-
15 sion.

16 3. Procedure upon application. For the purpose
17 of enabling the commission to determine whether it
18 shall issue an order in accordance with subsection 1,
19 the commission shall make such inquiries for investi-
20 gation, hold such hearings and examine such wit-
21 nesses, books, papers, documents or contracts as it
22 determines important in enabling it to reach a deter-
23 mination. The commission may determine whether and
24 in what manner notice of the application shall be
25 given and whether a hearing should be held. In view
26 of the public interest in the prompt resolution of
27 questions affecting the issuance of securities by
28 public utilities, in cases in which a hearing is held
29 or the application is contested, the commission shall
30 issue its final order within 60 days of the filing of
31 the application or 30 days of the close of hearing on
32 the application, whichever first occurs, unless the
33 commission makes an affirmative determination that
34 additional time is necessary for a proper resolution
35 of issues concerning the application and, notwith-
36 standing any other provisions of law, shall establish
37 such accelerated notice periods, schedules and limi-
38 tations on hearings as may be necessary in further-
39 ance of the resolution of those issues.

40 4. Approval of issuance not to affect rate-
41 making powers. No order of the commission authoriz-
42 ing the issue of stocks, bonds, notes or other evi-
43 dences of indebtedness may limit or restrict the pow-
44 ers of the commission in determining and fixing any

1 rate, fare, toll, charge, classification, schedule or
2 joint rate as provided in this Title.

3 §903. Stocks sold at less than par value

4 Every order authorizing the issue of stock shall,
5 if it authorizes sale at less than par value, specify
6 a minimum price at which the shares are to be sold.
7 Any shares of stock, issued in accordance with such
8 an order, shall be fully paid stock and not liable to
9 any further call or payment, even though it may have
10 been authorized for sale at less than its par value.

11 §904. Approval of stocks authorized, but not issued

12 The commission may at the request of any public
13 utility approve the issue of any stocks, bonds, notes
14 or other evidences of indebtedness authorized, but
15 not issued.

16 §905. Validity of securities issued pursuant to or-
17 der of commission

18 Any stocks, bonds, notes or other evidences of
19 indebtedness issued or sold pursuant to or in reli-
20 ance on and in accordance with any order, authoriza-
21 tion or decision of the commission pursuant to this
22 chapter, and at least 5 business days after the date
23 of the order, authorization or decision, shall be
24 valid, binding and enforceable in accordance with
25 their terms, including the terms of any agreement,
26 instrument or document under or pursuant to which the
27 stocks, bonds, notes or other evidences of indebted-
28 ness are issued, notwithstanding that the order, au-
29 thorization or decision of the commission is later
30 vacated, modified or otherwise held to be wholly or
31 partly invalid, whether by the commission upon a pe-
32 tition for rehearing or reopening, or otherwise, or
33 by a court, unless operation of the order, authoriza-
34 tion or decision of the commission has been stayed or
35 suspended by the commission or a court of competent
36 jurisdiction prior to the issuance of the stocks,
37 bonds, notes or other evidences of indebtedness.

38 §906. Commission authorization not required

1 1. Property and service outside the State. Ex-
2 cept as provided in subsection 2 for electric utili-
3 ties, notwithstanding any other provision of this
4 chapter, a public utility is not required to apply to
5 the commission for authority to issue stocks, bonds,
6 notes or other evidences of indebtedness for the ac-
7 quisition of property, for the purposes of carrying
8 out its corporate powers, the construction, comple-
9 tion, extension or improvement of its facilities, or
10 the improvement or maintenance of its service, out-
11 side the State.

12 2. Exception: Electric utilities. Notwithstand-
13 ing subsection 1, this chapter shall apply to any do-
14 mestic electric utility acquiring and operating util-
15 ity facilities outside the State for the purpose of
16 serving customers within the State.

17 §907. Municipal or quasi-municipal corporations

18 Without in any way restricting the general lan-
19 guage of this chapter, this chapter shall be con-
20 strued to authorize any municipal or quasi-municipal
21 corporation referred to in this Title to issue, upon
22 vote of its trustees or similar governing board,
23 bonds, notes or other evidences of indebtedness for
24 the purposes specified and subject to the approval of
25 the commission. Notwithstanding the provisions of
26 any legislative charter, the trustees or similar gov-
27 erning board of any such corporation may issue notes
28 or other evidences of indebtedness payable at periods
29 of less than 12 months after the date of issuance
30 when necessary to carry out the purposes of the cor-
31 poration, without securing authorization from the
32 commission pursuant to this chapter.

33 §908. Additional requirements as to issuance

34 1. Commission's order recorded on utility's
35 books. No public utility may issue any stocks,
36 bonds, notes or other evidences of indebtedness, un-
37 less payable within one year from date of issuance,
38 for money, property or services, in payment for them,
39 either directly or indirectly, until the commission's
40 authorizing order is recorded on the utility's books.

1 2. Commission consent for refund of indebted-
2 ness. No indebtedness may in whole or in part, di-
3 rectly or indirectly, be refunded by any issue of
4 stocks or bonds or by any other evidence of indebted-
5 ness, running for more than 12 months, without the
6 consent of the commission.

7 §909. Stock for organization purposes

8 Any public utility corporation at the time of its
9 organization may issue for organization purposes,
10 without the consent of the commission, not more than
11 6 shares of stock at par for cash or, if non-par
12 stock, for the consideration of \$100 per share, these
13 shares when issued to be a part of the total capital
14 issue.

15 §910. Consent required for change of capital or pur-
16 poses

17 1. Change of capital. No public utility may
18 without the consent of the commission:

19 A. Decrease its capital;

20 B. Declare any stock, bond or scrip dividend; or

21 C. Divide the proceeds of the sale of its own or
22 any stock, bonds or scrip among stockholders.

23 2. Change of purpose. No change of purposes of a
24 public utility, unless specifically chartered, be-
25 comes effective until:

26 A. Approved by the commission; and

27 B. A certificate of approval is filed with the
28 Secretary of State within 20 days of the date it
29 is approved.

30 §911. Approval of capital leases

31 No capital lease, entered into by a public utili-
32 ty for a term of more than 3 years, of property hav-
33 ing a fair value the greater of \$50,000 or 1% of the
34 public utility's total long-term debt is valid with-
35 out the written approval of the commission. The com-

1 mission's procedure and standards governing approval
2 shall be similar to those which apply to applications
3 under sections 901 and 902.

4 CHAPTER 11

5 AUTHORIZATION OF SALES, LEASES,
6 AND MORTGAGES OF PROPERTY

7 §1101. Authorization required

8 1. Utilities to secure authorization from the
9 commission. A public utility must secure an order of
10 authorization from the commission before it may:

11 A. Sell, lease, assign, mortgage or otherwise
12 dispose of or encumber the whole or part of its
13 property that is necessary or useful in the per-
14 formance of its duties to the public or its fran-
15 chises, permits or rights under them;

16 B. Merge or consolidate its property, franchise
17 or permits, or a part of them, with another pub-
18 lic utility by any means, direct or indirect.

19 2. Failure to secure commission authorization.
20 Every sale, lease, assignment, mortgage, disposition,
21 encumbrance, merger or consolidation made other than
22 in accordance with the order of the commission autho-
23 rizing it is void.

24 3. Utilities exclusively outside the State.
25 Nothing in this section applies to property, fran-
26 chises, permits or rights of a utility owned and op-
27 erated exclusively outside the State.

28 §1102. Property not necessary or useful to a
29 utility's duties

30 Nothing in section 1101 prevents the sale, lease
31 or other disposition by a public utility of property,
32 which is not necessary or useful in the performance
33 of its duties to the public. As to any purchaser of
34 the property in good faith for value, the sale of
35 property by a public utility shall be conclusively
36 presumed to have been of property which is not neces-
37 sary or useful in the performance of its duties to
38 the public.

1 §1103. Transfer of utility stock

2 The following provisions apply to the acquisition
3 of utility stock by another utility:

4 1. Commission authorization. No public utility
5 may purchase, acquire, take or hold any part of the
6 capital stock of any other public utility organized
7 or existing under the laws of this State without the
8 commission's authorization.

9 2. Transfer of stock void. Every assignment,
10 transfer, contract or agreement for assignment or
11 transfer of stock by or through a person or corpora-
12 tion or otherwise in violation of this section is
13 void. No transfer that violates this section may be
14 made on the books of a public utility.

15 §1104. Abandonment of property or service

16 1. Commission approval. No public utility may
17 abandon all or part of its plant, property or system
18 necessary or useful in the performance of its duties
19 to the public, or discontinue the service which it is
20 providing to the public by the use of such facili-
21 ties, without first securing the commission's approv-
22 al.

23 2. Terms and conditions. In granting its ap-
24 proval, the commission may impose such terms, condi-
25 tions or requirements as in its judgment are neces-
26 sary to protect the public interest. A public utili-
27 ty abandoning all or part of its plant, property or
28 system or discontinuing service pursuant to authority
29 granted by the commission under this section is
30 deemed to have waived all objections to the terms,
31 conditions or requirements imposed by the commission
32 in that regard.

33 CHAPTER 13

34 PROCEDURE

35 §1301. Substantial compliance

36 Substantial compliance by the commission with the
37 requirements of this Title gives effect to all the

1 commission's rules, orders and acts. The commis-
2 sion's rules, orders and acts may not be declared in-
3 operative, illegal or void for an omission of a tech-
4 nical and immaterial nature.

5 §1302. Complaints

6 1. Filing a complaint. When a written complaint
7 is made against a public utility by 10 persons ag-
8 grieved that the rates, tolls, charges, schedules or
9 joint rate or rates of a public utility are in any
10 respect unreasonable or unjustly discriminatory; that
11 a regulation, measurement, practice or act of a pub-
12 lic utility is in any respect unreasonable, insuffi-
13 cient or unjustly discriminatory; or that a service
14 is inadequate or cannot be obtained, the commission,
15 being satisfied that the petitioners are responsible,
16 shall, with or without notice, investigate the com-
17 plaint.

18 2. Processing of complaint. The commission, im-
19 mediately upon the filing of a complaint, shall noti-
20 fy in writing the public utility complained of that
21 a complaint has been made and of the nature of the
22 complaint. The utility shall file its response to
23 the complaint within 10 days of the date the notice
24 of complaint is issued. After receipt of the re-
25 sponse, if the commission is satisfied that the util-
26 ity has taken adequate steps to remove the cause of
27 the complaint or that the complaint is without merit,
28 the complaint may be dismissed. If the complaint is
29 not dismissed, the commission shall promptly set a
30 date for a public hearing. The commission may allow
31 for all parties to attempt to resolve the complaint
32 to their mutual satisfaction. If a mutually satis-
33 factory resolution does not appear to be forthcoming,
34 the hearing shall be held on the complaint pursuant
35 to section 1304. The commission may not enter an or-
36 der affecting the rates, tolls, charges, schedules,
37 regulations, measurements, practices or acts com-
38 plained of without an opportunity for public hearing.
39 In the absence of an informal disposition pursuant to
40 Title 5, section 9053, the commission shall render a
41 decision upon the complaint no later than 9 months
42 after its filing.

1 3. Complaint by utility or commission. The com-
2 mission may institute or any public utility may make
3 complaint as to any matter affecting its own product,
4 service or charges. The complaint shall be processed
5 in accordance with subsection 2.

6 §1303. Investigations

7 1. Summary investigations. The commission may
8 on its own motion, with or without notice, summarily
9 investigate when it believes that:

10 A. A rate or charge is unjust or unreasonable;

11 B. A service is inadequate or cannot be ob-
12 tained; or

13 C. An investigation of any matter relating to a
14 public utility should for any reason be made.

15 2. Formal investigation. If after the summary
16 investigation, the commission is satisfied that suf-
17 ficient grounds exist to warrant a formal public
18 hearing as to the matters investigated, it shall give
19 the interested public utility written notice of the
20 matter under investigation. Seven days after the
21 commission has given notice, it may set a time and
22 place for a public hearing. The hearing shall be
23 held in accordance with section 1304.

24 §1304. Public hearings

25 Public hearings conducted by the commission under
26 this Title are subject to the following provisions.

27 1. Notice to utility. The commission shall no-
28 tify the public utility and other interested persons
29 it considers proper of the time and place of the for-
30 mal public hearing as provided in Title 5, section
31 9052.

32 2. Notice to subscribers. If, after the commis-
33 sion has notified the public utility of the hearing
34 as provided in this section or in section 310, it ap-
35 pears that the time, place and nature of the hearing
36 will not be reasonably publicized by newspaper or
37 otherwise, the following provisions apply.

1 A. The commission may upon written notice to the
2 public utility require it to:

3 (1) Give reasonable notice of the time and
4 place of the hearing to each subscriber af-
5 ected or to be affected by the subject of
6 the hearing; or

7 (2) File pertinent information as to the
8 rates or service involved, including sched-
9 ules of proposed rates, in the office of the
10 clerk of the municipality where the sub-
11 scribers reside.

12 B. The notice given by the public utility shall:

13 (1) Be given by first class mail; and

14 (2) Include a statement that pertinent in-
15 formation as to rates or service is on file
16 in the office of the clerk of the municipal-
17 ity where the subscribers reside.

18 C. Nothing in this section relieves the utility
19 from the provisions of section 3082.

20 3. Subpoenas. The commission may issue subpoe-
21 nas to require the attendance and testimony of wit-
22 nesses and the production of evidence relating to any
23 fact at issue in the hearing.

24 4. Parties. A party to a hearing is entitled to
25 be heard and to have the subpoenas issued by the com-
26 mission in the manner described in Title 5, section
27 9060.

28 5. Commission authorized to act on an expedited
29 basis. In proceedings pursuant to section 1302, 1303
30 or 1321, after reasonable notice and opportunity to
31 be heard, the commission may issue a temporary order
32 pending the conclusion of the formal public hearing.
33 In making the order, the commission shall consider
34 the likelihood that it would be issued at the conclu-
35 sion of the proceeding, the benefit to the public or
36 affected customers compared to the harm to the utili-
37 ty or other customers of issuing the order and the
38 public interest. Notwithstanding any other provi-

1 sions of law, upon a written finding that the proce-
2 dural requirements otherwise required by law will re-
3 sult in unreasonable harm to a utility, a customer or
4 the public, the commission may establish accelerated
5 notice periods, schedules and limitations on hearings
6 as may be necessary to expedite consideration of the
7 order.

8 §1305. Hearings; examiners

9 1. Commission's powers. Each of the
10 commissioners, for the purposes of this Title, may:

11 A. Hold hearings;

12 B. Conduct investigations;

13 C. Administer oaths;

14 D. Certify to official acts;

15 E. Issue subpoenas;

16 F. Compel the attendance of witnesses and the
17 production of books, accounts, papers, documents
18 and testimony;

19 G. Punish by fine and imprisonment for contempt;
20 and

21 H. Issue all processes necessary to the perform-
22 ance of the commission's duties.

23 2. Examiners. The commission may appoint exam-
24 iners to serve at its pleasure. The commission shall
25 fix the salary of the examiners. The examiners, be-
26 ing first duly sworn, have authority to:

27 A. Administer oaths;

28 B. Examine witnesses;

29 C. Issue subpoenas;

30 D. Require the production of books, accounts,
31 papers, documents and testimony; and

1 E. Receive evidence in any matter under the com-
2 mission's jurisdiction.

3 The examiners also shall perform such other duties as
4 may be assigned to them.

5 3. Evidence. Evidence taken and received by the
6 examiners has the same effect as evidence taken and
7 received by the commission and shall authorize com-
8 mission action as though taken and received by it.
9 When objection is made to the admissibility of evi-
10 dence, examiners authorized to practice before the
11 Supreme Judicial Court shall rule on the admissibili-
12 ty of evidence in accordance with the practice and
13 rules of evidence in civil actions in the Superior
14 Court.

15 4. Right to appeal. Either the examiner or the
16 commissioner, who is the presiding officer at the
17 hearing, shall at the outset of the hearing inform
18 the public as to the steps necessary to preserve its
19 right to appeal the final order or decision of the
20 commission to the Supreme Judicial Court under the
21 provisions of section 1320.

22 §1306. Decision

23 The following provisions apply to the commis-
24 sion's findings and decisions.

25 1. Unjust rates. If after a formal public hear-
26 ing the commission finds that the rates, tolls,
27 charges, schedules or joint rates are unjust, unrea-
28 sonable, insufficient or unjustly discriminatory or
29 otherwise in violation of this Title, it may fix and
30 order substituted just or reasonable rate or rates,
31 tolls, charges or schedules. In determining the
32 justness and reasonableness of the order, the commis-
33 sion shall assure rate design stability.

34 2. Unjust term, condition, practice, act or ser-
35 vice. If after a public hearing the commission finds
36 that a term, condition, practice, act or service com-
37 plained of is unjust, unreasonable, insufficient, un-
38 justly discriminatory or otherwise in violation of
39 this Title or if it finds that a service is inade-
40 quate or that reasonable service cannot be obtained,

1 the commission may by order establish or change
2 terms, conditions, measurement, practice, service or
3 acts, as it finds to be just and reasonable. In de-
4 termining the justness and reasonableness of the or-
5 der, the commission shall assure rate design stabili-
6 ty.

7 3. Conformity to decision. Every public utility
8 to which the order applies shall change its schedules
9 on file to conform to the order.

10 4. Copies. Copies of the commission's order
11 shall be:

12 A. Certified by the administrative director; and

13 B. Delivered to the public utility affected by
14 it.

15 5. Effective date. The order shall take effect:

16 A. After a copy is delivered to the public util-
17 ity affected; and

18 B. Within the time prescribed by the commission.

19 §1307. Enforcement of decisions

20 Upon application of the commission or of the At-
21 torney General, the Superior Court has full jurisdic-
22 tion to enforce the commission's order and to enforce
23 the public utilities' performance of the duties im-
24 posed on them by law, including the appointment of
25 receivers, agents and special masters and providing
26 them with adequate authority to carry the order of
27 the courts and of the commission into effect.

28 §1308. Reparation or adjustment

29 The commission may order reparation or adjustment
30 when it finds that an amount charged to or collected
31 from a customer was not in accordance with the filed
32 rate applicable to him or was based upon error. The
33 customer shall attempt to settle any dispute concern-
34 ing the alleged over charge or billing error at an
35 informal hearing with the utility company prior to
36 filing a complaint with the commission. If the cus-

1 tomer is dissatisfied with the utility company's de-
2 cision, the customer may appeal the decision to the
3 commission. The commission may not order a rebate
4 for a billing error or excessive charge that ante-
5 dates the order for more than 6 years.

6 §1309. Adjustment of excessive rates

7 1. Complaint. The Commission may institute or
8 any public utility may make complaint as to any mat-
9 ter affecting its own product, service or charges,
10 with like effect as though made by any 10 persons,
11 firms, corporations or associations.

12 2. Reparation or adjustment where utility admits
13 excessive rate. The commission may authorize
14 reparation or adjustment where the utility admits
15 that a rate charged was excessive or unreasonable or
16 collected through error, and where it further appears
17 that the utility, within 90 days after the rendering
18 of any service within the State under such rate, has
19 filed a reduced rate in place of the rate which ad-
20 mittedly was excessive or unreasonable or collected
21 through error.

22 3. Reduced rates; amount of reparation. The re-
23 duced rate published in accordance with this section
24 shall continue in force one year unless sooner
25 changed by the order or with the consent of the com-
26 mission, and the amount of reparation which may be
27 authorized by the commission shall not exceed the
28 difference between the charges based on the reduced
29 rate and the charges based on the rate canceled by
30 the reduced rate.

31 4. Statute of limitations for complaints brought
32 under this section. Within 2 years after the render-
33 ing of any service within the State by a public util-
34 ity, for which service a rate, toll or charge is made
35 by the utility, a person aggrieved may complain to
36 the commission that the rate, toll or charge exacted
37 for the service is unjustly discriminatory against
38 him, either because it is higher than that charged by
39 the same utility for the same service or service of
40 similar value and cost rendered to other users or
41 consumers, or because the utility has failed, without
42 reasonable cause, to make a more favorable rate, toll

1 or charge published by it for the same or similar
2 service applicable to the user or consumer or to the
3 class of users or consumers to which he belongs, or
4 at the place at which the service is rendered.

5 5. Complaint received within 6 months after
6 reparation or adjustment ordered. Within 6 months
7 after an order has been made authorizing reparation
8 or adjustment under subsections 2 and 3, any person
9 aggrieved may complain to the commission that he is
10 entitled to reparation from the same utility because
11 he paid the rates which the utility admits are exces-
12 sive or reasonable or collected through error, pro-
13 vided the utility might lawfully have made the
14 reparation on its own petition, and provided the per-
15 son has made a written request for the utility to
16 file its own petition for authority to make the
17 reparation or adjustment not less than 30 days before
18 filing a complaint with the commission.

19 6. Commission investigation to determine whether
20 to hold a hearing. Upon receipt of a complaint, the
21 commission shall investigate as it determines neces-
22 sary to determine whether a hearing ought to be held.

23 7. Notice of hearing. The commission may order
24 a hearing upon such notice to the utility as it de-
25 termines just and reasonable.

26 8. Commission decision after hearing; refund.
27 If, after the hearing, the commission decides that
28 the complainant has been injured by paying rates
29 which the utility admits are excessive, unreasonable
30 or collected through error, it shall determine the
31 sum that the utility ought to refund or repay to the
32 complainant, which sum the utility has the right to
33 refund.

34 9. Utility refusal or neglect to make refund;
35 court action. If the utility refuses or neglects to
36 make the refund within 30 days, the party aggrieved
37 may maintain an action in the courts of the State to
38 recover the amount. In the trial the findings of the
39 commission shall be prima facie evidence of the truth
40 of the facts found by it, and no utility may avail
41 itself of the defense of the action that the service
42 involved was in fact made on the published tariff
43 rate in force at the time it was rendered.

1 10. Utility that complies may not be held lia-
2 ble. No utility making a refund upon the order of
3 the commission or pursuant to judgment of the court
4 may be liable for any penalty or forfeiture or sub-
5 ject to any prosecution under the laws of this State
6 on account of making the refund.

7 §1310. Funding of intervenors by the commission

8 Notwithstanding sections 104, 111 and 112, the
9 commission may not order compensation of intervenors
10 by any utility except as authorized by this section.
11 Compensation of intervenors may be ordered only to
12 the extent that compensation is specifically required
13 by the United States Public Utilities Regulatory Po-
14 licies Act of 1978, United States Code, Title 16,
15 Section 2601, et seq.

16 §1311. Practice and rules of evidence; process ser-
17 vice

18 In all actions and proceedings arising under this
19 Title, all processes shall be served and the practice
20 and rules of evidence shall be the same as in civil
21 actions in the Superior Court except as otherwise
22 provided. Every sheriff or other officer empowered
23 to execute civil processes may execute a process is-
24 ssued under this Title and shall receive the compensa-
25 tion prescribed by law for that service.

26 §1312. Witnesses and fees

27 1. Witnesses. Each witness who is ordered to
28 appear before the commission shall receive for his
29 attendance the fees and mileage provided for wit-
30 nesses in civil cases in the Superior Court. This
31 provision does not apply to the employees, officers,
32 directors, trustees and holders of more than 10% of
33 the common stock of a public utility which is the
34 subject of the commission's proceeding.

35 2. Fees. The State shall audit and pay the fees
36 in the same manner as other state expenses are au-
37 ditied and paid upon the presentation of proper vouch-
38 ers approved by the commission. There shall be de-
39 ducted from the mileage allowed witnesses under this
40 section who travel, or may travel, to and from the

1 place of hearing on a pass or other form of free
2 transportation, a sum equal to the fare to and from
3 the place of hearing at the lowest published rates
4 for single or return trip tickets.

5 §1313. Depositions

6 The following provisions apply to depositions.

7 1. Taking depositions. Depositions shall be
8 taken in the manner prescribed by law for taking dep-
9 ositions in civil actions in the Superior Court.

10 2. Use of depositions. The commission or any
11 party may use the deposition of witnesses in a formal
12 public hearing.

13 §1314. Burden of proof

14 1. Party adverse to the commission. In all tri-
15 als, actions and proceedings arising under this Title
16 or growing out of the exercise of the authority
17 granted to the commission, the burden of proof is on
18 the party adverse to the commission or seeking to set
19 aside any determination, requirement, direction or
20 order of the commission complained of as unreason-
21 able, unjust or unlawful.

22 2. Public utilities. In all original proceed-
23 ings before the commission where an increase in
24 rates, tolls, charges, schedules or joint rate is
25 complained of, the burden of proof is on the public
26 utility to show that the increase is just and reason-
27 able.

28 §1315. Self-incrimination; immunity

29 1. Self-incrimination. In any proceeding before
30 the commission, if a person refuses to answer ques-
31 tions or produce evidence on the ground that he may
32 be incriminated and if the commission staff, in writ-
33 ing, and with the written approval of the Attorney
34 General, requests the commission to order that person
35 to answer the questions or produce the evidence, the
36 commission, after notice to the witness and a hear-
37 ing, shall so order unless it finds to do so would be
38 clearly contrary to the public interest.

1 2. Immunity. If, but for this section, the per-
2 son would have had the right to withhold the answers
3 given or the evidence produced by him, he may not be
4 prosecuted or subjected to penalty or forfeiture for
5 or on account of any transaction or matter which con-
6 cerns the answers he gave or the evidence he produced
7 in accordance with the order.

8 3. Failure to comply. If a person fails to an-
9 swer questions or produce evidence as ordered by the
10 commission, following notice and hearing, he is sub-
11 ject to the provisions of section 1502. A person may
12 be prosecuted or subjected to penalty or forfeiture
13 for any perjury, false swearing or contempt that he
14 commits in answering or failing to answer or in pro-
15 ducing or failing to produce evidence in accordance
16 with the order.

17 §1316. Testimony presented by employees of public
18 utilities to legislative committees and to
19 the Public Utilities Commission

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

23 A. "Employee" means a person who performs a ser-
24 vice for wages or other remuneration under a con-
25 tract of hire, expressed or implied, but does not
26 include an independent contractor.

27 B. "Employer" means a public utility licensed to
28 do business in this State with one or more em-
29 ployees.

30 C. "Legislative committee" means a joint stand-
31 ing committee or a joint select committee of the
32 Legislature, a task force, commission or council
33 or any other committee established by the Legis-
34 lature and composed wholly or partly of Legisla-
35 tors for the purpose of conducting legislative
36 business.

37 D. "Own time" means an employee's vacation or
38 personal time, earned as a condition of employ-
39 ment.

1 2. Right to provide testimony. Every employee
2 of a public utility has the right to represent him-
3 self and to testify before a legislative committee or
4 the commission on his own time. No employee of a
5 public utility who complies with this section may be
6 denied the right to testify before a legislative com-
7 mittee or the commission.

8 3. Discharge of, threats to or discrimination
9 against employees of public utilities for testimony
10 presented to legislative committees or the commis-
11 sion. Unless otherwise provided for, a supervisor
12 may not discharge, threaten or otherwise discriminate
13 against an employee of a public utility regarding the
14 employee's compensation, terms, conditions, location
15 or privileges of employment because the employee, in
16 compliance with this section, in good faith testifies
17 before or provides information to a legislative com-
18 mittee or to the commission regarding the operation
19 of the business of a public utility or because the
20 employee brings the subject matter of the testimony
21 or information to the attention of a person having
22 supervisory authority.

23 This subsection does not apply to an employee who has
24 testified before or provided information to a legis-
25 lative committee or to the commission unless the em-
26 ployee has first brought the subject matter of the
27 testimony or information in writing to the attention
28 of a person having supervisory authority with the em-
29 ployer and has allowed the employer a reasonable time
30 to address the subject matter of the testimony or in-
31 formation. If appropriate, the employer, shall re-
32 spond in writing.

33 4. Exceptions. The protection created in sub-
34 section 3 does not apply to testimony which, upon
35 reasonable inquiry by the employee, would be found to
36 be false, slanderous, libelous or defamatory or to
37 testimony which violates a term or condition of a
38 collectively bargained agreement or to testimony
39 which discloses trade secrets or corporate strategy,
40 the disclosure of which would result in harm to the
41 employer.

42 5. Civil actions for injunctive relief or other
43 remedies. An employee of a public utility who al-

1 leges a violation of his rights under this section
2 and who has made reasonable efforts to exhaust all
3 grievance procedures, as provided for in the contract
4 of employment or which otherwise may be available at
5 his place of employment, may bring a civil action,
6 including an action for injunctive relief, within 90
7 days after the occurrence of that alleged violation
8 or after the grievance procedure or similar process
9 terminates. The action may be brought in the Superi-
10 or Court for the county where the alleged violation
11 occurred, the county where the complainant resides or
12 the county where the person against whom the civil
13 complaint is filed resides. An employee must estab-
14 lish each and every element of his case by a prepon-
15 derance of the evidence.

16 6. Remedies ordered by court. A court, in ren-
17 dering a judgment in an action brought pursuant to
18 this section, may order reinstatement of the employ-
19 ee, the payment of back wages, full reinstatement of
20 fringe benefits and seniority rights or any combina-
21 tion of these remedies. A court may also award the
22 prevailing party all or a portion of the costs of
23 litigation, including reasonable attorneys' fees and
24 witness fees, if the court determines that the award
25 is appropriate.

26 7. Collective bargaining rights. This section
27 does not diminish or impair the rights of a person
28 under any collective bargaining agreement.

29 8. Jury trial; common-law rights. Any action
30 brought under this section may be heard by a jury.
31 Nothing in this section derogates any common-law
32 rights of an employee or employer.

33 §1317. Appearance by officer or employee of corpora-
34 tion or partnership

35 Notwithstanding Title 4, section 807, the appear-
36 ance of an authorized officer, employee or represen-
37 tative of a party in any hearing, action or proceed-
38 ing before the commission in which the party is par-
39 ticipating or desires to participate is not an unau-
40 thorized practice of law and is not subject to any
41 criminal sanction. In order to facilitate the effi-
42 cient processing of any proceeding, the commission

1 may, in its discretion, require the appearance of
2 counsel on behalf of the party.

3 §1318. Record of proceedings

4 1. Record. The commission shall keep a complete
5 record of:

6 A. All proceedings before it;

7 B. Investigations; and

8 C. Formal public hearings.

9 2. Hearings reporter. The commission shall ap-
10 point, subject to the Civil Service Law, hearings re-
11 porters who shall take all testimony before the com-
12 mission.

13 §1319. Certified copies of orders furnished

14 The commission shall furnish a certified copy un-
15 der the commission's seal of its orders to any person
16 who applies and pays for it as provided in the com-
17 mission's rules. A certified copy of an order is evi-
18 dence of the facts stated in it.

19 §1320. Review of commission action

20 The following procedures apply to an appeal of a
21 decision of the commission.

22 1. Final decisions. An appeal from a final de-
23 cision of the commission may be taken to the Law
24 Court on questions of law in the same manner as an
25 appeal taken from a judgment of the Superior Court in
26 a civil action.

27 2. Parties. Any person who has participated in
28 commission proceedings, and who is adversely affected
29 by the final decision of the commission is deemed a
30 party for purposes of taking an appeal.

31 3. Terms. Where a law or rule regulating the
32 taking of an appeal from the Superior Court in a civ-
33 il action uses the terms "the court," "the clerk,"
34 "the clerk of the courts," or a similar term, they

1 shall for purposes of an appeal from the commission
2 mean "the commission," "the administrative director
3 of the commission," or other appropriate term, re-
4 spectively.

5 4. Notice of appeal. The notice of appeal shall
6 be accompanied by a brief statement of the nature of
7 the proceeding before the commission, a copy of the
8 decision, order or ruling complained of, a statement
9 of the grounds upon which the order or ruling is
10 claimed to be unlawful and a certificate that the at-
11 torney for the appellant is of the opinion that there
12 is probable ground for the appeal as to make it a fit
13 subject for judicial inquiry and that it is not in-
14 tended for delay.

15 5. Additional court review. An appeal may also
16 be taken in the same manner as an appeal under sub-
17 section 1, when the justness or reasonableness of a
18 rate, toll or charge by any public utility or the
19 constitutionality of any ruling or order of the com-
20 mission is in issue, notwithstanding that the ruling
21 or order is not final.

22 6. Law Court jurisdiction is exclusive. The Law
23 Court has exclusive jurisdiction over appeals and re-
24 quests for judicial review of final decisions and of
25 rulings and orders subject to subsections 1 and 5,
26 with the exception of the Superior Court's jurisdic-
27 tion to review rules under Title 5, section 8058.

28 7. Stay. While an appeal under subsection 1 is
29 pending, no injunction may issue suspending or stay-
30 ing any order of the commission and the appeal shall
31 not excuse any person or corporation from complying
32 with and obeying any order or decision or any re-
33 quirement of any order or decision of the commission
34 or operate in any manner to stay or postpone the en-
35 forcement of the order or decision, except in the
36 cases and upon the terms as the commission orders.
37 While an appeal under subsection 5 is pending final
38 determination by the court, the Chief Justice, or in
39 his absence any other justice, may enjoin or stay the
40 effect of the ruling or order upon the terms and con-
41 ditions as he determines proper.

1 8. Additional evidence. No evidence beyond that
2 contained in the record of the proceedings before the
3 commission may be introduced before the court, except
4 that in cases where issues of confiscation or of con-
5 stitutional right are involved, the court may order
6 additional evidence it determines necessary for the
7 determination of issues to be taken before the com-
8 mission upon the terms and conditions the court de-
9 termines proper. If the court orders additional evi-
10 dence to be taken, the commission shall promptly hear
11 and report that evidence to the court, so that the
12 proof may be brought as nearly as reasonably possible
13 down to the date of its report to the court. The
14 commission may, after hearing the evidence, modify
15 its findings as to facts and its original decision or
16 orders by reason of the additional evidence so taken,
17 and it shall file with the court that amended deci-
18 sion or orders and those modified or new findings.
19 If the commission modifies or amends its original de-
20 cision or orders, the appealing party or any other
21 party aggrieved by the modified or amended decision
22 or order may file with the court, within such time as
23 the court may allow, a specification of errors
24 claimed to have been made by the commission in the
25 modified decision or orders, which specifications or
26 errors shall be considered by the court in addition
27 to the errors asserted in the original complaint on
28 appeal.

29 9. Certification of decision, costs. The result
30 of the appeal shall be certified by the clerk of the
31 Law Court to the administrative director of the com-
32 mission and to the clerk of the Superior Court for
33 Kennebec County. The prevailing party shall recover
34 costs to be taxed by the Superior Court in accordance
35 with the law for the taxation of costs on appeal in
36 civil actions. Execution for these costs shall be
37 issued from the Superior Court of Kennebec County in
38 the same manner as in actions originating in the
39 court. Double costs shall be assessed by the court
40 upon any party whose appeal appears to the court not
41 to be a fit subject for judicial inquiry or appears
42 to be intended for delay.

43 §1321. Orders altered or amended

1 The commission may at any time rescind, alter or
2 amend any order it has made including an order fixing
3 any rate or rates, tolls, charges or schedules, pro-
4 vided it gives the public utility notice as provided
5 in section 1304 and after opportunity to be heard as
6 provided in section 1304. Certified copies of
7 amended orders shall be served and take effect as
8 provided for original orders.

9 §1322. Orders temporarily suspended, altered or
10 amended

11 1. Orders temporarily amended. When the commis-
12 sion finds it necessary to prevent injury to a pub-
13 lic utility's business or to the interest of the peo-
14 ple, or if the commission finds there is an emergen-
15 cy, it may temporarily alter, amend or, with the pub-
16 lic utility's consent, suspend existing rates, sched-
17 ules or orders affecting any public utility.

18 2. Rates. Rates made under this section shall:

19 A. Apply to one or more of the utilities in the
20 State or to any part of them as the commission
21 directs; and

22 B. Take effect and remain in force as the com-
23 mission prescribes.

24 §1323. Exhausting rights before commission; applica-
25 tion to Legislature

26 No public utility may apply to the Legislature to
27 grant it a right, privilege or immunity which the
28 commission has power to grant it until the utility
29 has exhausted its rights regarding its request before
30 the commission.

31 In applying to the Legislature, the utility shall
32 state in writing that it has applied to the commis-
33 sion for the right, privilege or immunity requested
34 and that the commission has denied its application.

35 CHAPTER 15

36 LIABILITY AND PENALTIES

1 §1501. Utility liable for civil damages

2 If a public utility violates this Title, causes
3 or permits a violation of this Title or omits to do
4 anything that this Title requires it to do it may be
5 liable in damages to the person injured as a result.
6 Recovery under this section does not affect a recovery
7 by the State of the penalty prescribed for the
8 violation.

9 §1502. Contempt

10 Every public utility or person that fails to com-
11 ply with an order, decision, rule, direction, demand
12 or requirement of the commission or of a commissioner
13 is in contempt of the commission and shall be pun-
14 ished by the commission for contempt in the same man-
15 ner as contempt is punished by courts of record.
16 Punishment for contempt is not a bar to and does not
17 affect any other remedy prescribed in this Title, but
18 is cumulative and in addition to other remedies.

19 §1503. Refusal to obey or comply

20 1. Officer, agent or employee of public utility.
21 An officer, agent or employee of a public utility
22 commits a civil violation for which a forfeiture not
23 to exceed \$1,000 shall be adjudged for each offense
24 if he:

25 A. Willfully fails or refuses to fill out and
26 return any forms required by this Title;

27 B. Willfully fails or refuses to answer ques-
28 tions contained in the forms;

29 C. Willfully or knowingly gives a false answer
30 to a question contained in the forms;

31 D. Willfully evades the answer to a question
32 when he knows the answer;

33 E. Willfully fails or refuses, upon proper de-
34 mand, to exhibit to the commission, a commissioner
35 or authorized person, a book, paper, account,
36 record or memorandum of a public utility which is
37 in his possession or under his control;

1 F. Willfully fails properly to use and keep his
2 system of accounting or any part thereof as pre-
3 scribed by the commission; or

4 G. Willfully refuses to do anything in connec-
5 tion with the utility's system of accounting as
6 directed by the commission.

7 2. Public utility. When the officer, agent or
8 employee committing a civil violation as enumerated
9 in subsection 1 acted in obedience to the direction,
10 instruction or request of the public utility or of an
11 owner or general officer of the public utility, the
12 public utility commits a civil violation for which a
13 forfeiture not to exceed \$1,000 shall be adjudged for
14 each offense.

15 §1504. Each day, distinct offense

16 Every day, during which a public utility or an
17 officer, agent or employee of a public utility
18 willfully fails to comply with an order of the com-
19 mission or to perform a duty enjoined by this Title,
20 constitutes a separate offense.

21 §1505. Illegal issue of stocks, bonds or notes

22 1. Offense. A director or officer of a public
23 utility is guilty of illegally issuing stocks, bonds
24 or notes if he knowingly, directly or indirectly is-
25 suues or causes to be issued stocks, bonds, notes or
26 other evidences of indebtedness contrary to this Ti-
27 tle.

28 2. Penalty. Illegal issue of stocks, bonds or
29 notes is a Class B crime.

30 §1506. Misappropriation of proceeds

31 1. Offense. A director or officer of a public
32 utility is guilty of misappropriating proceeds if he
33 knowingly applies the proceeds from the sale of
34 stocks, bonds or notes to a purpose other than that
35 specified in the commission's order.

36 2. Penalty. Misappropriation of proceeds is a
37 Class B crime.

1 §1507. False statements as to issue of stocks, bonds
2 or notes

3 1. Offense. An officer, owner or agent of a
4 public utility is guilty of making false statements
5 as to issue of stocks, bonds or notes if he:

6 A. Knowingly or willfully makes a false state-
7 ment to secure the issue of stocks, bonds or oth-
8 er evidences of indebtedness;

9 B. Uses a false statement that is knowingly or
10 willfully made, with knowledge of fraud, to pro-
11 ecure the order or issue from the commission; or

12 C. Negotiates or causes to be negotiated stocks,
13 bonds, notes or other evidences of indebtedness
14 in violation of this Title.

15 2. Penalty. Making false statements as to issue
16 of stocks, bonds or notes is a Class B crime.

17 §1508. Punishment where no penalty

18 A public utility which willfully violates a pro-
19 vision of this Title, does an act prohibited by it,
20 fails or refuses to perform a duty enjoined upon it
21 for which a penalty is not provided or fails or re-
22 fuses to obey a lawful requirement or order made by
23 the commission, commits a civil violation for which a
24 forfeiture not to exceed \$1,000 may be adjudged for
25 each offense. The act, omission or failure of an of-
26 ficer, agent or person acting for or employed by a
27 public utility who is acting within the scope of his
28 employment is deemed to be the act, omission or fail-
29 ure of the public utility.

30 §1509. Limitation on imposing penalty

31 An action which may result in the imposition of a
32 civil or criminal penalty under this chapter shall be
33 commenced within 5 years after the cause of action
34 accrues.

35

CHAPTER 17

36

PUBLIC ADVOCATE

1 §1701. Appointment and staff

2 1. Appointment of the Public Advocate. The Public
3 Advocate shall be appointed by the Governor, sub-
4 ject to review by the joint standing committee of the
5 Legislature having jurisdiction over public utilities
6 and to confirmation by the Legislature, and shall
7 serve at the pleasure of the Governor. Any vacancy
8 shall be filled by similar appointment.

9 2. Staff of the Public Advocate. The staff of
10 the Public Advocate shall consist of such other per-
11 sonnel, including staff attorneys, as the Public Ad-
12 vocate determines necessary to represent the using
13 and consuming public, as required by subsection 1702.
14 All such personnel shall be appointed, supervised and
15 directed by the Public Advocate. The Public Advocate
16 is not subject to the supervision, direction or con-
17 trol of the chairman or members of the commission.

18 3. Service. The professional employees of the
19 Public Advocate shall serve at the pleasure of the
20 Public Advocate; all other employees of the Public
21 Advocate shall be subject to the Civil Service Law.

22 §1702. Duties

23 The duties and responsibilities of the Public Ad-
24 vocate are to represent the using and consuming pub-
25 lic in matters within the jurisdiction of the commis-
26 sion, including, but not limited, to the following:

27 1. Review and recommendations. The Public Advo-
28 cate may review, investigate and make appropriate
29 recommendations to the commission with respect to:

30 A. The reasonableness of rates charged or pro-
31 posed to be charged by any public utility;

32 B. The reasonableness and adequacy of the ser-
33 vice furnished or proposed to be furnished by any
34 public utility;

35 C. Any proposal by a public utility to reduce or
36 abandon service to the public;

1 D. The issuance of certificates of public convenience and necessity. Recommendations may include alternative analyses and plans as necessary;
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5 E. Terms and conditions of public utilities;

6 F. Mergers and consolidations of public utilities;
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8 G. Contracts of public utilities with affiliates or subsidiaries; and
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10 H. Securities, regulations and transactions of public utilities.
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12 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.
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16 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 when determined necessary by the Public Advocate.
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22 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.
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28 5. Intervention on behalf of public. When determined necessary by the Public Advocate, in the interest of the using and consuming public, or any particular group of consumers, the Public Advocate may intervene and appear on their behalf 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 doing business in this State, except that the Public Advocate shall not intervene in any proceeding in which the commission staff is representing a position
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1 substantially similar to that of the Public Advocate,
2 as determined by the Public Advocate.

3 6. Annual report. The Public Advocate shall
4 prepare and submit an annual report of activities of
5 the Public Advocate to the Governor and to the joint
6 standing committee of the Legislature having juris-
7 isdiction over public utilities by August 1st of each
8 year, with copies available to all legislators on re-
9 quest.

10 7. Assist customers of consumer owned electric
11 utilities. The Public Advocate shall assist custom-
12 ers of consumer-owned electric utilities in reviewing
13 proposed rate increases and preparing questions and
14 testimony for public hearings and, on request of a
15 customer and when determined necessary by the Public
16 Advocate, intervene in the proceedings conducted in
17 accordance with chapter 35.

18 §1703. Appeal from commission orders

19 The Public Advocate has the same rights of appeal
20 from commission orders or decisions to which the Pub-
21 lic Advocate has been a party as other parties to
22 commission proceedings.

23 §1704. Legal representation

24 Notwithstanding the provisions of Title 5, sec-
25 tion 191, the Public Advocate, or a staff attorney,
26 may act as the counsel for the office of the Public
27 Advocate. The Public Advocate may request the as-
28 sistance of the Attorney General or employ private
29 counsel for this purpose.

30 §1705. Relationship with the Attorney General

31 This section in no way limits the rights of the
32 Attorney General to intervene before the commission
33 or to appeal from commission orders or decisions.

34 §1706. Expert witnesses

35 The Public Advocate may employ expert witnesses
36 and pay appropriate compensation and expenses to em-
37 ploy the witnesses.

1 §1707. Expenses of the Public Advocate

2 The Public Advocate, within established budgetary
3 limits and as allowed by law, shall authorize and ap-
4 prove travel, subsistence and related necessary ex-
5 penditures of the Public Advocate or members of the staff
6 of the Public Advocate, incurred while traveling on
7 official business.

8 §1708. Information from utilities

9 Utilities shall provide to the Public Advocate
10 copies of all reports and other information required
11 to be filed with or which may be submitted to the
12 commission, except to the extent that this require-
13 ment is waived, in writing, by the Public Advocate.
14 The Public Advocate has the same right to request da-
15 ta as an intervenor in a proceeding before the com-
16 mission, and, in addition, may petition the commis-
17 sion for good cause shown to be allowed such other
18 information as may be necessary to carry out the pur-
19 poses of this chapter.

20 §1709. Conflicts of interest

21 In addition to the limitations of Title 5, sec-
22 tion 18, the Public Advocate or any employee of the
23 Public Advocate may not have any official or profes-
24 sional connection or relation with, or hold any stock
25 or securities in any public utility operating within
26 this State; render any professional service against
27 any such public utility; or be a member of a firm
28 which renders any such service.

29 §1710. Restriction

30 Unless otherwise provided by law, the duties of
31 the Public Advocate are restricted to those relating
32 to matters within the jurisdiction of the commission.
33 In the event that the selection of the commission is
34 required by law to be accomplished by any other meth-
35 od than appointment by the Governor, with confirma-
36 tion by the Legislature, this chapter is repealed,
37 and the staff and any balance in the budget of the
38 Public Advocate shall be transferred to the commis-
39 sion for the remainder of the fiscal year, effective
40 on the date when a quorum of the commission selected
41 by the other method is qualified for office.

1 nicipality, neither the cooperative nor the other
2 utility may bring electrical service to a new loca-
3 tion except as provided in this section.

4 1. Notice. The cooperative or utility must noti-
5 fy the other cooperative or utility and the commis-
6 sion, in writing, of the request by the party for
7 electrical service, where bringing the service re-
8 quires the extension of existing distribution facili-
9 ties.

10 2. Filing objections. If, after notice, the
11 other cooperative or utility opposes the bringing of
12 electrical service to the new service location, with-
13 in 7 days of receipt of the notice of proposed ser-
14 vice, it shall:

15 A. File objections to the bringing of the elec-
16 trical service with the commission; and

17 B. Send a copy of its objections to the utility
18 or cooperative and to the party requesting elec-
19 trical service.

20 3. Decision. If objections are filed, the com-
21 mission shall immediately set a hearing date, and
22 shall determine whether the cooperative or the other
23 utility shall serve. If, after notice, either the co-
24 operative or the utility fails to file its objections
25 pursuant to subsection 2, it will be conclusively
26 presumed that the cooperative or the utility, as the
27 case may be, has consented to the furnishing of the
28 service.

29 4. Temporary service pending a decision. Pend-
30 ing the final determination of the right to serve,
31 the commission may order temporary service brought to
32 the prospective new service location without preju-
33 dice to the rights of any party.

34 §2104. Commission approval required for gas compa-
35 nies to furnish service

36 No gas utility organized under Title 13-A may
37 furnish its service in or to any municipality within
38 the State, without the approval of the commission,
39 even if no other gas utility is furnishing or is au-

1 thorized to furnish a similar service. A gas utility
2 providing service on January 1, 1982, shall have un-
3 til January 1, 1983, to obtain the commission's ap-
4 proval to continue to furnish service.

5 §2105. Approval only after hearing

6 1. Approval only after hearing. Except as pro-
7 vided in subsection 2, no approval required by sec-
8 tion 2102, 2103 or 2104 and no license, permit or
9 franchise may be granted to any person to operate,
10 manage or control a public utility named in section
11 2101 in a municipality where there is in operation a
12 public utility engaged in similar service or autho-
13 riized to provide similar service, until the commis-
14 sion has made a declaration, after public hearing of
15 all parties interested, that public convenience and
16 necessity require a 2nd public utility.

17 2. Declaration without hearing. The commission,
18 may make a declaration without public hearing, if it
19 appears that the utility serving or authorized to
20 serve, the utility seeking approval from the commis-
21 sion to provide service and any customer or customers
22 to receive service agree that the utility seeking ap-
23 proval to serve should provide service.

24 §2106. Transfer of approval for a radio common car-
25 rier

26 Consent granted by the commission under section
27 2102, or under section 2105, held by a radio common
28 carrier may be assigned and transferred with the ap-
29 proval of the commission by holder of the approval.
30 The commission may impose reasonable conditions upon
31 granting its approval.

32 §2107. Approval only to Maine corporations

33 No approval required in section 2102, 2103 or
34 2104 to operate, manage or control a public utility
35 may be granted after October 1, 1975, to a corpora-
36 tion unless it is duly organized under the laws of
37 this State or authorized by those laws to do business
38 in this State.

39 §2108. Corporations may hold real estate

1 Corporations organized under sections 2101 and
2 2109 may purchase, hold and convey real estate and
3 personal property that are necessary for the purposes
4 for which they are created.

5 §2109. Organization of electric corporations in ar-
6 reas not adequately served

7 1. Persons not receiving service at reasonable
8 rates may form a corporation. Whenever any electric
9 utility does not supply reasonable adequate electric
10 service in a portion of the territory in which it is
11 authorized to furnish service, 3 or more persons not
12 receiving and unable to receive service in the terri-
13 tory, at reasonable rates, may themselves form a pub-
14 lic utility corporation for the transmission, use and
15 sale of electricity in the portion of the territory
16 as may be designated by the commission.

17 2. Service to the newly organized corporation.
18 The electric utility authorized to furnish service
19 throughout the territory shall furnish the newly or-
20 ganized corporation with electric current sufficient
21 for their needs, at reasonable rates to be prescribed
22 by the commission. The current shall be furnished
23 from the transmission lines of the electric utility
24 most conveniently located for the purposes of the new
25 corporation.

26 3. Articles of incorporation; methods of organi-
27 zation; fees. The articles of incorporation of the
28 new corporation shall be in the form provided in Ti-
29 tle 13-A, chapter 4. The methods of organization of
30 the corporation shall be in harmony with the require-
31 ments of chapters 21 to 27 and Title 13-A, except
32 that the fees to be paid to the State and the county
33 in which the certificate is recorded shall not exceed
34 \$10; \$2 to be paid to the register of deeds of the
35 county for recording the certificate; \$3 to be paid
36 to the Attorney General for approving the certificate
37 of organization; and \$5 to be paid to the Treasurer
38 of State for the use of the State when the certifi-
39 cate is filed with the Secretary of State.

40 §2110. Extension of service

1 Every corporation organized under the general
2 laws of the State and owning, controlling, operating
3 or managing any pipeline within or through this State
4 for the transportation as a common carrier for hire
5 of oil, gas, gasoline, petroleum or any other liquids
6 or gases may lay its pipelines and construct and
7 maintain them in, along and under the roads and
8 streets in any municipality, subject to the condi-
9 tions and under the restrictions provided in this
10 chapter and chapter 25.

11 §2303. Water utilities may lay pipelines

12 Every water utility organized under the general
13 or special laws of this State and authorized to do
14 public utility business in this State may lay its
15 pipe in and under the roads and streets in any munic-
16 ipality in which it is authorized to supply water or
17 through which it is necessary or convenient to lay
18 the pipe to supply water from its source of supply to
19 enable it to provide its service, subject to the condi-
20 tions and under the restrictions provided in this
21 chapter and chapter 25.

22 The installation and maintenance of a water util-
23 ity plant by a utility in accordance with the loca-
24 tion permit constitutes compliance by the utility
25 with the requirements of section 2514.

26 A water utility shall comply with sections 2503,
27 2505, 2506 and 2512.

28 §2304. Gas utilities may lay pipelines

29 Every gas utility organized under section 2101
30 for the purposes named in that section may lay its
31 pipes in, along and under the roads and streets in
32 any municipality in which it is authorized to supply
33 gas, subject to the conditions and restrictions pro-
34 vided in this chapter and chapter 25.

35 This section does not apply to state and
36 state-aid highways maintained by the State.

37 §2305. Electric utilities may construct lines

1 Every electric utility may construct and maintain
2 its lines in, upon, along, over, across and under the
3 roads and streets in any municipality in which it is
4 authorized to supply electricity or both, subject to
5 the conditions and restrictions provided in this
6 chapter and chapter 25.

7 No person except an electric utility may con-
8 struct and maintain its lines with poles or other
9 structures carrying electricity in, upon, along or
10 under the roads, streets and public ways maintained
11 by any municipality unless, in addition to meeting
12 the requirements of section 2503, the applicable li-
13 icensing authority finds that:

14 1. Compliance; National Electric Safety Code.
15 Construction and maintenance of the line will comply
16 with all applicable provisions of the National Elec-
17 tric Safety Code and the standard requirements of the
18 utility from whom the owner proposes to take service;

19 2. Posting surety bonds. The applicant has
20 posted with the licensing authority a surety bond in
21 an amount sufficient to:

22 A. Protect the public from claims, demands and
23 actions arising out of improper construction or
24 maintenance of the line and unsafe conditions on
25 the line; and

26 B. Ensure that the owner of the line, and his
27 successors and assigns, will continue to properly
28 maintain and repair the line and protect the pub-
29 lic from harm; and

30 3. Duplication of electric facilities. The com-
31 mission has found that the line will not constitute
32 a duplication of electric facilities.

33 This section does not apply to state and state
34 aid highways maintained by the State.

35 §2306. No taking property of another corporation
36 without consent

37 No corporation organized under sections 2101 and
38 2109 may take, appropriate or use the location,

1 pipes, lines, land or other property of any other
2 person doing or authorized to do a similar business,
3 without consent of the other person, except by Pri-
4 vate and Special Act of the Legislature.

5 §2306. Permit required for person laying pipes and
6 wires

7 No corporation organized under sections 2101 and
8 2109 may take, appropriate or use the location,
9 pipes, lines, land or other property of any other
10 person doing or authorized to do a similar business,
11 without consent of the other person, except by Pri-
12 vate and Special Act of the Legislature.

13 §2307. Public utilities may lay wires, pipes and ca-
14 bles under streets subject to municipal per-
15 mit

16 Public utilities may, in any municipality, place
17 their pipes and appurtenances, wires and cables and
18 all conduits and other structures for conducting and
19 maintaining the pipes, wires and cables under the
20 surface of those streets and highways in which the
21 utilities are authorized to obtain locations for
22 their pipes and appurtenances, poles and wires, sub-
23 ject to the written permit of the licensing authori-
24 ty, as defined in section 2502 and subject to such
25 rules as to location and construction as the municip-
26 al officers or the Department of Transportation may
27 designate in their permit. A permit must be obtained
28 under sections 2501 to 2508. Permits to open streets
29 and highways for the purpose of relaying or repairing
30 the pipes and appurtenances, wires, cables, conduits
31 and other structures may be granted without notice.

32 §2308. Protection of utility facilities upon discon-
33 tinuance of public ways

34 In proceedings for the discontinuance of public
35 ways, public ways may be discontinued in whole or in
36 part. The discontinuance of a town way shall be pur-
37 suant to Title 23, section 3026. Unless an order
38 discontinuing a public way specifically provides oth-
39 erwise, the public easement provided for in Title 23,
40 section 3026, includes an easement for public utility
41 facilities. A utility may continue to maintain, re-

1 pair and replace its installations within the limits
2 of the way or may construct and maintain new facili-
3 ties within the limits of the discontinued way, if it
4 is used for travel by motor vehicles, in order to
5 provide utility service, upon compliance with the
6 provisions of sections 2503, 2505, 2506, 2507 and
7 2508.

8 §2309. Existing locations valid

9 The location of all pipes, hydrants, wires and
10 cables and all conduits and other structures for the
11 conducting and maintaining of those pipes, hydrants,
12 wires and cables over, under the surface of and in
13 those streets and highways in which those utilities
14 authorized to obtain locations for their pipes,
15 wires, hydrants and cables which have been located
16 over, under the surface of and in the streets and
17 highways prior to January 1, 1984, and which will be
18 so located in accordance with this Title are declared
19 legal and the same shall be legal structures in those
20 streets and highways until their location has changed
21 in any manner required or authorized by law.

22 §2310. Trespass on a utility pole

23 1. Trespass. A person commits trespass on a
24 utility pole if, without the prior consent of the
25 utility owning the pole, he places any object or
26 makes any attachment on any utility pole, whether or
27 not it is within the limits of a public way.

28 2. Violation; forfeiture. Trespass on a utility
29 pole is a civil violation for which a forfeiture of
30 not less than \$25 nor more than \$100 shall be ad-
31 judged.

32 §2311. Lines along railroads; application to Public
33 Utilities Commission where disagreement

34 A person maintaining or operating a telephone or
35 electric line may construct a line upon or along any
36 railroad with the written permit of the person oper-
37 ating the railroad. If the person seeking to con-
38 struct the line cannot agree with the parties operat-
39 ing the railroad, as to constructing lines along the
40 railroad or as to the manner in which lines may be

1 constructed upon, along or across the railroad, ei-
2 ther party may apply to the commission, who, after
3 notice to those interested, shall hear and determine
4 the matter and make their award which shall be bind-
5 ing upon the parties. The person seeking to construct
6 lines on the railroad shall pay the expenses of the
7 hearing, except that if the commission finds that
8 parties operating the railroad have unreasonably re-
9 fused their consent, those parties shall pay the ex-
10 periences.

11 CHAPTER 25

12 REGULATION OF FACILITIES IN THE PUBLIC WAY

13 §2501. Applicability

14 1. Applicability of chapter 25. All persons en-
15 gaged in the business of the transmission of communi-
16 cations or electricity are subject to the duties, re-
17 strictions and liabilities prescribed in this chap-
18 ter.

19 2. Applicability of section 2503. Except as
20 otherwise provided, no person may construct facili-
21 ties upon and along highways and public roads, with-
22 out applying for and obtaining a written location
23 permit from the applicable licensing authority under
24 section 2503. Included within this requirement is
25 every person operating telegraphs or telephones or
26 transmitting television signals by wire; every person
27 that owns, controls, operates or manages any pipeline
28 within or through this State for the transportation
29 as a common carrier for hire of oil, gas, gasoline,
30 petroleum or any other liquids or gases; every water
31 utility and every person making, generating, selling,
32 distributing and supplying gas or electricity; every
33 water utility or sewer company, district or system
34 privately or municipally owned; every municipally
35 owned or operated fire alarm, police alarm or street
36 lighting circuit or system; every cooperative or
37 organized under chapter 35; and any other person en-
38 gaged in telecommunications or the transmission of
39 heat, or electricity.

40 §2502. Definitions

1 As used in this chapter, unless the context oth-
2 erwise indicates, the following terms have the fol-
3 lowing meanings.

4 1. Applicable licensing authority or licensing
5 authority. "Applicable licensing authority" or "li-
6 censing authority" means:

7 A. The Department of Transportation, when the
8 public way is a state, state aid or federal aid
9 highway, except for state or state aid highways
10 in the compact areas of municipalities having a
11 population over 5,000;

12 B. The municipal officers or their designees,
13 when the public way is a city street or town way
14 or a state or state aid highway in the compact
15 areas of municipalities having a population over
16 5,000; and

17 C. The county commissioners, for all other pub-
18 lic ways.

19 2. Compact area. "Compact area" means an area
20 within a municipality having a population over 5,000
21 where structures on land adjacent to the highway are
22 nearer than 200 feet apart for a distance of 1/4 of a
23 mile.

24 3. Facilities. "Facilities" means:

25 A. If under the surface of the public way,
26 pipes, cables and conduits; and

27 B. If on or over the surface of the public way,
28 poles, guys, hydrants, cables, wires and any
29 plant or equipment located on or over the surface
30 of the public way.

31 4. Federal-aid highway system. "Federal-aid
32 highway system" consists of highways selected or des-
33 ignated by the United States Department of Transpor-
34 tation and approved by the United States Secretary,
35 Department of Transportation, in accordance with
36 United States Code, Title 23, Section 103.

37 §2503. Procedure for application for permit

1 1. Application. The application must be in
2 writing and describe the facilities, the requested
3 location, the minimum depth if an underground facili-
4 ty, the minimum height of any attached wires or ca-
5 bles, if above-ground facilities, all in the manner
6 and form which the licensing authority requires.

7 2. Notice. The applicant may give public notice
8 of the application by publishing its description of
9 the proposed facility once in a newspaper circulated
10 in the municipality or municipalities encompassing
11 the limits of the proposed location. The applicant
12 shall send a copy of any application filed with the
13 Department of Transportation to the municipal clerk
14 of each municipality in which the facilities are lo-
15 cated, or to the clerk of the county commissioners in
16 the case of facilities within an unorganized town-
17 ship, except that the applicant may, without publica-
18 tion of its application, place its facility described
19 in its application on receipt of a permit from the
20 licensing authority as may be otherwise provided.

21 3. Objection. Objection to the application may
22 be filed according to this subsection.

23 A. Any person owning property which abuts the
24 applicable public way may file a written objec-
25 tion with the appropriate licensing authority
26 within 14 days after publication by the appli-
27 cant. The written objection shall state the rea-
28 son for the objection. The written objection
29 must be served by delivery in hand or by regis-
30 tered or certified mail.

31 B. If the applicant proceeds without publication
32 of the application, any person owning property
33 which abuts the applicable public way may file a
34 written objection with the appropriate licensing
35 authority within 90 days after installation of
36 the facility described in the application. The
37 written objection shall state the cause for the
38 objection. The written objection must be served
39 by delivery in hand or by registered or certified
40 mail.

41 4. Hearing. The licensing authority, on receipt
42 of a written objection, shall fix a time and place

1 for hearing and shall give 7-days' notice of hearing
2 by registered or certified mail to the applicant and
3 any person filing law objections. The licensing au-
4 thority's adjudication on the validity of the appli-
5 cant's notice or procedures is final and conclusive.
6 If the licensing authority finds its notice of hear-
7 ing, the applicant's notice of application or the ap-
8 plicant's procedures defective, it may fix a new time
9 and place for hearing, shall order appropriate notice
10 to be published or defect corrected and shall adjourn
11 the hearing to meet at the time and place fixed in
12 its order.

13 5. Permits. The location permit shall specify
14 the approximate location of the facility and the min-
15 imum depth of any pipes or conduits below, or the
16 minimum height of any wires or cables above, the
17 earth's surface. The licensing authority may specify
18 in the permit other requirements determined necessary
19 in the best interests of the public safety and use of
20 the right-of-way so as not to obstruct use for public
21 travel.

22 6. Liability. Installation and maintenance of
23 the facility and its appurtenances in accordance with
24 the terms of the permit and the provisions of chapter
25 23 and this chapter relieve the applicant of liability
26 to others by reason of location of its facility
27 and appurtenances and no person has any right of re-
28 covery under Title 23, section 3655, because of the
29 location, installation and maintenance and the appli-
30 cant will be liable only for acts of negligence in
31 the installation or maintenance of the facility and
32 its appurtenances.

33 7. Alteration. After the facility is installed,
34 the licensing authority may alter or amend the permit
35 if the installation is determined to impair the high-
36 way improvement or interfere with the free and safe
37 flow of traffic. The procedure for an applicant, or
38 for the licensing authority under this subsection, to
39 alter or amend the terms of a location permit after
40 construction or installation of the facility is the
41 same as for any original application for a permit.

42 8 Relocation. No location permit or alteration
43 of any original location permit is required for relo-

1 cation of the facility when the relocation is because
2 of the construction, reconstruction or relocation of
3 the way, except when required by federal law applica-
4 ble to highways that have been designated for federal
5 aid. The licensing authority, except in such cases
6 of federal aid construction, shall issue a new loca-
7 tion permit to evidence the legality of the reloca-
8 tion.

9 9. Replacement and additions. A new location
10 permit is not required for the replacement of an ex-
11 isting facility or appurtenance or for additions to
12 the facility and appurtenances made within the terms
13 of the existing permit.

14 10. Service lines and improvements. An addi-
15 tional location permit is not required for any person
16 to attach or install wires, cables or associated
17 equipment, service lines or extensions to its facili-
18 ties for which a permit has been issued or which are
19 declared to be legal structures under this section,
20 provided that these attachments or installations con-
21 form to the conditions of the permit. These attach-
22 ments or installations are deemed legal structures.

23 11. Ordered and existing locations. No location
24 permit is required for any facilities constructed in
25 accordance with an order of the municipality issued
26 in writing and signed by the municipal officers, or
27 by county commissioners in the case of unorganized
28 townships, and agreed to by the owner of the facili-
29 ties. When installed in accordance with the order,
30 the facilities are deemed legal structures.

31 No location permit is required for any facilities
32 which existed within the limits of a private way be-
33 fore the legal acceptance of the private way as a
34 public way and the facilities are deemed legal struc-
35 tures.

36 12. Records. The licensing authority shall
37 maintain a record of all location permits issued and
38 presently valid.

39 13. Appeals. Appeals from decisions shall be
40 conducted in the following manner.

1 A. The licensing authority shall give notice of
2 their decision to the applicant and to any person
3 filing objections as soon as practicable.

4 B. Any person aggrieved by a decision of the De-
5 partment of Transportation or the county commis-
6 sioners may appeal to the Superior Court in the
7 manner provided in Title 23, sections 2063 to
8 2066, relating to highways.

9 C. In the case of municipalities, the decision
10 of the municipal officers or their designees
11 shall be filed with the clerk of the municipality
12 within one week from the date of the decision.
13 Within 2 weeks from the filing, any person ag-
14 grieved may appeal from their decision to the
15 county commissioners by filing notice of appeal
16 with a copy of the original petition and adjudi-
17 cation with the clerk of the municipality and
18 with the clerk of the board of county commis-
19 sioners.

20 (1) Once a person aggrieved files a notice
21 of appeal of a revision made by a municipal-
22 ity, the municipal officers may review a de-
23 cision previously made by them to reconsider
24 the issues involved or they may act as a re-
25 view board to evaluate a decision made by
26 their designees. The municipal officers may
27 alter decisions during the 2-week appeal pe-
28 riod, but the person aggrieved retains the
29 initiative to pursue the appeal if not sat-
30 isfied with the altered decision.

31 (2) The county commissioners shall immedi-
32 ately entertain the appeal and give 2 weeks'
33 notice of the time and place of hearing,
34 which must be held within 30 days from the
35 time the appeal is filed. The hearing may
36 be adjourned from time to time, not exceed-
37 ing 30 days in all, and the commissioners
38 shall file their decision within 30 days
39 from the time the hearing is closed and
40 transmit a copy of it to the applicant, any
41 other parties to the appeal and to the clerk
42 of the municipality, who shall immediately
43 record it.

1 14. Opening permits. Notwithstanding section
2 2303, 2502 or 2503, the applicant must procure open-
3 ing permits before making any underground installa-
4 tion as provided in chapter 23 and Title 23, sections
5 54 and 3351 to 3359.

6 15. Agreement. The granting of a permit by the
7 Department of Transportation, municipal officers or
8 their designees or county commissioners, under this
9 section, constitutes an agreement between the utility
10 and the State or political subdivision of the State.

11 16. Rules. The Department of Transportation may
12 adopt reasonable rules to administer this section.
13 These rules may include procedures for application
14 and issue of permits and the conduct of hearings.

15 17. Relocation in certain municipalities. The
16 Department of Transportation has the exclusive
17 rights, powers and duties of municipal officers under
18 section 2517 when state, state aid and federal aid
19 highways are affected, except for state and state aid
20 highways in the compact areas of municipalities hav-
21 ing a population over 5,000.

22 18. Rights of applicable licensing authority.
23 Nothing in Title 30, section 2151, subsection 1, par-
24 agraph H, impairs the rights of the applicable li-
25 ensing authority.

26 19. Legal effect. Existing facilities and ap-
27 purtenances maintained and now in use within a public
28 way, together with any facilities and appurtenances
29 installed and maintained in accordance with this sec-
30 tion are deemed legal structures and the party main-
31 taining them is liable for maintaining them only for
32 acts of negligence in the erection or maintenance of
33 them. The failure of the licensing authority to
34 grant or deny a permit for which application is made
35 within 60 days of filing constitutes the issuance of
36 a location permit.

37 20. Exclusive method. Compliance with this sec-
38 tion by any person is the exclusive method of obtain-
39 ing the rights and privileges conferred in this sec-
40 tion and no person or cooperative may be required,
41 with respect to the location of its facilities, to

1 comply with or be subject to any other law, includ-
2 ing, but not limited to, Title 30, chapter 240-A.

3 §2504. Use of facilities alone creates no legal
4 right for continuance

5 No enjoyment by any person for any length of time
6 of the privilege of having or maintaining its facili-
7 ties in the public way, may give a legal right to the
8 continued use of the enjoyment or raise any presump-
9 tion of a grant of a legal right.

10 §2505. Damages; recovery of award and costs

11 An owner of land near or adjoining a highway or
12 road along which lines are constructed, erected or
13 altered in location or construction by any person may
14 recover damages as follows.

15 1. Assessment of damages. If the owner's prop-
16 erty is in any way injuriously affected or lessened
17 in value, whether by occupation of the ground, or air
18 or otherwise by the construction, alteration or loca-
19 tion of a line, whether the owner is the owner of the
20 fee in the way or not, he may within 6 months after
21 the construction, alteration or location apply to the
22 municipal officers to assess and appraise the damage.

23 2. Duties of municipal officers. Before enter-
24 ing upon the service, the municipal officers shall
25 each be sworn to perform faithfully and impartially
26 the following duties.

27 A. They shall on view make a just appraisalment
28 in writing of the loss or damage, including the
29 elements of damage as provided for land taken for
30 highway purposes under Title 23, section 154,
31 subsections 2, 3 and 4, if any, to the applicant.

32 B. They shall sign duplicates of the written ap-
33 praisalment.

34 C. They shall on demand deliver one copy to the
35 applicant and the other to the person construct-
36 ing the line or his agent.

1 3. Award and costs. If damages are assessed and
2 awarded to the land owner the person constructing the
3 line shall pay them, with the costs of the appraisers.
4 If the appraisers find that the applicant has
5 suffered no damage, the landowner shall pay the costs
6 of the appraisers.

7 4. Failure to pay award and costs. If the award
8 and costs are not paid within 30 days after a written
9 demand for them is served upon the person or any of
10 his agents, the owner of land may bring a civil action
11 to recover the award and costs in the Superior
12 Court for the county in which the land is located.
13 Full costs shall be allowed.

14 5. Municipal officers fees. Before entering
15 upon the discharge of their duties under this section,
16 the municipal officers may require the applicant
17 to advance them their fees for one day and from
18 day to day after they have entered upon the discharge
19 of their duties.

20 §2506. Appeals; costs

21 Either party aggrieved by the assessment of dam-
22 ages may, within 20 days after the award, appeal to
23 the Superior Court as follows.

24 1. Complaint and notice. When the appeal is
25 taken the appellant shall:

26 A. Include in the complaint a statement setting
27 forth substantially the facts of the case; and

28 B. Give written notice of the appeal with a copy
29 of the complaint to the opposite party.

30 2. Decision. After entry, the matter shall be
31 determined by a jury, or by the court by agreement of
32 parties, in the same manner as other civil actions.

33 3. Costs. If the person constructing the line
34 appeals and the award is not decreased, the person
35 constructing the line shall pay the costs. If the
36 applicant appeals and the award is not increased, the
37 applicant shall pay the costs.

1 §2507. Permit required for person laying pipes and
2 wires

3 No person may lay its pipes or place its wires
4 under the surface of any road or street, or dig up or
5 open the ground in a road or street, until it has ob-
6 tained a written permit in accordance with section
7 2503 from the applicable licensing authority. The
8 permit must be signed by the municipal officers or
9 the Department of Transportation and shall specify
10 the roads and streets and the location in the roads
11 or streets where the pipes or wires will be laid.
12 The permit may not affect the right of any party to
13 recover damages for any injury to persons or property
14 by the doings of any person.

15 §2508. Permits to specify time and place of opening

16 Every permit for digging up and opening streets,
17 roads and highways granted under this chapter must
18 specify:

19 1. Time. The time during which the streets,
20 roads or highways may remain open;

21 2. Place. The place where the opening may be
22 made; and

23 3. Surface. The number of square yards of sur-
24 face which may be disturbed.

25 §2509. Penalties

26 Any person who digs or makes an excavation in the
27 paved portion of a street, road or highway without
28 first obtaining a permit as required by section 2507,
29 or who has obtained a permit and disturbs a greater
30 area of surface than the permit specifies, commits a
31 civil violation for which a forfeiture not to exceed
32 \$25 may be adjudged for each offense.

33 §2510. Fees for excavation permits

34 The following provisions apply to fees for exca-
35 vation permits.

1 1. Fees set by municipal officers. The municipal
2 officers having the duty to maintain streets may
3 establish a schedule of fees for granting permits for
4 making an excavation within the paved portion of a
5 street or highway. The schedule of fees may not ex-
6 ceed the reasonable cost of replacing the excavated
7 pavement.

8 2. Payment of fee. The applicant shall pay to
9 the treasurer of the municipality granting the permit
10 the fees established by the municipal officers. The
11 fees shall be regularly accounted for and shall consti-
12 tute a special fund for the replacement of exca-
13 vated pavement.

14 §2511. Filling and protecting openings

15 1. Filling openings. A person opening a street,
16 road or highway pursuant to a permit granted under
17 sections 2501 to 2509 shall completely fill up the
18 opening. The filling shall be puddled or rammed as
19 the nature of the soil requires and shall be com-
20 pleted within the time designated in the permit.

21 2. Fines. A person failing to comply with this
22 section commits a civil violation for which a forfei-
23 ture not to exceed \$50 may be adjudged for each of-
24 fense.

25 3. Protecting pavement. A person shall protect
26 the paving on either side of the opening with sheet
27 piling or other means to prevent the escape of sand
28 from underneath it.

29 4. Failure to protect pavement. In determining
30 the number of square yards of paving disturbed, the
31 municipal officers or their appointees shall include
32 the area of paving adjoining the trench actually
33 opened which in their opinion is required to be taken
34 up and relaid because the pavement was not properly
35 protected.

36 §2512. Improper work redone; penalty

37 If a person improperly repairs or fills an open-
38 ing, the municipal officers or their appointees may
39 have the work redone properly and shall keep an ac-
40 count of the cost of redoing this work.

1 A person in default shall pay a penalty equal to
2 the cost of redoing the work plus 50%. After the
3 work is completed and the cost of the work is deter-
4 mined, the municipality may not issue a new permit to
5 a person in default until it has received, in addi-
6 tion to the fees provided in section 2510, the amount
7 of the penalty provided in this section.

8 §2513. Relaying of pavement

9 When an excavation is made in a paved street,
10 road or highway and the opening is filled as required
11 by sections 2511 and 2512, the municipality or vil-
12 lage corporation in which the opening was located
13 shall relay the pavement. The cost of relaying the
14 pavement including materials, labor and inspection
15 shall be paid out of any funds in the special fund
16 for this purpose.

17 §2514. Travel and trees not to be interfered with

18 1. Public travel. Every person in constructing
19 and maintaining its poles, lines, fixtures and appli-
20 ances in, along, over, under and across the roads and
21 streets in which it may obtain locations and across
22 or under the waters upon and along its route or
23 routes may not obstruct the use of the roads and
24 streets for public travel or interrupt the navigation
25 of the waters.

26 2. Trees. No person, in connection with any of
27 the activities specified in subsection 1 may injure,
28 cut down or destroy any fruit tree or any tree or
29 shrub standing and growing for the purposes of shade
30 or ornament.

31 3. Bridges. This chapter and chapter 25 may not
32 be construed to authorize the construction of a
33 bridge across any of the waters of the State.

34 §2515. Liability; damages

35 Every corporation organized under sections 2101
36 and 2109 is liable in all cases to repay a municipal-
37 ity all sums of money that the municipality is
38 obliged to pay on a judgment recovered against it for
39 damages caused by an obstruction, digging up or dis-

1 placement of a way or street by the corporation, to-
2 gether with attorneys fees and expenses necessarily
3 incurred in defending the municipality in the ac-
4 tions. The corporation shall:

5 1. Notice. Be notified of the commencement of
6 any civil actions for damage; and

7 2. Right to defend. Have the right to defend
8 the action at its own expense.

9 §2516. Permits for moving buildings cutting wires,
10 removing poles; expenses; damages

11 The following provisions apply to permits for
12 moving buildings, cutting wires and removing poles.

13 1. Permit required to cut wires and remove
14 poles. No person may cut, disconnect or remove the
15 wires or poles of a telegraph, telephone or electric
16 utility in order to move a building, alter, repair or
17 improve a street, bridge or way, or for any other
18 purpose unless that person:

19 A. Applies in writing to the municipal officers
20 of the municipalities in which changes or altera-
21 tions of wires or poles are desired, or in which
22 a building is to be moved; and

23 B. Receives a written permit from the officers.

24 2. Hearings and notice. Upon receipt of the ap-
25 plication, the municipal officers shall:

26 A. Fix a time and place for a hearing; and

27 B. Give reasonable notice of the hearing, in-
28 cluding actual notice to any utility whose ser-
29 vice may be interrupted or property interfered
30 with.

31 3. Granting of permit and apportionment of ex-
32 penditures. Upon hearing, the municipal officers may
33 grant a permit on such terms and conditions and make
34 such apportionment of expenses as they determine
35 best.

1 4. Permit for removal of wires or poles used by
2 a utility for transmitting train orders or operating
3 block signals. No wires or poles owned or used under
4 contract by a utility for transmitting train orders
5 or operating block signals may be cut, disconnected
6 or removed unless:

7 A. The utility and the person desiring to cut,
8 disconnect or remove the wires or poles first
9 agree to the terms of the cutting, disconnection
10 or removal; or

11 B. Upon application for a permit to the commis-
12 sion, actual notice to the utility and a hearing,
13 the commission grants a permit authorizing the
14 cutting, disconnection or removal. At the hear-
15 ing, the commission may grant a permit on the
16 terms and conditions and apportion the expense
17 arising under the permit as it determines best.

18 5. Offense. Whoever disconnects or removes
19 wires or poles or moves any building on or over a
20 public way without first obtaining the permit or vio-
21 lates any of the conditions of the permit is guilty
22 of unauthorized removal of poles.

23 6. Penalty. Unauthorized removal of poles is a
24 Class D crime.

25 7. Damages. If a way or bridge is damaged by
26 the moving of a building, the municipal officers
27 shall determine what proportion of the damage the
28 owner of the building shall pay, and this amount may
29 be recovered by the municipality in a civil action
30 against the owner of the building.

31 §2517. Revocation of location; hearings

32 1. Revocation of pole location by municipal of-
33 icers. When the municipal officers of a municipali-
34 ty having a population of more than 40,000 inhabi-
35 tants, determine, after notice and hearing, that pub-
36 lic safety and the public welfare require the revoca-
37 tion of a location for poles for conveying electrici-
38 ty or for the transmission of telephone or telegraph
39 messages already erected in a public street or way
40 other than a state or a state-aid highway outside the

1 compact area and other than a federal-aid highway,
2 they may revoke the location and order the poles re-
3 moved. The person that owns the poles shall remove
4 them within a reasonable time. Other suitable loca-
5 tions or the right to use other poles jointly shall
6 be granted by the municipal officers to the person.

7 2. Notice and hearings. Before revoking a loca-
8 tion or ordering the removal of any poles or wires,
9 the municipal officers shall give public notice of
10 the hearing as follows.

11 A. All persons interested shall be notified by
12 publication in a newspaper circulated in the ar-
13 ea, the last publication to be 14 days before the
14 hearing.

15 B. Personal notice shall be given to the owners
16 of the poles and wires at least 14 days before
17 the hearing.

18 §2518. Joint use of poles

19 1. Municipality may order joint use of poles.
20 Subject to the provisions of sections 711 and 8302,
21 the municipal officers may, after notice and hearing,
22 order any wires used for conveying electric current
23 or the transmission of telephone or telegraph mes-
24 sages and attached to poles located in a public
25 street or way of the municipality to be removed and
26 attached to other poles, however owned and con-
27 trolled, legally located in the public streets or
28 ways, as the municipal officers may designate, pro-
29 vided in their judgment the change is practicable and
30 can be made without unreasonably interfering with the
31 business of any person. The municipal officers may
32 establish such regulations as they determine neces-
33 sary for the joint use of the poles.

34 2. Cost of maintaining joint poles. If the par-
35 ties using the joint poles cannot agree as to the
36 proportionate share each will bear of the original
37 cost and of the expense of maintaining the poles, or
38 a proper annual rental for the use of the poles, the
39 following provisions apply.

1 A. The municipal officers may, after hearing the
2 parties, determine the proportionate part of the
3 expense each party will justly bear or a proper
4 rental.

5 B. The municipal officers shall give personal
6 notice to each party 14 days before the hearing.

7 C. The owner of the poles may recover, in a civ-
8 il action, from each party using the poles, his
9 share of the cost and expense or the rental as
10 determined by the municipal officers.

11 3. Orders and decisions of municipal officers.
12 All orders and decisions of the municipal officers
13 under this section shall be in writing and a record
14 of them shall be made by the municipal clerk. The
15 service of a copy of the order or decision, attested
16 by the clerk, upon the parties affected by it is suf-
17 ficient notice to the party affected to require com-
18 pliance.

19 4. Exception: Long distance lines. This sec-
20 tion does not apply to long distance telephone wires
21 or lines of poles used to support them. For the pur-
22 pose of this section a long distance telephone wire
23 is a telephone wire that extends at least 20 miles in
24 a direct line from a central office.

25 5. Appeals. A party aggrieved by an order or
26 decision of the municipal officers relating to the
27 joint use of poles; or by any regulation established
28 by the municipal officers relating to the joint use
29 of poles; by their decision as to his proportionate
30 share of the original cost; the cost of maintaining
31 the joint poles; or the annual rental for the use of
32 the joint poles, may appeal from the order, decision
33 or regulation at any time, within 10 days after ser-
34 vice of notice of them, to the Superior Court in the
35 county in which the municipality is located.

36 A. When an appeal is taken, the appellant shall:

37 (1) Include in the complaint a statement
38 setting forth substantially the facts of the
39 case, and the orders, decisions or regula-
40 tions of the municipal officers from which

1 he appeals and in what respect he is ag-
2 grieved by them; and

3 (2) Give written notice of the appeal with
4 a copy of the complaint to the opposite par-
5 ty.

6 B. The presiding justice at the first term of
7 the Superior Court shall appoint a committee com-
8 prised of 3 disinterested persons, not residents
9 of the municipality named in the complaint, who
10 shall, within 30 days after the appointment, af-
11 ter due notice and hearing:

12 (1) Affirm the orders or decisions of the
13 municipal officers;

14 (2) Amend or modify the orders or deci-
15 sions; or

16 (3) Make new and further orders, decisions
17 or regulations governing the joint use of
18 poles by any of the parties to the proceed-
19 ings, or in relation to the proportionate
20 share of the expense to be borne by each
21 party using the joint poles, or the just and
22 fair rental for the use of the poles.

23 C. The committee's report shall be filed with
24 the clerk of the Superior Court. Upon being ac-
25 cepted by a Justice of the Superior Court the re-
26 port is final and binding on all parties to the
27 proceedings, except that questions of law arising
28 under the proceedings may be reserved for deci-
29 sion by the Law Court.

30 D. A person affected by an order or decision of
31 the municipal officers, who is not joined in the
32 original complaint, may, on motion to the Superi-
33 or Court, be joined in the complaint at any time
34 before hearing by the committee appointed under
35 this section.

36 §2519. Power and authority conferred are additional

37 The power and authority conferred on municipal
38 officers under sections 2517 and 2518 are in addition

1 to those vested in municipal officers under sections
2 2501 to 2507 and 2512. Nothing in sections 2517 and
3 2518 may be construed as giving to any party the
4 right of appeal from the decisions, specifications,
5 orders or permits, or alterations of the decisions,
6 specifications, orders or permits of the municipal
7 officers under this chapter and chapter 23 except as
8 provided in section 2506.

9 §2520. Affixing wires and structures; consent of
10 building owner required

11 Every person maintaining or operating a telephone
12 or electrical line, or anyone who in any manner af-
13 fixes, causes to be affixed or enters upon the prop-
14 erty of another for the purpose of affixing a struc-
15 ture, fixture, wire or other apparatus to the build-
16 ing of another without the consent of the owner of
17 the property or his lawful agent commits a civil vio-
18 lation for which a forfeiture not to exceed \$100 may
19 be adjudged for each offense.

20 §2521. Fees of municipal officers

21 The municipal officers shall each receive \$2 a
22 day for service performed under this chapter and
23 chapter 23.

24 CHAPTER 27

25 INSPECTION OF METERS

26 §2701. Meters inspected and sealed

27 1. Inspection of meters. No person may furnish
28 for use any gas, water or electric meter in any mu-
29 nicipality in which there is a duly appointed and
30 qualified inspector of meters, unless the inspector
31 has first inspected, approved, marked and sealed the
32 meter.

33 2. Testing accuracy of meters. Every person
34 furnishing gas, water or electric current to consum-
35 ers shall provide and keep upon its premises a proper
36 apparatus to be approved and stamped by the inspector
37 of meters for the municipality for testing and prov-
38 ing the accuracy of all gas, water and electric me-

1 ters by which apparatus every meter furnished to a
2 consumer shall be tested.

3 §2702. Appointment of inspectors

4 The officers of any municipality may annually ap-
5 point an inspector of meters, who shall:

6 1. Term. Serve for one year or until another is
7 qualified in his stead, at a salary determined by the
8 municipal officers; and

9 2. Duties. Have charge of the inspection of all
10 gas, water and electric meters furnished for use in
11 the municipality.

12 §2703. Duties of inspectors

13 The inspector of meters shall, upon written ap-
14 plication as provided in section 2704 by a consumer
15 of gas, water or electricity in the municipality in-
16 spect and ascertain the accuracy of any gas, water or
17 electric meter. When the meter is found or made cor-
18 rect, the inspector shall stamp or mark it with a
19 suitable device. This device shall be recorded in
20 the office of the municipal clerk where the inspector
21 was appointed.

22 §2704. Application for inspection; removal of faulty
23 meter; expense of inspection

24 1. Application for inspection. If a consumer
25 applies in writing to the municipal clerk for the in-
26 spection of his meter, and deposits with the clerk
27 the fee fixed by the municipal officers for this ser-
28 vice, the inspector shall inspect and test the meter.

29 2. Removal of faulty meter. If the meter is
30 found to be incorrect to the extent of 4% if an elec-
31 tric meter or 2% if a gas or water meter, to the
32 prejudice of the consumer, the inspector shall order
33 the public utility furnishing the meter to remove the
34 meter and to install in its place a meter which has
35 been tested, approved, marked and sealed by an in-
36 spector of meters.

1 3. Expense of inspection. Upon finding an in-
2 correct meter, the inspector shall give a certificate
3 to the consumer, showing the result of the test.
4 Upon presenting the certificate to the municipal
5 clerk, the consumer shall receive the fee deposited
6 with the clerk, and the public utility furnishing the
7 meter shall bear the expense of the inspection and
8 shall pay to the treasurer of the municipality the
9 fee required. All fees collected by the municipal
10 clerk or treasurer shall be placed to the credit of
11 the municipality to be used for municipal purposes.

12 §2705. Civil liability for damages to meters

13 Any person who commits any of the acts prohibited
14 in Title 17-A, section 357-A, or who otherwise dam-
15 ages, destroys or tampers with property of a utility
16 as provided in Title 17-A, section 805 or 806, is li-
17 able in a civil action to the utility owning the
18 property affected. This liability shall be for all
19 damages suffered by the utility including:

20 1. Service. The cost of utility services wrong-
21 fully used;

22 2. Repair. The cost of equipment repair or re-
23 placement, as necessary; and

24 3. Other costs. All other reasonable costs to
25 the utility, including attorney fees and costs of un-
26 dertaking and completing the investigation resulting
27 in a determination of liability.

28 CHAPTER 29

29 MAINE PUBLIC UTILITY FINANCING BANK ACT

30 §2901. Title

31 This chapter shall be known and may be cited as
32 the "Maine Public Utility Financing Bank Act."

33 §2902. Findings and declaration of purpose

34 It is declared to be in the public interest and
35 to be the policy of the State:

1 1. To promote markets for borrowing. To foster
2 and promote by all reasonable means the provision of
3 adequate markets and costs for borrowing money by
4 public utilities, for the financing of the provision,
5 manufacture, generation, transmission and distribu-
6 tion of electricity, gas and water and for the fi-
7 naning of energy conservation measures and renewable
8 energy resources designed to reduce the use of elec-
9 tricity and gas;

10 2. Creation of indebtedness. To assist those
11 public utilities in fulfilling their needs for these
12 purposes by creation of indebtedness and to the ex-
13 tent possible to encourage continued investor inter-
14 est in the bonds of those public utilities as sound
15 and preferred securities for investment; and

16 3. Encourage independent undertakings. To en-
17 courage its public utilities to continue independen-
18 tly the undertakings of subsection 1 and to assist
19 them therein by making funds available at reduced in-
20 terest costs for orderly financing of those undertak-
21 ings particularly for those public utilities not oth-
22 erwise able readily to borrow for those purposes at
23 reasonable rates of interest.

24 §2903. Definitions

25 As used in this chapter, unless the context oth-
26 erwise indicates, the following terms have the fol-
27 lowing meanings.

28 1. Bank. "Bank" means the Maine Public Utility
29 Financing Bank created by this chapter.

30 2. Bondholder or holder or noteholder. "Bond-
31 holder," "holder" or "noteholder" or any similar term
32 when used with reference to a bond or note of the
33 bank means any person who is the bearer of any out-
34 standing bond or note of the bank registered to bear-
35 er or not registered, or the registered owner of any
36 outstanding bond or note of the bank which is, at the
37 time, registered to one other than the bearer.

38 3. Bonds. "Bonds" means bonds of the bank is-
39 sued pursuant to this chapter.

1 4. Chapter. "Chapter" means the Maine Public
2 Utility Financing Bank Act.

3 5. Fully marketable form. "Fully marketable
4 form" means a public utility security duly executed
5 and accompanied by an approving legal opinion of
6 counsel of recognized standing in the field of public
7 utility financing, whose opinions have been and are
8 accepted by purchasers of like public utility bonds,
9 provided that the public utility security so executed
10 need not be printed or lithographed nor be in more
11 than one denomination.

12 6. Notes. "Notes" means any notes of the bank
13 issued pursuant to this chapter.

14 7. Public utility. "Public utility" means any
15 electric utility, water utility or gas utility which
16 is subject to the jurisdiction of the commission.

17 8. Public utility bond or utility bond. "Public
18 utility bond" or "utility bond" means a bond, note or
19 evidence of debt issued by a public utility located
20 in or serving any inhabitants of the State and pay-
21 able from rates, charges or other revenues.

22 9. Revenues. "Revenues" means all fees,
23 charges, money, profits, payments of principal of or
24 interest on utility bonds and other investments,
25 gifts, grants, contributions, appropriations and all
26 other income derived or to be derived by the bank un-
27 der this chapter.

28 §2904. Creation of bank and membership

29 1. Creation of bank. There is established a
30 public body corporate and politic to be known as the
31 "Maine Public Utility Financing Bank." The bank is an
32 instrumentality of the State exercising public and
33 essential governmental functions and which has per-
34 petual succession. The exercise by the bank of the
35 powers conferred by this Act is an essential govern-
36 mental function of the State.

37 2. Commissioners. The bank shall be under the
38 direction of a board of 5 commissioners comprised of
39 the commissioners of the Maine Municipal Bond Bank
40 who shall be commissioners ex officio.

1 3. Election and appointment of officers. The
2 board of commissioners shall:

3 A. Elect one of its members as chairman and one
4 as vice-chairman; and

5 B. Appoint an executive director who shall also
6 serve as both secretary and treasurer.

7 4. Powers and quorum. The powers of the bank
8 are vested in the commissioners in office from time
9 to time and 3 commissioners of the bank constitute a
10 quorum at any meeting. Action may be taken and
11 motions and resolutions adopted by the bank at any
12 meeting by the affirmative vote of at least 3 commis-
13 sioners of the bank. No vacancy in the office of
14 commissioner of the bank impairs the right of a quo-
15 rum of the commissioners to exercise all the powers
16 and perform all the duties of the bank.

17 5. Security bonds. Before the issuance of any
18 bonds or notes under this Act, each commissioner of
19 the bank shall execute a surety bond in the penal sum
20 of \$25,000 and the executive director of the bank
21 shall execute a surety bond in the penal sum of
22 \$50,000, each such surety bond to be conditioned upon
23 the faithful performance of the duties of the office
24 of the commissioner or executive director to be exe-
25 cuted by a surety company authorized to transact
26 business in the State as surety and to be approved by
27 the Attorney General and filed in the office of the
28 Secretary of State. At all times after the issuance
29 of any bonds or notes by the bank, each commissioner
30 of the bank and the executive director shall maintain
31 those surety bonds in full force and effect. All
32 costs of those surety bonds shall be borne by the
33 bank.

34 6. Compensation and expenses. Each member of
35 the board of commissioners shall receive \$50 per day
36 for the time actually spent in the discharge or per-
37 formance of his duties as a commissioner in addition
38 to other compensation he may receive as a Commis-
39 sioner of the Maine Municipal Bond Bank.

40 Each commissioner shall be reimbursed for his reason-
41 able expenses incurred in carrying out his duties un-

1 der this chapter. No officer or employee of the
2 State forfeits his office or employment or any bene-
3 fits or emoluments of that office or employment by
4 accepting the office of commissioner of the bank or
5 his services in the bank.

6 7. Executive director. The board of commission-
7 ers shall fix the duties and compensation of the ex-
8 ecutive director. The executive director may:

9 A. Employ, upon approval of the board of commis-
10 sioners, a general counsel, architects, engi-
11 neers, accountants, attorneys, financial advisors
12 or experts and such other or different officers,
13 agents and employees as may be required; and

14 B. Determine their qualifications, terms of of-
15 fice, duties and compensation.

16 8. Subordinate staff. To the maximum extent
17 feasible and consistent with the other obligations of
18 the Maine Municipal Bond Bank, the executive director
19 and all subordinate staff shall be drawn from the
20 staff of the Maine Municipal Bond Bank and the facil-
21 ities of the Maine Municipal Bond Bank shall be used
22 or shared by the bank.

23 §2905. Lending and borrowing powers generally

24 1. Purchase of utility bonds. The bank, for the
25 purposes authorized by this chapter, may lend money
26 to public utilities by purchasing public utility
27 bonds in full marketable form.

28 2. Purpose of loans. Loans to public utilities
29 may be made for any purpose for which those public
30 utilities may issue bonds and also may be made in
31 connection with the financing of facilities, or any
32 interest in facilities, located outside of the State
33 if the facilities or the interest is reasonably re-
34 lated to the provision of public utility services to
35 inhabitants of the State.

36 3. Bank may issue bonds and notes. The bank,
37 for the purposes authorized by this chapter, may au-
38 thorize and issue its bonds and notes payable solely
39 from the revenues or funds available to the bank for

1 those purposes, and to otherwise assist public utili-
2 ties as provided in this chapter.

3 4. Bonds and notes issued not debt of state.
4 Bonds and notes of the bank issued under this chapter
5 are not in any way a debt or liability of the State
6 and do not constitute a loan of the credit of the
7 State or create any debts or liabilities on behalf of
8 the State but all such bonds and notes, unless funded
9 or refunded by bonds or notes of the bank, are pay-
10 able solely from revenues or funds pledged or availa-
11 ble for their payment as authorized in this chapter.
12 Each bond and note shall contain on its face a state-
13 ment to the effect that the bank is obligated to pay
14 the principal or interest and redemption premium, if
15 any, only from the revenues or funds pledged or
16 available for those purposes and that neither the
17 faith and credit nor the taxing power of the State is
18 pledged for the payment of the principal of or the
19 interest on those bonds or notes.

20 5. Expenses. All expenses incurred in carrying
21 out the purposes of this chapter are payable solely
22 from revenues or funds provided or to be provided
23 under this chapter. Nothing in this chapter may be
24 construed to authorize the bank to incur any indebt-
25 edness or liability on behalf of or payable by the
26 State.

27 §2906. Corporate powers

28 1. Powers. The bank, for carrying out the pur-
29 poses of this chapter, has the following powers:

30 A. To sue and be sued;

31 B. To adopt and have an official seal and alter
32 that seal at pleasure;

33 C. To make and enforce bylaws and rules for the
34 conduct of its affairs and business and for use
35 of its services and facilities;

36 D. To maintain an office at such place or places
37 inside the State as it may determine;

38 E. To acquire, hold, use and dispose of its in-
39 come, revenue, funds and money;

1 F. To acquire, rent, lease, hold, use and dis-
2 pose of other personal property for its purposes;

3 G. To borrow money; to issue its negotiable
4 bonds or notes; to provide for and secure the
5 payment of its bonds and notes; to provide for
6 the rights of the holders of them; and to pur-
7 chase, hold and dispose of any of its bonds or
8 notes;

9 H. To fix and revise from time to time and
10 charge and collect fees and charges for the use
11 of its services or facilities;

12 I. To accept gifts or grants of property, funds,
13 money, materials, labor, supplies or services
14 from the United States, this State or any other
15 state, agencies or departments of the State, or
16 from any political subdivision or any person to
17 carry out the terms or provisions or make agree-
18 ments with respect to any gifts or grants and to
19 perform any acts necessary, useful, desirable or
20 convenient in connection with procurement, ac-
21 ceptance or disposition of those gifts or grants;

22 J. To perform any acts and things authorized by
23 this chapter under, through or by means of its
24 officers, agents or employees or by contracts
25 with any person;

26 K. To make, enter into and enforce all contracts
27 or agreements necessary or desirable for the pur-
28 poses of the bank or pertaining to any loan to a
29 public utility or any purchase or sale of public
30 utility bonds or other investments or to the per-
31 formance of its duties and execution or carrying
32 out of any of its powers under this chapter;

33 L. To purchase or hold public utility bonds at
34 such prices and in such manner as the bank deter-
35 mines advisable and to sell public utility bonds
36 acquired or held by it at such prices without re-
37 lation to cost and in such manner as the bank de-
38 termines advisable;

39 M. To invest any funds or money of the bank not
40 then required for loan to public utilities and

1 for the purchase of public utility bonds in the
2 same manner as permitted for investment of funds
3 belonging to the State or held in the State Trea-
4 sury, except as otherwise permitted or provided
5 by this chapter;

6 N. To fix and prescribe any form of application
7 or procedure to be required of a public utility
8 for the purpose of any loan or the purchase of
9 its public utility bonds and to fix the terms and
10 conditions of any such loan or purchase and to
11 enter into agreements with public utilities with
12 respect to any such loan or purchase;

13 O. To contract with the Maine Municipal Bond
14 Bank for the use of its staff, facilities or con-
15 sultants, for temporary advances of funds or for
16 any other matter, which contracts may provide for
17 payment to the Maine Municipal Bond Bank for any
18 goods or services received and for repayment of
19 any temporary advances of funds made; and

20 P. To do all acts necessary, convenient or de-
21 sirable to carry out the powers expressly granted
22 or necessarily implied in this chapter.

23 §2907. Prohibited acts and limitation of powers

24 Nothing in this chapter permits or authorizes the
25 bank to:

26 1. Loans. Make loans of money to any person
27 other than a public utility or purchase securities
28 issued by any person other than a public utility or
29 for investment, except as provided in this chapter;

30 2. Banking business. Issue bills of credit; ac-
31 cept deposits of money for time or demand deposit;
32 administer trusts; engage in any manner in, or in the
33 conduct of, any private or commercial banking busi-
34 ness; or act as a savings bank or savings and loan
35 association;

36 3. Bank and trust company. Be or constitute a
37 bank or trust company within the jurisdiction or un-
38 der the control of the Bureau of Banking, the Super-
39 intendent of Banking, the Comptroller of the Currency

1 of the United States or the United States Department
2 of the Treasury;

3 4. Security business. Be or constitute a dealer
4 in securities within the meaning of or subject to any
5 securities law, securities exchange law or securities
6 dealers law of the United States, of this State or of
7 any other state or jurisdiction; or

8 5. Public utility. Be a public utility or own
9 and operate for its own account, and not as part of a
10 financing undertaken pursuant to this chapter, any
11 public utility plant, system or facility.

12 §2908. Bonds and notes of the bank

13 1. Issuance of bonds; purposes. The bank may,
14 from time to time, issue its bonds in such principal
15 amounts as it determines necessary to provide funds
16 for any purposes authorized by this chapter, includ-
17 ing:

18 A. The making of loans;

19 B. The payment, funding or refunding of the
20 principal of, or interest or redemption premiums
21 on, any bonds issued by it whether the bonds or
22 interest to be funded or refunded have or have
23 not become due or subject to redemption prior to
24 maturity in accordance with their terms;

25 C. The establishment or increase of the reserves
26 to secure or to pay the bonds or interest on
27 them; and

28 D. All other costs or expenses of the bank inci-
29 dent to and necessary or convenient to carry out
30 its corporate purposes and powers.

31 2. Bonds are special obligations of the bank.
32 Except as otherwise expressly provided in this chap-
33 ter or by the bank, every issue of bonds shall be
34 special obligations of the bank payable solely from
35 the revenues or funds of the bank made available for
36 the purpose and subject to any agreements with the
37 holders of particular bonds pledging any particular
38 revenues or funds. The bonds may be additionally se-

1 cured by a pledge of any grants, subsidies, contribu-
2 tions, funds or money from the United States, this
3 State or any political subdivision of the State, any
4 person or a pledge of any income or revenues, funds
5 or money of the bank from any source.

6 3. Issuance of notes. The bank may issue its
7 notes for any corporate purpose of the bank from time
8 to time, in such principal amounts as it determines
9 necessary, and may renew or pay and retire or refund
10 the notes from the proceeds of bonds or of other
11 notes, or from any other funds or money of the bank
12 available or to be made available for that purpose,
13 in accordance with any contract between the bank and
14 the holder of the notes and not otherwise pledged.
15 The notes shall be issued in the same manner as bonds
16 and the notes and the resolution or resolutions au-
17 thorizing the notes may contain any provisions, con-
18 ditions or limitations which the bonds or a bond res-
19 olution of the bank may contain. Unless provided
20 otherwise in any contract between the bank and the
21 holders of notes and unless the notes have been oth-
22 erwise paid, funded or refunded, the proceeds of any
23 bonds of the bank issued, among other things, to fund
24 the outstanding notes, shall be held, used and ap-
25 plied by the bank to the payment and retirement of
26 the principal of those notes and the interest due and
27 payable. The bank may make contracts for the future
28 sale from time to time of the notes, pursuant to
29 which the purchaser shall be committed to purchase
30 the notes from time to time on terms and conditions
31 stated in the contracts, and the bank may pay such
32 consideration as it determines proper for the commit-
33 ments.

34 4. Bonds and notes are negotiable instruments.
35 Whether or not the bonds or notes of the bank are of
36 such form and character as to be negotiable instru-
37 ments under the Uniform Commercial Code, Title 11,
38 Article 8, the bonds and notes are negotiable instru-
39 ments within the meaning of and for all the purposes
40 of the Uniform Commercial Code, Title 11, Article 8,
41 subject only to the provisions of the bonds and notes
42 for registration.

43 5. Bonds or notes authorized by resolution.
44 Bonds or notes of the bank shall be authorized by

1 resolution of the bank and may be issued in one or
2 more series and shall bear such date or dates, mature
3 at such time or times, bear interest at such rate or
4 rates of interest per year, be in such denomination
5 or denominations, be in such coupon or registered
6 form, carry such conversion or registration privi-
7 leges, have such rank or priority, be executed in
8 such manner, be payable from such sources in such me-
9 di-um of payment at such place or places inside or
10 outside the State and be subject to such terms of re-
11 demption, with or without premium, as the resolution
12 or resolutions may provide.

13 6. Signature of officers. If any officer whose
14 signature appears on the bonds, notes or bond coupons
15 ceases to be an officer before the delivery of the
16 bonds, notes or bond coupons, his signature is valid
17 for all purposes as if he had remained in office.

18 7. Sale of bonds or notes. Bonds or notes of
19 the bank may be sold at a public or private sale at a
20 time and at a price determined by the bank.

21 8. No consent required for issuance. Bonds or
22 notes of the bank may be issued under this chapter
23 without obtaining the consent of any department, di-
24 vision, commission, board, bureau or agency of the
25 State, and without any other proceedings or the hap-
26 pening of any other conditions or acts than those
27 proceedings, conditions or acts which are specificall-
28 ly required by this chapter.

29 9. Notes refunded or retired. The bank may from
30 time to time issue its notes as provided under this
31 chapter and pay and retire or fund or refund its
32 notes from proceeds of bonds or of other notes, or
33 from any other funds or money of the bank available
34 or to be made available for this purpose in accord-
35 ance with any contract between the bank and the hold-
36 ers of the notes. Unless provided otherwise in any
37 contract between the bank and the holders of notes
38 and unless the notes have been otherwise paid, funded
39 or refunded, the proceeds of any bonds of the bank
40 issued, among other things to fund outstanding notes,
41 shall be held, used and applied by the bank to the
42 payments and retirement of the principal of the notes
43 and the interest due and payable on the notes.

1 §2909. Resolutions and indentures

2 In any resolution of the bank authorizing or re-
3 lating to the issuance of any bonds or notes, the
4 bank, in order to secure the payment of the bonds or
5 notes and in addition to its other powers, shall have
6 power by provisions in the resolution which consti-
7 tute covenants by the bank and contracts with the
8 holders of the bonds or notes to enter into any trust
9 agreement or trust indenture with a corporate trust-
10 ee, which may be any trust company or national bank-
11 ing association or state bank having the powers of a
12 trust company inside or outside the State. The trust
13 agreement, indenture or the resolution providing for
14 the issuance of the bonds or notes may pledge or as-
15 sign the revenues of the bank, and may contain provi-
16 sions for protecting and enforcing the rights and
17 remedies of the holder of such bonds and notes as may
18 be reasonable and proper and not in violation of law,
19 including the custody, safeguarding and application
20 of all money. A trust agreement may set forth the
21 rights and remedies of the holders of the bonds and
22 notes and of the trustee, and may restrict the indi-
23 vidual right of action by those holders. The bank
24 may provide by the trust indenture for the payment of
25 the proceeds of the bonds and notes and the revenues
26 to the trustee under the trust indenture or other de-
27 pository, and for the method of disbursement of those
28 payments, with safeguards and restrictions as it may
29 determine. All expenses incurred in carrying out the
30 trust indenture may be treated as a part of the oper-
31 ating expenses of the bank. If the bonds are secured
32 by a trust indenture, the bondholder has no authority
33 to appoint a separate trustee to represent them.

34 §2910. Intent of pledge

35 Any pledge of revenue or other money made by the
36 bank is valid and binding from time to time when the
37 pledge is made. The revenue or other money pledged
38 and received by the bank is immediately subject to
39 the lien of the pledge without any physical delivery
40 of the revenue or other money or further act and the
41 lien of any pledge is valid and binding as against
42 all persons having claims of any kind in tort, con-
43 tract or otherwise against the bank, irrespective of
44 whether those persons have notice of the lien. Nei-

1 ther the resolution nor any other instrument by which
2 a pledge is created need be filed or recorded, except
3 in the records of the bank.

4 §2911. Reserves and funds

5 1. Establishment. The bank may establish such
6 reserves and such other funds or accounts as may be,
7 in its discretion, necessary, desirable or convenient
8 to further the accomplishment of the purposes of the
9 bank or to comply with the provisions of any agree-
10 ment made by or any resolution of the bank.

11 2. Investment. Money at any time in the reserve
12 fund may be invested in the same manner as permitted
13 for investment of funds belonging to the State or
14 held in the treasury.

15 §2912. Personal liability

16 Neither the commissioners of the bank nor any
17 person executing bonds or notes issued pursuant to
18 this chapter is liable personally on the bonds or
19 notes by reason of the issuance of the bonds or
20 notes.

21 §2913. Purchase of bonds and notes of bank

22 The bank may purchase bonds or notes of the bank
23 out of any funds or money of the bank available for
24 that purpose. The bank may hold, cancel or resell
25 the bonds or notes subject to and in accordance with
26 agreements with holders of its bonds or notes.

27 §2914. Bonds as legal investments and security

28 Notwithstanding any restrictions contained in any
29 other law, the State and all public officers, govern-
30 mental units and agencies; all national banking asso-
31 ciations, state banks, trust companies, savings banks
32 and institutions, building and loan associations,
33 savings and loan associations, investment companies
34 and other persons carrying on a banking business; all
35 insurance companies, insurance associations and other
36 persons carrying on an insurance business; and all
37 executors, administrators, guardians, trustees and
38 other fiduciaries may legally invest any sinking

1 funds, money or other funds belonging to them or
2 within their control in any bonds or notes issued by
3 the bank pursuant to this chapter and the bonds or
4 notes shall be authorized security for any and all
5 public deposits.

6 §2915. Tax exemptions

7 All bonds and notes issued under this chapter are
8 deemed to be held or issued in connection with essen-
9 tial public and governmental purposes and those bonds
10 and notes so issued, their transfer and the income
11 from them, including any profits made on their sale,
12 are at all times exempt from taxation within the
13 State.

14 §2916. Exemption of property from execution sale;
15 actions to set aside resolutions

16 1. Bank property exempt. All property of the
17 bank is exempt from levy and sale by virtue of an ex-
18 ecution and no execution or other judicial process
19 may issue against the bank's property nor may any
20 judgment against the bank be a charge or lien upon
21 its property; provided that nothing contained in this
22 chapter applies to or limits the rights of the holder
23 of any bonds or notes to pursue any remedy for the
24 enforcement of any pledge or lien given by the bank
25 on its revenues or other money.

26 2. Action to set aside resolution. An action or
27 proceeding in any court to set aside a resolution au-
28 thorizing the issuance of bonds or notes by the bank
29 under this chapter or to obtain any relief upon the
30 ground that the resolution is invalid must be com-
31 menced within 30 days after the adoption of the reso-
32 lution by the bank. After the expiration of the pe-
33 riod of limitation, no right of action or defense
34 founded upon the invalidity of the resolution or any
35 of its provisions may be asserted nor may the validi-
36 ty of the resolution or any of its provisions be open
37 to question in any court on any ground.

38 §2917. Insurance or guaranty

39 The bank may obtain from any department or agency
40 of the United States or the State or nongovernmental

1 insurer any insurance or guaranty, to the extent
2 available, as to the payment or repayment of interest
3 or principal, or both, or any part of the interest or
4 principal, on any bonds or notes issued by the bank,
5 or on any public utility bonds purchased or held by
6 the bank, pursuant to this chapter; and may enter in-
7 to any agreement or contract with respect to any in-
8 sureance or guaranty, except to the extent that the
9 agreement or contract would in any way impair or in-
10 terfere with the ability of the bank to perform and
11 fulfill the terms of any agreement made with the
12 holders of the bonds or notes of the bank.

13 §2918. Annual report

14 No later than the last day of December, the bank
15 shall make an annual report of its activities for the
16 preceding fiscal year to the Governor. Each report
17 shall set forth a complete operating and financial
18 statement covering its operations during the year.
19 The bank shall cause an audit of its books and ac-
20 counts to be made at least once in each year by cer-
21 tified public accountants. The cost of the audit
22 shall be considered an expense of the bank. The bank
23 shall file a copy of the audit with the Treasurer of
24 State.

25 §2919. Additional powers

26 In order to carry out the purposes and provisions
27 of this chapter, the bank, in addition to any powers
28 granted to it elsewhere in this chapter, may:

29 1. Loans. In connection with any loan to a pub-
30 lic utility, consider the need, desirability or eli-
31 gibility of the loan, the ability of the public uti-
32 lity to secure borrowed money from other sources and
33 the costs of the loan and the particular public im-
34 provement or purpose to be financed;

35 2. Charges. Impose and collect charges for its
36 costs and services in review or consideration of any
37 proposed loan to a public utility or purchase of pub-
38 lic utility bonds whether or not the loan has been
39 made or the public utility bonds have been purchased;

1 3. Purchase. Fix and establish terms and provi-
2 sions with respect to any purchase of public utility
3 bonds by the bank, including dates and maturities of
4 the bonds, provisions as to redemption or payment
5 prior to maturity and other matters which in connec-
6 tion with such a purchase are necessary, desirable or
7 advisable in the judgment of the bank;

8 4. Hearings. Conduct examinations and hearings
9 and hear testimony and take proof, under oath or af-
10 firmation, at public or private hearings, on any mat-
11 ter material for its information and necessary to
12 carry out this chapter;

13 5. Insurance. Procure insurance against any
14 losses in connection with its property, operations or
15 assets in and from such amounts and from such insur-
16 ers as it determines desirable; and

17 6. Modification. To the extent permitted under
18 its contracts with the holders of bonds or notes of
19 the bank, consent to any modification with respect to
20 rate of interest, time and payment of any installment
21 of principal or interest, security or any other term
22 of bond or note, contract or agreement of any kind to
23 which the bank is a party.

24 §2920. Undertakings of depositories

25 All national banking associations or state banks,
26 trust companies, savings banks, investment companies
27 and other persons carrying on a banking business may
28 give the bank a good and sufficient undertaking with
29 sureties that are approved by the bank to the effect
30 that the national banking association or state bank
31 or banking institution as described faithfully keeps
32 and pays over to the order of or upon the warrant of
33 the bank or its authorized agent all funds that may
34 be deposited with it by the bank and agreed interest
35 on the funds under this chapter, at such times or
36 upon such demands as are agreed with the bank or in
37 lieu of such sureties, deposit with the bank or its
38 authorized agent or any trustee or for the holders of
39 any bonds, as collateral, such securities as the bank
40 approves. The deposits of the bank may be evidenced
41 by an agreement in such form and upon such terms and
42 conditions as are agreed upon by the bank and the na-

1 tional banking association or state bank or banking
2 institution.

3 §2921. Purchase of public utility securities

4 1. Authorizations of public utilities. Every
5 public utility may:

6 A. Contract to pay interest on, or an interest
7 cost per year for, money borrowed from the bank
8 and evidenced by its public utility bond pur-
9 chased by the bank;

10 B. Contract with the bank with respect to that
11 loan or purchase and the contract shall contain
12 the terms and conditions of the loan or purchase;

13 C. Pay fees and charges required to be paid to
14 the bank for its services; and

15 D. Sell bonds to the bank on such terms and con-
16 ditions as may be agreed to by it and the bank
17 and approved by the commission.

18 2. Officers' signatures on bonds. If any offi-
19 cer whose signature appears on the public utility
20 bonds ceases to be an officer before the delivery of
21 those bonds, his signature is valid for all purposes,
22 as if he had remained in office.

23 §2922. Remedies on default of public utility securi-
24 ties

25 In the event of default by a public utility in
26 the payment of interest on, or principal of, any pub-
27 lic utility bond owned or held by the bank as and
28 when due and payable the bank shall proceed to en-
29 force or cause to be enforced payment pursuant to ap-
30 plicable provisions of law of that interest or prin-
31 cipal or other amounts then due and payable.

32 §2923. Purchase of anticipation notes

33 The bank may purchase notes of any public utility
34 issued in anticipation of the sale of public utility
35 bonds in an amount not exceeding at any one time the
36 outstanding authorized amount of the public utility

1 bonds. In connection with any such purchase of anti-
2 icipation notes, the bank may by agreement with the
3 public utility impose such terms, conditions and lim-
4 itations as in its opinion are proper in the circum-
5 stances and for the purposes and security of the bank
6 and the holders of its bonds or notes. The bank
7 shall enforce all such rights, remedies and provi-
8 sions of law as it has under this section or this
9 chapter or as otherwise provided by law.

10 §2924. Budget

11 No later than June 1st each year, the bank shall
12 prepare and file in the office of the Bureau of the
13 Budget a budget of its operating expenses for the en-
14 suing fiscal year. The budget shall be prepared on
15 the basis of quarterly requirements so that it is
16 possible to determine from the budget the operating
17 expenses for each quarter of the year, and shall set
18 forth the general categories of anticipated expendi-
19 tures and the amount on account of each and shall in-
20 clude provision for reserve for contingencies and for
21 over-expenditures. The budget may set forth such
22 additional material as the bank may determine.

23 §2925. State services

24 1. State may render services to bank. All offi-
25 cers, departments, boards, agencies, divisions and
26 commissions of the State, including, without limita-
27 tion, the Maine Municipal Bond Bank, may render any
28 services to the bank which are within the area of
29 their respective governmental functions as estab-
30 lished by law and which are requested by the bank.

31 2. State to comply with bank requests. All of
32 the officers, departments, boards, agencies, divi-
33 sions and commissions shall comply promptly with any
34 reasonable request by the bank as to the making of
35 any study or review as to desirability, need, cost or
36 expense with respect to any public project, purpose
37 or improvement or the financial feasibility of any
38 project, purpose or improvement or the financial or
39 fiscal responsibility or ability in connection with
40 any project, purpose or improvement of any public
41 utility making application for loan to the bank and
42 for the purchase by the bank of public utility bonds.

1 3. Cost and expense of state services. At the
2 request of the officer, department, board, agency,
3 division or commission rendering the service, the
4 bank shall pay for the cost and expense of services
5 it has requested. The Maine Municipal Bond Bank may
6 make temporary advances of funds to the bank from
7 such funds as it determines are available and on such
8 terms and conditions as it determines.

9 §2926. Agreements with financial institutions

10 1. Public utility bonds. The bank may enter in-
11 to such agreements or contracts with any commercial
12 banks, trust companies, banking or other financial
13 institutions inside or outside the State as are nec-
14 essary, desirable or convenient as determined by the
15 bank, for rendering services to the bank in connec-
16 tion with:

17 A. The care, custody or safekeeping of public
18 utility bonds or other investments held or owned
19 by the bank;

20 B. The payment or collection of amounts due and
21 payable as to principal or interest; and

22 C. The delivery to the bank of public utility
23 bonds or other investments purchased by it or
24 sold by it and may pay the cost of these ser-
25 vices.

26 2. Bank may require security. The bank may al-
27 so, in connection with services to be rendered by
28 commercial banks, trust companies or banking or other
29 financial institutions, as to the custody and safe-
30 keeping of any of its public utility bonds or invest-
31 ments, require security in the way of collateral
32 bonds, surety agreements or security agreements in
33 such form and in such amount as are necessary or de-
34 sirable for the purpose of the bank, as determined by
35 the bank.

36 §2927. Form of public utility securities and invest-
37 ments

38 All public utility or other investments of money
39 of the bank permitted or provided for under this

1 chapter shall at all times be purchased and held in
2 fully marketable form, subject to provision for any
3 registration in the name of the bank. All public
4 utility bonds at any time purchased, held or owned by
5 the bank shall upon delivery to the bank be accompa-
6 nied by documentation, including approving legal
7 opinion, certification and guaranty as to signatures,
8 certification as to absence of litigation and such
9 other or further documentation as shall from time to
10 time be required in the municipal bond market.

11 §2928. Presumption of validity

12 After issuance, all bonds or notes of the bank
13 are conclusively presumed to be fully authorized and
14 issued under the laws of the State and any person or
15 public utility is estopped from questioning their au-
16 thorization, sale, issuance, execution or delivery by
17 the bank.

18 §2929. Other laws

19 To the extent that this chapter is inconsistent
20 with or in conflict with any private or special law,
21 this chapter shall be effective and such other pri-
22 vate or special law is of no effect.

23 It is not intended that the general laws relating
24 to public utilities shall be in any way affected by
25 this chapter.

26 §2930. Liberal construction of chapter

27 This chapter shall be construed liberally to ef-
28 fectuate the legislative intent and the purposes of
29 this chapter.

30

PART 3

31

ELECTRIC POWER

32

CHAPTER 31

33

GENERAL PROVISIONS

34

SUBCHAPTER I

1 charges for power purchased from small power produc-
2 ers or cogenerators, as defined in chapter 33, may be
3 included in the adjustment. Credits received by the
4 utility for fuel or the fuel component of either pur-
5 chased power or power sold to other utilities, in-
6 cluding, but not limited to, credits associated with
7 purchased energy or energy sold which are received
8 from the savings fund of the New England Power Ex-
9 change shall be considered changes in the cost of fu-
10 el for the purposes of the fuel cost adjustment, pur-
11 suant to rules promulgated by the commission under
12 this section.

13 5. Fuel adjustment rate applied uniformly to
14 customers. The fuel cost adjustment established un-
15 der this section shall be billed or credited at a
16 single uniform rate per kilowatt hour for all custom-
17 ers of the electric utility.

18 6. Calculation and billing of fuel adjustment.
19 The commission shall establish rules for the calcula-
20 tion and billing of fuel cost adjustments. The
21 rules shall include, but shall not be limited to:

22 A. The fuel accounting method to be used to de-
23 termine cost of fuel;

24 B. The fuel computation period and method of
25 computation of fuel adjustment rate;

26 C. Definitions and components of fuel costs to
27 be included in the fuel cost adjustment;

28 D. An appropriate method to amortize a utility's
29 unrecovered reasonable fuel costs;

30 E. An appropriate method to credit customers for
31 fuel cost overcharges; and

32 F. Reporting requirements to administer this
33 section.

34 The commission may establish a fuel adjustment rate
35 for a fuel computation period, based on projected ki-
36 lowatt hour sales and fuel costs for that period, and
37 make appropriate adjustments for overcharges or
38 undercharges in customer bills in subsequent computa-

1 tion periods to account for the difference between
2 the projected kilowatt hour sales and fuel costs and
3 actual kilowatt hour sales and reasonable fuel costs.

4 7. Commission approval required. In no event
5 may a fuel adjustment charge be billed to customers
6 which has not been approved and ordered into effect
7 by the commission pursuant to this section. Each
8 electric utility shall file application for changes
9 in its fuel adjustment rate in accordance with rules
10 promulgated pursuant to this section. The commission
11 shall issue public notice of the application and the
12 opportunity to request a hearing within 7 days after
13 the application is filed with the commission. The
14 commission may render its decision on the application
15 without holding a public hearing. If a public hear-
16 ing is held, the commission shall hold the first ses-
17 sion within 45 days of the filing of the application.
18 The commission shall render its decision on the ap-
19 plication within 45 days of the close of the hearing,
20 or within 45 days of receipt of the application, if
21 no hearing is held. No electric utility may make ap-
22 plication for changes in its fuel adjustment rate un-
23 til a period of 90 days has elapsed from the filing
24 of its last application, unless otherwise ordered by
25 the commission.

26 8. Reports. The commission may require electric
27 utilities to provide such reports and information as
28 it determines necessary to administer this section.

29 §3102. Recovery of cost of canceled or abandoned
30 electric generating facility

31 1. Determining rate-making treatment. In deter-
32 mining the rate-making treatment for a utility's in-
33 vestment in canceled or abandoned electric generating
34 facilities, the commission shall balance the inter-
35 ests of the utility and ratepayers in a just and rea-
36 sonable manner in each individual case. The commis-
37 sion may not permit a utility to recover in rates any
38 costs incurred imprudently in relation to an invest-
39 ment in a canceled or abandoned electric generating
40 facility.

41 2. Canceled or abandoned generating facilities.
42 As used in this section, the term "canceled or aban-

1 done generating facilities" means any electric gener-
2 ating facility canceled or abandoned by the owner
3 or by the joint participants in the facility in ac-
4 cordance with the terms of applicable agreements or
5 otherwise.

6 3. Exception. This section does not apply to
7 any canceled or abandoned electric generating facili-
8 ty for which the commission has authorized a recovery
9 of any portion of the costs of that facility from
10 ratepayers prior to July 25, 1984.

11 4. This section not intended to indicate prefer-
12 ence. Neither anything in this section nor the re-
13 peal of section 52-A of former Title 35 is intended
14 to indicate a preference for any particular rate-
15 making treatment of a utility's investment in a can-
16 canceled or abandoned plant and the manner of the recov-
17 ery, if any, of the investment shall be left to the
18 commission's discretion.

19 5. Canceled plant recovery filing fee. Any
20 utility requesting recovery in rates of its invest-
21 ment in a canceled or abandoned electric generating
22 facility shall pay to the commission a filing fee of
23 \$150,000 for each facility. The utility may request
24 the commission to waive all or a portion of the fil-
25 ing fee. Filing fees paid as required in this sec-
26 tion shall be segregated, apportioned and expended by
27 the commission for the purposes of this section. Any
28 portion of the filing fee that is received from any
29 utility and is not expended by the commission for the
30 purposes of this section shall be returned to the
31 utility.

32 §3103. Minimum charge

33 1. Utilities required to provide minimum charge.
34 Any electric utility serving more than 5,000 custom-
35 ers which has a residential rate combining energy and
36 demand costs in a single rate which neither declines
37 nor increases, but is flat as consumption increases
38 shall recover its customer costs through the same
39 rate. As part of that rate, each such electric util-
40 ity shall provide for a minimum charge to include
41 such an amount of kilowatt hours as the commission
42 shall determine.

1 5. Transmission capacity. "Transmission capaci-
2 ty" means an entitlement to transmission services
3 over a transmission line with a capacity greater than
4 100 kilovolts for periods greater than 3 years.

5 6. Utility facility. "Utility facility" means
6 an item of plant used or useful in the electric utili-
7 ty business, and includes, but is not limited to,
8 such items of plant as generating stations, transmis-
9 sion lines, office buildings and equipment and trans-
10 portation equipment.

11 §3132. Construction of generating facilities and
12 transmission lines prohibited without prior
13 order of the commission

14 No electric utility may construct any generating
15 facility or transmission line covered by subsections
16 1 or 2 or rebuild or relocate any transmission line
17 as investigated by the commission under subsection 3
18 unless the commission has issued a certificate of
19 public convenience and necessity approving construc-
20 tion.

21 1. Construction of generating facility and re-
22 sulting line. Whenever any electric utility or utili-
23 ties proposes to erect within this State a perman-
24 ently installed generating facility of more than
25 1,000 kilowatts or any transmission line of 100
26 kilovolts or more, the construction of which is re-
27 quired as a result of the generating facility, the
28 following provisions apply.

29 A. The utility or utilities shall file with the
30 commission, no less than 3 months in advance of
31 submitting its petition for approval of the pro-
32 posed facility or lines, a notice of its intent
33 to file the petition.

34 The notice of intent to file shall inform the
35 commission of the location, size, type of facili-
36 ty, estimated cost and proposed construction
37 schedule of the generating facility or lines, to-
38 gether with such other facts and details concern-
39 ing the proposed facility or lines as the commis-
40 sion by rule prescribes.

1 B. The petition for approval of the proposed
2 generating facility shall contain such informa-
3 tion as the commission by rule prescribes.

4 C. The petition for approval shall be set down
5 for public hearing.

6 D. The commission shall issue its order within
7 15 months after the petition is filed with the
8 commission unless the period is either extended
9 by agreement of all the parties or by the commis-
10 sion upon its determination that the party seek-
11 ing the extension would, because of circumstances
12 beyond that party's control for which it has no
13 reasonable substitute, and be unreasonably disad-
14 vantaged unless the extension were granted, pro-
15 vided that the party to that time had prosecuted
16 its case in good faith and with due diligence.

17 2. Line not resulting from construction of gen-
18 erating facility. Whenever any electric utility or
19 utilities propose to erect within this State a trans-
20 mission line carrying 100 kilovolts, or more, and the
21 transmission line does not result from the construc-
22 tion of a generating facility pursuant to this sec-
23 tion, the utility or utilities shall file a petition
24 for the approval of the proposed line. The petition
25 is subject to the requirements of subsection 1, para-
26 graphs B and C. The commission shall issue its order
27 within 6 months after the petition is filed unless
28 this period is extended as provided in subsection 1,
29 paragraph D.

30 3. Transmission line rebuilding or relocation
31 projects. Each electric utility shall file annually
32 with the commission a schedule of transmission line
33 rebuilding or relocation projects which it intends to
34 carry out during the next 5 years concerning trans-
35 mission lines that will become, or will remain at,
36 voltages of 100 kilovolts or more. The schedule
37 shall describe each project, showing the length, lo-
38 cation and estimated cost.

39 If the commission determines that an investigation of
40 any transmission line rebuilding or relocation
41 project is warranted, it shall notify the electric
42 utility within 60 days of the annual filing and the

1 electric utility shall then be required to comply
2 with the provisions of this section with respect to
3 that project. The absence of commission notification
4 requiring the utility to file a petition does not
5 preclude such notification in subsequent years.

6 4. Map of proposed transmission line. The elec-
7 tric utility or utilities shall submit a map to the
8 commission at least 14 days prior to a public hearing
9 held by the commission as to the construction of a
10 transmission line. The map shall:

11 A. Be available to the public at the offices of
12 the commission; and

13 B. Indicate the proposed location and route of
14 the transmission line and a description of any
15 planned equipment and facilities to be placed
16 there.

17 5. Commission approval of a proposed line. The
18 commission may approve or disapprove all or portions
19 of a proposed transmission line and shall make such
20 orders regarding its character, size, installation
21 and maintenance as are necessary, having regard for
22 any increased costs caused by the orders.

23 6. Commission order; certificate of public con-
24 venience. In its order, the commission shall make
25 specific findings with regard to the need for the
26 proposed facilities. If the commission finds that a
27 need exists, it shall issue a certificate of public
28 convenience and necessity for the facilities. If the
29 commission orders or allows the erection of the fa-
30 ilities, the order shall be subject to all other
31 provisions of law and the right of any other agency
32 to approve the facilities.

33 7. Environmental protection agency modification.
34 If the commission has issued a certificate of public
35 convenience and necessity for proposed transmission
36 or generating facilities and the Board of Environmen-
37 tal Protection in an order under Title 38, section
38 484, makes a modification in the location, size,
39 character or design of the facilities, the company
40 shall:

1 A. Deliver a copy of the order to the commis-
2 sion; and

3 B. State the nature of the modifications and all
4 cost adjustments occasioned by the modifications
5 to the cost of the proposed facilities relied
6 upon by the commission in issuing its certificate
7 of public convenience and necessity under this
8 section.

9 8. Cost adjustments. If the cost adjustments
10 specified in subsection 7 exceed the cost relied upon
11 by the commission in the original proceeding under
12 this section by more than 20% of the original cost,
13 the utility may not proceed with any construction of
14 the proposed facilities, the commission's original
15 certificate of public convenience and necessity not-
16 withstanding. The commission, upon notification of
17 the cost increase, shall:

18 A. Reopen its original decision concerning the
19 facilities;

20 B. Make specific findings with regard to the
21 need for the facilities to the same extent and
22 with the same authority as if the company's peti-
23 tion for approval were before it; and

24 C. Except as modified in this section, retain
25 all authority granted to it under section 1321.

26 9. Filing fee; waiver of fee. When a petition
27 is filed under this section, the electric utility or
28 utilities involved shall pay to the commission an
29 amount equal to 2/100 of 1% of the estimated cost to
30 erect, rebuild or relocate the facility. The utility
31 may, at the time of the filing of notice of its in-
32 tent to file the petition, request the commission to
33 waive all or a portion of the filing fee. The com-
34 mission shall rule on the request for waiver within
35 60 days.

36 Filing fees paid as required under this subsection
37 shall be segregated, apportioned and expended by the
38 commission for the purposes of this section. Any
39 portion of the filing fee that is received from any
40 utility and is not expended by the commission to pro-

1 cess the petition for a certification of public con-
2 venience and necessity shall be returned to the util-
3 ity.

4 10. Exemption from filing fees. Notwithstanding
5 any other requirement in this section, the commission
6 may, by rule, exempt from filing fees applications
7 concerning transmission lines not associated with a
8 major new generating facility or construction of
9 small generating facilities, the review of which does
10 not place an unusual burden on the commission's bud-
11 get.

12 §3133. Purchase of generating capacity, energy or
13 transmission capacity or fuel conversion of
14 generating facilities prohibited without pri-
15 or order of the commission

16 1. Commission approval required for purchases
17 and conversions. No electric utility may purchase
18 any generating capacity, transmission capacity or en-
19 ergy or carry out a fuel conversion as defined in
20 section 3131, unless the commission has issued a cer-
21 tificate of public convenience and necessity approv-
22 ing the purchase or conversion.

23 2. Notice of intent to file. The utility or
24 utilities shall file with the commission, no less
25 than 2 months in advance of submitting its petition
26 for a certificate of public convenience and necessity
27 for the proposed purchase or conversion, a notice of
28 its intent to file the petition. The notice shall
29 inform the commission of the terms of the proposed
30 purchase or conversion and, after receiving the no-
31 tice, the commission may, by rule or otherwise, re-
32 quire the petitioner to make available such addition-
33 al information as it determines necessary. The com-
34 mission may waive the requirement that at least 2
35 months advance notice be given. The commission shall
36 rule on any request for waiver within 60 days. If
37 there is then outstanding for the utility a long-
38 range plan approved pursuant to section 3134, the
39 utility need not provide an advance notice of its in-
40 tent to file the petition.

41 3. Petition for certificate of public conve-
42 nience and necessity. The petition for a certificate

1 of public convenience and necessity shall contain
2 such information as the commission may by rule pre-
3 scribe.

4 4. Hearing. The petition shall be set down for
5 public hearing.

6 5. Deadline for issuance of commission order.
7 The commission shall issue its order within 12 months
8 after the petition is filed. If there is then out-
9 standing for the utility a long-range plan approved
10 pursuant to section 3134, the commission shall issue
11 its order within 9 months of filing.

12 6. Certificate of public convenience and neces-
13 sity. The following provisions apply to the issuance
14 of a certificate of public convenience and necessity.

15 A. In its order, the commission shall make spe-
16 cific findings with regard to the need for the
17 purchase or conversion and, if the commission
18 finds that a need exists, it shall issue a cer-
19 tificate of public convenience and necessity for
20 the purchase or conversion.

21 B. In ruling upon a fuel conversion petition,
22 the commission may consider the benefit to the
23 public of any increased security of fuel supply
24 which may result from the conversion.

25 C. The issuance of a certificate of public con-
26 venience and necessity establishes that, as of
27 the date of issuance of the certificate, the de-
28 cision by the utility to purchase or convert was
29 prudent.

30 7. Exclusions. Nothing in this section applies
31 to any purchases made by an electric utility from any
32 cogenerator or small power producer, as defined in
33 chapter 33.

34 8. Filing fee. When the petition is filed, the
35 utility or utilities involved shall pay to the com-
36 mission an amount equal to 2/100 of 1% of the esti-
37 mated cost of the purchase or conversion. The utili-
38 ty or utilities may, at the time of the filing of no-
39 tice of its intent to file the petition, request the

1 commission to waive all or a portion of the filing
2 fee. The commission shall rule on the request for
3 waiver within 60 days.

4 Filing fees paid as required by this subsection shall
5 be segregated, apportioned and expended by the com-
6 mission for the purposes of this section. Any por-
7 tion of the filing fee that is received from any
8 utility or utilities and is not expended by the com-
9 mission to process the petition for a certification
10 of public convenience and necessity shall be returned
11 to the utility or utilities.

12 §3134. Long-range energy plan

13 1. Filing by electric utilities. Every electric
14 utility whose total sales of electric energy for pur-
15 poses other than resale exceeded 300,000,000-kilowatt
16 hours during any calendar year may submit to the com-
17 mission a long-range energy plan for the 15-year pe-
18 riod subsequent to the date the plan is submitted.
19 This plan shall:

20 A. Include the utility's annual peak-load fore-
21 casts, annual energy forecasts, projected annual
22 fuel mix type and location of proposed generating
23 facilities and alternatives, type and route of
24 major proposed transmission lines and alterna-
25 tives and an analysis of the cost and financing
26 of the plan, together with such other information
27 as the commission may by rule require; and

28 B. List and describe all the assumptions used by
29 the utility in formulating the plan required by
30 this section.

31 2. Hearing and decision. The commission shall
32 set down for public hearing each long-range energy
33 plan filed in accordance with subsection 1. Notice
34 of the hearing and opportunity to intervene shall be
35 provided in accordance with the Maine Administrative
36 Procedure Act, Title 5, chapter 375, and the commis-
37 sion's rules of practice and procedure. The commis-
38 sion shall issue a decision approving, disapproving
39 or modifying each plan within one year after the fil-
40 ing of such energy plan in accordance with this sub-
41 section. Each long-range energy plan as approved or

1 modified by the commission shall constitute the ener-
2 gy plan of the filing utility and, unless altered as
3 the result of judicial review or subsequently modi-
4 fied by commission order, shall represent the final
5 finding of fact of the matters contained in the plan
6 for the purposes of subsection 3.

7 3. Construction, purchase or conversion of elec-
8 tric generating facilities. If, at the time the com-
9 mission issues an order granting a certificate of
10 public convenience and necessity to a utility pursu-
11 ant to section 3133, there is in existence a long-
12 range energy plan for the utility approved or modi-
13 fied by the commission 2 years or less before the
14 date of the order, the certificate shall not be
15 granted unless the purchase or conversion conforms to
16 that plan. The findings by the commission, as embod-
17 ied in its order under subsection 2, shall to the ex-
18 tent relevant represent the commission's findings of
19 fact of the matters contained in the order in any
20 proceeding pursuant to section 3133 that is decided
21 within 2 years from the date of the order.

22 §3135. Physical connection between lines of utili-
23 ties authorized

24 1. Connection with feed lines. An electric
25 utility may extend its lines to connect with the feed
26 lines of any other electric utility generating and
27 selling electricity. The generating utility shall
28 furnish electricity if requested to the extent of its
29 reasonable capacity and at reasonable rates, provided
30 that the commission so orders upon application, after
31 public hearing of all parties interested. The com-
32 mission may fix such terms and conditions as will
33 safeguard the rights and interests of both utilities.

34 Ten individuals who contemplate the organization of
35 an electric utility may petition for a public hearing
36 under this subsection. The commission may hold its
37 hearing on the petition and make its order. If the
38 petitioners organize an electric utility and begin
39 business within one year, the order shall be effec-
40 tive to give authority to the electric utility.

41 2. Emergency connection and transport of energy.
42 The commission, in the interest of public convenience

1 and necessity, may order any utility which is prin-
2 cipally engaged in the manufacture, transmission,
3 distribution or sale of electricity directly to the
4 public or to be used ultimately by the public to
5 transport temporarily electricity over its transmis-
6 sion or distribution facilities at a reasonable
7 charge and in a manner as the commission directs when
8 the transmission will alleviate an electric power
9 shortage within this State which exists by reason of
10 an emergency.

11 Whenever the commission, upon its own motion or upon
12 application of any electric utility, after due notice
13 to all interested parties and an opportunity for a
14 hearing, makes findings based upon substantial evi-
15 dence that an emergency exists and that action is
16 necessary and appropriate in the public interest and
17 is not detrimental to the interests of investors and
18 consumers, it may order a utility to establish phys-
19 ical connection of its transmission or distribution
20 facilities with the facilities of one or more other
21 utilities to sell electricity to, to exchange elec-
22 tricity with, to transmit or distribute electricity
23 for any other utility for a temporary period.

24 The commission may not compel a company to sell, ex-
25 change, transmit or distribute electricity under this
26 subsection when to do so would impair its ability to
27 render adequate service to its customers or would re-
28 quire it to enlarge its generating facilities.

29 The commission may prescribe the terms and conditions
30 of the arrangement to be made between the utilities
31 affected by the order, including the compensation or
32 reimbursement reasonably due to any of them, and, in
33 the case of a new physical connection, the apportion-
34 ment of costs between them or among them provided
35 that a utility making application for or receiving
36 the benefit of a connection which will inure to its
37 sole benefit assumes the entire cost of the connec-
38 tion.

39 §3136. Electric utilities have eminent domain; ap-
40 proval

41 1. Land necessary for location of transmission
42 lines carrying 5,000 volts. Any electric utility may

1 take and hold by right of eminent domain lands and
2 easements necessary for the proper location of its
3 transmission lines which are designed to carry
4 voltages of 5,000 volts or more and of necessary ap-
5 purtenances, located within the territory in which
6 the utility is authorized to do public utility busi-
7 ness, in the same manner and under the same condi-
8 tions as set forth in chapter 65.

9 2. Right of eminent domain not applicable. The
10 right of eminent domain granted in subsection 1 does
11 not apply to:

12 A. Lands or easements located within 300 feet of
13 an inhabited dwelling;

14 B. Lands or easements on or adjacent to any de-
15 veloped or undeveloped water power;

16 C. Lands or easements so closely paralleling ex-
17 isting wire lines of other utilities that the
18 proposed transmission lines would substantially
19 interfere with service rendered over the existing
20 lines, except with the consent of the owners; and

21 D. Lands or easements owned or used by railroad
22 corporations.

23 3. Prior right to locate distribution lines and
24 appurtenances in right-of-way limits of public way.
25 Electric utilities may take and hold by right of emi-
26 nent domain land or easements necessary for the prop-
27 er location of their distribution lines and the nec-
28 essary appurtenances, but only where the electric
29 utilities had a prior right to locate their distribu-
30 tion lines and necessary appurtenances in the right-
31 of-way limits of a public way and the body having ju-
32 risdiction over the public way has caused the elec-
33 tric utility to remove its distribution lines and ap-
34 purtenant structures outside the right-of-way limits
35 of the public way. This right does not apply to
36 lands or easements as specified in subsection 2, par-
37 agraphs B, C and D.

38 4. Commission approval; environmental factors.
39 A location to be taken by eminent domain for such
40 transmission or distribution lines must be approved

1 by the commission. Environmental factors to be con-
2 sidered for proper location of a transmission line
3 are not subject to review by the commission when the
4 location of the transmission line has received site
5 location of development approval under Title 38, sec-
6 tion 484.

7 §3137. Area within which domestic electric utility
8 may generate and transmit electricity; taxa-
9 tion by other states

10 1. Domestic electric utility may generate and
11 transmit electricity inside or outside this State.
12 Notwithstanding any limitation imposed by its
13 charter, each domestic electric utility may generate
14 and transmit electricity and acquire and operate any-
15 where inside or outside this State utility facilities
16 or interests in utility facilities of any nature or
17 form used or required to be used in its service to
18 the public, provided that nothing in this section au-
19 thorizes a utility to sell electricity in this State
20 to any person or within any area, except as otherwise
21 authorized by its charter or the general statutes of
22 this State.

23 2. Legislative consent to application of laws of
24 other states with respect to taxes. Legislative con-
25 sent is given to the application of the laws of other
26 states with respect to taxation, payments in lieu of
27 taxes and the assessment of taxes or payments in lieu
28 of taxes to any domestic electric utility which is
29 acting outside this State under this section.

30 §3138. Joint ownership of facility; waiver of right
31 to partition

32 Notwithstanding Title 14, chapter 719, any domes-
33 tic electric utility or foreign electric utility that
34 acquires or owns a joint or common interest with one
35 or more other electric utilities or other persons in
36 any property which is used or acquired for use as a
37 utility facility may surrender or waive its right to
38 have a partition by division or partition by sale of
39 the property for a period which does not exceed the
40 period for which the property is used or useful for
41 electric utility purposes.

1 §3139. Powers of foreign electric utility

2 One or more foreign electric utilities may con-
3 struct, purchase, own, control, operate, manage,
4 mortgage, lease, sell, dispose of or otherwise par-
5 ticipate in a utility facility or have interest in a
6 utility facility or the product or service from a
7 utility facility within this State in common or
8 jointly with one or more domestic electric utilities
9 owning, in the aggregate, not less than a majority
10 interest in that utility facility, provided that
11 nothing in this section authorizes a foreign electric
12 utility to sell electricity at retail to customers
13 located within this State.

14 §3140. Regulation of foreign electric utility

15 1. Foreign electric utility to notify commission
16 before acting within this State. A foreign electric
17 utility acting under section 3139 shall, before con-
18 structing, purchasing, owning, controlling, operat-
19 ing, managing or otherwise participating in a joint
20 or common interest in a utility facility within this
21 State:

22 A. Notify the commission in writing of the ac-
23 tion to be taken by the utility; and

24 B. Provide any information reasonably required
25 by the commission under section 3132.

26 2. Annual report of foreign electric utility.
27 After giving notice under subsection 1, a foreign
28 electric utility shall:

29 A. Annually file with the commission a copy of
30 the annual report filed by it with the appropri-
31 ate regulatory agency of the State where its op-
32 erations are principally located; and

33 B. Furnish to the commission from time to time
34 such other information with respect to its activ-
35 ities within this State as the commission may
36 reasonably require.

37 3. Registered office and agent; service of proc-
38 ess. A foreign electric utility acting under sec-
39 tion 3139 shall:

1 A. Designate and continuously maintain in this
2 State a registered office and a registered agent
3 in accordance with Title 13-A, section 1212; and

4 B. Be subject to service of process, notice or
5 demand as provided in Title 13-A, section 1212.

6 4. Certificate of agency with regulatory juris-
7 isdiction over foreign electric utility. Upon the fil-
8 ing with the commission of a certificate of the ap-
9 propriate regulatory agency of the state of domicile
10 or principal locus of a foreign electric utility, or
11 of the United States, stating either that the agency
12 has regulatory jurisdiction over the issuance of
13 stocks, bonds or other evidences of indebtedness pay-
14 able more than 12 months from date of issue by that
15 foreign electric utility to finance a utility facili-
16 ty in this State or that the agency has general su-
17 perVISION of that foreign electric utility in the
18 conduct of its electric utility business, that for-
19 ign electric utility shall not be deemed an "elec-
20 tric utility" as defined in section 102, subsection
21 5, merely by reason of the exercise by it of the au-
22 thority granted in section 3139.

23 §3141. Taxation

24 1. Utility facilities owned by domestic electric
25 utility. All utility facilities, real and personal,
26 situated within this State and owned by a domestic
27 electric utility are subject to assessment and taxa-
28 tion to the same extent and in the same manner as
29 provided in Title 36.

30 2. Utility facilities owned by foreign electric
31 utility. All utility facilities situated within this
32 State and owned by a foreign electric utility other
33 than a municipal or quasi-municipal corporation or
34 other political subdivision of a state or province
35 are subject to assessment and taxation to the same
36 extent and in the same manner as though owned by a
37 domestic electric utility.

38 3. Foreign utility facility that is a municipal
39 or quasi-municipal corporation exempt from taxation.
40 All utility facilities situated in this State and
41 owned by a foreign electric utility that is a muni-

1 pal or quasi-municipal corporation or other political
2 subdivision of a state or province are exempt from
3 taxation. In lieu of taxes the owner shall on or be-
4 fore September 1st of each year pay to the municipal-
5 ity where the utility facility lies the amount which
6 would be assessable as property taxes if the utility
7 facility were the property of a foreign electric
8 utility other than a municipal or quasi-municipal
9 corporation or other political subdivision of a state
10 or province.

11 4. Procedures relating to payment in lieu of
12 taxes. The assessment, abatement and appellate pro-
13 cedures and all other procedures relating to the pay-
14 ment in lieu of taxes shall be as provided in Title
15 36 with respect to taxes.

16 SUBCHAPTER III

17 ELECTRIC RATE REFORM ACT

18 §3151. Title

19 This subchapter shall be known and may be cited
20 as the "Electric Rate Reform Act."

21 §3152. Policy and findings

22 The Legislature declares and finds that improve-
23 ments in electric utility rate design and related
24 regulatory programs have great potential for reducing
25 the cost of electric utility services to consumers,
26 for encouraging energy conservation and efficient use
27 of existing facilities and for minimizing the need
28 for expensive new electric generating and transmis-
29 sion capacity. It is the purpose of this chapter
30 to:

31 A. Require the commission to relate electric
32 rates more closely to the costs of providing
33 electric service;

34 B. Encourage the commission to set electric
35 rates to promote the maximum efficient utilization
36 of natural energy resources existing in the
37 State in order to promote the use of indigenous
38 energy resources to the extent that this will re-
39 duce overall electric costs.

1 §3153. The Public Utilities Commission to develop
2 proposals to improve electric utility rate
3 design

4 The commission, as it determines appropriate,
5 shall order electric utilities to develop and submit
6 specific rate design proposals and related programs
7 for implementing energy conservation techniques and
8 innovations, either in conjunction with or independ-
9 ent of any rate-making proceeding pending before the
10 commission. The proposals shall, as the commission
11 determines, be designed to encourage energy conserva-
12 tion, minimize the need for new electrical generating
13 capacity, and minimize costs of electricity to con-
14 sumers, and shall include, but not be limited to,
15 proposals which provide for the development and im-
16 plementation of:

17 1. Load management. Load management techniques;

18 2. Marginal costs of service. Rates which re-
19 fect marginal costs of services at different
20 voltages, times of day or seasons of the year and in-
21 cluding long-run marginal costs associated with the
22 construction of new electric generating facilities;

23 3. Policies. Policies which encourage economic
24 use of fuel and which encourage the maximum efficient
25 utilization of natural energy resources indigenous to
26 the State;

27 4. Rates or regulatory policies. Rates or other
28 regulatory policies which encourage electric utility
29 system reliability; and

30 5. Utility financing of energy conservation.
31 Electric utility financing or subsidization of capi-
32 tal improvements undertaken by ratepayers to conserve
33 electricity used by the ratepayers in the future.

34 §3154. The Public Utilities Commission to require
35 the necessary improvements

36 1. Rate design and conservation improvements.
37 The commission shall mandate, after notice and hear-
38 ing on the proposed schedule, a scheduled phasing-in
39 of the improvements in electric utility rate design

1 and related regulatory programs submitted and ap-
2 proved under section 3153 and is authorized to order
3 utilities to implement electric utility rate design
4 improvements approved by the commission on a tempo-
5 rary, pilot and experimental basis, affecting either
6 a portion or all of any class of consumers of any
7 utility as the commission may determine is appropri-
8 ate to carry out the purposes of this subchapter, and
9 order other energy conservation techniques, programs
10 and innovations relating to electric utility service
11 that, in the commission's judgment, are practicable,
12 just and reasonably related to fulfilling the pur-
13 poses of this chapter. In ordering any rate design
14 improvements or any other programs for implementing
15 energy conservation techniques and innovations re-
16 ferred to in section 3153, the commission shall con-
17 sider rate design stability and shall assure the reve-
18 nue requirements of the utility.

19 2. Initial cost recovery. In assuring the reve-
20 nue requirements of the utility with respect to pro-
21 grams for implementing energy conservation techniques
22 or innovations, the commission shall, upon petition,
23 permit the utility to adjust rates to recover the
24 reasonable incremental costs associated with imple-
25 menting those programs to the extent that the costs
26 are not already reflected in the utility's rates and
27 provided that that adjustment does not result in
28 rates that are unjust or unreasonable. The adjust-
29 ment shall include reasonable costs of all programs
30 ordered under this subchapter incurred as of the time
31 of the adjustment and reasonable estimated costs of
32 operating the conservation programs.

33 3. Rules. The commission shall adopt rules im-
34 plementing the requirements of subsection 2. Not-
35 withstanding any other provision of this Title, such
36 rules may include:

37 A. Procedures to periodically reconcile or ad-
38 just any rate adjustment ordered under subsection
39 2 or similar costs reflected in the utility's ex-
40 isting rates;

41 B. Procedures which provide incentives and
42 disincentives for the effective implementation of
43 this subchapter; and

1 C. Procedures to provide for the financial cost
2 or benefit of under-collection or
3 over-collection.

4 4. Federal standards. On its own initiative or
5 during a rate proceeding, and to the extent that is
6 feasible, the commission shall consider and adopt the
7 federal standards established in the United States
8 Public Utility Regulatory Policies Act of 1978, Pub-
9 lic Law 95-617. If, and to the extent that, the com-
10 mission should decide not to adopt any of the federal
11 standards referred to in this section, it shall set
12 forth fully the facts and the rationale supporting
13 the rejection of the standards.

14 5. Load management devices. The commission
15 shall mandate, in any electric utility rate schedule
16 approved or taking effect after January 1, 1983, a
17 rate for any user who installs a load management de-
18 vice, approved by the commission, which reflects the
19 savings to the utility resulting from the use of the
20 device.

21 §3155. The Attorney General authorized to intervene
22 before the commission to protect consumer in-
23 terests

24 The Department of Attorney General may:

25 1. Make assessments. Make general factual as-
26 sessments of the impact of proposed rate changes and
27 other proposed regulatory actions upon all affected
28 consumers;

29 2. Assist consumers. Assist consumers in the
30 presentation of their positions before utility regu-
31 latory commissions;

32 3. Advocate position. Advocate, on its own be-
33 half, a position which it determines represents the
34 position most advantageous to consumers, taking into
35 account developments in rate design reform; and

36 4. Obtain grants. Obtain grants pursuant to
37 Public Law 94-385, Section 205(a), 42 United States
38 Code, Section 6805 and the funds made available are
39 to be in addition to, and not in substitution for,

1 funds made available to that department from other
2 sources.

3 SUBCHAPTER IV

4 OLDER CITIZENS ELECTRIC SERVICE POLICY

5 §3171. Title

6 This chapter shall be known and may be cited as
7 the Older Citizens Electric Service Policy.

8 §3172. Policy

9 It is declared that it is a policy of the State
10 to insure an adequate electric utility service to
11 older citizens at a price they can afford. Older
12 citizens today face a special crisis in surviving un-
13 der the constant increase in the cost of living and
14 particularly in the cost of fuel and utility ser-
15 vices. It is the purpose of lifeline electric ser-
16 vice to alleviate the upward spiral in the cost of
17 electric service to older citizens and at the same
18 time to encourage as well as reward the conservation
19 of scarce energy supplies by adopting the approach of
20 constant per unit cost for the use of electricity.
21 It is the policy of the State that older citizens be
22 able to receive electric service for basic necessi-
23 ties of modern life, such as lighting and refrigera-
24 tion, at a stable, fair and reasonable minimum cost
25 and to encourage the reduction of electricity con-
26 sumption for all other uses beyond such basic neces-
27 sities.

28 SUBCHAPTER V

29 BULK POWER TRANSACTIONS AND WHEELING

30 §3181. Purchase and resale of electricity by Public
31 Utilities Commission

32 1. Commission representation of the State. The
33 commission when authorized by the Governor, shall
34 represent the State in negotiating, contracting for
35 and purchasing electricity generated outside of the
36 State, and in reselling the purchased electricity to
37 electric utilities serving this State when the com-

1 mission determines that the purchases and resales
2 will serve the energy needs of the State in a manner
3 consistent with the public interest. As used in this
4 section, the term "electricity" includes capacity.

5 2. Pricing of resales of electricity. All
6 resales of electricity under this section shall be on
7 a nonprofit basis without preference or discrimina-
8 tion, and may include, subject to the Governor's ap-
9 proval, costs incurred by the commission in its nego-
10 tiating, contracting and purchasing activities under
11 this section. If no purchase-sale agreement is made,
12 the Governor is responsible for proposing a method of
13 paying the costs he has approved in conjunction with
14 the negotiations.

15 3. Resale of electricity to electric utilities
16 outside the State. The commission may resell pur-
17 chased electricity under this section to electric
18 utilities operating outside of the State if the re-
19 sale is reasonably incidental to the resale of power
20 within the State.

21 4. Commission has implied powers to carry out
22 this section. In addition, the commission may con-
23 tract for the transmission of electricity purchased
24 under this section to the place of resale and shall
25 have all implied and incidental powers which are rea-
26 sonably necessary and proper to enable it to carry
27 out the purpose of this section.

28 5. Electric utility may not refuse to transmit
29 electricity. No electric utility may refuse to
30 transmit electricity purchased under this section via
31 its facilities at reasonable rates if it has capabil-
32 ity to transmit the energy.

33 §3182. Transmission or wheeling of electricity

34 1. Affiliated industrial enterprises. Upon the
35 request of an industrial enterprise located in the
36 State to transmit or wheel electricity to another in-
37 dustrial facility in the State owned in whole or in
38 part by or otherwise affiliated with the enterprise,
39 the electric utility shall enter into an agreement of
40 not more than 30 years' duration to provide transmis-
41 sion or wheeling services subject to reasonable con-

1 ditions and subject to the conditions of subsection
2 2.

3 2. Conditions. The conditions shall ensure that
4 the fulfillment of the transmission or wheeling
5 agreement is unlikely to result in a reasonably as-
6 certainable uncompensated loss by or place an undue
7 burden on the wheeling utility or its customers and
8 will not unreasonably impair the ability of the
9 wheeling utility to adequately serve its customers in
10 the State.

11 In the event that the person requesting wheeling and
12 the utility requested to transmit or wheel the elec-
13 tricity are unable to agree to any matter pertaining
14 to transmission or wheeling services, the commission
15 may require the utility to provide the transmission
16 or wheeling services under such conditions as may be
17 reasonable, for a period of time determined by the
18 commission to be reasonable.

19 3. Wheeling to electric utilities. Subject to
20 all other provisions of this Title, any person may
21 petition the commission for an order requiring one or
22 more electric utilities to transmit energy or energy
23 and capacity from any utility, qualifying facility or
24 other supplier of electricity to any utility. The
25 commission may issue such an order if the proposed
26 transmission or wheeling is in the public interest
27 and meets reasonable conditions, including the condi-
28 tions of subsection 2.

29 4. Capacity obligation. In the event a utility
30 is required to provide transmission service under
31 this section, the utility's obligation to provide
32 electric service to the facility receiving the trans-
33 mitted electricity shall cease, to the extent of the
34 maximum level of electrical capacity demand met by
35 that transmission.

36 CHAPTER 33

37 SMALL POWER PRODUCTION AND
38 COGENERATION

39 §3301. Title

1 This chapter shall be known and may be cited as
2 the "Small Power Production Act."

3 §3302. Purpose

4 The Legislature finds that it is in the best in-
5 terest of the State to reduce the State's dependence
6 upon fossil fuels for its energy needs. It is neces-
7 sary to diversify energy producing systems and energy
8 sources to ensure an adequate and reliable supply of
9 energy for Maine citizens. The Legislature further
10 finds that the development of small energy production
11 facilities using renewable resources and cogeneration
12 facilities will have a significant and beneficial ef-
13 fect upon this State. The Legislature further finds
14 that the replacement of fossil fuels by municipal
15 solid waste reduces dependence upon fossil fuels,
16 diversifies energy sources, reduces municipal costs
17 and reduces the negative environmental effects of
18 solid waste disposal.

19 The Legislature intends through this legislation
20 to:

21 1. Encourage development. Encourage the devel-
22 opment of energy producing systems using renewable
23 resources; particularly abundant, indigenous, renew-
24 able resources or resources in close proximity to
25 Maine; and

26 2. Promote existing use. Promote the more effi-
27 cient use of existing energy systems particularly
28 through the cogeneration of power.

29 §3303. Definitions

30 As used in this chapter, unless the context oth-
31 erwise indicates, the following terms have the fol-
32 lowing meanings.

33 1. Associate. "Associate" means any person oth-
34 er than an electric utility that substantially par-
35 ticipates in the ownership or operation of a
36 cogeneration or small power production facility or
37 any person that contracts to receive the thermal out-
38 put of a cogeneration facility.

1 2. Cogenerator. "Cogenerator" means a municipi-
2 ality or person:

3 A. Owning or operating a facility which gener-
4 ates electricity and steam or other useful forms
5 of energy which are used for commercial, indus-
6 trial, heating or cooling purposes; and

7 B. Not primarily engaged in the generation or
8 sale of electricity, other than the electricity
9 generated at the cogeneration facility.

10 For purposes of this chapter, a cogenerator is con-
11 sidered not primarily engaged in the generation or
12 sale of electricity if 50% or less of the equity in-
13 terest in the cogeneration facility is owned by an
14 electric utility, a subsidiary of an electric utility
15 or an affiliate of an electric utility.

16 3. Existing transmission and distribution line
17 improvement costs. "Existing transmission and dis-
18 tribution line improvement costs" means any costs the
19 utility reasonably incurs for upgrading and improving
20 transmission and distribution lines and related fa-
21 ilities that are already operable as part of that
22 utility's existing power grid.

23 4. Interconnection costs. "Interconnection
24 costs" means the reasonable costs incurred solely due
25 to connecting the qualifying facility with the exist-
26 ing facilities of the electric utility purchasing the
27 power. Interconnection costs do not include the
28 costs of improvements to existing transmission and
29 distribution lines.

30 5. Municipal solid waste. "Municipal solid
31 waste" means solid waste emanating from domestic and
32 commercial sources within the State over which munic-
33 ipalities are authorized to exercise control.

34 6. Municipal solid waste energy recovery facili-
35 ty. "Municipal solid waste energy recovery facility"
36 means a "small power producer" as defined in this
37 section, which depends upon municipal solid waste for
38 at least 50% of its energy.

1 7. Qualifying facility. "Qualifying facility"
2 means any small power producer or cogenerator as de-
3 defined in this chapter.

4 8. Renewable resources. "Renewable resources"
5 means resources that are capable of being reproduced,
6 replenished or restored following the use of these
7 resources and resources that are inexhaustible. Re-
8 newable resources shall include biomass, wood, water,
9 waste, solid waste, as defined by Title 38, section
10 1303, solar energy and wind, but do not include, nu-
11 clear fuel sources, coal and oil.

12 9. Small power producer. "Small power producer"
13 means a municipality or person owning or operating a
14 power production facility with a power production ca-
15 capacity which, together with any other facilities lo-
16 cated at the same site, does not exceed 80 megawatts
17 of electricity and which depends upon renewable re-
18 sources for its primary source of energy. For pur-
19 poses of this chapter, a power producer is not con-
20 sidered a "small power producer" if more than 50% of
21 the equity interest in the power production facility
22 is owned by a electric utility, a subsidiary of a
23 electric utility or an affiliate of a electric utili-
24 ty.

25 §3304. Control and regulation of generating facili-
26 ties

27 Notwithstanding the definition of a public utili-
28 ty in section 102, a small power production facility
29 and a cogeneration facility, as defined in section
30 3303, is not deemed a public utility and is not sub-
31 ject to control or regulation by the commission, ex-
32 cept that the commission may treat all or a portion
33 of the equity investment, whether direct or indirect,
34 by an electric utility in a qualifying cogeneration
35 facility or a qualifying small power production fa-
36 ility as public utility property for retail rate-
37 making purposes. Commission determination and regu-
38 lation of rates of electric utilities, which include
39 purchases of power from a qualifying small power pro-
40 duction facility or cogeneration facility, shall not
41 be considered control or regulation of these facili-
42 ties.

1 §3305. Sale of electricity

2 1. Authorized markets for electricity. Any
3 small power producer or cogenerator may sell elec-
4 tricity to any electric utility without prior approv-
5 al or rate approval by the commission.

6 2. Use of electricity by the producer. Any
7 small power producer or cogenerator may generate or
8 distribute electricity through his private property
9 solely for his own use, the use of his tenants or the
10 use of, or sale to, his associates in a small power
11 production or cogeneration facility and not for the
12 use of or sale to others without approval or regula-
13 tion by the commission.

14 3. Interconnections and existing transmission
15 line improvements. A small power producer or
16 cogenerator selling electricity to an electric utili-
17 ty shall be obligated to pay all reasonable intercon-
18 nection costs. Any existing transmission and distri-
19 bution line improvement costs incurred in order for
20 the utility to utilize fully the power from a quali-
21 fying facility shall be equitably apportioned between
22 the electric utility and the small power producer or
23 cogenerator.

24 §3306. Transactions

25 1. Rate. The small power producer or
26 cogenerator and the electric utility shall determine
27 the rate paid by the electric utility for the pur-
28 chase of electricity as described in this section.

29 2. Small power producer or cogenerator and pub-
30 lic utility unable to agree. In the event that the
31 small power producer or cogenerator and the electric
32 utility are unable to agree to a contract for elec-
33 tricity, or to a price for the electricity purchased
34 by the utility, or to an equitable apportionment of
35 existing transmission and distribution line improve-
36 ment costs, the commission shall require the utility
37 to purchase the power at such rates and under such
38 terms as the commission establishes by rule or order.

39 3. Competing petitions filed by small power pro-
40 ducers. In the event competing petitions are filed

1 by small power producers or cogenerators which are
2 otherwise equivalent with respect to the standards
3 set forth in section 3307, and implementing rules
4 promulgated by the commission, the commission may
5 give preference to any facility that is fueled pri-
6 marily by municipal solid waste.

7 4. Apportionment of transmission and distribu-
8 tion line improvement costs. The Commission shall
9 base the equitable apportionment of existing trans-
10 mission and distribution line improvement costs upon
11 the benefits to the small power producer or
12 cogenerator and the electric utility.

13 5. Commission decision on petition. The commis-
14 sion shall issue a decision within 6 months from re-
15 ceipt of a petition signed by a small power producer,
16 cogenerator or electric utility for commission
17 intercession.

18 6. Filing fee. The petitioner or petitioners
19 requesting commission intercession shall pay to the
20 commission an amount equal to \$1,000 per megawatt of
21 capacity of the facility in issue. The petitioner or
22 petitioners may request the commission to waive all
23 or part of the filing fee. Notwithstanding any other
24 provision of law, filing fees paid as required in
25 this paragraph shall be segregated, apportioned and
26 expended by the commission for the purposes of this
27 section. Any portion of the filing fee that is re-
28 ceived from any petitioner or petitioners and is not
29 expended by the commission to process the request for
30 intercession shall be returned to the petitioner or
31 petitioners.

32 §3307. Review of rates

33 During a rate proceeding before the commission
34 which involves the review of rates paid by an elec-
35 tric utility for electricity purchased by the utility
36 from a small power producer or cogenerator, or upon
37 petition to the commission in accordance with section
38 3306, the commission shall follow the standards pre-
39 scribed in this section as the basis of the commis-
40 sion's decision pertaining to these rates.

1 1. Term of contract. Long-term contracts for
2 the purchase of electricity by the electric utility
3 from small power producers and cogenerators shall be
4 encouraged in order to enhance the economic feasibil-
5 ity of small power production and cogeneration facil-
6 ities.

7 2. Alternative cost of energy to the utility.
8 The rates paid by an electric utility to a small pow-
9 er producer or cogenerator may not exceed, over the
10 term of the power purchase contract, the cost to the
11 electric utility of the electric energy which, but
12 for the purchase from the cogenerator or small power
13 producer, the utility would generate or purchase from
14 another source. A determination of alternative en-
15 ergy costs to the utility shall include consideration
16 of the cost of additional or existing generating ca-
17 capacity which could be displaced over the term of the
18 contract as well as the cost of fuel and other oper-
19 ating expenses of electric energy production which a
20 utility would otherwise incur in generating or pur-
21 chasing power from another source.

22 3. Displacement of fossil fuel. Displacement of
23 fossil fuel by the production of energy from renew-
24 able resources or by the more efficient use of energy
25 by cogeneration shall be encouraged by contracts with
26 and by rates paid to small power producers or
27 cogenerators that make displacement feasible.

28 4. Availability and reliability of power. The
29 rate charged by a small power producer or cogenerator
30 for electricity produced shall reflect the reliabili-
31 ty of the power with respect to the number of hours
32 per day and days per year that it is available; the
33 time of day and season of the year at which the elec-
34 tricity is made available; and the time of day, sea-
35 son of the year and the total need for power required
36 by an electric utility.

37 §3308. Energy and capacity purchases from small pow-
38 er producers and cogenerators by electric
39 utilities affected by the filing of a peti-
40 tion in bankruptcy or for reorganization

41 1. Establishment of a purchase price for energy
42 or energy and capacity delivered to a trustee or re-

1 organized utility. If an electric utility which has
2 entered into a power purchase contract with a small
3 power producer or cogenerator for the purchase of en-
4 ergy or energy and capacity pursuant to section 3305,
5 subsection 1 or section 3306, files for bankruptcy or
6 for reorganization under the bankruptcy laws of the
7 United States and, if the trustee in bankruptcy or
8 debtor, receiver, examiner or any other party in pos-
9 session and control of the assets of the electric
10 utility rejects that power purchase contract pursuant
11 to the United States Bankruptcy Code or any similar
12 power or law, the trustee, debtor, receiver, examiner
13 or other party in possession and control of the as-
14 sets of the electric utility shall be obligated to
15 continue to purchase without interruption from the
16 small power producer or cogenerator whose contract
17 was rejected any energy or energy and capacity which
18 the small power producer or cogenerator makes availa-
19 ble to it. If the power purchase contract is re-
20 jected, the avoided cost for the energy, or energy
21 and capacity for the time period commencing on the
22 date of the rejection and ending on the original ex-
23 piration date of the rejected contract shall be the
24 avoided cost determined for the period as if the de-
25 termination were being made on the date on which the
26 electric utility and small power producer or
27 cogenerator entered into the rejected contract.

28 2. Nature of capacity contract. If a small pow-
29 er producer or cogenerator contracts to provide an
30 electric utility with electric generating capacity,
31 that portion of the power purchase contract which re-
32 quires the delivery of the capacity shall not be ex-
33 ecutory in nature under the laws of the State once
34 the small power producer or cogenerator has first
35 made available to the electric utility the electric
36 generating capacity. This section shall not be in-
37 terpreted to mean that any other sections of such a
38 contract are executory in nature.

39 3. Commission approval of rates of reorganized
40 utility. At any time that the commission is re-
41 quested or required to approve rates for an electric
42 utility which has rejected a power purchase contract
43 with a small power producer or cogenerator as a re-
44 sult of a bankruptcy or reorganization proceeding, or
45 to approve rates of a person controlling and in pos-

1 session of the assets of an electric utility which
2 was a party to such a rejected contract, it shall not
3 grant any rate approval; unless the electric utility
4 or person seeking the rates includes within the rates
5 provision for payment for all energy and capacity
6 made available by a small power producer or
7 cogenerator, either at the original contract rate or
8 at the rate specified in subsection 1.

9 Any person who is obligated to comply with this
10 section may not be permitted to operate as an elec-
11 tric utility in the State, unless it is in full com-
12 pliance with this section.

13 CHAPTER 35

14 CONSUMER-OWNED ELECTRIC UTILITIES

15 §3501. Definitions

16 1. "Consumer-owned electric utility." For the
17 purposes of this chapter, "consumer-owned electric
18 utility" means any electric utility which is wholly
19 owned by its consumers, including, but not limited
20 to:

21 A. Any rural electrification cooperative or-
22 ganized under chapter 37;

23 B. Any electrification cooperative organized on
24 a cooperative plan under the laws of the State;

25 C. Any municipal, plantation or quasi-municipal
26 electric utility;

27 D. The electric portion of any municipal, plan-
28 tation or quasi-municipal entity providing elec-
29 tric and other services; and

30 E. Any electric utility wholly owned by a munic-
31 ipality.

32 §3502. Procedures for changes in rates

33 Notwithstanding section 310, any consumer-owned
34 electric utility which proposes to increase rates,
35 tolls or charges by not more than 15% of the

1 utility's annual operating revenues, may elect to set
2 rates pursuant to this section and section 3503.
3 These sections do not apply to fuel adjustment
4 clauses as governed by section 3101.

5 1. Public hearing. No consumer-owned electric
6 utility which elects to set rates under this section
7 may file with the commission or increase any rate,
8 toll or charge without first holding a public hearing
9 at which the Public Advocate and any customer of the
10 consumer-owned electric utility may present testimony
11 and may question the officials present regarding the
12 proposed increase.

13 2. Notification. The consumer-owned electric
14 utility shall, at least 30 days prior to the hearing,
15 publish a notice of the amount of the proposed rate
16 increase, the percent of increase for each customer
17 class and the hearing, including the date, time,
18 place and purpose of the hearing at least twice in a
19 newspaper of general circulation in the area encom-
20 passed by the consumer-owned electric utility. In
21 addition, 60 days prior to the hearing, the
22 consumer-owned electric utility shall notify the com-
23 mission and the Public Advocate of its intent to in-
24 crease rates, tolls or charges.

25 3. Ratepayer notification. Each consumer-owned
26 electric utility shall give, at least 30 days prior
27 to the public hearing, one notice to each of its
28 ratepayers of:

- 29 A. The amount of the proposed rate increase;
- 30 B. The percent of increase for each customer
31 class;
- 32 C. The customer's right to request information
33 relating to the present and proposed rates;
- 34 D. The customer's right to an open and fair
35 hearing and his right to further hearings before
36 the commission;
- 37 E. The availability of assistance from the Pub-
38 lic Advocate; and

1 F. The date, time and place of hearing.

2 4. Customer rights. At the commencement of each
3 hearing held pursuant to this section, the
4 consumer-owned electric utility shall inform those
5 present of customer rights as specified in subsection
6 3 and that the rate increase may be investigated by
7 the commission in accordance with subsection 8.

8 5. Supporting materials. The consumer-owned
9 electric utility shall file a copy of all materials
10 supporting the proposed increase with the commission
11 and the Public Advocate, at least 30 days prior to
12 the hearing. A copy of all material supporting the
13 proposed increase shall be made available to custom-
14 ers for examination at the offices of the
15 consumer-owned electric utility for at least 30 days
16 prior to the hearing. The consumer-owned electric
17 utility shall promptly provide any relevant addition-
18 al material or information requested by a customer or
19 by the commission or by the Public Advocate.

20 6. Filing changed rates. The consumer-owned
21 electric utility shall file its changed rates with
22 the commission within 30 days of the public hearing,
23 but not sooner than 10 days following the public
24 hearing. The commission may order the consumer-owned
25 electric utility to correct any mathematical or cler-
26 ical errors.

27 7. Effective date of rate change. Subject to
28 the notice and waiver requirements of section 307,
29 consumer-owned electric utilities electing to set
30 rates under this section may establish an effective
31 date for any rate change of at least one month, but
32 not more than 9 months, from the date the rates are
33 filed with the commission.

34 8. Authority to investigate rate changes. If,
35 within 30 days of the public hearing, 10% of the cus-
36 tomers of the consumer-owned electric utility or 750
37 customers, whichever is less, file with the utility
38 and with the commission petitions requesting a review
39 of the rate change by the commission, the rate change
40 may be suspended, investigated, reviewed and changed
41 by the commission in accordance with section 310, ex-
42 cept that no suspension ordered issued by the commis-

1 sion pursuant to section 310 may be effective for a
2 period greater than 9 months from the date the rate
3 changes were filed.

4 9. Procedures for suspension of rate change. If
5 the number of signatures on the petition is at least
6 750 or if the number of signatures on the petition
7 equals or exceeds 10% of the customers indicated on
8 the consumer-owned electric utility's most recent an-
9 annual report on file with the commission, the commis-
10 sion may suspend the rate change pursuant to section
11 310. The commission shall notify the electric utili-
12 ty of the suspension.

13 10. Electric utility may challenge petitions.
14 The electric utility shall have 10 days from the re-
15 ceipt of notice to notify the commission whether it
16 intends to contest any aspect of the validity of the
17 petition, after which it shall lose that right. If
18 the electric utility notifies the commission in a
19 timely fashion that it wishes to contest the validity
20 of the petitions, the commission shall set the matter
21 down for hearing. It shall hold the hearing and is-
22 sue its decision on the validity of the petitions
23 within 30 days of notification by the electric utili-
24 ty that it intends to contest the validity of the pe-
25 titions. If the commission finds the petitions to be
26 invalid, it shall lift its order of suspension. For
27 the purposes of this section, "customer" means, in
28 the case of residential accounts, any adult residing
29 in a household where the utility's electric service
30 is provided, and in the case of all other accounts
31 where the utility's electric service is provided, a
32 corporate officer, a partner or a proprietor. No one
33 person may sign on behalf of more than one account
34 unless receiving service at the account.

35 11. Review of rates under section 310. Nothing
36 in this section prohibits a consumer-owned electric
37 utility from petitioning the commission for review
38 pursuant to section 310 in the first instance.

39 12. Frequency of rate increases. No
40 consumer-owned electric utility may initiate a pro-
41 ceeding under this section for a general increase in
42 its rates within one year of its most recent notifi-
43 cation in accordance with subsection 3. For the pur-

1 poses of this section, a "general increase in rates"
2 means any change in the rates, tolls and charges of
3 the electric utility, the effect of which is to in-
4 crease the annual operating revenues of an electric
5 utility by more than 1%, provided that this term does
6 not include a rate change made for the sole purpose
7 of implementing a fuel cost adjustment rate, pursuant
8 to section 3101.

9 13. Penalty. If, upon the filing of a rate in-
10 crease pursuant to this section, the commission finds
11 that the utility has failed to comply with this sec-
12 tion, the commission may suspend the rates for inves-
13 tigation pursuant to section 310. If there is a sub-
14 stantial procedural violation of this section, the
15 commission may prohibit the utility from filing rates
16 pursuant to this section in its next rate case.

17 §3503. Rates for consumer-owned electric utilities

18 1. Scope of section. Notwithstanding any other
19 provision of law or any charter to the contrary and
20 in addition to any charter or private and special
21 laws creating or affecting any consumer-owned elec-
22 tric utility, the rate, toll or charge made, exacted,
23 demanded or collected by the consumer-owned electric
24 utility is governed by this section.

25 2. Definition. As used in this section, the
26 term "governing body" means the governing body of a
27 consumer-owned electric utility.

28 3. Just and reasonable rates. The governing
29 body shall establish and file rates, tolls and
30 charges which are just and reasonable and which pro-
31 vide revenue as may be required for the
32 consumer-owned electric utility to perform its public
33 utility service and to attract necessary capital on
34 just and reasonable terms.

35 4. Nondiscriminatory rates. The governing body
36 shall establish and file rates which are nondiscrimi-
37 natory and which are applied on a nondiscriminatory
38 basis.

39 5. Purposes. The governing body may establish
40 and file rates under this section to provide revenue
41 for the following purposes, but no other:

1 A. To pay the current expenses for operating and
2 maintaining the electric system and to provide
3 for normal renewals and replacements;

4 B. To provide for the payment of the interest on
5 the indebtedness created or assumed by the utili-
6 ty;

7 C. For consumer-owned electric utilities, except
8 rural electrification cooperatives:

9 (1) To provide each year a sum equal to not
10 less than 2% nor more than 10% of the term
11 indebtedness represented by the issuance of
12 bonds created or assumed by the utility,
13 which sum shall be turned into a sinking
14 fund and there kept to provide for the ex-
15 tinguishment of term indebtedness. The mon-
16 ey set aside in this sinking fund and all
17 interest accrued to this fund shall be de-
18 voted to the retirement of the term obliga-
19 tions of the utility and may be invested in
20 such securities as savings banks in the
21 State are allowed to hold;

22 (2) To provide for annual principal pay-
23 ments on serial indebtedness created or as-
24 sumed by the utility; and

25 (3) To provide for a contingency reserve
26 fund to reflect up to a 5% addition to year-
27 ly revenues over what is required to operate
28 the electric utility. Any surplus in ex-
29 cess of 5% shall be used to offset future
30 revenue requirements in the setting of
31 rates. Any interest generated on these
32 funds shall be deposited into the contingen-
33 cy reserve fund. The balance in the contin-
34 gency reserve fund at the close of the
35 utility's fiscal year shall not exceed 5% of
36 the yearly revenues over what is required to
37 operate the electric utility; and

38 D. For rural electrification cooperatives sup-
39 plying or authorized to supply energy, to provide
40 for a contingency reserve fund by providing rates
41 to reflect an additional amount no more than the

1 amount of yearly long-term interest payments.
2 The total accumulation of funds shall not exceed
3 the level of equity required by the lender and in
4 no case may exceed 25% of the long-term debt.
5 Any surplus in excess shall be used to offset fu-
6 ture revenue requirements in the setting of
7 rates.

8 6. Penalty. If, as a result of investigation
9 pursuant to section 310, 1302 or 1303, the commission
10 finds that the utility has set rates pursuant to sec-
11 tion 3502 which significantly exceed the limits of
12 this section, the commission may order the utility to
13 use any existing surplus to offset future revenue re-
14 quirements and may suspend the utility's rights pur-
15 suant to section 3502 for a specified time period.

16 §3504. Treatment of certain small electric utilities

17 Upon request of a consumer-owned electric utility
18 of not more than 150 customers, the commission may
19 exempt the utility from any of the requirements of
20 this Title and any commission rules with the excep-
21 tion of sections 3502 and 3503. The commission when
22 promulgating rules shall take into account the effect
23 of those rules on the consumer-owned utilities with
24 not more than 150 customers and in doing so shall not
25 impose unreasonable requirements.

26 §3505. Sunset provision

27 This section and sections 3501 to 3504 are re-
28 pealed on June 30, 1989, pending review by the joint
29 standing committee of the Legislature having juris-
30 isdiction over utilities and unless continued by legis-
31 lative Act.

32 CHAPTER 37

33 RURAL ELECTRIFICATION COOPERATIVES

34 SUBCHAPTER I

35 GENERAL PROVISIONS

36 §3701. Short title

1 This chapter shall be known and may be cited as
2 the "Rural Electrification Cooperative Enabling Act."

3 §3702. Purpose

4 Cooperative nonprofit membership corporations may
5 be organized under this chapter for the purpose of
6 supplying electricity and promoting and extending the
7 use of electricity.

8 §3703. Definitions

9 As used in this chapter, unless the context oth-
10 erwise indicates, the following words have the fol-
11 lowing meanings:

12 1. Person. "Person" means person as defined in
13 section 102 or any public agency, state or political
14 subdivision or agency of the State, or any body poli-
15 tic.

16 2. Rural electrification cooperative or cooper-
17 ative. "Rural electrification cooperative or cooper-
18 ative" means any corporation organized under this
19 chapter or which becomes subject to this chapter in
20 the manner provided.

21 §3704. Name

22 The name of a cooperative shall be distinct from
23 the name of any other cooperative or corporation or-
24 ganized under the laws of, or authorized to do busi-
25 ness in this State.

26 §3705. Refunds

27 Revenues of a cooperative for any fiscal year
28 shall be applied as follows:

29 1. Expenses. To defray the expenses of the op-
30 eration and maintenance of the facilities of the co-
31 operative during the fiscal year;

32 2. Interest and obligations. To pay interest
33 and principal obligations of the cooperative coming
34 due in the fiscal year;

1 3. Reserve for construction of facilities. To
2 finance or to provide a reserve for the financing of
3 the construction or acquisition by the cooperative of
4 additional facilities to the extent determined by the
5 board of trustees;

6 4. Reserve for working capital. To provide a
7 reasonable reserve for working capital; and

8 5. Reserve for indebtedness. To provide a re-
9 serve for the payment of indebtedness of the coopera-
10 tive in an amount not less than the total of the in-
11 terest and principal payments in respect thereof re-
12 quired to be made during the next following fiscal
13 year;

14 Any remaining revenues shall, unless otherwise
15 determined by a vote of the members, be distributed
16 by the cooperative to its members as patronage re-
17 funds prorated in accordance with the patronage of
18 the cooperative by the respective members, paid for
19 during such fiscal year. Nothing in this section
20 prohibits the payment by a cooperative of all or any
21 part of its indebtedness prior to the date when it
22 becomes due.

23 §3706. Nonliability of members for debts of coopera-
24 tive

25 No member may be liable or responsible for any
26 debts of the cooperative and the property of the mem-
27 bers may not be subject to execution for the coopera-
28 tive's debts. This section does not apply to a gen-
29 eration and transmission cooperative organized in ac-
30 cordance with subchapter IV.

31 §3707. Recordation of mortgages; effect

32 All after-acquired property of a cooperative or
33 foreign corporation described or referred to as being
34 mortgaged or pledged in a mortgage, deed of trust or
35 other instrument is subject to the lien on that prop-
36 erty immediately upon the acquisition of the property
37 by the cooperative or foreign corporation, whether or
38 not the property was in existence at the time of the
39 execution of the mortgage, deed of trust or other in-
40 strument. Recordation of a mortgage, deed of trust

1 or other instrument constitutes notice and otherwise
2 has the same effect with respect to the after-ac-
3 quired property owned by the cooperative or foreign
4 corporation at the time of the execution of the mort-
5 gage, deed of trust or other instrument and described
6 or referred to in the instrument as being mortgaged
7 or pledged.

8 §3708. Fees

9 The Secretary of State shall charge and collect
10 for filing articles of incorporation, articles of
11 amendment, articles of consolidation or articles of
12 conversion a fee of \$5, and for filing certificate of
13 election to dissolve, articles of dissolution or cer-
14 tificate of change of principal office a fee of \$2.

15 §3709. Cooperatives are public utilities; jurisdic-
16 tion of Public Utilities Commission

17 Cooperatives are public utilities and subject to
18 this Title, notwithstanding any public or private and
19 special laws to the contrary.

20 1. Commission to hear complaints. Any person
21 who has been refused membership in or service by a
22 cooperative or who is receiving inadequate service
23 may complain to the commission which may, after hear-
24 ing, upon finding that such service may reasonably be
25 rendered, order the cooperative to provide the person
26 with reasonably adequate service.

27 2. Unreasonable membership requirement. If the
28 commission, after hearing, determines that a require-
29 ment of membership in a cooperative is unreasonable
30 or unjust, it shall order the requirement repealed or
31 not to be enforced.

32 §3710. Filing of articles

33 1. Articles filed by Secretary of State. Arti-
34 cles of incorporation, amendment, conversion or dis-
35 solution, when executed and acknowledged and accompa-
36 nied by such affidavits as may be required by this
37 chapter shall be presented to the Secretary of State
38 for filing in the records of his office. If the Sec-
39 retary of State determines that the articles pre-

1 sented conform to the requirements of this chapter he
2 shall, upon the payment of the fees as provided in
3 section 3708, file the articles in the records of his
4 office.

5 2. Articles in effect upon filing. Upon the
6 filing by the Secretary of State the incorporation,
7 amendment, conversion or dissolution provided for in
8 the articles is in effect.

9 3. Application of this section to certificates
10 of election to dissolve. This section applies to
11 certificates of election to dissolve and affidavits
12 executed in connection with the certificates pursuant
13 to section 3755, subsection 2.

14 SUBCHAPTER II

15 ORGANIZATION

16 §3731. Incorporators

17 Five or more natural persons or 2 or more cooper-
18 atives may organize a cooperative in the manner pro-
19 vided in this subchapter.

20 This section does not apply to a generation and
21 transmission cooperative organized in accordance with
22 subchapter IV.

23 §3732. Articles of incorporation

24 1. Contents of articles. The articles of incor-
25 poration of a cooperative shall recite that they are
26 executed pursuant to this chapter and shall state:

27 A. The name of the cooperative;

28 B. The address of its principal office;

29 C. The names and addresses of the incorporators;
30 and

31 D. The names and addresses of its trustees.

32 2. Articles not inconsistent with this chapter.
33 The articles of incorporation may contain any provi-

1 sions not inconsistent with this chapter determined
2 necessary or advisable for the conduct of its busi-
3 ness.

4 3. Articles signed by incorporators. The arti-
5 cles shall be signed by each incorporator and ac-
6 knowledged by at least 2 of the incorporators, or on
7 their behalf, if they are cooperatives.

8 4. Purpose and corporate powers. It is not nec-
9 essary to recite in the articles of incorporation of
10 a cooperative the purpose for which it is organized
11 or any of its corporate powers.

12 §3733. Bylaws

13 1. Trustees adopt first bylaws. The board of
14 trustees shall adopt the first bylaws of a cooper-
15 ative to be adopted following an incorporation, con-
16 version or consolidation.

17 2. Members adopt, amend or repeal following by-
18 laws. After the first bylaws have been adopted, the
19 members shall adopt, amend or repeal the bylaws by
20 the affirmative vote of a majority of those members
21 voting at a meeting of the members.

22 3. Contents of bylaws. The bylaws shall set
23 forth the rights and duties of members and trustees
24 and may contain other provisions for the regulation
25 and management of the affairs of the cooperative not
26 inconsistent with this chapter or with its articles
27 of incorporation.

28 §3734. Members

29 1. Incorporators are members. Each incorporator
30 of a cooperative is a member of the cooperative, but
31 no other person may become a member unless that per-
32 son agrees to use electric energy or other services
33 furnished by the cooperative when they are made
34 available through its facilities.

35 2. Requirements of membership. Any member of a
36 cooperative who agrees to use electric energy shall
37 cease to be a member if he does not use electric en-
38 ergy supplied by the cooperative within 6 months af-

1 ter it is made available to him or if electric energy
2 is not made available to him by the cooperative with-
3 in 2 years after he becomes a member or such lesser
4 period as the bylaws of the cooperative may provide.

5 3. Joint membership. A husband and wife may
6 hold a joint membership in a cooperative.

7 4. Membership not transferable. Membership in a
8 cooperative is not transferable, except as provided
9 in the bylaws.

10 5. Additional qualifications. The bylaws may
11 prescribe additional qualifications and limitations
12 in respect to membership.

13 §3735. Meetings

14 1. Annual meetings. An annual meeting of the
15 members of a cooperative shall be held at such time
16 and place as provided in the bylaws.

17 2. Special meetings. Special meetings of the
18 members may be called by the president, by the board
19 of trustees, by any 3 trustees or by not less than
20 10% of the members.

21 3. Notice. Except as otherwise provided in this
22 chapter, written or printed notice stating the time
23 and place of each meeting of the members and, in the
24 case of a special meeting, the purpose or purposes
25 for which the meeting is called, shall be given to
26 each member, either personally or by mail, not less
27 than 10 days nor more than 25 days before the date of
28 the meeting. If mailed, notice shall be deemed given
29 when deposited in the United States mail with postage
30 prepaid addressed to the member at his address as it
31 appears on the records of the cooperative.

32 4. Quorum. Unless the bylaws prescribe the
33 presence of a greater percentage or number of the
34 members for a quorum, a quorum for the transaction of
35 business at all meetings of the members of a cooper-
36 ative, having not more than 1,000 members, shall be 5%
37 of all members, present in person, and of a cooper-
38 ative, having more than 1,000 members, shall be 50
39 members, present in person. If less than a quorum is

1 present at any meeting, a majority of those present
2 in person may adjourn the meeting from time to time
3 without further notice.

4 This subsection does not apply to a generation and
5 transmission cooperative organized in accordance with
6 subchapter IV. A quorum for such a cooperative shall
7 be specified in the bylaws.

8 5. Voting. Each member shall be entitled to one
9 vote on each matter submitted to a vote at a meeting
10 of the members. Voting shall be in person, but, if
11 the bylaws so provide, may also be by proxy or by
12 mail, or both. If the bylaws provide for voting by
13 proxy or by mail, they shall also prescribe the con-
14 ditions under which such voting shall be permitted.
15 No person may vote as proxy for more than 3 members
16 at any meeting of the members.

17 §3736. Waiver of notice

18 Any person entitled to notice of a meeting may
19 waive the notice in writing either before or after
20 the meeting. If the person attends the meeting, his
21 attendance constitutes a waiver of notice of the
22 meeting, unless the person participates in the meet-
23 ing solely to object to the transaction of any busi-
24 ness because the meeting has not been legally called
25 or convened.

26 §3737. Board of trustees

27 1. Number and qualifications. A board of not
28 less than 5 trustees shall manage the business of a
29 cooperative. Each trustee shall be a member of the
30 cooperative or of another cooperative which is a mem-
31 ber of the cooperative. The bylaws shall prescribe
32 the number of trustees, their qualifications, other
33 than those prescribed in this chapter, the manner of
34 holding meetings of the board of trustees and of
35 electing successors to trustees and of electing suc-
36 cessors to trustees who resign, die or otherwise be-
37 come incapable of acting.

38 2. Removal and salaries. The bylaws may provide
39 for the removal of trustees from office and for the
40 election of their successors. Trustees may not re-

1 ceive any salaries for their services as trustees
2 and, except in emergencies, may not be employed by
3 the cooperative in any capacity involving compensa-
4 tion without the approval of the members. The bylaws
5 may provide that a fixed fee and expenses of attend-
6 ance be allowed to each trustee for attendance at
7 each meeting of the board of trustees.

8 3. Term of office. The trustees of a coopera-
9 tive named in the articles of incorporation or con-
10 version shall hold office until the next annual meet-
11 ing of the members and until their successors are
12 elected and qualify. At each annual meeting or, in
13 case of failure to hold the annual meeting as speci-
14 fied in the bylaws, at a special meeting called for
15 that purpose, the members shall elect trustees to
16 hold office until the next annual meeting of the mem-
17 bers, except as otherwise provided in this chapter.
18 Each trustee shall hold office for the term for which
19 he is elected and until his successor is elected and
20 qualified.

21 4. Staggered terms. Instead of electing the
22 whole number of trustees annually, the bylaws may
23 provide that the trustees be divided into either 2 or
24 3 classes, each class to be as nearly equal as possi-
25 ble. The term of office of trustees of the first
26 class shall expire at the first annual meeting of
27 members after their election, that of the 2nd class
28 shall expire at the 2nd annual meeting after their
29 election and that of the 3rd class, if any, shall ex-
30 pire at the 3rd annual meeting after their election.
31 At each annual meeting after classification, the num-
32 ber of trustees equal to the number of the class
33 whose term expires at the time of the meeting shall
34 be elected to hold office until the 2nd succeeding
35 annual meeting, if there are 2 classes, or until the
36 3rd succeeding annual meeting, if there are 3
37 classes. No classification of trustees may be effec-
38 tive prior to the first annual meeting of members.

39 5. Quorum. A majority of the board of trustees
40 shall constitute a quorum.

41 6. Joint membership. If 2 or more individuals
42 hold a joint membership in a cooperative, only one of
43 them, may be elected a trustee.

1. 7. Powers. The board of trustees may exercise
2 all of the powers of a cooperative not conferred upon
3 the members by this chapter or its articles of incor-
4 poration or bylaws.

5 §3738. Districts

6 The bylaws may provide for the division of the
7 territory served or to be served by a cooperative in-
8 to 2 or more districts for any purpose, including,
9 without limitation, the nomination and election of
10 trustees and the election and functioning of district
11 delegates. In such case, the bylaws shall prescribe
12 the boundaries of the districts or the manner of es-
13 tablishing the boundaries, or the manner of changing
14 the boundaries, and the manner in which the districts
15 shall function. No member at any district meeting
16 and no district delegate at any meeting may vote by
17 proxy or by mail.

18 §3739. Officers

19 The officers of a cooperative shall consist of a
20 president, vice-president, secretary and treasurer,
21 who shall be elected annually by and from the board
22 of trustees. When a person holding office ceases to
23 be a trustee, he shall cease to hold office. The of-
24 fices of secretary and of treasurer may be held by
25 the same person. The board of trustees may elect or
26 appoint other officers, agents or employees as it de-
27 termines necessary or advisable and shall prescribe
28 their powers and duties. Any officer may be removed
29 from office and his successor elected in the manner
30 prescribed in the bylaws.

31 SUBCHAPTER III

32 POWERS

33 §3751. Powers generally

34 A cooperative may:

35 1. Sue. Sue in its corporate name;

36 2. Be sued. Be sued in its corporate name;

1 3. Seal. Adopt and alter a corporate seal;

2 4. Use of electricity. Generate, manufacture,
3 purchase, acquire, accumulate and transmit electrici-
4 ty, and distribute, sell, supply and dispose of elec-
5 tricity to its members;

6 5. Use of electrical and plumbing appliances.
7 Assist persons to whom electricity is or will be sup-
8 plied by the cooperative in wiring their premises and
9 in acquiring and installing electrical and plumbing
10 appliances, equipment, fixtures and apparatus by fi-
11 ncancing, or otherwise; wire or cause to be wired the
12 premises; and purchase, acquire, lease as lessor or
13 lessee, sell, distribute, install and repair the
14 electric and plumbing appliances, equipment, fixtures
15 and apparatus;

16 6. Electric cold storage or processing plants.
17 Assist persons to whom electricity is or will be sup-
18 plied by the cooperative in constructing, equipping,
19 maintaining and operating electric cold storage or
20 processing plants, by financing or otherwise;

21 7. Acquire certain plants and equipment. Con-
22 struct, purchase, lease as lessee or otherwise ac-
23 quire; equip, maintain and operate; sell; assign;
24 convey; lease as lessor; or mortgage, pledge or oth-
25 erwise dispose of or encumber electric transmission
26 and distribution lines or systems, electric generat-
27 ing plants, electric cold storage or processing
28 plants, lands, buildings, structures, dams, plants
29 and equipment and any other real or personal prop-
30 erty, tangible or intangible, which is determined nec-
31 essary, convenient or appropriate to accomplish the
32 purpose for which the cooperative is organized. In
33 the construction and operation of their facilities,
34 cooperatives shall comply with all safety laws and
35 regulations applicable to electric utilities;

36 8. Electric transmission and distribution lines.
37 Construct, maintain and operate electric transmission
38 and distribution lines along, upon, under and across
39 publicly owned lands and public thoroughfares, in-
40 cluding all roads, highways, streets, alleys, bridges
41 and causeways, subject to chapters 23 and 25;

1 9. Franchises, licenses, rights and easements.
2 Purchase, lease as lessee, or otherwise acquire; use
3 and exercise, and sell, assign, convey, mortgage,
4 pledge or otherwise dispose of or encumber fran-
5 chises, rights, privileges, licenses and easements;

6 10. Contract indebtedness. Borrow money and
7 otherwise contract indebtedness; issue notes, bonds
8 and other evidences of indebtedness; and secure the
9 payment by mortgage, pledge or deed of trust, or any
10 other encumbrance upon, any or all of its then owned
11 or after-acquired real or personal property, assets,
12 franchises, revenues or income;

13 11. Member of other cooperatives. Become a mem-
14 ber of other cooperatives or corporations or to own
15 stock in them;

16 12. Bylaws. Adopt, amend and repeal bylaws;

17 13. Other consistent acts. Perform any other
18 acts and have and exercise any other powers which may
19 be necessary, convenient or appropriate to accomplish
20 the purpose for which the cooperative is organized.

21 §3752. Amendment of articles

22 A cooperative may amend its articles of incorpo-
23 ration as follows.

24 1. Meeting and notice. The proposed amendment
25 shall be presented to a meeting of the members. The
26 proposed amendment shall be set forth in or attached
27 to the notice of the meeting.

28 2. Approval. If the proposed amendment, with
29 any changes, is approved by the affirmative vote of
30 not less than 2/3 of those members voting on the
31 amendment at the meeting, articles of amendment shall
32 be executed and acknowledged on behalf of the cooper-
33 ative by its president or vice-president and its seal
34 shall be affixed to the articles and attested by its
35 secretary.

36 3. Contents of articles of amendment. The arti-
37 cles of amendment shall recite that they are executed
38 pursuant to this chapter and shall state:

1 A. The name of the cooperative;

2 B. The address of its principal office; and

3 C. The amendment to its articles of incorpora-
4 tion.

5 4. Affidavit. The president or vice-president
6 executing the articles shall make and attach to the
7 articles an affidavit stating that this section was
8 complied with.

9 §3753. Change of location of principal office

10 A cooperative may, upon authorization of its
11 board of trustees or its members, change the location
12 of its principal office by filing a certificate re-
13 citing the change, executed and acknowledged by its
14 president or vice-president under its seal, attested
15 by its secretary, in the office of the Secretary of
16 State.

17 §3754. Conversion of existing corporations

18 A corporation organized on a cooperative plan un-
19 der the laws of this State and supplying or autho-
20 riized to supply electric energy may be converted into
21 a cooperative by complying with the following re-
22 quirements and shall upon compliance be subject to
23 this chapter with the same effect as if originally
24 organized under this chapter.

25 1. Meeting and notice. The proposition for the
26 conversion of the corporation into a cooperative and
27 proposed articles of conversion shall be submitted to
28 a meeting of the members or stockholders of the cor-
29 poration. The proposed articles of conversion shall
30 be attached to the notice of the meeting.

31 2. Approval. If the proposition for the conver-
32 sion of the corporation into a cooperative and the
33 proposed articles of conversion, with any amendments,
34 are approved by the affirmative vote of not less than
35 2/3 of those members of the corporation voting on the
36 articles at the meeting, or, if the corporation is a
37 stock corporation, by the affirmative vote of the
38 holders of not less than 2/3 of those shares of the

1 capital stock of the corporation represented at the
2 meeting and voting on the articles, articles of con-
3 version shall be executed and acknowledged on behalf
4 of the corporation by its president or vice-president
5 and its seal shall be affixed to the articles and at-
6 tested by its secretary.

7 3. Contents of articles of conversion. The ar-
8 ticles of conversion shall recite that they are exe-
9 cuted pursuant to this chapter and shall state:

10 A. The name of the corporation and the address
11 of its principal office prior to its conversion
12 into a cooperative;

13 B. The law or laws under which it was organized;

14 C. A statement that the corporation elects to
15 become a cooperative, nonprofit, membership cor-
16 poration subject to this chapter;

17 D. Its name as a cooperative;

18 E. The address of the principal office of the
19 cooperative;

20 F. The names and addresses of the trustees of
21 the cooperative; and

22 G. The manner in which members or stockholders
23 of the corporation may or shall become members of
24 the cooperative; and may contain any provisions
25 not inconsistent with this chapter determined
26 necessary or advisable for the conduct of the
27 business of the cooperative.

28 4. Affidavit. The president or vice-president
29 executing the articles shall make and attach to the
30 articles an affidavit stating that this section was
31 complied with. The articles of conversion shall be
32 deemed to be the articles of incorporation of the co-
33 operative.

34 §3755. Dissolution generally

35 1. When a cooperative has not commenced busi-
36 ness. A cooperative which has not commenced business

1 may be dissolved by delivery to the Secretary of
2 State articles of dissolution which shall be executed
3 and acknowledged on behalf of the cooperative by a
4 majority of the incorporators and which shall state:

5 A. The name of the cooperative;

6 B. The address of its principal office;

7 C. That the cooperative has not commenced busi-
8 ness;

9 D. That any sums received by the cooperative,
10 less any part disbursed for expenses of the coop-
11 erative, have been returned or paid to those en-
12 titled to them;

13 E. That no debt of the cooperative is unpaid;
14 and

15 F. That a majority of the incorporators elect
16 that the cooperative is dissolved.

17 2. When cooperative has commenced business. A
18 cooperative which has commenced business may be dis-
19 solved in the following manner.

20 A. The members at any meeting shall approve, by
21 the affirmative vote of not less than 2/3 of
22 those members voting on the proposal at the meet-
23 ing, a proposal that the cooperative be dis-
24 solved.

25 B. Upon such approval, a certificate of election
26 to dissolve, executed and acknowledged on behalf
27 of the cooperative by its president or vice-
28 president under its seal, attested by its secre-
29 tary and stating the name of the cooperative; the
30 address of its principal office; and that the
31 members of the cooperative have duly voted that
32 the cooperative be dissolved, shall, together
33 with an affidavit made by its president or vice-
34 president executing the certificate, stating that
35 the statements in the certificate are true, be
36 submitted to the Secretary of State for filing.

1 C. Upon the filing of the certificate and affi-
2 davit by the Secretary of State, the cooperative
3 shall cease to carry on its business, except to
4 the extent necessary for the winding up of its
5 business, but its corporate existence shall con-
6 tinue until articles of dissolution have been
7 filed by the Secretary of State.

8 3. Notice to creditors. The board of trustees
9 shall immediately cause notice of the dissolution
10 proceedings to be mailed to each known creditor of
11 and claimant against the cooperative and to be pub-
12 lished once a week for 2 successive weeks in a news-
13 paper of general circulation in the county in which
14 the principal office of the cooperative is located.

15 4. Actions against the cooperative. All actions
16 against the cooperative shall be commenced within one
17 year from the date of filing the certificate of elec-
18 tion to dissolve.

19 5. Winding up cooperative affairs. The board of
20 trustees shall wind up and settle the affairs of the
21 cooperative, collect sums owing to it, liquidate its
22 property and assets, pay and discharge its debts, ob-
23 ligations and liabilities and perform all other acts
24 required to wind up its business. After paying or
25 discharging or adequately providing for the payment
26 or discharge of all its debts, obligations and lia-
27 ilities, the board of trustees shall, after one year
28 from the date of filing the certificate to dissolve,
29 distribute any remaining sums among its members and
30 former members in proportion to the patronage of the
31 respective members or former members during the 7
32 years next preceding the date of the filing of the
33 certificate by the Secretary of State, or if the co-
34 operative has not been in existence for that period,
35 then during the period of its existence prior to the
36 filing.

37 6. Articles of dissolution when a cooperative
38 has commenced business. The board of trustees shall,
39 upon the winding up of the cooperative, authorize the
40 execution of articles of dissolution, which shall be
41 executed and acknowledged on behalf of the coopera-
42 tive by its president or vice-president, and its seal
43 shall be affixed to the articles and attested by its

1 secretary. The president or vice-president executing
2 the articles of dissolution shall make and attach to
3 the articles an affidavit stating that the statements
4 made in them are true. The articles of dissolution
5 shall recite that they are executed pursuant to this
6 chapter and shall state:

7 A. The name of the cooperative;

8 B. The address of its principal office;

9 C. The date on which the certificate of election
10 to dissolve was filed by the Secretary of State;

11 D. That there are no actions or suits pending
12 against the cooperative;

13 E. That all debts, obligations and liabilities
14 of the cooperative have been paid and discharged
15 or that adequate provision has been made for
16 their payment or discharge; and

17 F. That this section has been complied with.

18 SUBCHAPTER IV

19 GENERATION AND TRANSMISSION COOPERATIVES

20 §3771. Organization of generation and transmission
21 cooperatives

22 One or more cooperatives formed under this Title
23 may organize and control a cooperative having as its
24 principal purpose the generation, manufacture, pur-
25 chase, acquisition, accumulation, transmission, sale,
26 supply and disposal of electric energy. Such a coop-
27 erative shall have all of the powers of cooperatives
28 formed under this Title.

29 §3772. Jurisdiction of Public Utilities Commission

30 Cooperatives formed under this subchapter are
31 public utilities and subject to the requirements of
32 this Title, except for those requirements of this
33 chapter which are inconsistent with the operation of
34 cooperatives formed under this subchapter, notwith-
35 standing any public or private laws to the contrary.

1 Those cooperatives require the authorization of the
2 commission to transmit, sell, supply or dispose of
3 electric energy to any member of the cooperative.
4 That authorization may be granted by order or rule.

5 CHAPTER 39

6 MUNICIPAL ELECTRIC DISTRICTS

7 §3901. Short Title

8 This chapter shall be known and may be cited as
9 the "Municipal Electric District Enabling Act."

10 §3902. Purpose

11 The purpose of each municipal power district
12 formed under this chapter is to generate, supply or
13 extend the efficient use of electricity for public
14 purposes and for the health, welfare, comfort and
15 convenience of the inhabitants of the district.

16 §3903. Formation of single-member district

17 A municipal power district may be formed under
18 the following provisions.

19 1. By municipal officers. The municipal offi-
20 cers of any municipality may, by majority vote, de-
21 termine that a municipal power district should be es-
22 tablished under the terms of this chapter. If they
23 make such a determination they shall call an election
24 under subsection 3.

25 2. By petition. Ten percent of the legal voters
26 of a municipality may petition the municipal officers
27 to call an election, under subsection 3, for the pur-
28 pose of forming a municipal power district.

29 3. Election. After a determination by the mu-
30 nicipal officers, or upon petition in accordance with
31 subsection 2, the municipal officers shall, at the
32 next regular election or town meeting, or at a spe-
33 cial election or town meeting called and held by
34 them, submit the following question to the legal vot-
35 ers in accordance with their charter or Title 30,
36 section 2061:

1 "Shall the (name of municipality) Power District
2 be created and incorporated under the Maine Revised
3 Statutes, Title 35-A, chapter 39?"

4 4. Favorable vote. If a majority of the legal
5 votes cast on this question favor incorporation, a
6 municipal power district may be created for that mu-
7 nicipality under this chapter upon declaration of the
8 vote by the municipal officers, provided that the to-
9 tal number of votes cast for and against the incorpo-
10 ration equals or exceeds 40% of the total votes cast
11 in that municipality for all candidates for Governor
12 at the previous gubernatorial election. If not, the
13 proposed district is not created at that time. Upon
14 certification of a favorable vote by the municipal
15 officers, the commission shall approve formation of
16 the district if the commission finds that formation
17 would be in conformance with the requirements of this
18 Title. Upon approval by the commission, the district
19 is created and the commission shall file certifica-
20 tion of that approval with the Secretary of State.

21 §3904. Formation of multimember district

22 Two or more municipalities may form a multimember
23 municipal power district under the following provi-
24 sions.

25 1. By municipal officers. The municipal offi-
26 cers of each municipality may, by majority vote, de-
27 termine that a municipal power district should be es-
28 tablished under the terms of this chapter. If the
29 municipal officers of every municipality involved
30 make such a determination, they shall call an elec-
31 tion under subsection 3.

32 2. Petition. Upon petition of 10% of the legal
33 voters of each municipality, the municipal officers
34 of those municipalities shall call an election, under
35 subsection 3, for the legal voters of their respec-
36 tive municipalities for the purpose of forming a mu-
37 nicipal power district.

38 3. Election. After a determination by the mu-
39 nicipal officers or upon petition of the legal voters
40 of each municipality wishing to form a district, the
41 municipal officers shall, at the next regular elec-

1 tion or town meeting, or at a special election or
2 town meeting if the petition so requests, submit the
3 following question to the legal voters of their re-
4 spective municipalities in accordance with their
5 charter or Title 30, section 2061:

6 "Shall the (name of municipalities) Power Dis-
7 trict be created and incorporated under the Maine Re-
8 vised Statutes, Title 35-A, chapter 39?"

9 4. Favorable vote. If, in each municipality, a
10 majority of the legal votes cast on this question fa-
11 vor incorporation, a municipal power district may be
12 created for those municipalities under this chapter
13 upon declaration of the vote of the municipal offi-
14 cers, provided that the total number of votes cast in
15 each municipality for and against the incorporation
16 equals or exceeds 40% of the total votes cast in the
17 municipality for all candidates for Governor at the
18 previous gubernatorial election. Upon certification
19 of a favorable vote by the municipal officers, the
20 commission shall approve formation of the district if
21 the commission finds that formation would be in con-
22 formance with the requirements of this Title. Upon
23 approval by the commission, the district is created
24 and the commission shall file certification of that
25 approval with the Secretary of State.

26 §3905. Existing districts

27 Any quasi-municipal district organized under the
28 private and special laws which is an electric utility
29 within the meaning of section 102, may reorganize in
30 accordance with this chapter. In addition to the
31 methods of sections 3903 and 3904, the trustees may,
32 by majority vote, petition the municipal officers for
33 an election and those officers shall hold an election
34 in accordance with those sections.

35 §3906. Organization of single-member district

36 A municipal power district shall be organized un-
37 der the following provisions.

38 1. Trustee. Upon formation of a district under
39 section 3903, all the affairs of the district shall
40 be managed by a board of 3 trustees who must be resi-

1 dents of the district. They shall hold office as
2 provided in subsection 2 and until their respective
3 successors are elected and qualified. When any
4 trustee ceases to be a resident of the district, his
5 office as trustee becomes vacant. Trustees are sub-
6 ject to Title 30, section 2251, concerning conflict
7 of interest.

8 2. Election. Within 60 days after the formation
9 of a district, the municipal officers shall appoint
10 the initial board of trustees, one member for a term
11 of one year, one member for a term of 2 years and one
12 member for a term of 3 years. Each year as the term
13 of a trustee expires, the legal voters of the dis-
14 trict, at an annual election, shall elect a successor
15 to serve for a full term of 3 years. The annual
16 election shall be held within the district concu-
17 rently with the election of the municipal officers.
18 The trustees shall conspicuously post notice of the
19 election in 2 public places within the district, not
20 less than 7 days before the election. Any vacancy in
21 the board shall be filled by the municipal officers
22 for the unexpired term.

23 3. Meetings. As soon as convenient after each
24 annual election, the trustees shall hold a meeting at
25 the offices of the district, elect a chairman and
26 clerk and adopt a corporate seal. They may choose a
27 treasurer and all other officers and agents for the
28 proper management of the affairs of the district.
29 Other meetings of the trustees may be called by the
30 chairman or by any 2 of the trustees. Trustees shall
31 determine their own compensation. The trustees
32 shall, in the bylaws, determine the number constitut-
33 ing a quorum, but in no event less than half of the
34 total number of trustees.

35 §3907. Organization of multimember district

36 A municipal power district formed under section
37 3904 shall be organized under the following provi-
38 sions.

39 1. Trustees. Upon formation of a district under
40 section 3904, all the affairs of the district shall
41 be managed by a board of trustees comprised of 2
42 trustees from each municipality. Trustees shall be

1 residents of their respective municipalities. They
2 shall hold office as provided in subsection 2 and un-
3 til their respective successors are elected and qual-
4 ified. When any trustee ceases to be a resident of
5 his municipality, his office as trustee becomes vac-
6 ant. Trustees are subject to Title 30, section
7 2251, concerning conflict of interest.

8 2. Election. Within 60 days after the formation
9 of a district, the municipal officers of each munici-
10 pality shall appoint 2 members to the initial board
11 of trustees. The initial members shall agree, or de-
12 termine by lot, the term of each so that, as nearly
13 as possible, an equal number will serve for one year,
14 an equal number for 2 years and an equal number for 3
15 years. Each year as the term of a trustee expires,
16 the legal voters of that trustee's municipality, at
17 an annual election, shall select a successor to serve
18 for a full term of 3 years. The annual election
19 shall be held concurrently with the election of mu-
20 nicipal officers. The trustees shall conspicuously
21 post notice of the election in 2 public places within
22 each municipality of the district, not less than 7
23 days before the election. Any vacancy in the board
24 shall be filled by the municipal officers for the un-
25 expired term.

26 3. Meetings. As soon as convenient after each
27 annual election, the trustees shall hold a meeting at
28 the offices of the district, elect a chairman and
29 clerk and adopt a corporate seal. They may choose a
30 treasurer and all other officers and agents for the
31 proper management of the affairs of the district.
32 Other meetings of the trustees may be called by the
33 chairman or by any 3 of the trustees, after prior no-
34 tice to the public. Trustees shall determine their
35 own compensation, not to exceed \$10 per meeting per
36 trustee. A majority of trustees constitutes a quo-
37 rum. The trustees shall conduct public hearings
38 whenever they propose matters affecting rates, by-
39 laws, service, an annual budget or their own compen-
40 sation.

41 §3908. Powers of district

42 A district may:

1 1. Sue. Sue or be sued in its capacity as a
2 district;

3 2. Electricity. Generate, manufacture, pur-
4 chase, acquire, accumulate, transmit, distribute,
5 sell, supply and dispose of electricity to individu-
6 als and corporations within the district;

7 3. Assist users. Assist persons who are or will
8 be users of electricity supplied by the district in
9 making repairs and energy saving improvements to im-
10 prove energy efficiency in buildings;

11 4. Acquire plants and equipment. Construct,
12 purchase, lease, equip, maintain and operate electric
13 transmission and distribution lines or systems, elec-
14 tric generating plants, lands, buildings, structures,
15 dams, equipment and any other real or personal prop-
16 erty, tangible or intangible which are determined
17 necessary, convenient or appropriate to accomplish
18 the purposes of this chapter;

19 5. Contract. Contract and be contracted with;

20 6. Gain access. Gain access, through its offi-
21 cers or agents, to all premises served by its trans-
22 mission lines, poles and wires at all reasonable
23 hours to ascertain the amount of electricity pur-
24 chased;

25 7. Borrow money. Issue bonds and notes, includ-
26 ing revenue obligation securities as otherwise autho-
27 rized by this chapter, to such amounts as the commis-
28 sion may authorize for the purpose of raising the
29 amount required to accomplish the purposes of this
30 chapter. The bonds and notes may be of the date and
31 denomination and payable at such times and places and
32 bear such rate of interest as the district may autho-
33 rize in accordance with the procedures of section
34 3909. The district may borrow money temporarily, for
35 periods of less than one year, without vote of the
36 inhabitants, except as provided in this chapter, in
37 amounts which in the judgment of the trustees are
38 necessary to accomplish the purposes of this chapter;

39 8. Bylaws. Make and enforce bylaws, rules for
40 the conduct of the district affairs and business and
41 for use of its services and facilities; and

1 9. Other consistent acts. Perform any other
2 acts which may be necessary, convenient or appropri-
3 ate to accomplish the purposes of this chapter.

4 §3909. Issuance of bonds and notes

5 1. Notice. In the event that the trustees vote
6 to authorize bonds or notes for a period exceeding
7 one year or for acquisition of any plant or equip-
8 ment, they shall provide notice to the general public
9 of the proposed bond or note issue and the purposes
10 for which the debt is being issued. The notice shall
11 be published at least once in a newspaper having gen-
12 eral circulation in the district. The trustees shall
13 give notice to each voter of the district by mail.
14 No such debt may be incurred under the vote of the
15 trustees until the expiration of 7 full days follow-
16 ing the date on which the notice was first published
17 and mailed.

18 2. District approval. The procedure for dis-
19 trict approval of the issuance of bonds and notes is
20 as follows.

21 A. For bonds or notes which singly or in the ag-
22 gregate included in any one financing amount to
23 \$150,000 or more, subject to adjustment relative
24 to 1981 as the base year according to the annual
25 Consumer Price Index, as published by the appro-
26 priate federal agency, the trustees shall call a
27 special district meeting for the purpose of per-
28 mitting members of the public to express their
29 views concerning the proposed amount of debt.
30 That meeting shall also express approval or dis-
31 approval of the proposed amount of debt. If a
32 majority of voters present and voting expresses
33 disapproval of the amount of debt proposed by the
34 trustees, the debt shall not be incurred and the
35 vote of the trustees authorizing it shall be of
36 no effect.

37 B. The procedure of paragraph A shall also be
38 followed for debts in amounts smaller than the
39 amount specified in paragraph A, if requested by
40 petition of not less than 50 qualified voters of
41 the district, filed with the clerk of the dis-
42 trict before the expiration of 7 full days after

1 publication of the public notice required under
2 subsection 1.

3 §3910. Revenue obligation securities

4 A district created under this chapter shall be
5 deemed a municipality for purposes of Title 10, chap-
6 ter 110, subchapter IV, with respect to a qualifying
7 electric generating system, electric distribution
8 system, or both. The board of trustees are deemed to
9 be municipal officers for purposes of that subchap-
10 ter.

11 §3911. Eminent domain

12 A district may exercise the right of eminent do-
13 main under the same conditions and for the same pur-
14 poses as other electric utilities under section 3136.
15 Title to property acquired shall be taken in the name
16 of the district.

17 §3912. Rates

18 All persons whether private, public or municipal,
19 shall pay to the district the rates established by
20 the trustees for the electricity used by them and the
21 rates may not be unjustly discriminatory within the
22 district. The rates shall be established in accord-
23 ance with this chapter and shall provide for the fol-
24 lowing purposes only:

25 1. Payment of current expenses of operation and
26 maintenance. To pay the current expenses for operat-
27 ing and maintaining the electric system, including
28 the cost of fuel and to provide for normal renewals
29 and replacements;

30 2. Payment of interest indebtedness. To provide
31 for the payment of the interest on the indebtedness
32 created or assumed by the utility;

33 3. Retirement of term indebtedness. To provide
34 each year a sum equal to not less than 2% nor more
35 than 10% of the term indebtedness represented by the
36 issuance of bonds created or assumed by the utility,
37 which sum shall be turned into a sinking fund and
38 kept there to provide for the retirement of term in-

1 debtedness. The money set aside in this sinking fund
2 shall be devoted to the retirement of the term obli-
3 gations of the utility and may be invested in such
4 securities as savings banks in the State are allowed
5 to hold; and

6 4. Principal payments on serial indebtedness.
7 To provide for annual principal payments on serial
8 indebtedness created or assumed by the utility.

9 §3913. Rate setting

10 Municipal power districts are public utilities
11 and subject to this Title.

12 §3914. Quasi-municipal body

13 A municipal power district formed in accordance
14 with this chapter is a quasi-municipal corporation
15 within the meaning of the laws of this State, includ-
16 ing, but not restricted to, Title 36, section 651.

17 §3915. Existing service areas

18 No municipal power district may serve as a public
19 utility, as defined in section 102, without consent
20 from the commission in accordance with section 2101.

21 CHAPTER 41

22 MAINE MUNICIPAL AND RURAL
23 ELECTRICIFICATION COOPERATIVE AGENCY ACT

24 SUBCHAPTER I

25 GENERAL PROVISIONS

26 §4101. Short Title

27 This chapter shall be known and may be cited as
28 the "Maine Municipal and Rural Electrification Coop-
29 erative Agency Act."

30 §4102. Findings and declaration of necessity

31 It is found and declared that:

1 1. Supply necessary. An adequate, reliable and
2 economical supply of electricity in the State is a
3 necessity to the enjoyment of life and health by the
4 people of the State and its absence would endanger
5 the State, its people and its economy;

6 2. Development. The provision of a means of
7 promoting the development of an adequate, reliable
8 and economical supply of electricity is a matter of
9 public and state concern, is a public purpose and is
10 for the general good of the inhabitants of the State;

11 3. Deficiency. There exists a serious deficien-
12 cy in the ability of various municipalities and rural
13 electric cooperatives in the State presently provid-
14 ing electricity for sale at retail to finance the ac-
15 quisition, construction and installation of genera-
16 tion, transmission and distribution facilities neces-
17 sary to ensure an adequate, reliable and economical
18 supply of electricity, and that deficiency consti-
19 tutes an exigency under which the Legislature may
20 act;

21 4. Supply. The enactment of this chapter con-
22 stitutes the most expedient way for the Legislature
23 to provide a means for those municipalities and rural
24 electric cooperatives to develop an adequate, reli-
25 able and economical supply of electricity; and

26 5. Public interest. The necessity of the public
27 interest for the provisions enacted is declared as a
28 matter of legislative determination.

29 §4103. Definitions

30 As used in this chapter, unless the context oth-
31 erwise indicates, the following terms have the fol-
32 lowing meanings.

33 1. Agency. "Agency" means the Maine Municipal
34 and Rural Electrification Cooperative Agency.

35 2. Cooperative. "Cooperative" means any corpo-
36 ration organized as of January 1, 1981, under chapter
37 37 or former Title 35, chapters 221 to 227 on a coop-
38 erative plan under the laws of the State and supply-
39 ing or authorized to supply electricity.

1 3. Municipality. "Municipality" means any mu-
2 nicipal, plantation or quasi-municipal electric, or
3 electric and utility, corporation, or municipal elec-
4 tric, or electric and utility, system within the
5 State which, as of January 1, 1981, was authorized to
6 and engaged in the manufacture, generation, transmis-
7 sion, distribution, purchase or sale of electricity
8 to the general public.

9 4. New England power pool. "New England power
10 pool" means the relationship or organization created
11 by the New England power pool agreement.

12 5. New England power pool agreement. "New
13 England power pool agreement" means the contractual
14 agreement between electric utilities which is open to
15 all electric utilities, whether private or government-
16 al, operating in New England, which provides for co-
17 operation and joint participation in developing and
18 implementing a regional bulk power supply of elec-
19 tricity, which constitutes the central dispatching
20 and primary pooling arrangements for electric utili-
21 ties in the New England states, and which has been
22 permitted to become effective under the Federal Power
23 Act by the Federal Power Commission.

24 6. Person. "Person" means person as defined in
25 section 102 or any public agency, state or political
26 subdivision or agency of the State, or any body poli-
27 tic of any nature organized and existing under the
28 law of any state, the United States, any Province of
29 Canada and also includes Canada, its provinces and
30 all political subdivisions, departments, agencies and
31 instrumentalities of Canada.

32 7. Project. "Project" means any plant, works,
33 system or facilities inside or outside the State, and
34 real and personal property of any nature or any in-
35 terest in any of them, together with all parts of
36 them and appurtenances to them, used or useful in the
37 generation, production, transmission, distribution,
38 purchase, sale, exchange or interchange of electrici-
39 ty and in the acquisition, extraction, conversion,
40 transportation or storage or reprocessing of fuel of
41 any kind for any purposes or an interest in, or the
42 right to the use, services, output or capacity of a
43 plant quota, works, system or facilities; provided

1 that "project" does not include construction of nu-
2 clear generating facilities or the storage,
3 reprocessing or transportation of nuclear fuel within
4 the State.

5 8. Project cost. "Project cost" means, but is
6 not limited to, the cost of acquisition, construc-
7 tion, reconstruction, improvement, enlargement, bet-
8 terment, extension or disposal of a project or part
9 of a project, including:

10 A. The cost of studies, plans, specifications,
11 surveys and estimates of costs and revenues re-
12 lating to them;

13 B. The cost of land, land rights, rights-of-way
14 and easements, water rights, fees, permits, ap-
15 provals, licenses, certificates, franchises and
16 preparation of applications for them;

17 C. Administrative, legal, engineering and in-
18 spection expenses;

19 D. Financing fees, expenses and costs;

20 E. Working capital;

21 F. Initial fuel costs;

22 G. Interest on the bonds during the period of
23 construction and for a reasonable period after-
24 wards as may be determined by the agency;

25 H. Establishment of reserves for the payment of
26 debt service, for renewals and replacements, for
27 working capital, for operating expenses and for
28 any other purposes determined reasonable and
29 proper;

30 I. Prepayments under contracts for the purchase
31 of capacity and output; and

32 J. All other expenditures of the agency inciden-
33 tal, necessary or convenient to the acquisition,
34 construction, reconstruction, improvement, en-
35 largement, betterment, extension or disposal of a
36 project and the placing of the project into oper-
37 ation.

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SUBCHAPTER II

ESTABLISHMENT AND ORGANIZATION

§4131. Creation of Maine Municipal and Rural Electrification Cooperative Agency

1. Establishment. The Maine Municipal and Rural Electrification Cooperative Agency, as established pursuant to Title 5, chapter 379, is a body politic and corporate and political subdivision of the State with the duties and powers set forth in this chapter. The agency is constituted as a public instrumentality and as a quasi-municipal corporation, and the exercise by the agency of the powers conferred by this chapter is held to be the performance of public and essential governmental functions of the State.

2. Powers. The powers of the agency shall be exercised by a board of directors.

3. Appointment of directors. Directors shall be appointed as follows.

A. The governing body or board of directors of any municipality and the board of trustees or directors of any cooperative shall each select a single director to serve on the board, provided that no director may be selected by more than one cooperative or municipality.

B. The Governor shall also appoint as a member a person who is not affiliated with any municipality or cooperative, as defined in section 4103, subsection 5, to represent the general public.

C. The Director of the Office of Energy Resources, or another employee of the Office of Energy Resources, as the director may from time to time designate in writing filed with the clerk of the agency, shall serve as a member of the board of directors.

4. Oath. Each director, before entering upon his duties, shall take and subscribe an oath to perform the duties of office faithfully, impartially and justly to the best of his ability. A record of the

1 oaths shall be filed in the office of the Secretary
2 of State.

3 5. Term. Directors shall serve for terms of 5
4 years each. The terms shall end on July 1st each
5 year as follows: Two in 1982 and every 5 years
6 thereafter; 2 in 1983 and every 5 years thereafter; 2
7 in 1984 and every 5 years thereafter; 2 in 1985 and
8 every 5 years thereafter; and the balance if any in
9 1986 and every 5 years thereafter. Each director
10 shall hold office until his successor is appointed
11 and qualified. A director is eligible for reappoint-
12 ment.

13 6. Vacancy. Any vacancy in the office of direc-
14 tor occurring other than by expiration of term shall
15 be filled by a successor director, who shall serve
16 for the remaining term of office so vacated.

17 7. Removal. Each director may be removed from
18 office by the Governor for cause, after a public
19 hearing, and may be suspended by the Governor pending
20 the completion of the hearing.

21 8. Quorum. A majority, but not less than 3, of
22 the directors then in office constitutes a quorum for
23 the transaction of any business or the exercise of
24 any power of the agency. Action may be taken and
25 motions and resolutions adopted by the agency at any
26 meeting by the affirmative vote of a majority of di-
27 rectors of the agency then in office. No vacancy in
28 the office of director of the agency may impair the
29 right of a quorum of the directors to exercise all
30 powers and take any action.

31 9. Bylaws. The board of directors of the agency
32 shall adopt bylaws or other rules and regulations for
33 the management of the affairs of the agency and car-
34 rying out the purposes of this chapter.

35 10. Officers. The board of directors shall also
36 elect one of its member directors as chairman of the
37 agency and shall also elect a treasurer and secretary
38 who may be, but need not be, directors. It may elect
39 other officers and agents as necessary to perform
40 those acts commonly delegated to the officers and
41 agents of a business corporation and shall set their
42 compensation.

1 11. Voting; conflict of interest. A director or
2 officer of the agency who is also an officer, employe-
3 ee or member of a legislative body of a municipality
4 or other public body or the State may not be pre-
5 cluded from voting or acting on behalf of the agency
6 on a matter involving the municipality or public body
7 or the State. Neither shall service as a director or
8 officer of the agency constitute a conflict of inter-
9 est for an officer, employee or member of a munici-
10 pality or public body or the State.

11 12. Agency existence. The agency and its exis-
12 tence shall continue as long as it has notes, bonds
13 or other obligations or indebtedness outstanding, in-
14 cluding notes, bonds or other obligations or indebt-
15 edness issued or incurred, and until its existence is
16 terminated by law. The net earnings of the agency,
17 beyond that necessary for retirement of its notes,
18 bonds or other obligations or indebtedness or to im-
19 plement the public purposes and programs authorized
20 in this chapter, may not inure to the benefit of any
21 person other than the State. Upon termination of the
22 existence of the agency, title to all of the property
23 owned by the agency, including any net earnings of
24 the agency, shall vest in the State. The State re-
25 serves the right at any time to alter, amend, repeal
26 or otherwise change the structure, organization, pro-
27 grams or activities of the agency, including the pow-
28 er to terminate the agency, subject to any limitation
29 on the impairment of the obligation of any contract
30 entered into by the agency.

31 §4132. General powers and duties

32 The agency has all the powers necessary or conve-
33 nient to carry out this chapter, including, without
34 limitation, those general powers provided a business
35 corporation by the Maine Business Corporation Act,
36 Title 13-A, and including, without limiting the gen-
37 erality of this paragraph, the power:

38 1. Acceptance, grants or gifts. To accept gifts
39 or grants of property, funds, money, materials, la-
40 bor, supplies or services from the United States or
41 from any person, and to carry out the terms or provi-
42 sions or make agreements with respect to any gifts or
43 grants, and to do any acts necessary, useful, desir-

1 able or convenient in connection with procuring ac-
2 ceptance or disposition of gifts or grants;

3 2. Acquisition. To acquire by purchase, lease,
4 gift or otherwise, or to obtain options for the ac-
5 quisition of any property, real or personal, improved
6 or unimproved, tangible or intangible, including an
7 interest in land of less than the fee;

8 3. Disposal of real or personal property. To
9 sell, lease, mortgage, exchange, transfer or other-
10 wise dispose of any real or personal property or in-
11 terest in it, or to grant options for any of those
12 purposes;

13 4. Assignment of revenues. To pledge or assign
14 any money, fees, charges or other revenues of the
15 agency and any proceeds derived by the agency from
16 the sale of property, or from insurance or condemna-
17 tion awards;

18 5. Authorization. To perform any act authorized
19 by this chapter through its officers, agents or em-
20 ployees or by the contracts with any person, firm or
21 corporation;

22 6. Borrow funds. To borrow money and issue its
23 notes and bonds as provided in this chapter;

24 7. Purchase electricity. To purchase electrici-
25 ty and energy, including without limiting the gener-
26 ality of this section, all or a portion of the capac-
27 ity and output of one or more specific projects;

28 8. Sale of electricity. To sell electricity and
29 other products and services of electric power facili-
30 ties to any person inside or outside the State or the
31 United States. Utilities may purchase electricity
32 sold by the agency, provided that nothing in this
33 chapter authorizes resale of electricity purchased
34 from the agency, except as otherwise authorized by
35 law. This subsection does not allow retail sales to
36 consumers or commercial and industrial users, except
37 as otherwise provided by law;

38 9. Contracts. To contract for the use of trans-
39 mission and distribution facilities owned by others

1 for the delivery to the agency of electricity pur-
2 chased by the agency and to purchasers of electric
3 power and energy sold by the agency. These other
4 owners may contract with the agency;

5 10. Other contracts. To contract with respect
6 to the purchase, sale, delivery, exchange, inter-
7 change, wheeling, pooling, transmission or use of
8 electricity and to otherwise participate in intra-
9 state, interstate and international arrangements with
10 respect to those matters, including the New England
11 power pool, except that this power may not be exer-
12 cised so as to conflict with or diminish in any way
13 the powers and obligations of the commission under
14 this Title regarding planning and entering into
15 agreements for the supply of electricity;

16 11. Plan. Individually or jointly with any other
17 person to plan, finance, acquire, construct, im-
18 prove, purchase, operate, maintain, use, share costs
19 of, own, lease, sell, dispose of or otherwise partic-
20 ipate in projects or portions of projects, the
21 product or service from them, securities or obliga-
22 tions issued or incurred in connection with the fi-
23 nanancing of them or research and development relating
24 to them, inside or outside the State. The agency may
25 also enter into and perform contracts with any person
26 with respect to the powers set out in this subsec-
27 tion. If the agency acquires or owns an interest as
28 a tenant in common with others in any projects, the
29 surrender or waiver by the agency or by the other
30 property owner of its right to partition the property
31 for a period not exceeding the period for which the
32 property is used or useful for electric utility pur-
33 poses may not be invalid and unenforceable by reason
34 of length of the period, or as unduly restricting the
35 alienation of the property.

36 12. Apply for permits. To apply to the appro-
37 priate agencies of the State, other states, the
38 United States, Canada, any of its provinces and any
39 divisions, departments, agencies and instrumental-
40 ities of Canada, and to any other proper agency for
41 permits, licenses, certificates or approvals which
42 may be necessary, and to construct, maintain and op-
43 erate projects in accordance with these licenses,
44 permits, certificates or approvals;

1 13. Application to expend assistance. To apply
2 and contract for and to expend assistance from the
3 United States or other sources, whether in form of a
4 grant or loan or otherwise;

5 14. Contract; administrative services. To con-
6 tract for administrative services with any person;

7 15. Execution. To make and execute all con-
8 tracts and agreements and other instruments necessary
9 or convenient in the exercise of the powers and func-
10 tions of the agency under this chapter; and

11 16. Other powers and duties. To perform all
12 acts necessary, convenient or desirable to carry out
13 the purposes of this chapter or the powers expressly
14 granted or necessarily implied in this chapter.

15 §4133. Additional powers

16 1. Contracts. The agency may contract to sell,
17 and municipalities, cooperatives, utilities and gov-
18 ernmental units, agencies or other public bodies may
19 contract to purchase, all or a portion of, the capaci-
20 ty and output of one or more specific projects, or
21 may contract to sell or purchase electricity without
22 designation as to source. Without limiting the gener-
23 ality of this subsection, such a contract may pro-
24 vide for planning, engineering, design, acquiring
25 sites or options for sites and expenses preliminary
26 or incidental to that project. Such a contract may:

27 A. Be for the life of a project or other term or
28 for an indefinite period;

29 B. Provide for the payment of unconditional ob-
30 ligations imposed without regard to whether a
31 project is undertaken, completed, operable or op-
32 erating and despite the suspension, interruption,
33 interference, reduction or curtailment of the
34 output of a project;

35 C. Contain provisions for prepayment,
36 nonunanimous amendment, arbitration, delegation,
37 requirements, purchases, restraints on resale or
38 other dealings, exclusive dealing, territorial
39 division, pricing and other conduct or arrange-

1 ments and other matters determined necessary or
2 desirable to carry out its purposes. For the
3 purposes of this section, the agency has the same
4 status with respect to antitrust actions as has
5 the government of the State; and

6 D. Provide for the creation of a committee of
7 representatives of the municipalities, coopera-
8 tives and utilities purchasing electricity or
9 services under such a contract, with such powers
10 of supervision of the operation of the projects
11 as the contract may provide which are not incon-
12 sistent with this chapter.

13 Such a contract may also provide, in the event of de-
14 fault by any party to the contract in the performance
15 of its obligations under the contract, for the other
16 parties, including municipalities and cooperatives,
17 to assume the obligations and succeed to the rights
18 and interests of the defaulting party, pro rata or
19 otherwise as may be agreed upon in the contract.

20 2. Agreements. The agency may enter into any
21 contract or agreement necessary, appropriate or inci-
22 dental to the effectuation of its lawful purposes and
23 the exercise of the powers granted by this chapter,
24 including, without limitation, contracts or agree-
25 ments for the purchase, sale, exchange, interchange,
26 wheeling, pooling, transmission, distribution or
27 storage of electricity and fuel of any kind in ac-
28 cordance with section 4103, subsection 9, inside and
29 outside the State, in such amounts as it determines
30 is necessary and appropriate to make the most effec-
31 tive use of its powers and to meet its responsibili-
32 ties and with such persons, on such terms and for
33 such period of time as its board of directors deter-
34 mines.

35 3. Debt limitation. Neither the obligations of
36 the agency nor the obligations of any municipality
37 under capacity and output contracts under this sec-
38 tion may be included in computing the debt limita-
39 tions of the municipalities. These obligations of
40 municipalities shall be treated as expenses of oper-
41 ating their electric plants and shall constitute spe-
42 cial obligations of these municipalities payable
43 solely from the revenues and other money derived by

1 them from their electric system or electric and util-
2 ity systems. The liability of these municipalities
3 from other funds is limited to obligations undertaken
4 by them to pay for the electricity used by them.

5 4. Obligation. Municipalities and cooperatives
6 are obligated to fix, revise and collect fees and
7 charges for electricity and other services, facili-
8 ties and commodities furnished or supplied through
9 its electric system or electric and utility system at
10 least sufficient to provide revenues adequate to meet
11 its obligations under any output and capacity con-
12 tracts and to pay all other amounts payable from or
13 constituting a charge and lien upon those revenues.

14 5. Conveyance of real or personal property. Any
15 municipality or cooperative may convey, transfer or
16 assign to the agency, with or without consideration,
17 any real or personal property or interest in either,
18 including a leasehold estate.

19 §4134. Acquisition of property

20 1. Eminent domain. The agency may acquire by
21 the exercise of the power of eminent domain any real
22 property, or any interest in real property, which it
23 determines necessary for its purposes under this
24 chapter, after the adoption by it of a resolution de-
25 claring the acquisition of the real property or in-
26 terest in it described in the resolution is necessary
27 for those purposes.

28 2. Restrictions. The agency shall exercise the
29 power of eminent domain in the manner provided in Ti-
30 tle 30, section 4807. References in Title 30, sec-
31 tion 4807, to an urban renewal project and a renewal
32 project area and the like are inapplicable. Notwith-
33 standing Title 30, section 4807, subsection 2:

34 A. No facility for the generation, transmission
35 or distribution of electricity owned by any per-
36 son may be taken, except for the purpose of ac-
37 quiring property or rights in it in order to per-
38 mit the crossing of existing transmission or dis-
39 tribution facilities. In the event of a taking,
40 the respective rights and obligations of the
41 agency and the property owner shall, upon peti-

1 tion of either party, be determined by the com-
2 mission.

3 B. No site for a project for which any utility
4 or person had filed an application for prelimi-
5 nary permit, a license or application for exemp-
6 tion from the Federal Energy Regulatory Commis-
7 sion on or before November 1, 1977, may be taken
8 until the time, if ever, that the application is
9 denied, and no further renewals or appeals are
10 available to the utility or person, or the utili-
11 ty or person abandons its application, permit or
12 license; and

13 C. No property may be taken, except as may be
14 necessary for the proper location of transmission
15 or distribution lines and necessary appurtenances
16 to them, unless the property is located within
17 the territory in which a municipality or coopera-
18 tive provides service or within one mile of the
19 territory.

20 §4135. Tax exemption

21 1. Bonds or notes. All bonds, notes or other
22 evidences of indebtedness issued under this chapter
23 are issued by a political subdivision or a body cor-
24 porate and politic of the State, and for an essential
25 public and governmental purpose. Those bonds, notes
26 or other evidences of indebtedness and the interest
27 on them and the income from them, including any prof-
28 it on their sale, and all activities of the agency
29 and fees, charges, funds, revenues, incomes and other
30 money of the agency, whether or not pledged or avail-
31 able to pay or secure the payment of those bonds,
32 notes or other evidences of indebtedness or interest
33 on them, are exempt from all taxation, franchise fees
34 or special assessments of whatever kind, except for
35 transfer, inheritance and estate taxes.

36 2. Property taxes. All real and personal prop-
37 erty acquired by the agency is subject to taxes to
38 the same extent as real and personal property owned
39 by other electric utilities.

40 §4136. Rules and rates

1 1. Rules. The agency may make and enforce rules
2 consistent with the purpose of this chapter.

3 2. Rates. The agency may establish, levy and
4 collect or may authorize by contract, franchise,
5 lease or otherwise, the establishment, levying and
6 collection of rents, rates and other charge:

7 A. For the services afforded by the agency or
8 afforded by or in connection with any project or
9 properties which it may construct, erect, ac-
10 quire, own, operate or control or with respect to
11 which it may have any interest or any right to
12 capacity; and

13 B. For the sale of electricity or of generation
14 or transmission capacity or service as it deter-
15 mines necessary, proper, desirable and reason-
16 able.

17 Rents, rates and other charges shall be at least suf-
18 ficient to meet the expenses of the agency, including
19 operating and maintenance expenses, reasonable re-
20 serves, interest and principal payments, including
21 payments into one or more sinking funds for the re-
22 tirement of principal, and other requirements of any
23 trust agreement or resolution and any additional
24 amounts which must be realized in order to meet the
25 requirements of any rate covenant imposed by any res-
26 olution or trust agreement authorizing and securing
27 bonds, notes or other evidences of indebtedness.
28 The agency may pledge its rates, rents and other rev-
29 enues, or any part of them, as security for the re-
30 payment, with interest and redemption premiums, if
31 any, of any money borrowed by it or advanced to it
32 for any of its authorized purposes and as security
33 for the payment of amounts due and owed by it under
34 any contract.

35 §4137. Powers of municipalities and cooperatives

36 By resolution of its governing body, a municipal-
37 ity or cooperative may:

38 1. Director. Appoint a director to the board in
39 accordance with section 4131;

1 2. Contracts. Contract with the agency for the
2 generation, manufacture, purchase, sale, exchange,
3 distribution or transmission of electricity and other
4 services on such terms and for such period of time as
5 the resolution may provide;

6 3. Appropriation. Appropriate or provide reve-
7 nuues and other money derived by them from their elec-
8 tric departments or systems or, in the case of those
9 municipalities having combined electric, water, sewer
10 and other utility systems, the revenues derived from
11 such combined systems under any contract with the
12 agency; and

13 4. Other contracts. Make and execute all con-
14 tracts, agreements and other instruments, and perform
15 all acts necessary and convenient or desirable to
16 carry out the purposes of this chapter or the powers
17 expressly granted or necessarily implied in this
18 chapter.

19 §4138. Construction contracts

20 The agency may contract for the planning, acqui-
21 sition, construction, operation, maintenance, repair,
22 extension and improvement of any project or may con-
23 tract with other public or private owners of any
24 project to perform these functions without preparing
25 final plans and specifications in advance of con-
26 struction or securing performance and payment bonds,
27 except to the extent that the directors determine
28 that these actions are desirable in furtherance of
29 the purposes of this chapter. Except as otherwise
30 provided by this section, no contract may be invalid
31 or unenforceable by reason of nonperformance of the
32 conditions required by any other law relating to pub-
33 lic contracts. The agency shall adopt a procedure
34 for awarding contracts relating to a project 50% or
35 more of which is owned by the agency, which procedure
36 may not be inconsistent with that of the State estab-
37 lished in Title 5, chapters 153 and 155.

38 SUBCHAPTER III

39 FORM AND NATURE OF BONDS AND NOTES

40 §4151. Bonds and notes

1 1. Bonds and notes. The issuance of bonds,
2 notes and other evidences of indebtedness is subject
3 to the following.

4 A. The agency may, from time to time, issue its
5 bonds, notes or other evidences of indebtedness
6 in the principal amount as the agency determines
7 is necessary to provide sufficient funds for
8 achieving any of its corporate purposes, includ-
9 ing the payment of interest on bonds, notes or
10 other evidences of indebtedness of the agency,
11 establishment of reserves to secure the bonds,
12 notes or other evidences of indebtedness and all
13 other expenditures of the agency incident to and
14 necessary or convenient to carry out its corpo-
15 rate purposes and powers. Without limiting the
16 generality of this paragraph, the bonds, notes or
17 other evidences of indebtedness may be issued for
18 project costs or the agency's share of project
19 costs.

20 B. The agency may, from time to time, issue
21 notes, renew notes and bonds, pay notes, includ-
22 ing the interest on them and, whenever it deter-
23 mines refunding expedient, refund any bonds by
24 the issuance of new bonds, whether the bonds to
25 be refunded have or have not matured, and issue
26 bonds partly to refund bonds then outstanding and
27 partly for any of its corporate purposes.

28 C. Except as may otherwise be expressly provided
29 by resolution of the agency, every issue of its
30 bonds, notes or other evidences of indebtedness
31 shall be general obligations of the agency, pay-
32 able out of any revenue or money of the agency,
33 subject only to any agreements with the holders
34 of particular bonds, notes or other evidences of
35 indebtedness pledging any particular revenues.

36 D. Bonds, notes or other evidences of indebted-
37 ness may be issued in accordance with this chap-
38 ter.

39 E. The bonds, notes or other evidences of in-
40 debtedness shall be authorized by resolution of
41 the agency, bear the date and mature at the time
42 as the resolution may provide. The bonds may be

1 issued as serial bonds payable in annual
2 installments or as term bonds, or as a combina-
3 tion of them. The resolution may provide that
4 the bonds, notes or other evidences of indebted-
5 ness bear interest at a given rate or may provide
6 a method of determining a rate, be in certain de-
7 nominations, in temporary, coupon or registered
8 form, carry certain registration privileges, be
9 executed in a given manner, payable in a given
10 medium of payment, at a place inside or outside
11 the State and subject to specified terms of re-
12 demption. The bonds, notes or other evidences of
13 indebtedness of the agency may be sold by the
14 agency, at public or private sale, at the price
15 the agency determines.

16 2. Authorization. Any resolution authorizing
17 any bonds, notes or other evidences of indebtedness
18 or any issue of them, may contain provisions which
19 shall be a part of the contract or contracts with the
20 bond or noteholders, as to:

21 A. Pledging, mortgaging or granting a security
22 interest in any real or personal property and all
23 or any part of the revenues of the agency or any
24 revenue-producing contract made by the agency
25 with any person to secure the payment of the
26 notes or bonds or of any issue of them subject to
27 agreements with noteholders or bondholders that
28 may then exist;

29 B. The custody, collection, securing, investment
30 and payment of any revenues, assets, money, funds
31 or property with respect to which the agency may
32 have any rights or interest;

33 C. The rates or charges for electricity sold by,
34 or services rendered by, the agency, the amount
35 to be raised by the rates or charges and the use
36 and disposition of any revenue;

37 D. The setting aside of reserves or sinking
38 funds and their regulation and disposition;

39 E. Limitations on the purpose to which the pro-
40 ceeds of sale of bonds, notes or other evidences
41 of indebtedness may be applied and the pledging

1 of the proceeds to secure the payment of the
2 bonds, notes or other evidences of indebtedness
3 or of any issue of them;

4 F. Limitations on the issuance of additional
5 bonds, notes or other evidences of indebtedness
6 the terms upon which additional bonds, notes or
7 other evidences of indebtedness may be issued and
8 secured and the refunding of outstanding or other
9 bonds, notes or other evidences of indebtedness;

10 G. The procedure, if any, by which the terms of
11 any contract with noteholders or bondholders may
12 be amended or abrogated, the amount of bonds,
13 notes or other evidences of indebtedness the
14 holders must consent and the manner in which con-
15 sent may be given;

16 H. The vesting in a trustee or trustees, inside
17 or outside the State, of such property, rights,
18 powers and duties in trust as the agency may de-
19 termine, which may include any of the rights,
20 powers and duties of the trustee appointed by the
21 bondholders pursuant to this chapter and limiting
22 or abrogating the right of the bondholders to ap-
23 point a trustee under this chapter or limiting
24 the rights, powers and duties of the trustee;

25 I. Defining the act or omission to act which
26 constitutes a default in the obligations and du-
27 ties of the agency to the holders of the bonds,
28 notes or other evidences of indebtedness and pro-
29 viding for the rights and remedies of the holders
30 of the bonds, notes or other evidences of indebt-
31 edness in the event of such default, space in-
32 cluding as a matter of right the appointment of a
33 receiver, which rights and remedies may vary from
34 those provided in section 4156; and

35 J. Any other matters, of like or different char-
36 acter, which in any way affect the security or
37 protection of the holders of the bonds, notes or
38 other evidences of indebtedness.

39 3. Pledges. Any pledge made by the agency is
40 valid and binding from the time when the pledge is
41 made. The revenue, money or property pledged and

1 then received by the agency shall immediately be sub-
2 ject to the lien of the pledge without any physical
3 delivery of it or further act. That pledge is valid
4 and binding as against all parties having claims of
5 any kind in tort, contract or otherwise against the
6 agency, irrespective of whether those parties have
7 notice of it. Neither the resolution nor any other
8 instrument by which a pledge is created need be filed
9 or recorded.

10 4. Liability. Neither the directors nor execu-
11 tive officers of the agency nor any other person exe-
12 cuting the bonds, notes or other evidences of indebt-
13 edness may be subject to any personal liability or
14 accountability by reason of the issuance of the
15 bonds, notes or other evidences of indebtedness.

16 5. Agency; power. The agency, subject to what-
17 ever agreement with noteholders or bondholders as may
18 then exist, may, out of any funds available for that
19 purpose, purchase notes or bonds of the agency, which
20 shall then be canceled.

21 6. Bonds or notes secured. In the discretion of
22 the agency, the bonds, notes or other evidences of
23 indebtedness may be secured by a trust indenture by
24 and between the agency and a corporate trustee, which
25 may be any trust company or bank having the power of
26 a trust company inside or outside the State. The
27 trust indenture may contain provisions for protecting
28 and enforcing the rights and remedies of the
29 noteholders or bondholders that may be reasonable and
30 proper and not in violation of law, including
31 covenants setting forth the duties of the agency in
32 relation to the exercise of its corporate powers and
33 the custody, safeguarding and application of all mon-
34 ey. The agency may provide by the trust indenture
35 for the payment of the proceeds of the bonds or notes
36 and the revenue to the trustee under the trust inden-
37 ture or other depository and for the method of dis-
38 bursement, with safeguards and restrictions as it may
39 determine. All expenses incurred in carrying out
40 the trust indenture may be treated as a part of the
41 operating expense of the agency. If the bonds or
42 notes are secured by a trust indenture, the trust in-
43 denture may provide that the noteholders and bond-
44 holders may not appoint a separate trustee to repre-
45 sent them.

1 7. Negotiability of bonds or notes. Unless the
2 agency expressly provides otherwise, a bond, note or
3 other evidence of indebtedness issued under this
4 chapter is fully negotiable for all purposes of the
5 applicable provisions of Title 11 and each holder or
6 owner of a bond or note, or any coupon appurtenant to
7 a bond or note, by accepting the bond, note or coupon
8 shall be conclusively deemed to have agreed that the
9 bond, note or coupon is fully negotiable for those
10 purposes.

11 8. Investment securities. All bonds, notes and
12 interest coupons appertaining to them issued by the
13 agency have all the qualities and incidents, includ-
14 ing negotiability, unless the agency expressly pro-
15 vides otherwise, of investment securities under the
16 applicable provisions of Title 11, article 8, but no
17 provision of Title 11, article 9, respecting the fil-
18 ing of a financing statement to perfect a security
19 interest shall be applicable to any pledge made or
20 security interest created in connection with the is-
21 suance of the bonds, notes or coupons.

22 9. Signature; validity. If any director or ex-
23 ecutive officer of the agency whose signature appears
24 on any notes, bonds or coupons ceases to be a direc-
25 tor or executive officer before the delivery of the
26 notes or bonds, the signature is valid for all pur-
27 poses, as if he had remained in office until that de-
28 livery.

29 §4152. Presumption of validity

30 After issuance, all bonds or notes of the agency
31 shall be conclusively presumed to be fully authorized
32 and issued under the laws of the State and any person
33 or governmental unit shall be stopped from question-
34 ing their authorization, sale, issuance, execution or
35 delivery by the agency.

36 §4153. Federal insurance of guaranty; taxable bond
37 option

38 1. Agency authorization. The agency may obtain
39 from any department or agency of the United States or
40 nongovernmental insurer any insurance or guaranty, to
41 the extent available as to, of, or for, the payment

1 or repayment of, interest or principal, or both, or
2 any part of interest or principal, on any bonds,
3 notes or other evidences of indebtedness issued by
4 the agency, or on any municipal obligations of gov-
5 ernmental units or cooperatives purchased or held by
6 the agency, pursuant to this chapter; and notwith-
7 standing any other provision of this chapter, enter
8 into any agreement or contract with respect to any
9 insurance or guaranty, except to the extent that the
10 same would in any way impair or interfere with the
11 ability of the agency to perform and fulfill the
12 terms of any agreement made with the holders of the
13 bonds or notes of the agency.

14 2. Interest. The agency may covenant and con-
15 sent that the interest on certain of its bonds shall
16 be includable under the United States Internal Re-
17 venue Code of 1954 or any subsequent corresponding in-
18 ternal revenue law of the United States, in the gross
19 income of the holders of the bonds to the same extent
20 and in the same manner that the interest on bills,
21 bonds, notes or other obligations of the United
22 States is includable in the gross income of the hold-
23 ers of them under the United States Internal Revenue
24 Code or any subsequent law. Nothing contained in
25 this chapter may be construed to covenant or consent
26 or to authorize any covenant or consent to the appli-
27 cation of any other provision of any other laws, fed-
28 eral or state, to the agency or its bonds or notes to
29 the elimination or modification in any way of any
30 other exemption, privilege or immunity of them, ex-
31 cept to the extent that may be required to undertake
32 projects outside of the State.

33 §4154. Refunding obligations; issuance

34 The agency may provide for the issuance of re-
35 funding obligations for the purpose of refunding any
36 obligations then outstanding which have been issued
37 under this chapter, including the payment of any cost
38 of issuance of them, if any, redemption premium on
39 them and any interest accrued or to accrue to the
40 date of redemption of these obligations and for any
41 corporate purpose of the agency. The issuance of the
42 obligations, the maturities, and other details per-
43 taining to them, the rights of their holders and the
44 rights, duties and obligations of the agency in re-

1 spect to them shall be governed by this chapter which
2 relate to the issuance of obligations, insofar as
3 those provisions may be appropriate.

4 §4155. Refunding obligations; sale

5 Refunding obligations issued as provided in section
6 4154 may be sold or exchanged for outstanding
7 obligations issued under this chapter and, if sold,
8 the proceeds from them may be applied, in addition to
9 any other authorized purposes, to the purchase, re-
10 demption or payment of those outstanding obligations.
11 Pending the application of the proceeds of any re-
12 funding obligations, with any other available funds,
13 to the payment of the principal, accrued interest and
14 any redemption premium on the obligations being re-
15 funded, and, if so provided or permitted in the reso-
16 lution authorizing the issuance of these refunding
17 obligations or in the trust agreement securing them,
18 to the payment of any interest on refunding obliga-
19 tions to be refunded or the trust agreement securing
20 and any expenses in connection with refunding, such
21 proceeds may be invested as specified in the resolu-
22 tion authorizing the obligations and any expenses in
23 connection with refunding, such proceeds may be in-
24 vested as specified in the resolution authorizing the
25 obligations to be refunded or the trust agreement se-
26 curing them. These investments shall mature or shall
27 be subject to redemption by their holders, at the op-
28 tion of the holders, not later than the respective
29 dates when the proceeds, together with the interest
30 accruing on them, will be required for the purposes
31 intended.

32 §4156. Remedies of bondholders and noteholders

33 1. Default. In the event that the agency de-
34 faults in the payment of principal or interest on any
35 bonds or notes issued under this chapter after it be-
36 comes due, whether at maturity or upon call for re-
37 demption and the default continues for a period of 30
38 days, or in the event that the agency fails or re-
39 fuses to comply with this chapter, or defaults in any
40 agreement made with the holders of an issue of bonds,
41 notes or other evidences of indebtedness of the agen-
42 cy, the holders of 25% in aggregate principal amount
43 of the bonds or notes of the issue then outstanding,

1 by instrument or instruments filed in the office of
2 the Secretary of State and proved or acknowledged in
3 the same manner as a deed to be recorded, may appoint
4 a trustee to represent the holders of those bonds or
5 notes for the purposes provided in this chapter.

6 2. Trustee; duties. The trustee appointed in
7 subsection 1 may, and upon written request of the
8 holders of 25% in principal amount of the bonds and
9 notes then outstanding shall, in the trustee's own
10 name:

11 A. Enforce all rights of the bondholders or
12 noteholders, including the right to require the
13 agency to fix and collect rates, fees and charges
14 relating to projects or other obligations held by
15 it adequate to carry out any agreement as to, or
16 pledge of, the revenues of the agency and to re-
17 quire the agency to carry out any other agree-
18 ments with the holders of the bonds or notes and
19 to perform its duties under this chapter;

20 B. Enforce all rights of the bondholders or
21 noteholders, including the right to take posses-
22 sion and control of the business and properties
23 of the agency, operate and maintain the business,
24 make any necessary repairs, renewals and replace-
25 ments to them and fix, revise and collect fees
26 and charges, so as to carry out any contract as
27 to, or pledge of, revenues and require the agency
28 to carry out and perform the terms of any con-
29 tract with the holders of the bonds or notes or
30 its duties under this chapter;

31 C. Bring suit upon all or any part of the bonds,
32 notes or other evidences of indebtedness;

33 D. By action or suit, require the agency to ac-
34 count as if it were the trustee of an express
35 trust for the holders of the bonds, notes or oth-
36 er evidences of indebtedness;

37 E. By action or suit, enjoin any acts which may
38 be unlawful or in violation of the rights of the
39 holders of the bonds, notes or other evidences of
40 indebtedness; and

1 F. Declare all bonds, notes or other evidences
2 of indebtedness due and payable and, if all de-
3 faults are made good, with the consent of the
4 holders of 25% of the principal amount of the
5 bonds or notes then outstanding, annul the decla-
6 ration and its consequences.

7 The trustee shall, in addition to the powers set out
8 in paragraphs A to F, possess all the powers neces-
9 sary or appropriate for the exercise of any functions
10 specifically set forth in this chapter or incident to
11 the general representation of bondholders or
12 noteholders in the enforcement and protection of
13 their rights.

14 3. Notice. Before declaring the principal of
15 bonds, notes or other evidences of indebtedness due
16 and payable, the trustee shall first give 30 days'
17 notice in writing to the Governor, the agency and the
18 Department of Attorney General.

19 4. Action. The Superior Court of Kennebec Count-
20 ty has jurisdiction of any suit, action or proceeding
21 by the trustee on behalf of the bondholders or
22 noteholders.

23 §4157. Credit of State and members of agency not
24 pledged

25 Obligations issued under this chapter are not
26 deemed to constitute a debt, liability or obligation
27 of the State, any political subdivision other than
28 the agency or any municipality or cooperative, nor
29 may they be deemed to constitute a pledge of the
30 faith and credit of the State, any political subdivi-
31 sion or any municipality or cooperative, but are pay-
32 able solely from the revenues or assets of the agen-
33 cy. Each obligation issued by the agency shall con-
34 tain on its face a statement to the effect that the
35 agency is not obligated to pay the obligation or the
36 interest on it, except from the revenues or assets
37 pledged or otherwise available for those purposes and
38 that neither the faith and credit nor the taxing pow-
39 er of the State, any political subdivision other than
40 the agency or any municipality or cooperative is
41 pledged to the payment of the principal of or the in-
42 terest of these obligations.

1 §4158. Notes and bonds as legal investment

2 The State and all public officers, governmental
3 units and agencies of the State, all banks, trust
4 companies, savings banks and institutions, building
5 and loan associations, savings and loan associations,
6 investment companies and other persons carrying on a
7 banking business, all insurance companies, insurance
8 associations and other persons carrying on an insur-
9 ance business, all credit unions and all executors,
10 administrators, guardians, trustees and other fiduci-
11 aries may legally invest any sinking funds, money or
12 other funds belonging to them or within their control
13 in any bonds, notes or other evidences of indebted-
14 ness issued under this chapter, and the bonds, notes
15 or other evidences of indebtedness are authorized se-
16 curity for any public deposits.

17 §4159. No impairment of obligation

18 The State pledges to and agrees with the holders
19 of the bonds, notes and other evidences of indebted-
20 ness issued under this chapter that the State will
21 not limit or restrict the rights vested in the agency
22 to perform its obligations and to fulfill the terms
23 of any agreement made with the holders of its bonds
24 or notes. The State will not impair the rights and
25 remedies of the holders until the bonds, notes and
26 other evidences of indebtedness together with inter-
27 est on them, and interest on any unpaid installments
28 of interest, are fully met, paid and discharged. The
29 agency may execute this pledge and agreement of the
30 State in any agreement with the holders of the bonds,
31 notes or other evidences of indebtedness.

32 SUBCHAPTER IV

33 MISCELLANEOUS PROVISIONS

34 §4171. Annual reports; audit

35 On or before 90 days after the end of each fiscal
36 year, the agency shall submit a report of its activi-
37 ties for the preceding fiscal year to the Governor,
38 the commission and the Legislature. Each report
39 shall set forth a complete operating and financial
40 statement covering its operations during the year,

1 and shall contain a full and complete statement of
2 the agency's anticipated budget and operations for
3 the ensuing year. The agency shall cause an audit of
4 its books and accounts to be made at least once in
5 each fiscal year by certified public accountants.
6 The cost shall be considered an expense of the agency
7 and copies shall be filed with the Treasurer of
8 State.

9 The State Auditor and his authorized representa-
10 tives may at any time examine the accounts and books
11 of the agency, including its receipts, disbursements,
12 contracts, sinking funds, investments and any other
13 matters relating to its financial statements.

14 §4172. State services

15 All offices, departments, boards, agencies, divi-
16 sions and commissions of the State may render any
17 services to the agency as may be within the area of
18 their respective governmental functions as fixed or
19 established by law and as may be requested by the
20 agency shall, at the request of the officer, depart-
21 ment, board, agency, division or commission rendering
22 the services, be met and provided for by the agency.

23 §4173. Jurisdiction of Public Utilities Commission

24 The agency is subject to the jurisdiction of the
25 commission in the same manner as any other public
26 utility; provided that, with respect to the approval
27 of securities to be issued to finance the costs of a
28 project or an interest in a project by the agency,
29 upon the request of the agency, the commission shall
30 approve, at one time, bonds which are sufficient to
31 finance the agency's entire costs of the project even
32 if the bonds are to be issued in series from time to
33 time and even though the exact amount of the cost has
34 not been finally determined and the approval may be
35 of an undetermined or indefinite amount; as long as
36 the project has been approved by the commission pur-
37 suant to section 3132 and provided that, with respect
38 to the fixing of rates to be charged by the agency
39 for electricity and other services, where the acqui-
40 sition or construction of a project or any interest
41 in a project is to be financed by the issuance of se-
42 curities under this chapter secured by a pledge of

1 revenues derived from contracts for the sale of power
2 and energy, transmission and related services and
3 such contracts as proposed provide for rate and
4 charges to be set by a formula or formulas based upon
5 costs incurred or to be incurred in connection with
6 the financing and operation of the project, which may
7 include reasonable reserves for the costs, if the
8 commission determines that the formula and formulas
9 are reasonably related to the costs, the commission
10 shall issue an order approving the formula or formu-
11 las and no further approval by the commission of the
12 rates and charges determined pursuant to the con-
13 tracts shall be required.

14 §4174. Environmental regulation

15 The agency is subject to the jurisdiction of the
16 Department of Environmental Protection and the Land
17 Use Regulation Commission in the same manner as any
18 other public utility.

19 §4175. Liberal construction

20 Neither this chapter nor anything contained in
21 this chapter is a restriction or limitation upon any
22 powers which the agency might otherwise have under
23 any laws of the State and this chapter is cumulative
24 to any such powers. This chapter provides a com-
25 plete, additional and alternative method for doing
26 acts authorized by it and shall be regarded as sup-
27 plemental and additional to powers conferred by other
28 laws.

29 §4176. Inconsistent provisions of other laws super-
30 seded

31 Insofar as the provisions of this chapter are in-
32 consistent with the provisions of any special act or
33 any charter of any participating municipality, this
34 chapter is controlling.

35 CHAPTER 43

36 NUCLEAR POWER GENERATING FACILITIES

37 SUBCHAPTER I

1 CONSTRUCTION

2 §4301. Findings and purpose

3 1. Investment in nuclear power plants. The Leg-
4 islature finds that construction of a nuclear power
5 plant is a major financial investment, which will
6 have consequences for ratepayers for years to come.
7 In the recent past, investments in nuclear power
8 plants have caused severe financial strain on consum-
9 ers and utilities.

10 2. Costs. The Legislature finds that there are
11 many uncertain future costs associated with nuclear
12 power plants, including the costs of low-level and
13 high-level waste disposal, decommissioning and long-
14 term care. These costs will be borne by the consum-
15 ers.

16 3. Citizen participation. The purpose of this
17 subchapter is to provide for citizen participation in
18 any decision to construct a nuclear power plant with-
19 in the State.

20 §4302. Referendum

21 1. Question submitted to voters. After review
22 of the proposed plant by the commission in accordance
23 with section 3132 or 3133, but prior to the construc-
24 tion of any nuclear power plant within the State, the
25 question of approving that construction shall be sub-
26 mitted to the voters of the State in the manner pre-
27 scribed by law for holding a statewide election.
28 This question shall be submitted to the legal voters
29 of the State at the next following statewide elec-
30 tion. The city aldermen, town selectmen and planta-
31 tion assessors of this State shall notify the inhabi-
32 tants of their respective cities, towns and planta-
33 tions to meet, in the manner prescribed by law for
34 holding a statewide election, to vote on the accept-
35 ance or rejection of construction by voting on the
36 following question:

37 "Do you approve construction of the nuclear power
38 plant proposed for (insert locations)?"

1 or do not present a genetic or long-term health risk.
2 Most authorities agree that it should be assumed that
3 radiation at any dose level has a finite risk. The
4 Legislature finds, therefore, that the public welfare
5 will be better protected if the public is fully in-
6 formed on any release of radioactive materials to the
7 environment.

8 §4332. Notice of emissions to the Commissioner of
9 Human Services

10 1. Notice. The operator of any nuclear power
11 plant in this State, or his designee, shall provide
12 notice of the events covered by this section to:

13 A. The public;

14 B. The Commissioner of Human Services; and

15 C. The Director of Civil Emergency Preparedness.

16 2. Events requiring notice. This notice shall
17 be required as indicated for the following events:

18 A. Scheduled releases of radioactive materials,
19 at least 24 hours before the release is planned
20 to occur;

21 B. Unscheduled releases of radioactive materi-
22 als, as soon as possible, but not more than 24
23 hours after the discovery of the release; and

24 C. Breakdowns or malfunctions of any safety re-
25 lated equipment that must be reported under the
26 United States Code of Federal Regulations, Title
27 10, Part 21, as soon as possible, but not more
28 than 24 hours after the discovery of the break-
29 down or malfunction.

30 3. Information required. The notice required by
31 this section shall contain a description of the fol-
32 lowing:

33 A. The total amount of radioactivity released or
34 planned to be released;

35 B. The estimated individual dose that may occur
36 due to the event;

1 C. Weather conditions at the time of the re-
2 lease;

3 D. The area affected or anticipated to be af-
4 ected by the event;

5 E. The equipment that malfunctioned, or the op-
6 erator error or other condition that caused the
7 release; and

8 F. The corrective actions taken.

9 §4333. Reports by the Commissioner of Human Services

10 1. Review and distribution of reports. The Com-
11 missioner of Human Services, or his designee, shall
12 review and study the reports, if any, and consolidate
13 them for distribution to the Public Utilities Commis-
14 sion, state agencies and public officials concerned
15 with nuclear energy and interested members of the
16 public. The report shall include an abstract written
17 in a manner that is easily understood by the general
18 public.

19 2. Reports of release that exceeds specification
20 limits. Reports of release which exceed technical
21 specification limits or result in overexposure to
22 plant personnel or members of the public shall be re-
23 viewed expeditiously by the Commissioner of Human
24 Services, or his designee, and a report shall be for-
25 warded to the individuals and agencies as provided in
26 this section.

27 §4334. Safety reporting; penalty

28 1. Reports. The operator of any nuclear power
29 plant in this State shall submit annually by April
30 1st to the Public Utilities Commission, with a copy
31 sent to the Bureau of Civil Emergency Preparedness,
32 the Department of Environmental Protection, the Bu-
33 reau of Health and the Maine State Library Bureau, a
34 report which shall include the following information:

35 A. A list and summary description of any
36 safety-related incidents at that nuclear power
37 plant reported to the United States Nuclear Regu-
38 latory Commission during the previous calendar

1 year, including a statement of the cause of the
2 incident, its effects on human health and the en-
3 vironment, corrective measures which have been
4 taken and the costs;

5 B. A list and summary description of those
6 unresolved safety issues as defined by the United
7 States Nuclear Regulatory Commission which per-
8 tain to that nuclear power plant and the status
9 of resolution and implementation of those
10 unresolved safety issues; and

11 C. A list and summary description of any
12 unresolved safety issues which have been con-
13 verted to regulation by the United States Nuclear
14 Regulatory Commission for implementation at that
15 nuclear power plant, together with the best
16 available estimates of the cost and time required
17 for that implementation.

18 2. Penalty. Any person who fails to comply with
19 this chapter shall be subject to chapter 15.

20 3. Additional information. The operator may in-
21 clude in the report required under subsection 1 a
22 list and summary description of any other
23 safety-related problems judged by the operator to be
24 significant. Notwithstanding subsection 2, failure
25 to provide information under this subsection shall
26 not be subject to penalty.

27 SUBCHAPTER III

28 DECOMMISSIONING

29 §4351. Short title; findings

30 This subchapter shall be known and may be cited
31 as the "Nuclear Decommissioning Financing Act."

32 The Legislature has made the following findings.

33 1. Proper decommissioning is essential. The
34 Legislature finds that timely proper decommissioning
35 of any nuclear power plant beginning at the time of
36 its closing is essential to protect public health,
37 safety and the environment and that the cost of de-
38 commissioning will be significant.

1 2. Collection of funds to pay for decommissioning
2 costs. To ensure that the customers who received
3 the benefits of these facilities pay for these decom-
4 missioning costs, the Legislature finds that it is
5 prudent for the State to require the licensee operat-
6 ing a nuclear power plant in the State to collect
7 sufficient funds during the remaining useful life of
8 the plant to pay for these costs.

9 3. Trust fund. The Legislature finds that the
10 best way to ensure that the funds collected will be
11 available when they are needed for decommissioning is
12 to require that the funds be placed in a separate
13 trust fund for each plant and invested by a trustee
14 until they are needed for decommissioning.

15 4. Decommissioning fund committee. The Legisla-
16 ture finds that it is in the public interest to have
17 a decommissioning fund committee responsible for the
18 prudent management of the trust fund. That committee
19 may be established by the licensee, with Public Util-
20 ities Commission approval, or publicly established,
21 but in either case would be subject to the require-
22 ments of this subchapter.

23 5. Taxes. The Legislature finds that funds set
24 aside for decommissioning protect the people of the
25 State and thus serve an essential governmental func-
26 tion, that payment of taxes on these funds would be
27 an unreasonable and inappropriate burden on the
28 ratepayers and that the income earned by the fund
29 should be tax exempt and payments made to the fund by
30 the licensee should be tax deductible.

31 6. Premature closing of plant. The Legislature
32 finds that assurance is needed that funds will be
33 available for the cost of decommissioning which would
34 occur if a nuclear power plant is prematurely closed.

35 §4352. Definitions

36 As used in this subchapter, unless the context
37 indicates otherwise, the following terms have the
38 following meanings.

39 1. Closing. "Closing" means the time at which a
40 nuclear power plant ceases to generate electricity
41 and is retired from active service.

1 2. Decommissioning. "Decommissioning" means the
2 series of activities undertaken beginning at the time
3 of closing of a nuclear power plant to ensure that
4 the final disposition of the site or any radioactive
5 components or material, but not including spent fuel,
6 associated with the plant is accomplished safely, in
7 compliance with all applicable state and federal
8 laws. Decommissioning includes activities undertaken
9 to prepare a nuclear power plant for final disposi-
10 tion, to monitor and maintain it after closing and to
11 effect final disposition of any radioactive compo-
12 ponents of the nuclear power plant.

13 3. Decommissioning expenses. "Decommissioning
14 expenses" means the following:

15 A. All reasonable costs and expenses of removing
16 a nuclear power plant from service, including,
17 without limitation, dismantling, mothballing, re-
18 moving radioactive waste material except spent
19 fuel to temporary or permanent storage sites,
20 decontaminating, restoring and supervising the
21 site, and any costs and expenses incurred in con-
22 nection with proceedings before governmental reg-
23 ulatory authorities relating to the authorization
24 to decommission the plant;

25 B. All costs of labor and services, including
26 services of foremen, inspectors, supervisors,
27 surveyors, engineers, counsel and accountants,
28 performed in connection with the decommissioning
29 of the plant, and all costs of materials, sup-
30 plies, machinery, construction equipment and ap-
31 paratus acquired for or in connection with the
32 decommissioning of the plant. It is understood
33 that any amount, exclusive of proceeds of insur-
34 ance, realized by a licensee as salvage on or re-
35 sale of any machinery, construction equipment and
36 apparatus, the cost of which was charged as a de-
37 commissioning expense, shall be treated as a de-
38 duction from the amounts otherwise payable on ac-
39 count of the cost of decommissioning of the
40 plant; and

41 C. All overhead costs applicable to the plant
42 during its decommissioning period, including, but
43 not limited to, taxes, other than taxes on or in

1 respect of income; licenses; excises and assess-
2 ments; casualties; surety bond premiums and in-
3 surance premiums.

4 Without limiting the generality of this subsection,
5 amounts expended or to be paid with respect to decom-
6 missioning a nuclear power plant shall constitute
7 part of the decommissioning expenses if they are, or
8 when paid will be, either properly chargeable to any
9 account related to decommissioning of a nuclear power
10 plant in accordance with the systems of accounts then
11 applicable to the licensee, or properly chargeable to
12 decommissioning of a nuclear power plant in accord-
13 ance with then applicable regulations of the United
14 States Nuclear Regulatory Commission, Federal Energy
15 Regulatory Commission or any other regulatory agency
16 having jurisdiction.

17 4. Decommissioning financing plan. "Decommis-
18 sioning financing plan" means the plan approved by
19 the commission under section 4353.

20 5. Decommissioning fund committee. "Decommis-
21 sioning fund committee" means a committee established
22 to have overall responsibility, as described in sec-
23 tion 4354, for a decommissioning trust fund.

24 6. Decommissioning trust fund or fund. "Decom-
25 missioning trust fund" or "fund" means a trust fund
26 set up as prescribed in sections 4353 and 4355 to
27 hold money for the eventual purpose of paying decom-
28 missioning expenses.

29 7. Escrow account. "Escrow account" means an
30 account established under commission rules to hold
31 funds collected under an interim decommissioning fi-
32 nancing plan promulgated under section 4353, subsec-
33 tion 5, until a decommissioning trust fund is estab-
34 lished or to hold funds for other temporary purposes
35 under this subchapter.

36 8. Licensee. "Licensee" means the holder of the
37 operating permit from the United States Nuclear Regu-
38 latory Commission for a nuclear power plant.

39 9. Nuclear power plant or plant. "Nuclear power
40 plant" or "plant" means a nuclear fission thermal
41 power plant situated in this State.

1 10. Owner. "Owner" means any electric utility
2 which owns any portion of a nuclear power plant,
3 whether directly or through ownership of stock in a
4 company which owns any portion of a nuclear power
5 plant or through membership in a holding company
6 which owns any portion of a nuclear power plant or
7 through other means.

8 11. Premature closing. "Premature closing"
9 means the closing of a nuclear power plant before the
10 projected date of decommissioning, as projected in
11 the decommissioning financing plan under section
12 4353.

13 12. Prompt removal and dismantlement. "Prompt
14 removal and dismantlement" means to immediately re-
15 move radioactive or radioactively contaminated mate-
16 rial down to allowable residual levels which permit
17 release of the property for unrestricted access.

18 13. Trustee. "Trustee" means a bank or trust
19 company qualified to act as a fiduciary in this
20 State.

21 §4353. Decommissioning financing plans; physical de-
22 commissioning plan

23 1. Submission of plans. Decommissioning financ-
24 ing plans shall be submitted as follows.

25 A. Any licensee receiving a certificate of pub-
26 lic convenience and necessity under section 3132
27 for a nuclear power plant shall submit a decom-
28 missioning financing plan for the plant to the
29 commission not less than one year prior to begin-
30 ning commercial operation of the plant.

31 B. Any licensee operating a nuclear power plant
32 on July 13, 1982, shall submit a proposed decom-
33 missioning financing plan for the plant to the
34 commission as soon as possible, but not later
35 than September 11, 1982, or such later date as
36 the commission may consider appropriate.

37 2. Content of plan. A decommissioning financing
38 plan submitted under subsection 1 shall include:

- 1 A. An estimate of the time of closing of the nu-
2 clear power plant;
- 3 B. An estimate of the cost of decommissioning
4 the plant expressed in dollars current in the
5 year the plan is prepared and based upon an engi-
6 neering report issued any time within 3 years of
7 the date the plan is submitted to the commission;
- 8 C. The share of the estimated decommissioning
9 expenses attributed to each electric utility to
10 which the plant supplies power;
- 11 D. Plans for periodic review and updating of the
12 plan, including the cost of decommissioning esti-
13 imated under paragraph B, consistent with subsec-
14 tion 6;
- 15 E. Plans for establishing as soon as possible a
16 decommissioning trust fund adequate to pay the
17 cost estimated under paragraph B, consistent with
18 subsection 4 and section 4355;
- 19 F. Plans and options for insuring against or
20 otherwise financing any shortfall in the fund re-
21 sulting from a premature closing of the nuclear
22 power plant;
- 23 G. Reasonable assurance of responsibility in the
24 event of insufficient assets in accordance with
25 section 4356;
- 26 H. A general description of the stages by which
27 decommissioning is intended to be accomplished,
28 but only at the level of detail necessary to sup-
29 port the cost estimate of paragraph B;
- 30 I. If the licensee intends to establish its own
31 decommissioning fund committee, a statement of
32 its intent to do so, together with its proposed
33 membership and a copy of the proposed decommis-
34 sioning trust and its plan for implementing the
35 trust and establishing the committee;
- 36 J. A fully executed decommissioning financing
37 agreement between the licensee and each owner,
38 evidencing each owner's acceptance of its respec-

1 tive share of the ultimate financial responsibil-
2 ity for decommissioning. In satisfaction of this
3 requirement, the licensee may submit existing
4 ownership agreements together with documentation
5 from each owner of the applicability of the
6 agreement to the case of financial responsibility
7 for decommissioning; and

8 K. Any other information related to the financ-
9 ing of decommissioning which the commission re-
10 quests.

11 3. Approval of plan. The plan shall be approved
12 as follows.

13 A. The commission shall conduct a public hearing
14 on the proposed decommissioning financing plan.

15 B. The commission shall approve the decommis-
16 sioning financing plan if it finds that the li-
17 cencee, in the judgment of the commission, has
18 provided reasonable assurance that:

19 (1) The estimated time of closing of the
20 nuclear power plant and the estimated cost
21 of decommissioning are reasonable;

22 (2) The share of the estimated cost of de-
23 commissioning for each electric utility to
24 which the plant supplies power is reason-
25 able;

26 (3) The principal and income which will
27 have accumulated in the decommissioning
28 trust fund at the estimated time of closing
29 the plant will be adequate to cover the es-
30 timated cost of decommissioning, plus the
31 expenses of administering the fund;

32 (4) The provisions of the proposed form of
33 the decommissioning trust fund will ensure
34 that the funds in the trust are judiciously
35 invested and will adequately protect the
36 funds until decommissioning is completed
37 and, in the event the licensee proposes to
38 establish its own decommissioning fund com-
39 mittee, that the licensee-established com-

1 mittee will ensure that the funds in the
2 trust are judiciously invested and will ade-
3 quately protect the funds until decommis-
4 sioning is completed;

5 (5) The assets in the fund cannot be with-
6 drawn unless approved by the decommissioning
7 fund committee under section 4355, subsec-
8 tion 5, prior to completion of decommission-
9 ing;

10 (6) Contributions to the fund are equitably
11 spread over the useful life of the plant to
12 the extent feasible;

13 (7) The plans and options for insuring
14 against or otherwise financing any shortfall
15 in the fund resulting from a premature clos-
16 ing are adequate and reasonable;

17 (8) The owners are legally bound to accept
18 their respective shares of the ultimate fi-
19 nanacial responsibility for decommissioning
20 and the plan reflects full compliance with
21 section 4356; and

22 (9) The plan will periodically be reviewed
23 and revised to reflect more closely the
24 costs and available techniques for decommis-
25 sioning. This update shall occur at least
26 every 5 years.

27 C. If the commission finds that the decommis-
28 sioning financing plan does not meet the criteria
29 under paragraph B, the commission shall reject
30 the plan and order that it be modified as the
31 commission determines necessary to meet those
32 criteria.

33 D. The commission shall take final action on the
34 proposed decommissioning financing plan within
35 180 days after the filing date. The filing date
36 shall be the date when the commission notifies
37 the applicant that the filing is complete. If
38 the commission does not notify the applicant of
39 any deficiencies in the information in the appli-
40 cation within 60 days of receipt, the application

1 shall be deemed complete as of the date of re-
2 ceipt.

3 E. If the licensee requested approval of a
4 licensee-established decommissioning fund commit-
5 tee, the commission shall approve the plan, in-
6 cluding the plans for implementing a licensee de-
7 commissioning fund committee and a decommission-
8 ing trust fund, with such modifications as the
9 commission finds necessary to meet the criteria
10 of paragraph B, but only if the commission finds
11 that the plans will reasonably ensure that the
12 responsibilities and duties of section 4354, sub-
13 section 6, will be carried out, that the funds
14 will be managed in order to ensure that they will
15 be available when needed, and that the funds will
16 only be used for decommissioning expenses and the
17 costs of administering the trust fund.

18 4. Cost of decommissioning. Based upon the
19 plan, the commission shall establish the cost of de-
20 commissioning of any nuclear power plant located in
21 the State and shall establish a schedule of monthly
22 payments into the decommissioning trust fund estab-
23 lished for that plant as necessary and convenient to
24 meet that cost of decommissioning at the time of
25 closing. The cost of decommissioning shall not in-
26 clude the cost of final disposal of spent nuclear fu-
27 el. The schedule shall be established so that con-
28 tributions received by the licensee are paid to the
29 fund as soon after receipt as practicable. For pur-
30 poses of cost estimates, the method of decommission-
31 ing shall be the method of prompt removal and
32 dismantlement, unless the United States Nuclear Regu-
33 latory Commission or its successor requires another
34 method. The commission shall periodically review the
35 estimated cost of decommissioning in accordance with
36 subsection 6 and based upon that review shall revise
37 the schedule of monthly payments as necessary.

38 When establishing the cost of decommissioning under
39 this subsection, the commission shall obtain from the
40 licensee, for information purposes, a determination
41 of any possible federal income tax liability related
42 to funds collected for decommissioning purposes until
43 a definitive final determination has been made by the
44 Federal Government that no such liability exists.

1 Notwithstanding any other provision of this subchap-
2 ter, the licensee may collect additional funds to es-
3 tablish a segregated escrow account for payment of
4 potential federal taxes, as approved by the Federal
5 Energy Regulatory Commission. In the event that no
6 final determination has been made by the Federal Gov-
7 ernment that no income tax liability exists related
8 to funds collected for decommissioning, the licensee
9 shall exercise all reasonable efforts to obtain such
10 a determination. In no event shall the licensee pay
11 any federal income tax liability amount from the de-
12 commissioning trust fund.

13 5. Plans required for operation. Decommission-
14 ing financing plans are required as follows.

15 A. No licensee which receives a certificate of
16 public convenience and necessity may commence op-
17 eration of a nuclear power plant, unless it has
18 a decommissioning financing plan approved by the
19 commission under subsection 3.

20 B. The commission shall promulgate an interim
21 decommissioning financing plan by July 13, 1982,
22 for any licensee which does not have a decommis-
23 sioning financing plan approved under subsection
24 3. Payments shall commence immediately under the
25 interim decommissioning financing plan and be de-
26 posited in an escrow account. That escrow ac-
27 count may be invested in investments permitted
28 for the trust fund under section 4355, subsection
29 3, paragraph B. When a decommissioning plan is
30 approved and a decommissioning trust fund estab-
31 lished, the interim plan shall terminate and the
32 money in that escrow account shall be transferred
33 to the fund.

34 6. Periodic review of plan. Decommissioning fi-
35 nancing plans for nuclear power plants shall be re-
36 viewed as follows.

37 A. If the commission approves a decommissioning
38 financing plan under subsection 3, the commission
39 shall, at least every 5 years and annually in the
40 5 years preceding scheduled closing, and annually
41 thereafter until decommissioning is completed,
42 review the financing plan to assess its adequacy.

1 If changed circumstances make a more frequent re-
2 view desirable or if the licensee requests it,
3 the commission may review the plan after a short-
4 er time interval. The review shall include, but
5 not be limited to, the following considerations:

6 (1) The estimated date of closing the
7 plant;

8 (2) The estimated cost of decommissioning;

9 (3) The reasonableness of the method se-
10 lected for cost estimate purposes;

11 (4) The size and growth rate of the decom-
12 missioning trust fund, taking into account
13 the effect of inflation; and

14 (5) The adequacy of the plans for financing
15 any shortfall required under subsection 2,
16 paragraph F.

17 B. After review under paragraph A, the commis-
18 sion may, after public hearing, order such
19 changes in the decommissioning financing plan as
20 it determines necessary to make the plan comply
21 with the criteria in subsection 3, paragraph B.

22 7. Physical decommissioning plan. At least 3
23 years prior to closing a nuclear power plant, the li-
24 cencee shall submit a physical decommissioning plan
25 to the Governor and the commission, with updates an-
26 nually thereafter. In the event of premature clos-
27 ing, the plan shall be submitted as soon as possible.

28 The commission shall review the plan to ascertain its
29 contents and determine under subsection 6 the adequacy
30 of the decommissioning fund to pay for that plan,
31 but the commission may not duplicate the health and
32 safety review conducted by the United States Nuclear
33 Regulatory Commission or its successor. The licens-
34 ee shall file with the physical decommissioning plan
35 a list of all decommissioning-related permits which
36 it must receive from agencies of the State. The li-
37 cencee shall update its filing annually to indicate
38 the progress of any permit applications which it has
39 undertaken before agencies of the State. The Public

1 Utilities Commission shall transmit copies of this
2 information to all agencies on the list of permits
3 and shall place this information in a separate file
4 which shall be made available for public inspection.
5 Those agencies shall inform the commission when they
6 issue any licenses or permits or take any other final
7 action. No licensee may decommission a nuclear power
8 plant unless the physical decommissioning plan has
9 been submitted to the commission.

10 §4354. Decommissioning fund committee

11 1. Establishment of decommissioning fund commit-
12 tee by the licensee. A decommissioning fund committee
13 may be established for a particular nuclear power
14 plant by the licensee operating that plant within one
15 year after July 13, 1982. Upon a finding by the com-
16 mission that this licensee-established decommission-
17 ing fund committee will be able to carry out the re-
18 sponsibilities and duties of subsection 6, that the
19 fund will be managed in accordance with the require-
20 ments of section 4355 and that it is in the public
21 interest, the commission may approve establishment of
22 the committee by the licensee. At that time, the
23 Governor may appoint a voting representative on the
24 licensee-established decommissioning fund committee.

25 2. Establishment of a public decommissioning
26 fund committee. In the event that the licensee
27 elects not to establish its own decommissioning fund
28 committee, or in the event that the commission fails
29 to approve a decommissioning fund committee proposed
30 by the licensee, or the commission elects to termi-
31 nate that committee for good cause shown, a public
32 decommissioning fund committee shall be established
33 consisting of 7 members, including:

34 A. The Treasurer of State, who shall act as
35 chairman;

36 B. A member nominated by the municipal officials
37 of any municipality containing a nuclear power
38 plant;

39 C. Four members nominated by the Governor, in-
40 cluding 2 from the financial community and 2 from
41 the general public; and

1 D. One member designated by the licensee.

2 3. Terms of public decommissioning fund commit-
3 tee members. Initially, the members appointed by the
4 Governor shall draw lots for terms. There shall be a
5 one-year term, a 2-year term, a 3-year term and a
6 5-year term. Thereafter, their terms shall be for 5
7 years. The municipal representative and the
8 licensee's representative shall be named for 5-year
9 terms. In the event of a vacancy, an interim ap-
10 pointment shall be made to fill the unexpired portion
11 of the term. The Treasurer of State shall serve
12 while holding that office. Other members shall serve
13 until their replacements are sworn in.

14 4. Compensation. Members of the decommissioning
15 fund committee shall receive compensation and be re-
16 imbursed for expenses as determined reasonable by the
17 commission. They shall be paid from the decommis-
18 sioning trust fund, for which services are rendered
19 or expenses incurred. Members of a
20 licensee-established committee are not entitled to
21 any compensation under this subsection.

22 5. Conflict of interest. Except for the
23 licensee's representative and members of a
24 licensee-established decommissioning fund committee,
25 members of the committee shall have no direct or sub-
26 stantial indirect financial interest in any nuclear
27 power plant covered by this subchapter in any company
28 which owns directly or indirectly any portion of a
29 nuclear power plant covered by this subchapter or in
30 any institution involved in managing or handling a
31 decommissioning trust fund.

32 6. Responsibilities and duties. Whether estab-
33 lished by the licensee or otherwise, a decommission-
34 ing fund committee is responsible for the prudent
35 management of the decommissioning trust fund in order
36 to assure that the principal and income which will
37 have accumulated in the fund at the time of closing
38 the nuclear power plant for which it was established
39 will equal the cost established in the decommission-
40 ing financing plan approved by the commission. The
41 specific duties of a decommissioning fund committee
42 are to:

- 1 A. Appoint the trustee;
2 B. Approve selection of other financial manag-
3 ers, if any, by the trustee;
4 C. Establish investment policy;
5 D. Evaluate investment policy and trustee per-
6 formance;
7 E. Establish procedures for expenditures from
8 the fund for decommissioning and administrative
9 expenses; and
10 F. Perform other duties it finds necessary to
11 carry out its responsibilities.

12 7. Report; audit. The decommissioning fund com-
13 mittee shall report annually to the Governor, the
14 Legislature and the commission on its activities and
15 the status of the decommissioning trust fund. It
16 shall also report to the owners of any nuclear power
17 plant in the State on its activities relating to that
18 plant and on the status of the associated fund. The
19 report shall contain a breakdown of all administra-
20 tive expenses. A decommissioning fund committee
21 shall cause an annual audit to be made of each decom-
22 missioning trust fund.

23 8. Separate committee for each plant. There
24 shall be a separate decommissioning fund committee
25 for each nuclear power plant covered by this subchap-
26 ter. Members may serve on more than one decommis-
27 sioning fund committee.

28 9. Modification. In the event and to the extent
29 that it is necessary in order to establish the tax
30 exempt status of payments to or income of the decom-
31 missioning trust fund, the decommissioning fund com-
32 mittee shall, subject to the approval of the commis-
33 sion, modify its structure and procedures, including
34 if necessary changing from any licensee-established
35 trust committee established under subsection 1 to a
36 public trust committee established under subsection
37 2, provided that no such modification may be contrary
38 to the purpose for which the trust was established
39 under this subchapter.

1 §4355. Decommissioning trust fund

2 1. Trustee. The decommissioning fund committee
3 shall select a trustee or trustees to execute the po-
4 licies set by the decommissioning fund committee and
5 manage the money within a decommissioning trust fund
6 in order to ensure that it will be available when
7 needed and, insofar as possible, consistent with pro-
8 tection of the principal, so that it may grow to keep
9 pace with inflation or faster. Preference may be
10 given to financial institutions incorporated in the
11 State if consistent with their fiduciary responsibil-
12 ity, but only if they meet the criteria for trustees
13 established by the decommissioning fund committee.
14 That committee may, by a majority vote of its entire
15 membership, change trustees at any time. Any trustee
16 shall be subject to the same duties and may exercise
17 the same powers as trustees under Title 18-A, article
18 VII, and the provisions of the decommissioning trust
19 to the extent that they are not inconsistent with
20 this subchapter. The trustee may appoint subsidiary
21 financial managers, subject to approval by the decom-
22 missioning fund committee. Any fees charged by the
23 trustee shall be subject to review by the commission.

24 2. Tax exemptions. The following tax exemptions
25 apply to the decommissioning trust fund.

26 A. Payments to a decommissioning trust fund
27 shall be considered a necessary operating expense
28 of the licensee and shall be tax deductible for
29 state income tax purposes. All income of the
30 fund shall be exempt from state income taxation,
31 as long as the fund is to be used exclusively for
32 the purposes of decommissioning and the licensee
33 may not use the fund for any other purpose.

34 B. Payments to a decommissioning trust fund are
35 deemed to be a necessary operating expense to the
36 licensee and exempt from federal income tax. It
37 is the legislative intent that all income of the
38 fund be exempt from federal income taxation.

39 3. Restrictions. The following restrictions ap-
40 ply to the decommissioning trust fund.

1 A. All funds collected by any licensee for de-
2 commissioning shall be immediately segregated
3 from the company's assets and amounts not subject
4 to refund or required to pay tax liabilities
5 shall be transferred to the trustee for placement
6 in the decommissioning trust fund established for
7 the licensee's plant. Amounts collected for de-
8 commissioning, but subject to refund or required
9 to pay tax liabilities, shall be deposited in a
10 separate escrow account.

11 B. The assets in a decommissioning trust fund
12 may be invested only in secure assets as follows:

13 (1) The bonds, notes, certificates of de-
14 posit or other obligations issued or guaran-
15 teed by the United States or by any agency
16 or instrumentality of the United States;

17 (2) The bonds, notes, certificates of de-
18 posit or other obligations issued or guaran-
19 teed by any state or by any agency, instru-
20 mentality or political subdivision of any
21 state, provided that securities are rated
22 within the 2 highest grades by any rating
23 service approved by the Superintendent of
24 Banking;

25 (3) The bonds and other obligations of any
26 United States corporation, provided that
27 they are rated within the 2 highest grades
28 by any rating service approved by the Super-
29 intendent of Banking; or

30 (4) Until a definitive final determination
31 has been made by the Federal Government that
32 the income of the fund is exempt from feder-
33 al income taxation, the assets in the fund
34 may be invested only in securities exempt
35 from federal income taxation.

36 The assets in a fund shall not be invested in the
37 securities of the owner of any nuclear power
38 plant. The decommissioning fund committee may
39 impose such other restrictions as it determines
40 necessary or desirable.

1 C. Except as provided in section 4354, a decom-
2 missioning trust fund shall be administered only
3 by persons not normally involved with operations
4 of the licensee or any owner of a nuclear power
5 plant within the State.

6 D. Neither the licensee nor any other owner of
7 any nuclear power plant in the State may receive
8 any benefit from funds remaining in the decommis-
9 sioning trust fund after completion of decommis-
10 sioning.

11 E. All income of a fund shall be accumulated and
12 added to the principal of the fund, except as
13 otherwise provided in subsection 5.

14 F. Any indenture of trust governing the decom-
15 missioning trust fund is subject to review and
16 approval by the commission. That indenture of
17 trust shall contain a provision that it shall be
18 amended as necessary to conform to any future
19 changes in state law or rule.

20 4. Contributions to the fund. The trustee of a
21 decommissioning trust fund shall bill the licensee
22 operating the nuclear power plant for which the fund
23 was established and the licensee shall make payments
24 to the trustee of the fund in amounts and on a sched-
25 ule determined by the commission in accordance with
26 section 4353, subsection 4.

27 5. Expenditures from the fund; payments for
28 costs of decommissioning. At the time of decommis-
29 sioning, the decommissioning fund committee shall au-
30 thorize the trustee to make payments as necessary
31 from the fund to the licensee to cover actual decom-
32 missioning expenses in accordance with the decommis-
33 sioning plan authorized by the United States Nuclear
34 Regulatory Commission or its successor. The decom-
35 missioning fund committee may not approve any with-
36 drawal for this purpose prior to completion of decom-
37 missioning, unless the physical decommissioning plan
38 has been received and reviewed by the commission un-
39 der section 4353, subsection 7.

40 The decommissioning fund committee may authorize
41 withdrawals from the fund as necessary to pay reason-

1 able expenses for administering the fund. No other
2 withdrawal may be made prior to the commencement of
3 decommissioning without the approval of the commis-
4 sion and unless the withdrawal is for the purpose of
5 paying reasonable expenses related to decommission-
6 ing.

7 6. Expenditure of money remaining after decom-
8 missioning. Upon termination of decommissioning, the
9 commission shall conduct a final audit of the decom-
10 missioning trust fund. The commission may by rule,
11 if the public interest requires, establish a decom-
12 missioning contingency reserve at that time. If
13 there are assets remaining in the fund attributable
14 to a given plant, after its decommissioning has been
15 completed, those assets shall be returned, in propor-
16 tion to their payments, to the owners and any other
17 persons who originally made payments to the licensee
18 for decommissioning purposes in accordance with the
19 order or orders of any regulatory agency having ju-
20 risdiction. No portion of the remaining assets in a
21 fund may accrue to the benefit of the licensee.

22 An electric utility in the State which receives re-
23 maining decommissioning funds under this subchapter
24 shall distribute the funds equitably, under the guid-
25 ance of the commission, to its customers.

26 7. Commission review for licensee-established
27 committee. Notwithstanding any other section of this
28 subchapter, if the decommissioning fund committee is
29 established by the company under section 4354, sub-
30 section 1, withdrawals from the fund shall be re-
31 viewed and approved by the commission. No withdrawal
32 may be approved, except for the purpose of paying
33 reasonable expenses related to decommissioning or to
34 the administration of the fund.

35 8. Separate fund for each plant. There shall be
36 a separate decommissioning trust fund for each nucle-
37 ar power plant covered by this subchapter. The as-
38 sets of these funds shall not be commingled in any
39 way.

40 §4356. Responsibility for decommissioning

1 1. Decommissioning trust fund. In the first in-
2 stance, the cost of decommissioning shall be paid
3 from the decommissioning trust fund established for
4 the plant being decommissioned.

5 2. Licensee responsible. If the assets of the
6 decommissioning trust fund are insufficient to pay
7 for the cost of decommissioning, the licensee shall
8 be responsible for the additional cost.

9 3. Insufficient assets. If the assets of the
10 licensee are insufficient to cover the remaining cost
11 of decommissioning after the decommissioning trust
12 fund is exhausted, the owners are jointly and sever-
13 ally liable for the safe and proper decommissioning
14 of that nuclear power plant. If, under this subsec-
15 tion, any in-state owner pays decommissioning ex-
16 penses in excess of its ownership share in the plant,
17 that owner shall have a cause of action to recover
18 that excess from the other owners. The Department of
19 the Attorney General shall assist in bringing such an
20 action.

21 4. State not financially responsible; protective
22 action. The State shall have no financial responsi-
23 bility for decommissioning. If the Governor finds
24 that, because of inadequate action by the responsible
25 parties in carrying out decommissioning, protective
26 action is reasonably required to protect the public
27 health and safety, the State may undertake that ac-
28 tion. In that case, the Department of the Attorney
29 General shall bring action against the fund, the li-
30 cencee and the owners to recover the cost of that
31 protective action. Expenses incurred by the Depart-
32 ment of the Attorney General in bringing that action
33 shall be paid from the decommissioning trust fund.

34 5. Additional expense in rates. The commission
35 shall include, as an allowable operating expense, in
36 calculation of authorized rates, additional decommis-
37 sioning funds actually supplied by an electric utili-
38 ty in the State, to the extent these are just and
39 reasonable.

40 §4357. Procedure, liability and penalties incorpo-
41 rated by reference; construction

1 To the extent that they are not in conflict with
2 this chapter, chapters 13 and 15 apply to this chap-
3 ter. This subchapter shall be construed liberally in
4 order to achieve the purposes stated in this chapter.

5 §4358. Cost of review

6 The licensee shall submit to the commission, with
7 the initial filing or upon a subsequent formal review
8 of a decommissioning financing plan under this sub-
9 chapter, a filing fee as determined by the commis-
10 sion, but not to exceed \$50,000, in order to assist
11 in covering the cost of review by the commission.
12 Within one year after establishment of a decommis-
13 sioning fund under this subchapter, the licensee may
14 recover the licensing fee from the fund. Money re-
15 ceived from the filing fee shall be segregated, ap-
16 portioned and expended by the commission for the pur-
17 poses stated in this section, with a report to the
18 joint standing committee of the Legislature having
19 jurisdiction over appropriations and financial af-
20 airs. Any unexpended funds from the filing fee
21 shall be transferred to the decommissioning trust
22 fund after approval of the plan.

23 §4359. Enforcement

24 All provisions of this subchapter shall be en-
25 forced by the Department of the Attorney General,
26 with the cost of enforcement paid from the decommis-
27 sioning trust fund.

28 SUBCHAPTER IV

29 SPENT FUEL AND HIGH-LEVEL WASTE REQUIREMENTS

30 §4371. On-site storage of spent fuel assemblies;
31 limitations

32 After July 1, 1992, no nuclear fission thermal
33 power plant licensee may store or maintain in on-site
34 spent fuel element pools or other on-site temporary
35 storage facilities any spent nuclear fuel which was
36 removed from the nuclear reactor core more than 3
37 years previously.

38 §4372. Definitions

1 As used in this subchapter, unless the context
2 otherwise indicates, the following terms have the
3 following meanings.

4 1. Construction. "Construction" means the in-
5 stallation of permanent equipment or structures.

6 2. High-level radioactive waste. "High-level
7 radioactive waste" means the highly radioactive mate-
8 rial resulting from the reprocessing of spent nuclear
9 fuel, including liquid waste produced directly in
10 reprocessing and any solid material derived from that
11 liquid waste that contains fission products in suffi-
12 cient concentrations; and other highly radioactive
13 material that the United States Nuclear Regulatory
14 Commission, consistent with existing law, determines
15 by rule to require permanent isolations.

16 3. Nuclear power plant. "Nuclear power plant"
17 means a nuclear fission thermal power plant.

18 4. Technology or means for the disposal of
19 high-level nuclear waste. "Technology or means for
20 the disposal of high-level nuclear waste" means a
21 method for the permanent and terminal disposal of
22 high-level nuclear waste. It does not necessarily
23 require that facilities for the application of such
24 technology and means be available at the time the
25 commission makes its findings. This disposition does
26 not necessarily preclude the possibility of an ap-
27 proved process for retrieval of such waste.

28 §4373. Certification required prior to construction
29 of nuclear power plants

30 No construction may commence on a nuclear power
31 plant, until the Public Utilities Commission has cer-
32 tified it under this subchapter.

33 §4374. Conditions for certification of nuclear power
34 plants

35 The commission may certify a nuclear power plant
36 if it finds that:

37 1. Federal Government identification and approv-
38 al of technology. The Federal Government, through

1 its authorized agency, has identified and approved a
2 demonstrable technology or means for the disposal of
3 high-level nuclear waste;

4 2. Waste storage facilities operational. Spe-
5 specific facilities with adequate capacity to contain
6 high-level nuclear waste are in actual operation, or
7 will be in operation, at the time the nuclear power
8 plant being certified requires the means for the dis-
9 posal of high-level nuclear waste; and

10 3. Proposal for disposal is in conformity. The
11 disposal of high-level nuclear waste proposed for any
12 nuclear power plant to be certified according to this
13 subchapter is in full conformity with the technology
14 approved by the authorized agency of the Federal Gov-
15 ernment.

16 §4375. Commission action upon petition

17 Upon petition of any person, the commission shall
18 within a reasonable time conduct public hearings and
19 make specific findings as to the conditions set forth
20 in section 4374.

21 §4376. Commission and other agency action if certi-
22 fication not granted

23 If the conditions of section 4374 have not been
24 met, the commission may continue to receive and pro-
25 cess applications for certification, but may not cer-
26 tify a nuclear power plant. Any other governmental
27 entity which grants necessary permits, licenses, ap-
28 provals or authorizations for construction of a nu-
29 clear power plant may process and grant those per-
30 mits, licenses, approvals or authorizations, subject
31 to the commission's granting of certification under
32 this chapter.

33 SUBCHAPTER V

34 SPENT FUEL DISPOSAL TRUST FUND

35 §4391. Definitions

36 As used in this subchapter, unless the context
37 indicates otherwise, the following terms have the
38 following meanings.

1 1. Licensee. "Licensee" means the holder of the
2 operating permit from the United States Nuclear Regu-
3 latory Commission for a nuclear power plant.

4 2. Nuclear power plant or plant. "Nuclear power
5 plant" or "plant" means a nuclear fission thermal
6 power plant.

7 3. Owner. "Owner" means any electric utility
8 which owns any portion of a nuclear power plant,
9 whether directly or indirectly, through ownership of
10 stock in a company which owns any portion of a nucle-
11 ar power plant, through membership in a holding com-
12 pany which owns any portion of a nuclear power plant
13 or through other means.

14 4. Spent nuclear fuel disposal. "Spent nuclear
15 fuel disposal" means the activities undertaken to
16 safely dispose of spent nuclear fuel offsite and in
17 compliance with all applicable state and federal
18 laws.

19 5. Trustee. "Trustee" means a fiduciary as de-
20 finied under Title 18-A, section 1-201, which fiduci-
21 ary shall administer the spent fuel disposal trust
22 funds subject to sections 4392 and 4393 and in ac-
23 cordance with Title 18-A, article VII.

24 6. Trust fund or fund. "Trust fund" or "fund"
25 means a trust fund established as set out in section
26 4392 to hold money for the eventual purpose of spent
27 nuclear fuel disposal.

28 §4392. Spent Nuclear Fuel Disposal Trust Fund

29 1. Established. Any licensee operating a nucle-
30 ar power plant in this State shall establish a segre-
31 gated Spent Nuclear Fuel Disposal Trust Fund in ac-
32 cordance with this subchapter for the eventual dis-
33 posal of spent nuclear fuel resulting from the use of
34 that fuel before April 7, 1983. The licensee shall
35 make payments into the fund in accordance with a
36 schedule based on sound financial practices designed
37 to accumulate sufficient money to make the payments
38 to the United States Department of Energy in the man-
39 ner described in subsection 5. The licensee shall
40 also review the schedule at least annually to deter-

1 mine if the level of deposits in the fund remains
2 reasonably capable of accumulating appropriate money
3 for application to these payments.

4 2. Financing agreement. The licensee shall file
5 with the commission a fully executed spent nuclear
6 fuel financing agreement between the licensee and
7 each owner, evidencing each owner's acceptance of its
8 respective share of the ultimate financial responsi-
9 bility for spent nuclear fuel. In satisfaction of
10 this requirement, the licensee may submit existing
11 ownership agreements, together with documentation
12 from each owner, of the applicability of the agree-
13 ment to the case of financial responsibility for
14 spent nuclear fuel.

15 3. Trustee. The licensee shall select a trustee
16 or trustees to manage the money within the fund to
17 ensure that it will be available when needed. Pref-
18 erence may be given to financial institutions incor-
19 porated in the State if such a determination can be
20 made consistent with the fiduciary responsibility of
21 the trustees. The licensee may change trustees at
22 any time upon appropriate notice. Trustees shall be
23 subject to the same duties and may exercise the same
24 powers as trustees under Title 18-A, article VII, to
25 the extent that they are not inconsistent with this
26 subchapter. The trustee may appoint subsidiary fi-
27 nanacial managers, subject to the approval of the li-
28 icensee.

29 4. Restrictions. The following restrictions ap-
30 ply to the fund.

31 A. The fund shall be segregated from the
32 licensee's assets and administered by an independ-
33 ent trustee in accordance with this subchapter.

34 B. The fund may be invested only in secure as-
35 sets with maturity no later than the announced or
36 reasonably projected date for the making of the
37 payments required under this section, as follows:

38 (1) Bonds, notes or other obligations is-
39 sued or fully guaranteed by the full faith
40 and credit of the Federal Government or by
41 any agency or instrumentality of the United
42 States;

1 (2) Bonds, notes or other obligations is-
2 sued or fully guaranteed by the full faith
3 and credit of any agency, instrumentality or
4 political subdivision of any state, provided
5 that the investment security is rated within
6 the 2 highest grades by any rating service
7 approved by the Superintendent of Banking;

8 (3) Bonds and other obligations of any cor-
9 poration organized under the laws of the
10 United States or any state, provided that at
11 the time of purchase the investment security
12 is rated within the 2 highest grades by any
13 rating service approved by the Superintend-
14 ent of Banking; and

15 (4) Money Market Funds or similar invest-
16 ment vehicle of the trustee's choice, but
17 only as a temporary investment where it is
18 not practical to invest any amount in the
19 fund in the investments described in
20 subparagraphs (1) to (3).

21 C. The funds shall not be invested in the secu-
22 rities of the owner of any nuclear power plant.

23 D. Income to the fund shall be reinvested for
24 the benefit of the fund or used to pay the rea-
25 sonable expenses of administration of the fund.

26 5. Expenditures from the fund. The trustee
27 shall make payments from the fund to the United
28 States Department of Energy in accordance with the
29 United States Nuclear Waste Policy Act of 1982 and
30 any contract between the licensee and the department
31 under that Act for the disposal of all spent nuclear
32 fuel used prior to April 7, 1983.

33 6. Sunset. After payment of all fees in accord-
34 ance with subsection 5, the trustee shall report to
35 the commission and, upon certification by the commis-
36 sion, the fund shall be dissolved expeditiously and
37 this subchapter is repealed.

38 7. Assets remaining in the fund. Any assets re-
39 maining in the fund at the time of dissolution shall
40 be returned, in proportion to their payments, to the

1 owners and any other persons who originally made pay-
2 ments to the licensee for the fund. Any amounts re-
3 turned to the electric utilities within the State
4 will be subject to ultimate rate treatment by the
5 commission. No portion of the remaining assets in
6 the fund may accrue to the benefit of the licensee.

7 §4393. Report; audit

8 1. Initial report. The licensee shall report to
9 the commission upon the establishment of the fund.
10 That report shall include the relevant trust agree-
11 ment, spent nuclear fuel disposal contract and other
12 appropriate documentation.

13 2. Annual reports. The trustee of the fund
14 shall report at least annually to the licensee on the
15 status of the fund. The licensee shall report the
16 information in reasonable detail annually to the Gov-
17 ernor and the commission. The reports shall contain
18 a reasonable itemization of all administrative ex-
19 penditures.

20 3. Audit. The licensee shall cause an annual
21 audit to be made of the fund.

22 PART 4

23 GAS

24 CHAPTER 45

25 NATURAL GAS PIPELINE UTILITIES

26 §4501. Declaration of policy

27 It is declared that the business of transporting
28 natural gas within the State by interstate or intra-
29 state natural gas pipeline utilities affects the pub-
30 lic interest and that the health, safety and welfare
31 of the inhabitants of the State require regulation
32 in matters relating to the transportation of natural
33 gas to the extent provided in this chapter.

34 §4502. Organization; power to construct and operate
35 pipelines

1 1. Organization of corporations to construct
2 pipelines. Corporations for the purpose of con-
3 structing and operating natural gas pipelines may be
4 organized under Title 13-A. Following organization
5 under Title 13-A, the corporation has all the other
6 rights, privileges and immunities of a legal corpora-
7 tion organized under Title 13-A, except as they are
8 inconsistent with this chapter.

9 2. Interstate and intrastate pipelines. A natu-
10 ral gas pipeline utility, organized under the laws of
11 this State or of any other state or of the United
12 States to construct and operate an interstate natural
13 gas pipeline, which holds a certificate of public
14 convenience and necessity issued under federal law,
15 authorizing it to construct and operate natural gas
16 pipeline and appurtenant facilities within this
17 State, or to construct and operate an intrastate natu-
18 ral gas pipeline, which has obtained authorization
19 from the commission to construct and operate such in-
20 trastate natural gas pipeline or pipelines and appur-
21 tenant facilities, may, upon compliance with this
22 chapter, purchase, hold and convey real estate and
23 personal property for the purposes for which it was
24 created.

25 §4503. Filing certificate of public convenience

26 At least 30 days before beginning construction of
27 an interstate natural gas pipeline within this State,
28 the corporation shall file with the Secretary of
29 State a certified copy of the certificate of public
30 convenience and necessity issued to it under the Fed-
31 eral Natural Gas Act or, if the pipeline is intra-
32 state, a certificate exhibiting the commission's au-
33 thorization.

34 §4504. Eminent domain

35 Upon the filing of the certificate of public con-
36 venience and necessity or authorization of the com-
37 mission, as required in section 4503, if the commis-
38 sion determines that a taking by eminent domain is
39 necessary under the conditions and procedures set out
40 in sections 6701 to 6704 relative to condemnation by
41 water districts, a natural gas pipeline utility that
42 has complied with this chapter and, in the case of a

1 foreign corporation with Title 13-A, chapter 12, may
2 take and hold by right of eminent domain lands or
3 rights in lands that are necessary to the safe, eco-
4 nomical and efficient operation of the pipeline and
5 to providing adequate service to the public, under
6 the same procedures and conditions as set forth in
7 chapter 67.

8 Environmental factors to be considered for proper
9 location of a natural gas pipeline are not subject to
10 review by the commission when the location of the
11 transmission line has received site location of de-
12 velopment approval under Title 38, section 484.

13 Nothing in this section authorizes a corporation
14 to take by eminent domain property or facilities of
15 another public utility, used or acquired for use in
16 the performance of a public duty, unless expressly
17 authorized in this section or by an Act of the Legis-
18 lature.

19 §4505. Exemption from eminent domain

20 1. Owner's consent required. No natural gas
21 pipeline utility may take, without the owner's con-
22 sent:

23 A. Meeting houses;

24 B. Dwelling houses; or

25 C. Public or private burying grounds.

26 2. Public lands. No natural gas pipeline utili-
27 ty may take by eminent domain lands or rights in:

28 A. A public street or highway;

29 B. A public park or reservation;

30 C. Other public property; or

31 D. The location of a railroad or public utility.

32 3. Pipeline constructed under or through public
33 property. A natural gas pipeline utility may con-
34 struct a natural gas pipeline under or through a pub-

1 lic highway or street, public park or reservation or
2 other public property if the method, plans and speci-
3 fications for construction have been approved by the
4 authority having jurisdiction over the maintenance of
5 the public highway or street, public park or reserva-
6 tion or other public property and the authority has
7 granted a written location permit to the corporation
8 in accordance with section 2302. The natural gas
9 pipeline utility has all the rights, privileges and
10 duties arising out of section 2302 to the extent they
11 apply to a natural gas pipeline utility formed under
12 this chapter.

13 4. Pipelines constructed over or across a rail-
14 road or public utility. A natural gas pipeline utili-
15 ty may construct a natural gas pipeline over or
16 across the location of a railroad or public utility
17 by agreement with the railroad or public utility or,
18 in the event of failure to agree, with the commis-
19 sion's approval and in a place and manner and under
20 conditions determined by the commission. All work on
21 the property or a railroad or public utility must be
22 done under the supervision and to the satisfaction of
23 the railroad or public utility, but at the natural
24 gas pipeline utility's expense.

25 §4506. Construction requirements

26 1. Soil requirements. A natural gas pipeline
27 must be laid at least 24 inches below the surface of
28 the soil. The soil above the pipeline must be graded
29 to the level of the adjacent land and left in good
30 working condition unless otherwise agreed to by the
31 natural gas pipeline utility and the property owner.

32 2. Damage to growing crops. The natural gas
33 pipeline utility shall pay for any damage to growing
34 crops caused by the construction, operation, mainte-
35 nance, repair or reconstruction of a natural gas
36 pipeline.

37 3. Driveways, drains, pipes and wires left in
38 good condition. Driveways, drains, water pipes and
39 other service pipes or wires located on land on which
40 a natural gas pipeline is constructed shall be left
41 in as good condition as they were prior to the con-
42 struction, maintenance, repair or reconstruction of

1 the pipeline, except when the natural gas pipeline
2 utility and the owner of the property or right-of-way
3 agree otherwise.

4 4. Closing right-of-way prohibited. No driveway
5 or right-of-way over the land on which a natural gas
6 pipeline is located may, except during the construc-
7 tion, maintenance, repair or reconstruction of the
8 pipeline, be closed for passage, except by agreement
9 between the natural gas pipeline utility and the own-
10 er of the property or right-of-way.

11 5. Buildings. A building erected by a natural
12 gas pipeline utility shall conform in its method of
13 construction with the building laws or regulations in
14 force in the location in which it is erected, and the
15 exterior design of the building shall conform to the
16 extent possible with the general architectural stan-
17 dards of buildings in the locality.

18 §4507. Franchise area; restricted sale

19 A natural gas pipeline utility may not supply or
20 sell natural gas to any person within the franchise
21 area of another utility, which is authorized by the
22 State to transmit or sell gas within the franchise
23 area, except to that other utility, unless the other
24 utility consents to the sale or the commission per-
25 mits the sale, after notice and hearing.

26 §4508. Powers and authority of Public Utilities Com-
27 mission

28 1. Natural gas pipeline utilities subject to
29 commission's authority. A natural gas pipeline util-
30 ity organized to construct or operate an interstate
31 natural gas pipeline, which holds a certificate of
32 public convenience and necessity issued under the
33 Federal Natural Gas Act authorizing it to construct
34 or operate a natural gas pipeline and appurtenant fa-
35 ilities within the State, or an intrastate natural
36 gas pipeline utility, which has obtained authoriza-
37 tion from the commission, is subject to the authori-
38 ty of the commission.

39 2. Commission rules and limitation on commission
40 authority. The commission may make necessary rules

1 with respect to the natural gas pipeline utility's
2 pipeline, equipment and manner of operation as they
3 relate to the safety of the public and of the
4 utility's employees, provided that the commission's
5 authority is not inconsistent with or in violation of
6 the Federal Natural Gas Act, as amended, or any
7 rules, orders, regulations or certificates of public
8 convenience and necessity issued under that Act.

9 3. Power to effectuate policies of this chapter.
10 To effectuate the policies and provisions of this
11 chapter and when determined necessary to obtain uni-
12 formity in the formulation, administration and en-
13 forcement of any order or rule issued under this
14 chapter, or promulgated by an agency of the United
15 States, pertaining to the regulating or handling of
16 natural gas, the commission may:

17 A. Confer, cooperate and enter into compacts
18 with the agency;

19 B. Avail itself of records and facilities of the
20 authority and make records and facilities availa-
21 ble to the agency;

22 C. Conduct joint investigations and hold joint
23 hearings;

24 D. Issue orders and rules jointly or concurrent-
25 ly with, or complementary to those issued by, the
26 agency; and

27 E. Collaborate with the agency and others in the
28 development and operation of measures for the in-
29 creased safety of the transportation and distri-
30 bution of natural gas within the State.

31 §4509. Application of this Title

32 A natural gas pipeline utility is subject to all
33 provisions of this Title as far as applicable and to
34 the orders and rules adopted and promulgated by the
35 commission under the authority of this Title.

36 §4510. Submission of plans to commission

1 Not less than 30 days before the solicitation of
2 bids for construction or installation or, if bids are
3 not solicited, not less than 30 days before actual
4 construction or installation, the natural gas pipe-
5 line utility shall submit to the commission informa-
6 tion concerning the engineering design of its pipe-
7 line and the standards of construction which it pro-
8 poses to follow and any other information the commis-
9 sion determines necessary, so that it may determine
10 whether the public safety and the safety of the
11 utility's employees are being protected. If the com-
12 mission finds that any part of the engineering design
13 does not conform to the minimum standards of the
14 American Standard Code of Pressure Piping, promul-
15 gated by the American Standards Association of New
16 York, or that the condition of any part of the equip-
17 ment or the manner of operating it are dangerous to
18 the public safety or the employees' safety, it shall
19 make an order to remedy the nonconformity or danger-
20 ous condition and furnish a copy of the order to the
21 utility.

22 §4511. Submission of map to commission

23 A natural gas pipeline utility, as soon as it has
24 definitely established a route, but in any event not
25 less than 30 days before the commencement of actual
26 construction or installation, shall submit to the
27 commission and to the governing body of each munici-
28 pality through which it is proposed that the route
29 shall pass, for their information, a map approved as
30 to form by the commission that clearly sets forth the
31 proposed route.

32 §4512. Compliance with orders

33 A natural gas pipeline utility subject to this
34 chapter shall comply immediately with any proper or-
35 der of the commission.

36 1. Failure to comply. A natural gas pipeline
37 utility that fails to comply with an order commits a
38 civil violation for which a forfeiture not to exceed
39 \$1,000 may be adjudged for each offense.

40 2. Damages. In addition to the forfeiture pro-
41 vided in subsection 1, a natural gas pipeline utility

1 that fails to comply with an order of the commission
2 shall reimburse any person whose property is damaged
3 as a result of the failure for the amount of the
4 property damage; and be liable in double damages for
5 any injury resulting to a person from the failure.

6 §4513. Interstate and foreign commerce not affected

7 No provision of this chapter or of any order or
8 rule under this chapter applies to or may be con-
9 strued to apply to interstate or foreign commerce,
10 except as far as the provision is effective pursuant
11 to the Constitution of the United States under the
12 laws of the United States.

13 §4514. Standing of utility in filing for permits

14 1. Utilities may file for license and permit.
15 When a natural gas pipeline utility, which intends to
16 operate within this State, has filed for either a
17 certificate of public convenience and necessity to be
18 issued under the Federal Natural Gas Act or, in the
19 case of an intrastate gas pipeline company, has filed
20 for the necessary authorization from the commission,
21 that utility may file and process an application for
22 any license, permit or order necessary to obtain all
23 governmental approvals with regard to the location,
24 construction, completion and operation of that pipe-
25 line within this State. The effective date of the
26 license, permit, order or governmental approval which
27 is granted or issued may be conditioned upon or sus-
28 pending until the issuance of the certificate of pub-
29 lic convenience and necessity or commission authori-
30 zation.

31 2. Application to Department of Environmental
32 Protection before certificate is issued. If a natu-
33 ral gas pipeline utility applies to the Department of
34 Environmental Protection for any required licenses or
35 approvals before it is issued a certificate of public
36 convenience and necessity under the Federal Natural
37 Gas Act or authorization by the commission, it shall
38 file a bond with the Department of Environmental Pro-
39 tection payable to the department in a form satisfac-
40 tory to the Commissioner of Environmental Protec-
41 tion. The Commissioner of Environmental Protection
42 shall determine the amount of the bond which may not

1 exceed \$50,000. The bond shall be conditioned to re-
2 quire the applicant to reimburse the department for
3 its costs incurred in processing any application in
4 the event that the applicant does not receive a cer-
5 tificate of public convenience and necessity as de-
6 scribed in this section.

7 3. Notification of landowners. A natural gas
8 pipeline utility which applies for site location of
9 development approval under Title 38, chapter 3, sub-
10 chapter I, article 6, shall:

11 A. Prior to filing a notification under Title
12 38, section 483, provide notice to each owner of
13 real property upon whose land the applicant pro-
14 poses to locate a natural gas pipeline by regis-
15 tered mail, postage prepaid at the land owner's
16 last known address as contained in the applicable
17 tax assessor's record; and

18 B. File, with the town clerk of each municipali-
19 ty through which the pipeline is proposed to be
20 located, a map demonstrating the intended approx-
21 imate location of the pipeline within the municipi-
22 pality.

23 The applicant may not be required to provide no-
24 tice of its intent to construct a natural gas
25 pipeline other than as set forth in this subsec-
26 tion.

27 4. Company not excused from obtaining proprie-
28 tary rights. Nothing in this section excuses a natu-
29 ral gas pipeline utility or other entity from ob-
30 taining appropriate proprietary rights in state-
31 owned land prior to the construction or operation of
32 a pipeline within this State.

33 §4515. Injunctive relief

34 A natural gas pipeline utility operating or act-
35 ing in violation of a statute or rule or order of the
36 commission may be enjoined from the operation or ac-
37 tion upon complaint addressed to the Superior Court
38 and brought by the commission. Whenever practicable,
39 the commission shall notify a natural gas pipeline
40 utility against whom an action for injunctive relief

1 is contemplated and afford it an opportunity to
2 present its views and, except in the case of a know-
3 ing and willful violation, shall afford it reason-
4 able opportunity to comply. Failure to notify and
5 afford such an opportunity does not preclude the
6 granting of appropriate relief.

7 §4516. Civil violation

8 1. Violation of this Title. A natural gas pipe-
9 line utility that violates any provision of this Ti-
10 tle relating to safety of pipeline facilities or
11 transportation of gas or any rule issued under this
12 Title commits a civil violation for which a forfei-
13 ture not to exceed \$1,000 for each violation may be
14 adjudged. Each day of violation constitutes a sepa-
15 rate offense.

16 2. Maximum civil forfeiture. The maximum civil
17 forfeiture may not exceed \$200,000 for any related
18 series of violations.

19 3. Determining amount of forfeiture. The com-
20 mission may compromise a civil forfeiture. In deter-
21 mining the amount of the penalty or the amount agreed
22 upon in compromise, the commission shall consider the
23 following:

24 A. The appropriateness of the forfeiture to the
25 size of the business of the natural gas pipeline
26 utility;

27 B. The gravity of the violation; and

28 C. The good faith of the natural gas pipeline
29 utility in attempting to comply after notifica-
30 tion of a violation.

31 4. Payment of forfeiture. The amount of the
32 forfeiture, or the amount agreed upon in compromise,
33 may be:

34 A. Deducted from any sums owing by the State to
35 the natural gas pipeline utility; or

36 B. Recovered in a civil action in the state
37 courts.

1 5. Limitation on imposing forfeiture. Any ac-
2 tion which may result in the imposition of a civil
3 forfeiture pursuant to this section must be commenced
4 within 5 years after the cause of action accrues.

5 CHAPTER 47

6 GAS UTILITIES

7 §4701. Gas utilities authorized to deal in natural
8 gas

9 Any gas utility is authorized to buy, sell, fur-
10 nish, transport, store, distribute, dispose of or
11 otherwise deal in natural gas and a mixture of natu-
12 ral gas and manufactured gas and their by-products,
13 to the same extent and with the same rights, privi-
14 leges and limitations conferred or imposed upon it
15 with respect to manufactured gas, and within the same
16 territorial limitations within which it is authorized
17 to deal in manufactured gas.

18 §4702. Safety jurisdiction only over certain gas
19 utilities

20 A gas utility owning, controlling, operating or
21 managing a central tank system or a petroleum gas
22 system that serves 10 or more customers or any por-
23 tion of which is located in a public place is subject
24 to the jurisdiction of the commission solely with re-
25 spect to safety.

26 §4703. Cost of gas adjustment

27 1. Cost of gas. Subject to the approval of the
28 commission, each gas utility shall include as part of
29 its base rates a reasonable cost for the gas which it
30 supplies to its firm customers who receive uninter-
31 rupted service on a year-round basis. The cost of
32 gas shall include the cost of the gas purchased by
33 the company for use in the State, pursuant to rules
34 promulgated by the commission under this section.
35 The amount to be included in a utility's base rates
36 shall be determined at the time of general rate ad-
37 justment under section 307 or 1303 and shall be based
38 upon the utility's reasonable costs of gas during the
39 test year used for the rate adjustment.

1 2. Cost of gas adjustment for firm and nonfirm
2 customers. Notwithstanding the requirements of sec-
3 tion 310 and subject to the conditions of this sec-
4 tion, a gas utility shall adjust its gas charges to
5 its firm customers to reflect increases and decreases
6 in the price of gas that occur after a general rate
7 proceeding under sections 307 and 1303. For purposes
8 of this section, a "firm customer" means a customer
9 which receives uninterrupted service on a year-round
10 basis. The rates charged to nonfirm customers shall
11 include a cost of gas as determined by the commission
12 and the total rate charged to nonfirm customers shall
13 be subject to the approval of the commission.

14 3. Scope of adjustment. Changes in the cost of
15 gas purchased by the gas utility for use in the State
16 shall constitute the only items subject to adjust-
17 ment, pursuant to rules promulgated by the commission
18 under this section, provided that the commission may
19 credit against the cost of gas any and all profits
20 received by the gas utility from sales of gas to in-
21 interruptible customers to the extent that the revenues
22 exceed the actual costs of the interruptible sales.

23 4. Cost of gas adjustment rate applied uniformly
24 to firm customers. The cost of gas adjustment estab-
25 lished under this section shall be billed or credited
26 at a single uniform rate per 100 cubic feet of gas or
27 therms for all firm customers of the gas utility.

28 5. Rules for calculation and billing of cost of
29 gas adjustment. Within 120 days following the effec-
30 tive date of this section, the commission shall es-
31 tablish rules for the calculation and billing of cost
32 of gas adjustments. The rules shall include, but
33 not limited to:

34 A. The accounting method to be used to determine
35 the cost of gas;

36 B. The computation period and method of computa-
37 tion of the cost of gas adjustment rate;

38 C. Definitions and components of gas costs to be
39 included in the cost of gas adjustment;

40 D. An appropriate method to amortize a utility's
41 unrecovered reasonable gas costs;

1 E. An appropriate method to credit customers for
2 gas cost overcharges; and

3 F. Reporting requirements to administer this
4 section.

5 The commission may establish a cost of gas adjustment
6 rate for a computation period based on projected gas
7 sales and gas costs for that period, and make appro-
8 priate adjustments for overcharges or undercharges in
9 customer bills in subsequent computation periods to
10 account for the difference between the projected gas
11 sales and costs and actual gas sales and reasonable
12 gas costs.

13 6. Commission approval required. A utility may
14 not bill customers for a cost of gas adjustment
15 charge which has not been approved and ordered into
16 effect by the commission pursuant to this section.
17 Each gas utility shall file application for changes
18 in its cost of gas adjustment rate in accordance with
19 rules promulgated under this section. The commission
20 shall issue public notice of the application and the
21 opportunity to request a hearing within 7 days after
22 the application is filed with the commission. The
23 commission may render its decision on the application
24 without holding a public hearing. If a public hear-
25 ing is held, the commission shall hold the first ses-
26 sion within 45 days of the filing of the application.
27 The commission shall render its decision on the ap-
28 plication within 45 days of the close of the hearing,
29 or within 45 days of receipt of the application if no
30 hearing is held. No gas utility may make application
31 for changes in its cost of gas adjustment rate until
32 a period of 90 days has elapsed from the filing of
33 its last application, unless otherwise ordered by the
34 commission.

35 7. Reports. The commission may require gas
36 utilities to provide such reports and information as
37 it determines necessary to administer this section.

38 §4704. Injunctive relief

39 A gas utility operating acting in violation of a
40 statute or rule or order of the commission may be en-
41 joined from the operation or action upon complaint

1 addressed to the Superior Court and brought by the
2 commission. Whenever practicable, the commission
3 shall notify a gas utility against whom an action for
4 injunctive relief is contemplated and afford it an
5 opportunity to present its views and, except in the
6 case of a knowing and willful violation, shall afford
7 it reasonable opportunity to comply. Failure to no-
8 tify and afford such an opportunity does not preclude
9 the granting of appropriate relief.

10 §4705. Civil forfeiture

11 1. Violation of this Title. A gas utility that
12 violates any provision of this Title relating to
13 safety of pipeline facilities or transportation of
14 gas or any rule issued under this Title commits a
15 civil violation for which a forfeiture not to exceed
16 \$1,000 for each violation may be adjudged. Each day
17 of violation constitutes a separate offense.

18 2. Maximum civil forfeiture. The maximum civil
19 forfeiture may not exceed \$200,000 for any related
20 series of violations.

21 3. Determining amount of forfeiture. The com-
22 mission may compromise a civil forfeiture. In deter-
23 mining the amount of the forfeiture or the amount
24 agreed upon in compromise, the commission shall con-
25 sider the following:

26 A. The appropriateness of the forfeiture to the
27 size of the business of the gas utility;

28 B. The gravity of the violation; and

29 C. The good faith of the gas utility in attempt-
30 ing to comply after notification of a violation.

31 4. Payment of forfeiture. The amount of the
32 forfeiture, or the amount agreed upon in compromise,
33 may be:

34 A. Deducted from any sums owing by the State to
35 the gas utility; or

36 B. Recovered in a civil action in the state
37 courts.

1 under rules promulgated by the commission as to rates
2 and schedules.

3 1. Rates. The rates for transportation of prop-
4 erty established by the commission's rules shall be
5 comparable to rates established for the comparable
6 services of other authorized ferries in the State.

7 2. Schedules. The commission, when promulgating
8 rules as to schedules, shall take into consideration
9 the daily service needs of the inhabitants of the is-
10 lands of Casco Bay as set out in section 5101.

11 §5104. Exception for ferries carrying commodities in
12 bulk

13 Nothing in this chapter applies to the transpor-
14 tation of commodities in bulk. This exception ap-
15 plies only in case of commodities in bulk which are
16 loaded and carried without wrappers or containers and
17 received and delivered without transportation mark or
18 count, except that carriers of petroleum fuels in
19 bulk may also transport other products and accesso-
20 ries integral to the operation of motor vehicles and
21 boats when they are included as part of the bulk
22 shipment. The transporting of a commodity in motor
23 vehicles, whether commercial or privately owned, upon
24 a vessel may not be construed as a bulk movement of
25 those commodities.

26 §5105. Medical emergency

27 In the case of a medical emergency, transporta-
28 tion may be supplied by a person who has not been is-
29 ssued a certificate of public convenience and neces-
30 sity.

31 §5106. Temporary certificate of public convenience
32 and necessity

33 Subject to the provisions of this chapter, the
34 commission may issue a temporary certificate of pub-
35 lic convenience and necessity to other persons to
36 better serve the needs of the residents of the is-
37 lands of Casco Bay as set out in section 5101.

38 §5107. Violation of this chapter; penalty

1 1. Offense. Whoever violates this chapter is
2 guilty of unlawfully operating a ferry in Casco Bay.

3 2. Penalty. Unlawful operation of a ferry in
4 Casco Bay is a Class E crime.

5 3. Injunction. In addition to any other remedy
6 provided in this chapter for the enforcement of this
7 chapter or any rule, order or decision of the commis-
8 sion issued with relation to the operations of a
9 ferry covered by this chapter, the Superior Court has
10 jurisdiction upon complaint filed by the commission
11 to enjoin a person from committing an act prohibited
12 by this chapter or prohibited by a rule, order or de-
13 cision of the commission in relation to the operation
14 of transportation facilities in Casco Bay. It is the
15 intention of the Legislature that the commission may
16 seek an injunction under this section without first
17 resorting to another form of administrative proceed-
18 ing or procedure as a condition precedent to the
19 granting of the injunction.

20 §5108. Radar requirements on vessels operating in
21 Casco Bay

22 Every person subject to the rules of the commis-
23 sion in conjunction with the transport of 6 or more
24 passengers by vessel, for compensation, between or
25 among the islands of Casco Bay and the mainland
26 shall, after appropriate action by the commission
27 acting pursuant to section 5109, provide an operable
28 radar device on each vessel operated by the person
29 which carries 6 or more passengers and shall provide
30 a person qualified to operate the radar device in ac-
31 cordance with all federal rules relating to the oper-
32 ation of federally licensed passenger carrying ves-
33 sels.

34 §5109. Standards; promulgation; enforcement

35 1. Rules for use of radar devices; standards.
36 The commission shall adopt rules relating to the use
37 and installation of radar devices in the vessels re-
38 ferred to in section 5108. These rules shall in-
39 clude, but need not be limited to, the specification
40 of standards for the radar devices and the qualifica-
41 tions of those persons responsible for the proper op-
42 eration of the radar devices.

1 §6102. Filing with commission plans for construction
2 or improvements of water systems

3 Any water utility, before commencing construction
4 of a new water system or a major addition to or al-
5 teration of an existing water system, shall file with
6 the commission, in accordance with the commission's
7 rules, plans and specifications for the construction,
8 additions or alteration in order to obtain the advice
9 of the commission as to cost, method of financing and
10 adherence to proper engineering standards.

11 §6103. Authority for taxation under default

12 1. Issuance of a warrant. If there is a default
13 in the payment of the principal of, or interest on, a
14 note, bond or other evidence of indebtedness issued
15 by a water district created by special Act of the
16 Legislature, the trustees, directors or managing
17 board of the district shall, unless the default is
18 cured, issue their warrant immediately to those por-
19 tions of the municipality or municipalities which
20 constitute the district.

21 2. Form of warrant. The form of the warrant
22 shall be reasonably similar to the warrant used by
23 the Treasurer of State for real estate taxes.

24 3. Assessment and collection of taxes. In the
25 warrant for payment of the sum, the assessors in each
26 municipality shall assess the sum allocated to the
27 municipality or portion of the municipality upon the
28 taxable estates within the municipality or portion of
29 the municipality and shall commit their assessment to
30 the constable or collector of the municipality, who
31 shall have all authority, powers and duty to collect
32 the taxes as is vested by law to collect state, coun-
33 ty and municipal taxes.

34 4. Allocation if district is composed of more
35 than one municipality. If the district is composed
36 of more than one municipality or portion of a muni-
37 cipality, the trustees shall make the allocation on a
38 basis resulting in a uniform rate applied to 100% of
39 the state valuation on all taxable property within
40 the water district.

1 5. Treasurer to pay tax within 30 days. Within
2 30 days after the date fixed by the municipalities on
3 which their taxes are due, the treasurer of the mu-
4 nicipality shall pay the tax assessed to the treasur-
5 er of the district.

6 6. Section not effective until approved by mu-
7 nicipality. This section may not take effect until
8 it or former Title 35, section 3211, has been ap-
9 proved at a regular or special meeting by a majority
10 of the legislative body of the municipality or munic-
11 ipalities which constitute the district. The appro-
12 prate municipal official shall declare the action of
13 the legislative body, file a certificate of it with
14 the Secretary of State and with the clerk of the dis-
15 trict.

16 §6104. Municipal and quasi-municipal water utilities
17 subject to suspension, investigation, hearing
18 and rate substitution

19 1. Application of this section. Notwithstanding
20 section 310, municipal and quasi-municipal corpora-
21 tions which are water utilities are subject to the
22 suspension, investigation, hearing and rate substitu-
23 tion provisions of section 310 under the conditions
24 specified in this section.

25 2. Utilities which elect to set rates under this
26 section. Municipal and quasi-municipal water utili-
27 ties which elect to set rates under this section may
28 not file with the commission or increase any rate,
29 toll or charge without first holding a public hearing
30 at which any customer may testify and may question
31 the officials present regarding the proposed in-
32 crease.

33 3. Notice of proposed rate increase and hearing.
34 The municipal or quasi-municipal water utility shall,
35 at least 14 days prior to the hearing, publish a no-
36 tice of the proposed rate increase and the hearing,
37 including the date, time, place and purpose of the
38 hearing, in a newspaper of general circulation in the
39 area encompassed by the municipal or quasi-municipal
40 water utility and give one notice of the proposed
41 rate increase and the date, time and place of the
42 hearing to each of its customers. The published and

1 individual notices shall include a statement describ-
2 ing the amount of the increase and the percentage in-
3 crease for each customer class and copies shall be
4 sent to the commission at least 14 days prior to the
5 hearings.

6 4. Notice that rate increase may be investigated
7 by commission. At the commencement of each hearing
8 held pursuant to this section, the municipal or qua-
9 si-municipal water utility shall inform those present
10 that the rate increase may be investigated by the
11 commission in accordance with this section.

12 5. Filing changed rates. The water utility
13 shall file its changed rates with the commission
14 within 30 days of the public hearing, but not sooner
15 than 10 days following the public hearing.

16 6. Effective date established for rate change.
17 Subject to the notice and waiver requirements of sec-
18 tion 307, water utilities electing to set rates under
19 this section may establish an effective date for a
20 rate change of at least one month, but not more than
21 9 months, from the date the rates are filed with the
22 commission.

23 7. Authority to investigate rate changes. If,
24 within 30 days of the public hearing, 15% of the cus-
25 tomers of the municipal or quasi-municipal water
26 utility or 1,000 customers, whichever is less, file
27 with the treasurer of the utility and with the com-
28 mission petitions demanding a review of the rate
29 changes by the commission, the rate change may be
30 suspended, investigated, reviewed and changed in ac-
31 cordance with section 310, except that no suspension
32 order issued by the commission pursuant to section
33 310 may be effective for a period greater than 9
34 months from the date the rate changes were filed.

35 8. Procedure for suspension of rate change. If
36 the number of signatures on the petition is 1,000 or
37 if the number of signatures on the petitions equals
38 or exceeds 15% of the customers indicated on the wa-
39 ter utility's most recent annual report on file with
40 the commission, the commission may suspend the rate
41 change pursuant to section 310. The commission shall
42 notify the water utility of the suspension.

1 9. Water utility may challenge petitions. The
2 water utility has 10 days from receipt of notice to
3 notify the commission whether it intends to contest
4 any aspect of the validity of the petitions, after
5 which it shall lose that right. If the water utility
6 notifies the commission in a timely fashion that it
7 wishes to contest the validity of the petitions, the
8 commission shall schedule a hearing. It shall hold
9 the hearing and issue its decision on the validity of
10 the petitions within 30 days of notification by the
11 water utility that it intends to contest the validity
12 of the petitions. If the commission finds the peti-
13 tions to be invalid, it shall lift its order of sus-
14 pension.

15 10. Review of rates under section 310. Nothing
16 in this section prohibits a municipal or quasi-municipal
17 water utility from petitioning the commission
18 for review pursuant to section 310 in the first in-
19 stance.

20 11. Correction of errors. Upon review of a rate
21 filing made pursuant to this section, the commission
22 may order the municipal or quasi-municipal water
23 utility to correct mathematical or clerical errors.

24 §6105. Rates for municipal and quasi-municipal water
25 utilities

26 1. Scope of section. Notwithstanding any other
27 provision of this Title or any charter to the con-
28 trary and in addition to any charter or private and
29 special laws creating or affecting a municipal or
30 quasi-municipal water utility, the rate, toll or
31 charge made, exacted, demanded or collected by a mu-
32 nicipal water or quasi-municipal water utility is
33 governed by this section.

34 2. Just and reasonable rates. The governing
35 body shall establish and file rates, tolls or charges
36 which are just and reasonable and which provide reve-
37 nuue as may be required to perform its public utility
38 service and to attract necessary capital on just and
39 reasonable terms.

40 3. Uniform rates. The governing body shall es-
41 tablish and file rates which are uniform within the

1 territory supplied whenever the installation and
2 maintenance of mains and the cost of service is sub-
3 stantially uniform. If, for any reason, the cost of
4 construction and maintenance or the cost of service
5 in a section of the territory exceeds the average,
6 the governing body may establish and file higher
7 rates for that section, but these higher rates shall
8 be uniform throughout that section.

9 4. Purposes. The governing body may establish
10 and file rates under this section to provide revenue
11 for the following purposes, but no other:

12 A. To pay the current expenses for operating and
13 maintaining the water system and to provide for
14 normal renewals and replacements;

15 B. To provide for the payment of the interest on
16 the indebtedness created or assumed by the utili-
17 ty;

18 C. To provide each year a sum equal to not less
19 than 2% nor more than 10% of the term indebted-
20 ness represented by the issuance of bonds created
21 or assumed by the utility, which sum shall be
22 turned into a sinking fund and there kept to pro-
23 vide for the extinguishment of term indebtedness.
24 The money set aside in this sinking fund shall be
25 devoted to the retirement of the term obligations
26 of the utility and may be invested in such secu-
27 rities as savings banks in the State are allowed
28 to hold;

29 D. To provide for annual principal payments on
30 serial indebtedness created or assumed by the
31 utility; and

32 E. To provide for a contingency reserve fund al-
33 lowance by providing rates to reflect up to a 5%
34 addition to yearly revenues over what is required
35 to operate the water company.

36 If this allowance results in an excessive sur-
37 plus, rates may be set which use the excess to
38 offset future revenue requirements. The commis-
39 sion shall adopt rules which define excessive
40 surplus resulting from the allowance, set forth

1 uses of funds in that portion of the surplus
2 which is not excessive, including the retirement
3 of debt where economic, and provide that funds in
4 the surplus which are excessive be returned to
5 customers in the form of temporary rate adjust-
6 ments, credits or reduction in rates.

7 §6106. Apportionment of costs for water main exten-
8 sions or service lines

9 1. Investment. The governing body of a municipi-
10 pal or quasi-municipal water utility may choose to
11 make no investment in a water main extension or ser-
12 vice line and may require persons requesting a water
13 main extension or service line to advance to the
14 utility the full cost of construction, including as-
15 sociated appurtenances required solely as a result of
16 the construction of the water main extension or ser-
17 vice line and used solely for the operation of the
18 main extension or service line. Apportionment of the
19 costs among customers shall be determined by the com-
20 mission by rule.

21 2. Assessments. The governing body may assess
22 the full cost of water main extensions on all proper-
23 ty that abuts the water main in accordance with rules
24 promulgated by the governing body. The owner of any
25 property which is not hooked up to the water system
26 may defer payment of the assessment until it is
27 hooked up. The governing body by rule may exempt ap-
28 propriate classes of property from the assessment and
29 may provide for payment of an assessment over a peri-
30 od of time.

31 3. Review by elected local officials. If the
32 governing body is not an elected body, any decision
33 to make no investment under subsection 1 or to assess
34 under subsection 2 must first be endorsed by the mu-
35 nicipal officers of the municipality or municipali-
36 ties involved, prior to filing with the commission.

37 §6107. System development charge

38 1. System development charge authorized. In ad-
39 dition to section 6105, the governing body of a mu-
40 nicipal water or quasi-municipal water utility may
41 establish and file, pursuant to section 310 or 6104,

1 a system development charge which is just and reason-
2 able to provide funds to finance capital outlays for
3 water system expansion caused by an increase in de-
4 mand for service.

5 2. Commission review. If a municipal or quasi-
6 municipal water utility elects to institute a system
7 development charge, it shall file the proposed charge
8 and a description of the basis of the charge with the
9 commission not less than 90 days before the effective
10 date of the charge. The commission shall investigate
11 the system development charge under section 1303 to
12 determine whether it is just and reasonable.

13 3. Use of funds. The funds generated by the
14 system development charge shall be deposited into a
15 special account of the municipal or quasi-municipal
16 water utility dedicated to finance capital outlays
17 for water system expansion caused by an increase in
18 demand for service. The funds from the special ac-
19 count shall be used only for the purpose of financing
20 the expansion of the system and shall not be used for
21 the repair or replacement of existing facilities un-
22 less the replacement is required as a result of in-
23 creased demand for service. The system development
24 charge shall not be treated as income of the municip-
25 al or quasi-municipal water utility nor shall it be
26 considered part of the rates established and filed
27 pursuant to section 6105.

28 4. Assessment of charge. The system development
29 charge may be assessed upon all customers of the mu-
30 nicipal or quasi-municipal water utility that require
31 new connections to the water system, excluding fire
32 service, as of or after the effective date of that
33 charge and upon all existing customers who substan-
34 tially expand their demand for water service as of or
35 after the effective date of that charge.

36 5. Water conservation programs. Before a system
37 development charge may be instituted, the municipal
38 or quasi-municipal water utility must report to the
39 commission its efforts in implementing water conser-
40 vation programs. The utility shall state what combi-
41 nation of system development charges and new conser-
42 vation programs will allow the utility to meet grow-
43 ing demand in the least costly manner.

1 3. Organization of board of trustees. Within
2 one week after each annual election, the trustees
3 shall meet for the purpose of electing a chairman,
4 treasurer and clerk from among them to serve for the
5 ensuing year and until their successors are elected
6 and qualified. The trustees, from time to time, may
7 choose and employ, and fix the compensation of, any
8 other necessary officers and agents who shall serve
9 at their pleasure. The treasurer shall furnish bond
10 in the sum and with sureties as approved by the
11 trustees. The district shall pay the cost of the
12 bond.

13 At this original meeting, the trustees shall organize
14 by electing from their own members a chairman and a
15 clerk, and adopting a corporate seal and electing a
16 treasurer who may or may not be a trustee. The
17 trustees may adopt and establish bylaws consistent
18 with the laws of this State and necessary for their
19 own convenience and the proper management of the af-
20 airs of the district, and perform other acts within
21 the powers delegated to them by law.

22 The trustees shall be sworn to the faithful perform-
23 ances of their duties, which shall include the duties
24 of any member who serves as clerk or clerk pro tem.
25 They shall make and publish an annual report, includ-
26 ing a report of the treasurer.

27 4. Trustees' compensation. The trustees shall
28 receive compensation as recommended by them and ap-
29 proved by a majority of the municipal officers of the
30 municipality, including compensation for any duties
31 they perform as officers, as well as for their duties
32 as trustees. For districts serving more than one mu-
33 nicipality, any change in the compensation received
34 by the trustees for any duties they perform within
35 the district shall be recommended by them and ap-
36 proved by majority vote of the municipal officers in
37 each municipality in municipalities representing a
38 majority of the population within the district. Cer-
39 tification of the vote shall be recorded with the
40 Secretary of State and recorded in the bylaws. Their
41 compensation for duties as trustees shall be on the
42 basis of such specific amount as may be specified in
43 the bylaws, for each meeting actually attended and
44 reimbursement for travel and expenses, with the total

1 not to exceed such specific amount as may be speci-
2 fied in the bylaws. Compensation schedules in effect
3 on January 1, 1982, shall continue in effect until
4 changed.

5 5. Trustees' retirement. Trustees who have not
6 been members of the Maine State Retirement System
7 prior to January 1, 1982, as a result of their selec-
8 tion as trustees, and who are not full-time employ-
9 ees, shall not be eligible to join the retirement
10 system as a result of their selection as trustees.
11 For purposes of determining a water district
12 trustee's eligibility to be a member of the Maine
13 State Retirement System prior to January 1, 1982, the
14 provisions of the appropriate governing charter in
15 effect at the time of the trustee's application for
16 membership shall control.

17 §6304. Issuance of bonds and notes

18 1. Notice to general public and rate payers. In
19 the event that the trustees vote to authorize bonds
20 or notes, the estimated cost of which, singly or in
21 the aggregate included in any one financing, is
22 \$150,000 or more adjusted, relative to 1981 as the
23 base year according to the annual Consumer Price In-
24 dex, as defined in Title 5, section 17001, subsection
25 9, the trustees shall provide notice to the general
26 public of the proposed bond or note issue and the
27 purposes for which the debt is being issued. The no-
28 tice shall be published at least once in a newspaper
29 having general circulation in the district. The
30 trustees shall give notice to each ratepayer by mail.

31 No debt may be incurred under the vote of the trust-
32 ees until the expiration of 7 full days following the
33 date on which the notice was first published and
34 mailed. Prior to the expiration of the period, the
35 trustees shall call a special district meeting for
36 the purpose of permitting the collection of testimony
37 from the public concerning the amount of debt so au-
38 thorized.

39 2. Voters approval or disapproval of debt. Ex-
40 cept for indebtedness to fund projects specifically
41 mandated by the State Government and Federal Govern-
42 ment, for debts in excess of the amount specified in

1 this section, if requested by petition of not less
2 than 50 voters of the district or 5% of the voters,
3 whichever is greater, filed with the clerk of the
4 district on or before the date of the meeting, the
5 meeting shall express approval or disapproval of the
6 amount of debt so authorized. If a majority of vot-
7 ers present and voting expresses disapproval of the
8 amount of debt authorized by the trustees, the debt
9 shall not be incurred and the vote of the trustees
10 authorizing it shall be void.

11 §6305. Liens

12 Except as otherwise provided in section 706, no
13 water district may include in its charter any provi-
14 sion providing a lien against the property for non-
15 payment of assessments or rates. The district may
16 seek judgment, including a lien in court, in the same
17 manner as any other creditor.

18 §6306. Conformity with private and special laws

19 This chapter governs all water districts formed
20 on or after January 1, 1982. This chapter does not
21 apply to water districts formed before January 1,
22 1982, except that section 6303, subsections 4 and 5,
23 apply to those districts. Any portion of the charter
24 of those districts which is contrary to those subsec-
25 tions is repealed.

26 §6307. Legislative amendment of charter

27 Each year, on or before April 15th, the joint
28 standing committee of the Legislature having juris-
29 isdiction over public utilities shall report out legis-
30 lation entitled "AN ACT to Amend the Charters of Var-
31 ious Water Districts Organized under the Private and
32 Special Laws." Amendments to water district charters
33 shall generally be included in that Act. Prior to
34 acting upon any proposed water district charter
35 amendment, the joint standing committee shall obtain
36 written comments from the municipalities that lie in
37 whole or in part within the district.

38 §6308. Long-term indebtedness of water districts

1 1. Description. All property taken by eminent
2 domain shall, before it is entered upon for any pur-
3 pose except to make surveys, be located by a descrip-
4 tion, signed by the party taking the property. The
5 description shall:

6 A. Describe in detail the property taken;

7 B. Give the names of the owners; and

8 C. Be accompanied by a map showing the property
9 as described.

10 2. Filing location and map. The party taking
11 the property shall file the location and map with the
12 county commissioners of the county where the property
13 is located, who shall:

14 A. Endorse the time of filing on the location
15 and map; and

16 B. Order the location recorded.

17 3. Recording location. The taker shall record
18 the location in the registry of deeds of the county
19 or registry district where the property is located.

20 4. Personal notice given to mortgage holder.
21 When there is a recorded mortgage covering any por-
22 tion of the land taken, which has been recorded with-
23 in 40 years of the taking and bears no record of dis-
24 charge, satisfaction or release, the taker shall give
25 personal notice to the owner of record of the mort-
26 gage by sending to the mortgage holder's residence,
27 if known, otherwise to the residence or address set
28 forth in the record, by registered mail, a written
29 notice of the taking which shall contain a descrip-
30 tion of the property taken and the name of the owner.

31 5. Description corrected. When for any reason
32 the taker fails to acquire the property authorized to
33 be taken and which is described in the location, or
34 the location recorded is defective or uncertain, the
35 taker may, at any time, correct and perfect the loca-
36 tion and file a new description.

1 6. Liability of taker. If a description is cor-
2 rected under subsection 5, the taker is liable in
3 damages only for property for which the owner had not
4 previously been paid, to be assessed as of the time
5 of the original taking, and the taker shall not be
6 liable for any acts which would have been justified
7 if the original taking had been valid.

8 §6503. Damages for property owners; security

9 1. Owners entitled to damages. The owners are
10 entitled to damages for all property taken by eminent
11 domain as if the land were taken for highway purposes
12 under Title 23, chapter 3.

13 2. Application procedure. Upon written applica-
14 tion of either party made within 3 years after the
15 taking, the county commissioners shall estimate the
16 damages and the taker shall pay the damages.

17 3. Commencement of new proceedings. If proceed-
18 ings commenced fail for causes not affecting the mer-
19 its, new proceedings may be commenced within one
20 year. When no estimate is made within this time, the
21 owner may maintain a civil action or have any remedy
22 provided.

23 4. Guardian may give release, interested per-
24 sons. The guardian of a person incapable of giving a
25 valid conveyance whose property is taken may settle
26 and give a valid release for damages. Persons having
27 an interest in the property have the rights and reme-
28 dies of owners to the extent of their interest.

29 5. Owner may request security. When requested
30 by the owner, the county commissioners shall require
31 the taker to give security for the payment of damages
32 and costs by depositing at its risk, with the clerk,
33 within 30 days, specie, notes or obligations of a
34 state or public corporation, or other security satis-
35 factory to the county commissioners.

36 6. Satisfaction of judgment. When the owner is
37 entitled to it, he shall be paid as much of the
38 specie deposited as will satisfy his judgment. Notes
39 or obligations deposited by the taker shall be deliv-
40 ered to the officer having a warrant of distress, to

1 sell as personal property is sold on execution, to
2 satisfy the warrant and fees. Any balance shall be
3 paid to the taker.

4 §6504. Petition to county commissioners; notice to
5 adverse party

6 1. Notice of hearing on petition. A person who
7 petitions the county commissioners for the assessment
8 of damages on account of property taken by eminent
9 domain shall notify the adverse party of the time and
10 place of the hearing on the petition by:

11 A. Giving the adverse party personal notice 14
12 days before the hearing; or

13 B. Publishing the petition and order of notice
14 in a newspaper that is published in the county, 2
15 weeks successively, the last publication being 14
16 days before the hearing.

17 §6505. Terms and conditions for property taken

18 1. Accommodation of the owner and taker. The
19 county commissioners in awarding damages for property
20 taken by eminent domain, upon the application of the
21 taker, may prescribe terms and conditions, for the
22 use of the property taken, that will best accommodate
23 the owner and the taker.

24 2. Appeal. In the case of appeal by either par-
25 ty, the only question in issue shall be the amount or
26 measure of damages on the terms and conditions im-
27 posed by the commissioners.

28 §6506. County commissioners' report

29 1. Contents of the report. The county commis-
30 sioners shall, at a regular meeting, make a report of
31 their general estimate of damages and cause it to be
32 recorded. In their report, the commissioners shall
33 state specifically:

34 A. The terms and conditions imposed by them; and

35 B. The rights and obligations of each party.

1 2. Notice of damage award. After the report has
2 been recorded, the county commissioners' clerk shall
3 prepare a notice to each person, stating the amount
4 of damages awarded to him. An officer shall serve
5 the notice on those residing in the State. Notice to
6 others shall be by publication 3 weeks successively
7 in a newspaper printed in the county. If there is no
8 newspaper printed in the county, the notice shall be
9 published in a newspaper of general circulation in
10 the area where the property is located.

11 3. Expense of notice. The expense of the notice
12 shall be added to the costs of the proceedings which
13 the taker shall pay.

14 §6507. Appeals

15 1. Aggrieved person may appeal within 30 days of
16 report. A person aggrieved by the county commission-
17 ers' decision as to damages for property taken may
18 appeal to the Superior Court in the county where the
19 property is situated, within 30 days from the date
20 the commissioners' report is made.

21 2. Complaint and notice of appeal. The appel-
22 lant shall:

23 A. Include in the complaint a statement setting
24 forth substantially the facts of the case; and

25 B. Give written notice of the appeal with a copy
26 of the complaint to the opposite party.

27 3. Court to determine amount of damages. The
28 court shall determine the amount of damages by a com-
29 mittee of reference if the parties agree or by a jury
30 verdict. The court shall render judgment and issue
31 execution.

32 4. Recovery of costs. The parties may recover
33 costs as follows.

34 A. If the owner appeals and the damage finally
35 recovered is not more than the county commission-
36 ers' award, the taker shall recover costs from
37 the time of appeal, otherwise the owner shall re-
38 cover costs.

1 B. If the taker appeals and the damage finally
2 recovered is not less than the county commission-
3 ers' award, the owner shall recover costs from
4 the time of appeal, otherwise the taker shall re-
5 cover costs.

6 5. Additional review. An appeal may be taken to
7 the Law Court as in other actions.

8 §6508. Deposit of awards

9 When the proceedings are closed, the taker may
10 deposit with the clerk of the court the amount of
11 damages awarded with interest to the time of deposit,
12 which shall be in full satisfaction of all claims,
13 unless a demand has been made previously and payment
14 neglected.

15 §6509. Damages remaining unpaid; proceedings

16 1. Damages unpaid for more than 30 days. When
17 the damages remain unpaid for more than 30 days after
18 they are due and demanded or the security is not de-
19 posited, the owner may file in the Superior Court a
20 complaint praying for an injunction against the use
21 or occupation of his property taken.

22 2. Proceedings for damages not commenced within
23 3 years. If proceedings for an estimation of dam-
24 ages are not commenced within 3 years and the owner
25 of the property files a complaint for them, the court
26 may estimate the damages, decree their payment and
27 issue an execution for the amount.

28 3. Court may issue an injunction prohibiting
29 use. The court, after summary notice to the taker
30 and upon proof of the facts, may, without any bond
31 filed, issue an injunction prohibiting his use and
32 occupation until he pays all damages and costs. If
33 payment has not been made within 90 days, the court
34 may issue a permanent injunction and all rights ac-
35 quired by taking the property cease and the owner may
36 maintain an action for its recovery and protection.

37 §6510. Service of injunction

1 1. Injunction may be served on a person who is
2 not a party. An injunction issued against a person
3 may be served on that person whether or not he is a
4 party to the action and he shall be liable to all the
5 penalties and consequences provided for a breach of
6 the injunction.

7 2. Violation of injunction. The court may order
8 a person who violates the injunction, after service,
9 or who uses the property to show cause at a time
10 fixed why a decree should not be entered and execu-
11 tion issued against him and his goods and estate for
12 the damages, interest, costs and for additional dam-
13 ages and costs for breach of the injunction.

14 3. Court may enter decree. Upon service and re-
15 turn of the order, the court may enter a decree that
16 is just and equitable against the person and issue
17 execution accordingly or may proceed against him for
18 breach of injunction.

19 §6511. Failure to apply for assessment not a waiver

20 The property owner's failure to apply for the as-
21 essment of damages within 3 years may not be held to
22 be a waiver by him of compensation for property taken
23 by eminent domain.

24 §6512. Proceedings to correct defect in taking by
25 eminent domain

26 When a taking or attempted taking by eminent do-
27 main has been adjudged defective either from formal
28 errors in proceedings or substantial error, judgment
29 of ouster or writ of possession shall be stayed as
30 follows.

31 1. Formal errors. If the error is a formal er-
32 ror in proceedings, the judgment or writ shall be
33 stayed until the utility exercising the right of emi-
34 nent domain has an opportunity to retake pursuant to
35 the act conferring the right.

36 2. Substantial error. Failure to provide, in an
37 act expressly conferring the right of eminent domain,
38 for an act necessary to carry out the taking is a
39 substantial error and the plaintiff shall be given

1 judgment of title. If the error is substantial, the
2 judgment of ouster or writ of possession shall be
3 stayed until remedial legislation is passed at the
4 session of the Legislature following the rendition of
5 judgment and a new taking had pursuant to the amended
6 Act.

7 3. New taking; civil action not stayed. The new
8 taking shall be had within 90 days from the rendition
9 of the judgment when the error is merely formal and
10 within 6 months from the adjournment of the Legisla-
11 ture following the rendition of judgment when the er-
12 ror is substantial. Nothing in this section pre-
13 cludes or stays a civil action for damages, and the
14 owner of the land may maintain a civil action for
15 damages as if in possession.

16 CHAPTER 67

17 CONDEMNATION BY WATER DISTRICTS

18 §6701. Necessity of taking determined

19 The owner of property which is subject to appro-
20 priation for public purposes by a water utility may,
21 upon hearing, have the commission determine the ne-
22 cessity of the appropriation.

23 §6702. Proceedings

24 The owner of the property may, within 30 days af-
25 ter the beginning of condemnation proceedings, file
26 with the commission a petition for a decision as to
27 the necessity of the appropriation. A copy of the
28 petition and order of notice, attested by the admin-
29 istrative director, shall be served on the defendant.

30 §6703. Proceedings before commissioners

31 1. Hearing. The commissioners shall fix a time
32 for a hearing, inside the county where the property
33 is situated, and give written notice of the hearing
34 to the owner and to the water utility seeking to ac-
35 quire the property. At the hearing, all parties in
36 interest shall be heard either in person or by attor-
37 ney, and witnesses may be summoned by either party
38 and attendance compelled as before other judicial
39 tribunals.

1 2. Burden of proof. The burden of proof to show
2 the necessity of the particular taking rests on the
3 party seeking to acquire the property.

4 3. Commission's decision. The decision of a ma-
5 ajority of the commissioners is final as to questions
6 of fact.

7 §6704. Condemnation proceedings by district or water
8 utility

9 Upon the commencement of condemnation proceed-
10 ings, the utility seeking to acquire property, unless
11 otherwise provided by law, may file a petition asking
12 that the necessity of the taking be determined. Af-
13 ter the petition is filed, the proceedings shall be
14 the same as in the case of a petition by the landown-
15 er.

16 §6705. Validation of proceedings

17 All plans and descriptions of land and all de-
18 scriptions of other property taken by a water utility
19 for its purposes and uses filed in the office of the
20 county commissioners of the county where the land or
21 other property is situated prior to March 9, 1889,
22 are valid and legal for all purposes of taking.

23 §6706. Water utility line crossing railroad right-
24 of-way

25 Wherever a line or main of a water utility is lo-
26 cated and about to be constructed across the right-
27 of-way of a railroad, unless the officers of the wa-
28 ter utility agree with the corporation operating the
29 railroad as to the place, manner and conditions of
30 the crossing, the commission upon petition of either
31 party, after notice and hearing, shall determine the
32 place, manner and conditions of the crossing. All
33 the work within the limits of the railroad shall be
34 done under the supervision of the officers of the
35 corporation operating the railroad and to the satis-
36 faction of the commission. The water utility shall
37 bear the expense of the work. The commission shall
38 report its decision in the same manner as in the case
39 of highways located across railroads and subject to
40 the same right of appeal.

1 CHAPTER 69

2 AQUEDUCTS

3 §6901. Meetings of proprietors for incorporation

4 1. Application for warrant. Any persons who
5 agree in writing to be proprietors of an aqueduct for
6 conveying fresh water into or within a town, or to be
7 proprietors of funds for establishing an aqueduct,
8 may apply in writing to a notary public for the coun-
9 ty in which a portion of the aqueduct is situated or
10 is proposed to be made. The application shall:

11 A. State the name and description of their asso-
12 ciation;

13 B. State the objects of their proposed meeting;
14 and

15 C. Request the notary to issue a warrant to one
16 of the applicants, directing him to call a meet-
17 ing.

18 2. Issuance of the warrant. The notary may,
19 upon receiving the application, issue a warrant which
20 shall state the time, place and object of the meet-
21 ing.

22 3. Notice of the meeting. The proprietor to
23 whom the warrant is directed shall give notice of the
24 meeting by posting the substance of the warrant, with
25 his notice attached, at least 7 days before the meet-
26 ing in a public place in every town in which a por-
27 tion of the aqueduct is or is proposed to be made.

28 §6902. Proprietors to be a corporation

29 The proprietors assembled under the warrant and
30 their successors and assigns shall be a corporation
31 and shall choose any number of directors and other
32 officers to manage their business, and a clerk, who
33 shall be sworn and shall record all bylaws, votes and
34 other proceeding of the corporation, in books pro-
35 vided and kept by the clerk, open to the inspection
36 of any person appointed by the Legislature for that
37 purpose. The corporate name shall be the name stated

1 in the application. The proprietors may at any legal
2 meeting agree on the manner of calling future meet-
3 ings.

4 §6903. Authority of directors; enforcement of as-
5 essments

6 The directors shall designate one of their number
7 president and may make assessments on the proprietors
8 of the shares in the aqueduct or funds as they find
9 necessary. If a proprietor fails to pay an assess-
10 ment for 30 days after notice, the directors may
11 maintain a civil action in their corporate name to
12 recover that amount of may sell, at auction, as many
13 of his shares as are sufficient to pay it, with nec-
14 essary charges. The directors shall give notice of
15 the sale of the shares by:

16 1. Advertising in newspaper. Advertising in a
17 newspaper circulated in the county for 3 successive
18 weeks; or

19 2. Posting in public place. Posting
20 notifications of the sale, at least 20 days before
21 the sale, in at least 2 public places in each municipi-
22 ality in which the aqueduct is, or is proposed to,
23 be made.

24 The directors shall pay any surplus money from
25 the sale to the owner of the share sold.

26 §6904. Registry of shares and transfers

27 At or immediately after the first meeting, the
28 clerk shall enter in the books the names of the pro-
29 rietors and the shares owned by each. The clerk
30 shall enter the subsequent transfer of shares within
31 3 months after it is made in the form and for such
32 fees as the directors order. No person may be a pro-
33 rietor whose share or interest is not entered in the
34 books.

35 §6905. Powers of proprietors; manner of voting

36 The proprietors have one vote for each share and
37 may vote by proxy. With the written consent of the
38 municipal officers, they or any person may dig up or

1 open a road to lay their pipes or to repair or extend
2 their aqueduct, but not so as to inconvenience
3 travel.

4 §6906. Attachment and execution; possessions; re-
5 demption; revival of judgment

6 Shares in the corporation are personal estate and
7 may be attached on a writ and sold on execution for
8 the debts of the holders, like shares in other corpo-
9 rations. The franchise, fixtures, pipes, fountains
10 and interests in lands of the corporations are liable
11 to attachment and sale on execution, as personal
12 property, for their corporate debts; but the purchas-
13 er at the sale may not interfere with the possession
14 of the corporation for 2 months after the sale.
15 Within that time, the corporation may redeem the
16 franchise and property by paying the sum for which
17 they were sold with interest; but if the corporation
18 does not redeem them, the purchaser shall have the
19 same rights under the franchise and to the property
20 as the corporation had. Any creditor of the corpora-
21 tion, whose execution has been satisfied by an inef-
22 fectual sale of the franchise or property, may revive
23 the judgment by motion.

24 §6907. Municipality may use pipes in case of fire

25 A municipality where an aqueduct is located may
26 put conductors into its pipes and draw water, free of
27 expense, to extinguish fire in a burning building, if
28 the conductors are secured so that water may be drawn
29 only for that purpose.

30 §6908. Construction of powers after dissolution; en-
31 forcement of judgment

32 All contracts made by or with the aqueduct corpo-
33 ration are in force after its dissolution. The last
34 shareholders shall have a corporate capacity and may
35 prosecute and defend suits respecting the contracts,
36 commenced within 6 years after the dissolution or af-
37 ter the cause of action accrued. If no corporate
38 property can be found to satisfy the judgments and
39 they are not satisfied within 6 months, the creditors
40 may satisfy them from the private property of the
41 shareholders as if the judgment had been against them
42 in their private capacity.

1 §6909. Proprietors are tenants in common of remain-
2 der

3 If the aqueduct corporation owns any estate in
4 its dissolution, the proprietors shall be tenants in
5 common of the estate in proportion to the shares or
6 interest which they hold in its stock.

7 §6910. Injury to aqueduct penalized

8 Whoever maliciously injures an aqueduct or any of
9 its appurtenances commits a civil violation for which
10 a forfeiture not to exceed \$20 may be adjudged and is
11 liable in a civil action, brought by the aqueduct
12 corporation, to pay treble damages.

13 PART 7

14 TELECOMMUNICATIONS

15 CHAPTER 71

16 GENERAL PROVISIONS

17 §7101. Telecommunications policy; universal tele-
18 phone service

19 The Legislature declares and finds that the
20 50-year effort to bring affordable, universally
21 available telephone service to the public has served
22 the State well; universal telephone service has con-
23 tributed to the State's economic, social and politi-
24 cal integration and development; the public benefits
25 from universal telephone service because each tele-
26 phone subscriber receives a more valuable service
27 when virtually anyone else in the State can be
28 called; and a significant rate increase may threaten
29 universal service by forcing some Maine people to
30 discontinue their telephone service. It is the policy
31 of the State that telephone service shall continue to
32 be universally available, especially to the poor, at
33 affordable rates.

34 §7102. Definitions

35 As used in this Part, unless the context other-
36 wise indicates, the following terms have the follow-
37 ing meanings.

1 C. The customer's address; and

2 D. The customer's telephone number.

3 2. No additional charge; this section published
4 in directory. A telephone utility may not make an
5 additional charge to comply with this section, pro-
6 vided that the names are listed in the manner set out
7 in this section. A telephone utility shall publish a
8 copy of this section in each telephone directory dis-
9 tributed to a customer.

10 §7502. Telephone directory errata lists

11 1. List to be provided. Every telephone utility
12 operating in this State, if ordered by the commis-
13 sion, shall provide the customers within a directory
14 area with an errata list of all people in the direc-
15 tory area whose names have been omitted through tele-
16 phone utility error from the white pages of the tele-
17 phone directory. The errata list shall:

18 A. Include the name, address and telephone num-
19 ber of each person who is eligible under this
20 section;

21 B. Be compiled within the first 2 months subse-
22 quent to the delivery of the telephone directory;
23 and

24 C. Be included in the bills sent to telephone
25 customers in the area served by that directory
26 for a period of 2 months.

27 2. Omission at request of customer. Nothing in
28 this chapter prohibits a telephone utility from omit-
29 ting a listing at the request of a customer.

30 §7503. Public telephone service for disabled persons

31 1. Placement of coin telephone. All coin tele-
32 phones placed after September 14, 1979, in a public
33 place, or an area to which the public is invited,
34 which are intended for use by the public, shall be
35 placed at a height and in a position which permits
36 their use by physically disabled persons, as defined
37 in Title 25, sections 2701 and 2702, respectively.

1 §7902. Lines along highways and across waters

2 Every telegraph or telephone utility or person
3 transmitting television signals by wire may, except
4 as limited, construct, maintain and operate its lines
5 upon and along the routes and between the points
6 stated in its certificate of incorporation; and may,
7 subject to the conditions and under the restrictions
8 provided in this Title, construct its lines along,
9 over, under and across any of the roads and streets
10 and across or under any of the waters upon and along
11 the routes, with all necessary erections and fix-
12 tures.

13 §7903. Connection with other telephone and telegraph
14 lines

15 Every telegraph or telephone utility in the State
16 may, upon such terms as may be agreed upon by the
17 contracting parties, subject to the control of the
18 commission:

19 1. Connect lines. Connect its lines with those
20 of any other like utility;

21 2. Sell or lease lines. Sell or lease its lines
22 and property, in whole or in part, to any other like
23 utility; and

24 3. Purchase or lease lines. Purchase or lease
25 the lines and property, in whole or in part, of any
26 like utility.

27 §7904. Land for public use

28 Every telegraph or telephone utility in the State
29 may purchase, or take and hold as for public uses,
30 land necessary for the construction and operation of
31 its lines. Land may be taken and damages for it may
32 be estimated, secured, determined and paid as pro-
33 vided for water utilities by sections 6502 to 6512.

34 CHAPTER 81

35 DUTIES OF TELEGRAPH UTILITIES

36 §8101. Liability for delays and errors; falsifying
37 or divulging contents of dispatch

1 1. Delays and errors. A person or company own-
2 ing or using a telegraph line, wholly or partly in
3 the State, is liable for the whole amount paid on a
4 dispatch if there is an error or unnecessary delay in
5 writing out, transmitting or delivering the dispatch
6 within its delivery limits, making it less valuable
7 to the person interested in it. The operator or
8 agent shall transmit all dispatches in the order in
9 which they are received, under a penalty of \$100 to
10 be recovered by the person whose dispatch is inten-
11 tionally postponed.

12 2. Penalty for falsifying contents of dispatch.
13 An operator or agent who intentionally falsifies a
14 dispatch commits a civil violation for which a for-
15 feiture of not less than \$20 nor more than \$100 may
16 be adjudged. In case of his avoidance or inability
17 to pay the judgment, his employer must pay the sum.

18 3. Penalty for divulging contents of dispatch.
19 An operator or agent is guilty of divulging the con-
20 tents of a private dispatch if he intentionally di-
21 divulges any part of the contents of a private dispatch
22 entrusted to him for transmission or delivery. In-
23 entionally divulging the contents of a dispatch is a
24 Class E crime.

25 §8102. Liability for fraud; common law liabilities

26 Nothing in this chapter exonerates telegraph op-
27 erators, agents, clerks or other officers from lia-
28 bility for fraud committed or attempted by means of
29 telegraphic communication or the utility from any li-
30 ability existing at common law for the neglect or
31 wrong doing of the utility or its agents.

32 CHAPTER 83

33 CABLE TELEVISION COMPANIES

34 §8301. Public Utilities Commission regulation

35 Cable television companies, to the extent they
36 offer services like those of telephone utilities sub-
37 ject to regulation by the commission, shall be sub-
38 ject to the commission's jurisdiction over rates,
39 charges and practices, as provided in this Title.

1 §8302. Pole attachments

2 Where a cable television system and public utility
3 have failed to agree on the joint use of poles or
4 other equipment or on the terms and conditions or
5 compensation for the use, the matter shall be subject
6 to section 711.

7 CHAPTER 85

8 RADIO PAGING SERVICE

9 §8501. Separate accounting required

10 Any public utility which operates a radio paging
11 service shall either maintain a separate set of ac-
12 counting records with respect to that service or es-
13 tablish a separate subsidiary, the creation of which
14 shall be subject to commission approval and condi-
15 tions under section 708, subsection 2. The commis-
16 sion may exempt a public utility from this require-
17 ment for good cause shown.

18 Sec. 7. PL 1981, c. 660, §4, is repealed.

19 Sec. 8. P&SL 1885, c. 495, §10, as repealed and
20 replaced by P&SL 1963, c. 174, §1, is repealed.

21 Sec. 9. P&SL 1885, c. 495, §12, as enacted by
22 P&SL 1963, c. 174, §2, is repealed.

23 Sec. 10. Purpose of recodification. It is the
24 purpose of this Act to restate and recodify the Maine
25 Revised Statutes, Title 35. The primary purposes are
26 to reorganize the body of law contained in Title 35
27 into a more logical format; to delete obsolete provi-
28 sions of Title 35; and to clarify some of the more
29 archaic and older provisions of Title 35. The pur-
30 pose of this recodification is not to produce any
31 significant change in the rights, powers or duties of
32 state agencies, utilities and others subject to Title
33 35. The absence from the enactment of Title 35-A of
34 an explicit incorporation of any judicial interpreta-
35 tion of a provision of Title 35 shall not be con-
36 strued as an indication of rejection by the Legisla-
37 ture of that interpretation. Neither shall the ab-
38 sence from the enactment of Title 35-A of an explicit

1 rejection of a judicial interpretation of a provision
2 of Title 35 be construed as an indication of Legisla-
3 tive acceptance of that interpretation.

4 **PART B**

5 **Sec. 1. 4 MRSA §1151, sub-§2, as amended by PL**
6 **1985, c. 748, §1, and c. 771, §1, is repealed and**
7 **the following enacted in its place:**

8 2. Licensing jurisdiction. Except as provided
9 in Title 5, section 10004; Title 10, section 8003-A;
10 Title 29; and Title 35-A, section 3132, the Adminis-
11 trative Court shall have exclusive jurisdiction upon
12 complaint of an agency or, if the licensing agency
13 fails or refuses to act within a reasonable time,
14 upon complaint of the Attorney General, to revoke or
15 suspend licenses issued by the agency, and shall have
16 original jurisdiction upon complaint of a licensing
17 agency to determine whether renewal or reissuance of
18 a license of that agency may be refused. The Admin-
19 istrative Court shall have original concurrent juris-
20 isdiction to grant equitable relief in proceedings ini-
21 tiated by an agency or the Department of the Attorney
22 General alleging any violation of a license of li-
23 censing laws or rules.

24 Notwithstanding any other provisions of law, no li-
25 censing agency may reinstate or otherwise affect a
26 license suspended, revoked or modified by the Admin-
27 istrative Court pursuant to a complaint filed by the
28 Attorney General, without the approval of the Attor-
29 ney General.

30 **Sec. 2. 5 MRSA §200-B, as amended by PL 1985, c.**
31 **393, is further amended to read:**

32 §200-B. Authority of Attorney General to request
33 telephone records

34 Whenever the Attorney General, a deputy attorney
35 general or a district attorney has reasonable grounds
36 to believe that the services of a public utility,
37 subject to the jurisdiction of the Maine Public Util-
38 ities Commission, as defined in Title 35 35-A, sec-
39 tion ±5 102, subsections ±7-and-±9 16 and 18, fur-
40 nished to a person or to a location, is being or may

1 be used for, or to further, an unlawful purpose, he
2 may demand, in writing, all the records in the pos-
3 session of such that public utility relating to such
4 that service. Upon a showing of cause to any Justice
5 of the Supreme Judicial Court or the Superior Court
6 or Judge of the District Court, the justice or judge
7 shall approve the demand. Such The showing shall be
8 by the affidavit of any law enforcement officer. Upon
9 receipt of such a demand, approved by such a justice
10 or judge, such the public utility shall forthwith de-
11 liver to the person making the request all the
12 records or information in compliance with the demand.
13 If the person making request demands that the public
14 utility not release the fact of the request or that
15 records will be or have been supplied, the public
16 utility shall not, without court order, release such
17 the fact or facts. No such public utility or employ-
18 ee thereof may be criminally or civilly responsible
19 for furnishing any records or information in compli-
20 ance with the demand.

21 Sec. 3. 5 MRSA §10051, sub-§1, as amended by PL
22 1985, c. 748, §3, is further amended to read:

23 1. Jurisdiction. Except as provided in section
24 10004; Title 10, section 8003; Title 29; and Title 35
25 35-A, section 33-A 3132, the Administrative Court
26 shall have exclusive jurisdiction upon complaint of
27 any agency or, if the licensing agency fails or re-
28 fuses to act within a reasonable time, upon complaint
29 of the Attorney General to revoke or suspend licenses
30 issued by the agency and shall have original juris-
31 diction upon complaint of an agency to determine
32 whether renewal or reissuance of a license of that
33 agency may be refused.

34 Sec. 4. 5 MRSA §10051, sub-§4, as enacted by PL
35 1983, c. 683, §1, is amended to read:

36 4. Violations. The Administrative Court shall
37 have exclusive jurisdiction to hear complaints of the
38 Public Utilities Commission for violations of Title
39 35 35-A, section 34 704.

40 Sec. 5. 5 MRSA §12004, sub-§7, ¶A, sub-¶(10), is
41 repealed and the following enacted in its place:

1 (10) Maine Public Utility Financ- Legislative 35-A MRSA
2 ing Bank, Board of Commis- per diem §2904
3 sioners

4 Sec. 6. 5 MRSA §12004, sub-§8, ¶A, sub-¶(22), is
5 repealed and the following enacted in its place:

6 (22) Public Utili- Board of Direc- Not Autho- 35-A MRSA
7 ties tors, Maine Mu- rized §4131
8 nicipal and Ru-
9 ral Electrifi-
10 cation Cooper-
11 ative Agency

12 Sec. 7. 10 MRSA §963-A, sub-§13, ¶B, as enacted
13 by PL 1985, c. 344, §7, is amended to read:

14 B. For a system which does generate electricity,
15 an energy generating system which uses biomass,
16 peat, solar, waste, water and related dams, wind,
17 wood or coal, and which is owned, in whole or in
18 part, by an individual, municipality, corporation
19 or other governmental entity or business associa-
20 tion which qualifies as a cogenerator or small
21 power producer under Title 35 35-A, chapter 172
22 33.

23 Sec. 8. 10 MRSA §1063, sub-§2, ¶¶H and I, as en-
24 acted by PL 1981, c. 476, §2, are amended to read:

25 H. In the case of water supply system projects:

26 (1) That the project will result in sub-
27 stantial public benefits;

28 (2) That the issuance of securities for the
29 project has been reviewed and approved by
30 the Public Utilities Commission in accord-
31 ance with Title 35 35-A, chapter 9, sections
32 901 to 910 and 6508; and

33 (3) The Public Utilities Commission and the
34 Department of Human Services have certified
35 that all permits, licenses and approvals re-
36 quired from those departments have been is-
37 sued or granted or that none are required,
38 and until a location permit from the appli-

1 cable licensing authority has been issued or
2 it is determined that none is required. Any
3 subsequent enlargement of or addition to the
4 project, for which approval is sought from
5 the authority, shall also require certifica-
6 tion by the Public Utilities Commission and
7 the Department of Human Services;

8 I. In the case of an energy generating system
9 project or energy distribution project which is
10 intended to produce or distribute energy for sale
11 to any person, municipality, firm, corporation or
12 the State that the issuance of securities for the
13 project has been reviewed and approved by the
14 Public Utilities Commission in accordance with
15 Title 35 35-A, chapter 9, sections 901 to 910 and
16 6508;

17 **Sec. 9. 12 MRSA §602, sub-§12** is amended to
18 read:

19 12. Eminent domain. When land is taken by emi-
20 nent domain, the proceedings for such purpose shall
21 be in accordance with Title 35 35-A, chapter 263- 65;

22 **Sec. 10. 12 MRSA §668, as amended by PL 1979, c.**
23 **541, Pt. A, §125,** is further amended to read:

24 §668. Manner of acquisition by eminent domain

25 Any acquisition of property by the bureau by emi-
26 nent domain pursuant to section 667 shall be made in
27 the manner provided in Title 35 35-A, chapter 263 65.

28 **Sec. 11. 12 MRSA §4757, 2nd ¶,** as amended by PL
29 1975, c. 771, §155, is further amended to read:

30 The board shall cause a copy of such decree to be
31 recorded in the registry of deeds for the county in
32 which the wetland is situated. After a decree has
33 been entered providing that any such order of the
34 board shall not apply to the wetland involved in the
35 appeal, the board may, after causing an appraisal to
36 be made, negotiate for the purchase of such wetland;
37 if it deems that acquisition of the same is necessary
38 for the purposes of section 4751 and Title 38, sec-
39 tions 471 to 478. If purchase, or a written agree-

1 ment therefor, has not been effected within 60 days
2 after negotiations have begun, and the board deter-
3 mines that an emergency situation exists which would
4 cause an immediate threat to the public safety,
5 health and welfare, to the protection of public or
6 private property, or to public or private salt water
7 supplies, or to the conservation of wildlife or
8 freshwater estuarine or marine fisheries, the board
9 shall declare that the public exigency requires the
10 taking of such wetland, and, with the consent of the
11 Governor, may acquire in behalf of the State the fee
12 of such wetland or any lesser interest therein by
13 eminent domain, the proceedings for such taking to be
14 in accordance with Title 35 35-A, chapter 263 65.

15 **Sec. 12.** 13 MRSA §332 is amended to read:

16 §332. Mortgages

17 Title ~~35--sections 1091 to 1139~~ 23, chapter 605,
18 subchapters IV and V, shall apply to and include all
19 mortgages of franchises, lands or other hereditaments
20 or of all of them heretofore or hereafter given by
21 any corporation to trustees to secure scrip or bonds
22 of said corporation. The holder of said scrip or
23 bonds shall have the benefit of all said sections,
24 whether the said mortgages have been or may be fore-
25 closed in the manner provided by Title 35--section
26 ~~1091~~ 23, section 5161, or in any other legal manner,
27 and to the extent of and with reference to the prop-
28 erty covered by the mortgage. The new corporation,
29 when organized, shall have the rights and privileges
30 of the original corporation.

31 **Sec. 13.** 13-B MRSA §201, sub-§2, **1B**, as amended
32 by PL 1979, c. 129, §94, is further amended to read:

33 B. Cooperatives, as that term is used in Title
34 13, section 1771, et seq; credit unions, as de-
35 fined in Title 9-B, section 131; rural electrifi-
36 cation cooperatives, as that term is used in Ti-
37 tle 35 35-A, section ~~2001 et seq~~ chapter 37, sub-
38 chapters I, II and III; consumers' cooperatives,
39 as that term is used in Title 13, section 1501 et
40 seq; and fish marketing associations, as that
41 term is used in Title 13, section 2001 et seq.

1 **Sec. 14. 17 MRSA §2510, sub-§1, ¶B,** as enacted
2 by PL 1981, c. 355, is amended to read:

3 B. Public utilities in maintaining adequate fa-
4 cilities in emergencies in compliance with Title
5 35 35-A, section 5± 301;

6 **Sec. 15. 20-A MRSA §15705, sub-§10,** as enacted
7 by PL 1981, c. 693, §§5 and 8, is amended to read:

8 10. Acquire land; eminent domain. Acquire in
9 the name of the authority, by purchase or otherwise,
10 on the terms and conditions and in the manner it
11 deems proper, or by the exercise of the power of emi-
12 nent domain, land or property rights. Using eminent
13 domain, the authority may not take more than 25 acres
14 for one project. In using eminent domain, the au-
15 thority shall be governed by Title 35 35-A, chapter
16 263 65;

17 **Sec. 16. 23 MRSA §54,** as amended by PL 1971, c.
18 593, §22, is further amended to read:

19 §54. Highway openings

20 Wherever highways maintained by the State are af-
21 fected, whether said the highways are situated in
22 cities, towns or plantations, the department shall
23 have all and the same rights, powers and duties in
24 connection therewith as are granted to cities in city
25 streets by sections 3351 to 3359, and to cities and
26 towns by Title 35 35-A, sections 2346 2306 and 2349
27 2310. Whenever the opening fee provided by section
28 3354 or by Title 35 35-A, section 235± 2312, has been
29 paid to the department and a permit for digging up
30 and opening a highway maintained by the State has
31 been issued by the department, the holder of said
32 permit shall be entitled to make the opening de-
33 scribed therein without the payment of fees to the
34 city or town or village corporation in which the
35 street, road or highway to be opened is situated.

36 **Sec. 17. 23 MRSA §255, 3rd ¶** is amended to read:

37 "Utility," as used in this section, ~~shall mean~~
38 means and include includes any public utility under
39 the jurisdiction of the Public Utilities Commission

1 and any corporation which owns and operates a tele-
2 phone or telegraph system or an oil pipe line system
3 and which is subject to the jurisdiction of the Fed-
4 eral Communications Commission or Interstate Commerce
5 Commission and any municipality or any quasi-municipal
6 body operating a utility service such as a fire
7 or police alarm line, street lighting, sewerage or
8 water pipes and any rural electrification cooperative
9 which is subject to Title 35 35-A, ~~chapters--221--to~~
10 227 chapter 37, subchapters I, II and III.

11 **Sec. 18. 23 MRSA §651, 4th ¶ is amended to read:**

12 Wherever, on or along public highways, ditches or
13 drains have existed for a period of 20 years or
14 longer, which cause water to be flowed away from the
15 highway, there shall be a conclusive presumption that
16 easements for such flowage from such ditches or
17 drains exist, but only to the extent of the original
18 flowage. This paragraph ~~shall~~ does not apply in the
19 cases protected by ~~Title--35,--section--1221~~ section
20 6025.

21 **Sec. 19. 23 MRSA §1967, sub-§4, as enacted by PL**
22 **1981, c. 595, §3, is amended to read:**

23 4. Authority for transfers of interest in land
24 to the authority. All counties, cities, towns and
25 other political subdivisions or municipalities and
26 all public agencies and commissions of the State, and
27 all public service corporations and districts, not-
28 withstanding any contrary provisions of law, may
29 lease, lend, grant or convey to the authority, upon
30 its request, upon such terms and conditions as the
31 proper authorities of the counties, cities, towns,
32 political subdivisions, other municipalities, agen-
33 cies, commissions, public service corporations and
34 districts deem reasonable and fair and without the
35 necessity for any advertisement, order of court or
36 other action or formality other than the regular and
37 formal action of the authorities concerned, any real
38 or personal property or rights therein which may be
39 necessary or convenient to the effectuation of the
40 authorized purposes of the authority, including real
41 and personal property or rights therein already de-
42 voted to public use. As used in this subsection, the
43 term "public service corporation" includes every pub-

1 lic utility as defined in Title 35 35-A, section 102,
2 subsection 13, and every corporation referred to in
3 Title 13-A.

4 **Sec. 20.** 23 MRSA §2903, as amended by PL 1971,
5 c. 593, §§19 and 20, is further amended to read:

6 §2903. Maintenance of railroad crossings already
7 laid out

8 Notwithstanding any section of ~~Title 35,--chapter~~
9 ~~5½ Part 7,~~ in case of ways already laid out which
10 cross over or under any railroad track or tracks and
11 not at grade, the allocation of the expense of main-
12 taining so much thereof as is within the limits of
13 such railroad shall be determined, de novo, as pro-
14 vided by section 2902, by the Department of Transpor-
15 tation upon application to it by any corporation
16 whose track is or tracks are so crossed, or upon ap-
17 plication by the municipal officers of any town in
18 which the crossing is located, or upon application by
19 the Department of Transportation.

20 **Sec. 21.** 23 MRSA §2928, as enacted by PL 1981,
21 c. 456, Pt. A, §81, is amended to read:

22 §2928. Railroad company may enter private property

23 For the purpose of creating and maintaining the
24 fair view mentioned in sections 2921 to 2927 or for
25 the purpose of improving the view at one or more an-
26 gles, any steam railroad company subject to this
27 chapter may enter upon private property and remove
28 any embankment or other obstruction except a dwelling
29 house. The owner of the property is entitled to dam-
30 ages, and may have the damages estimated and paid in
31 a manner provided in ~~Title--35,--chapter--5½~~ chapter
32 607, and there is the same right of appeal as given
33 in that chapter.

34 **Sec. 22.** 23 MRSA §4220, as enacted by PL 1977,
35 c. 341, §2, is amended to read:

36 §4220. Prior orders and rules effective

37 All rules, regulations, orders and decrees in ef-
38 fect prior to ~~the effective date of this Act~~ October

1 24, 1977, which were issued by the Public Utilities
2 Commission pursuant to the provisions in former Title
3 35, which provisions are embraced in this subchapter,
4 shall remain in full force and effect until the Com-
5 missioner of Transportation has acted pursuant to ap-
6 plicable provisions of this subchapter.

7 Sec. 23. 24-A MRSA §2338, sub-§2, ¶C, as enacted
8 by PL 1985, c. 372, Pt. B, §5, is amended to read:

9 C. If the State as a market is found to be non-
10 competitive, the Public Advocate, as appointed
11 under Title 35 35-A, ~~section-i-A~~ sections 1701 to
12 1710, may be a party to proceedings under Title
13 39, section 22-D, relating to rates. A filing
14 requesting that proceeding shall pay a filing fee
15 as provided under section 2350, subsection 3,
16 paragraph B.

17 Sec. 24. 24-A MRSA §2350, sub-§3, ¶B, as enacted
18 by PL 1985, c. 372, Pt. B, §5, is amended to read:

19 B. The Public Advocate, as appointed under Title
20 35 35-A, ~~section--i-A~~ sections 1701 to 1710,
21 shall be a party to proceedings under Title 39,
22 section 22-D, relating to rates for the Accident
23 Prevention Account or Safety Pool.

24 Sec. 25. 29 MRSA §242, sub-§1, ¶C, as amended by
25 PL 1981, c. 698, §129, is further amended to read:

26 C. Used for the carrying of passengers for hire
27 and

28 (1) Operating under chapter 257-~~or-under~~
29 Title-357-~~chapter-91-or-97~~; or

30 (2) Operating, regularly or seasonally, in
31 interstate commerce, over regular routes be-
32 tween any point or points in this State and
33 any point or points in any other state or
34 between any point or points in any adjacent
35 foreign country and any point or points in
36 this State more than 15 miles from the place
37 of entry into this State, shall pay double
38 the registration fee provided in paragraph
39 A. Except that notwithstanding any other

1 provisions in sections 242 to 245, an owner
2 or operator of interstate motor buses used
3 for the transportation of passengers for
4 hire, operating a fleet of 2 or more motor
5 buses under the authority of the Interstate
6 Commerce Commission and the Public Utilities
7 Commission, shall register and pay registra-
8 tion fees, as scheduled in sections 242 to
9 245, for that number of motor buses of the
10 owner or operator as the proportion which
11 the mileage of all such motor buses of the
12 owner or operator, operated in this State
13 bears to the total mileage of all such motor
14 buses of the owner or operator operated both
15 within and without the State in accordance
16 with the owner or operator or his or its
17 predecessor's operation of the preceding
18 year, and the Secretary of State is autho-
19 rized to promulgate such rules and regula-
20 tions as may be necessary to effectuate such
21 apportionment. Motor vehicles owned by res-
22 idents of any state, province or foreign
23 country, where residents of this State reg-
24 istering motor vehicles are required to pay
25 double the fee charged against resident own-
26 ers, shall pay double the fee provided in
27 paragraph A, whether for private use or for
28 livery or hire.

29 **Sec. 26. 29 MRSA §831, as amended by PL 1985, c.**
30 **658, §1, is further amended to read:**

31 §831. Insurance for vehicles for hire

32 The Secretary of State shall not register any mo-
33 tor vehicle rented or leased on plans commonly known
34 as U-Drive, Drive Yourself or Driverless Car plans,
35 nor any motor vehicle used for livery or hire, except
36 as provided in ~~Title 35, section 2708~~ Title 35-A,
37 section 2708, and no person, firm or corporation may
38 operate or cause to be operated upon any public high-
39 way in this State any such motor vehicle, until the
40 owner or owners thereof shall have procured insurance
41 or a bond, having a surety company authorized to
42 transact business in this State or 2 individuals as
43 sureties thereon, in the amount of \$20,000 because of
44 bodily injury or death to any one person, and subject

1 to the limit respecting one person, in the amount of
2 \$40,000 because of bodily injury to or death to 2
3 more persons in any one accident, and in the amount
4 of \$10,000 because of injury to and destruction of
5 property in any one accident, which insurance or bond
6 shall be approved by the Secretary of State and shall
7 indemnify the insured against any legal liability for
8 personal injury, the death of any person or property
9 damage, which injury, death or damage may result from
10 or have been caused by the operation of the motor ve-
11 hicle described in the contract of insurance or such
12 bond. The Secretary of State shall not approve the
13 policy or bond unless it provides primary coverage
14 for the operator as well as the owner.

15 Sec. 27. 29 MRSA §1553, as amended by PL 1981,
16 c. 698, §132, is further amended to read:

17 §1553. Effect of rule or code

18 A provision of this Title, excepting this sub-
19 chapter, shall continue to be of force and effect on-
20 ly until superseded by a rule, ~~regulation~~ or code
21 adopted pursuant to the Vehicle Equipment Safety Com-
22 pact and as provided in section 1554. Any such rule,
23 ~~regulation~~ or code shall specify the provision or
24 provisions of existing statute being superseded in
25 accordance with and as required by this subchapter.
26 Any such provision or provisions are repealed, effec-
27 tive on the date when the rule, ~~regulation~~ or code
28 superseding such provision or provisions becomes ef-
29 fective pursuant to the Vehicle Equipment Safety Com-
30 pact. A rule, ~~regulation~~ or code, or any part thereof
31 of a rule or code, which shall be is inconsistent
32 with rules and regulations adopted by either the Bu-
33 reau of State Police Public Safety or the Department
34 of Transportation under chapter 25, ~~Title 35, chap-~~
35 ~~ters 1 to 17 and the Department of Transportation un-~~
36 ~~der chapter 91 or 97~~ or by the Interstate Commerce
37 Commission under Part II of the Interstate Commerce
38 Act of 1935 as amended Ex Parte No. MC -- 40, shall
39 not apply to motor vehicles subject to regulation by
40 the Bureau of State Police, Department of Transporta-
41 tion or by the Interstate Commerce Commission, re-
42 spectively.

1 **Sec. 28.** 29 MRSA §2241, sub-§1, ¶I, as repealed
2 and replaced by PL 1983, c. 480, Pt. A, §33, is
3 amended to read:

4 I. Has failed to appear in court on the day
5 specified, either in person or by counsel, after
6 being ordered to do so to answer any violation of
7 chapter 25 ~~or Title 35, chapter 91 or 97;~~

8 **Sec. 29.** 29 MRSA §2711, sub-§1, as enacted by PL
9 1981, c. 469, §2, is amended to read:

10 1. General penalty. Any person, firm or corpora-
11 tion, or any officer, agent or employee of any
12 corporation, who violates, orders, authorizes or
13 knowingly permits a violation of any of the provi-
14 sions of this chapter, or any rule issued by the bu-
15 reau pursuant to the authority of this chapter, or
16 issued by the Public Utilities Commission and remain-
17 ing in effect pursuant to this chapter, is guilty of
18 a Class E crime.

19 If any such person, after being ordered to appear in
20 court to answer any violation of this chapter or any
21 rule issued by the bureau or by the Public Utilities
22 Commission and remaining in effect pursuant to this
23 chapter, fails to appear in court on the day speci-
24 fied, either in person or by counsel, the court shall
25 notify the Secretary of State, who shall, pursuant to
26 chapter 17, at the expiration of 10 days after mail-
27 ing the person, postage prepaid, a notice of his in-
28 tention to do so, suspend or revoke his license to
29 operate any motor vehicle subject to regulation under
30 this chapter, if licensed in this State, or suspend
31 or revoke his right to operate any motor vehicle sub-
32 ject to regulation under this chapter, if licensed in
33 this State, or suspend or revoke his right to operate
34 any motor vehicle subject to regulation under this
35 chapter in this State, and suspend or annul the reg-
36 istration of the motor vehicle operated or owned by
37 that person so ordered to appear, if the motor vehi-
38 cle is registered in this State, and the suspension,
39 annulment or revocation shall continue in effect un-
40 til that person appears in court as ordered.

41 If any carrier holding a permit from the bureau has
42 been required to appear in any court, through its ap-

1 pointed lawful agent or attorney, and fails to comply
2 with or satisfy any lawful order or judgment of the
3 court issued pursuant to this chapter, the court
4 shall notify the bureau, which shall immediately sus-
5 pend the permit held by the carrier until such time
6 as the carrier complies with or satisfies the order
7 or judgment. In the case of such failure by a carrier
8 holding a certificate ~~issued under Title 35, section~~
9 ~~1505 or holding~~ or a license issued under ~~Title 35,~~
10 ~~section 1643~~ chapter 25, the court shall notify the
11 Department of Transportation, which shall immediately
12 suspend the certificate or license until such time as
13 the carrier complies with or satisfies the order or
14 judgment.

15 **Sec. 30. 29 MRSA §2713, sub-§3, ¶A,** as amended
16 by PL 1985, c. 350, §1, is further amended to read:

17 A. There shall be allocated to the Department of
18 Public Safety for State Police up to \$1,100,000
19 annually from the fund to carry out the statutory
20 duties of the bureau imposed by this chapter and
21 Title 35 35-A and for related activities.

22 **Sec. 31. 30 MRSA §4882, sub-§1,** as enacted by PL
23 1977, c. 617, is amended to read:

24 1. Relocating utility facilities; expenses. Any
25 public utility, as defined in Title 35 35-A, section
26 102, subsection 13, that is required to move or
27 relocate its facilities from or in any traveled way
28 because of the requirements of a development plan, as
29 defined in section 4881, subsection 2, which is ap-
30 proved after the effective date of this Act pursuant
31 to the procedures established for the approval of de-
32 velopment plans shall not be required to install the
33 relocated or any new facilities underground at its
34 own expense, but shall be reimbursed from federal
35 funds provided to implement these plans for the costs
36 of placing utility facilities underground. The relo-
37 cation costs subject to reimbursement shall not ex-
38 ceed the cost of underground installation less the
39 cost of providing the same service with the same ca-
40 pacity through a new overhead system.

41 A. In determining the amount of reimbursement,
42 in the first instance, the public utility shall

1 itemize for the administering authority of the
2 development plan, the components of the utility's
3 relocation costs and the cost of providing the
4 same service with the same capacity through a new
5 overhead system. In the event there is disagree-
6 ment with respect to the reimbursement, the dis-
7 agreement shall be submitted to the Public Utili-
8 ties Commission which, after notice and hearings,
9 shall determine the amount of the reimbursement.

10 B. The difference in costs, if any, between the
11 underground and new overhead construction, shall
12 qualify for reimbursement to the administering
13 authority from the Federal Government to the ful-
14 lest extent allowed by law. In the event that
15 federal moneys are not available to refund a pub-
16 lic utility for relocating its facilities as de-
17 scribed in this section, the relocation costs
18 shall be considered ordinary costs of business
19 for rate-making purposes.

20 **Sec. 32. 30 MRSA §4982, next to last ¶, as re-**
21 **pealed and replaced by PL 1971, c. 574, §1, is**
22 **amended to read:**

23 Each year prior to such submission to the municipal
24 officers, the board of directors of the district,
25 by a 2/3 vote of its entire membership, shall estab-
26 lish a formula for contributions to be made by each
27 municipality in order to defray any projected defi-
28 cit, and the formula and estimated amount of such
29 contribution required from each municipality shall be
30 shown in said estimates filed with the municipal of-
31 ficers of each municipality. Such formula shall be
32 based upon such items as route mileage, profit or
33 loss resulting from such service to the municipality,
34 population and such other factors as the board of di-
35 rectors deem relevant. In the event the board of di-
36 rectors is unable to establish the formula by se-
37 curing a 2/3 vote of its entire membership, it shall,
38 on or before November 1st, petition the Public Utili-
39 ties Commission as provided and shall include with
40 its submission of said estimates to the municipal of-
41 ficers of each municipality a statement that a formu-
42 la has not been established but that a petition has
43 been made to the Public Utilities Commission for
44 findings and a decision with respect to a formula. In

1 the event a municipality refuses to accept a formula
2 submitted to it on or before November 1st as estab-
3 lished by the board of directors, the municipal offi-
4 cers of such municipality shall, within 30 days after
5 such submission, notify the board of directors of
6 such refusal and the board of directors shall, on or
7 before December 15th, petition the Public Utilities
8 Commission as provided. Upon the filing of a peti-
9 tion by the district, the Public Utilities Commis-
10 sion, after notice to all the municipalities compris-
11 ing the district and a hearing, shall consider the
12 formula and make its findings and decision with re-
13 spect thereto within 60 days from the date of the
14 filing of the petition by the district. Said find-
15 ings and decision of the Public Utilities Commission
16 shall be binding upon the district and the municipal-
17 ities. The district or any municipality may appeal
18 from the findings and decision of the Public Utili-
19 ties Commission in accordance with Title 35 35-A,
20 section 303.1320.

21 **Sec. 33. 32 MRSA §3302, sub-§1, ¶A, as enacted**
22 **by PL 1977, c. 469, §6, is amended to read:**

23 A. Plumbing by regular employees of public util-
24 ities as defined in Title 35 35-A, section ±5
25 102, when working as such;

26 **Sec. 34. 36 MRSA §1484, sub-§3, ¶C, as amended**
27 **by PL 1983, c. 828, §3, is further amended to read:**

28 C. If the motor vehicle is owned by a corpora-
29 tion or a partnership, the excise tax shall be
30 paid in the following manner.

31 (1) If it is a corporation or partnership
32 other than one described in subparagraph
33 (2), the excise tax shall be paid to the
34 place in which the registered or main office
35 of that organization is located, except that
36 if the organization has an additional perma-
37 nent place, or places, of business where mo-
38 tor vehicles are customarily kept, the tax
39 on these vehicles shall be paid to the place
40 where such permanent place of business is
41 located. The temporary location of an office
42 and the stationing of vehicles in connection

1 with a construction project of less than 24
2 months duration is not considered to consti-
3 tute a permanent place of business. In the
4 case of a foreign corporation or partnership
5 not maintaining a place of business within
6 the State, the excise tax shall be paid to
7 the State.

8 (2) In the case of corporations described
9 in Title 35 35-A, section-2301 sections 2101
10 to 2104, any excise taxes owed shall be paid
11 to the place in which the registered or main
12 office of that organization is located.

13 (3) If a municipality, county or motor ve-
14 hicle owner feels the excise tax has been
15 improperly levied under the authority of
16 this paragraph, the owner, county or munici-
17 pality may request a determination of this
18 question by the State Tax Assessor. The
19 State Tax Assessor's determination shall be
20 binding on all parties. Any party may seek
21 review of the determination in accordance
22 with the Maine Rules of Civil Procedure,
23 Rule 80-B.

24 **Sec. 35. 37-B MRSA §504, sub-§1, as enacted by**
25 **PL 1983, c. 460, §3, is amended to read:**

26 1. Land acquisition. The director may acquire
27 by eminent domain in accordance with Title 35 35-A,
28 chapter 263 65 and with approval of the Governor, or
29 by purchase, gift or otherwise, real estate in fee
30 simple, or any interest therein, for use as a Veter-
31 ans' Memorial Cemetery. The land shall not exceed 200
32 acres in area and shall be located near the center of
33 population of the State.

34 **Sec. 36. 38 MRSA §484, 4th ¶, as amended by PL**
35 **1977, c. 696, §343, is further amended to read:**

36 In case of a permanently installed power generat-
37 ing facility of more than 1,000 kilowatts or a trans-
38 mission line carrying 100 kilovolts or more proposed
39 to be erected within this State by an electrical com-
40 pany or companies, the proposed development, in addi-
41 tion to meeting the requirements of subsections 1 to

1 4, shall also have been approved by the Public Utili-
2 ties Commission under Title 35 35-A, section ~~33-A~~
3 3132.

4 **Sec. 37. 38 MRSA §932 is amended to read:**

5 §932. Eminent domain; assessment of damages

6 Any person, firm or corporation authorized and em-
7 powered to build, maintain and operate pipes, con-
8 duits, penstocks, tunnels and canals under section
9 931 is further authorized and empowered to exercise
10 the right of eminent domain by taking and holding as
11 for public uses in the manner and subject to the lim-
12 itations prescribed in Title 35 35-A, section ~~3242~~
13 6502, such lands and rights-of-way as such person,
14 firm or corporation may require for such purposes
15 when the water which will be stored, retained and
16 discharged through the use of such pipes, conduits,
17 penstocks, tunnels and canals will be devoted to pub-
18 lic uses. All proceedings relating to damages caused
19 by the building, maintaining and operating of said
20 pipes, conduits, penstocks, tunnels and canals shall
21 be ascertained and determined in the same manner as
22 prescribed in ~~said~~ Title 35 35-A, sections ~~3243 to~~
23 3252 6503 to 6512.

24 **Emergency clause.** In view of the emergency cited
25 in the preamble, this Act shall take effect July 1,
26 1987.

27 STATEMENT OF FACT

28 The purpose of this new draft is to make techni-
29 cal changes to the bill, especially to new Title
30 35-A. No substantial changes are added.

31 The following is the conversion table of Title 35
32 to Title 35-A.

33 TITLE 35-A

34 PUBLIC UTILITIES

35 PART 1

36 PUBLIC UTILITIES COMMISSION

1	CHAPTER	SECTION
2	1.	Organization, General Power and
3		Duties
4	3.	Rates of Public Utilities
5	5.	Accounting
6	7.	Regulation and Control of Public
7		Utilities
8	9.	Approval of Stocks, Bonds and
9		Notes by Public Utilities Commis-
10		sion
11	11.	Authorization of Sales, Leases and
12		Mortgages of Property
13	13.	Procedure
14	15.	Liability and Penalties
15	17.	Public Advocate
16		<u>PART 2</u>
17		<u>PUBLIC UTILITIES</u>
18	21.	Organization, Powers, Service Ter-
19		ritory
20	23.	Utility Facilities in the Public
21		Way
22	25.	Regulation of Poles and Wires
23	27.	Inspection of Meters
24	29.	Maine Public Utility Financing
25		Bank Act
26		<u>PART 3</u>
27		<u>ELECTRIC POWER</u>
28	31.	General Provisions

1		Subchapter I	Electric Rates	3101
2		Subchapter II	Energy Plan-	3131
3			ning; Con-	
4			struction;	
5			Purchases	
6		Subchapter III	Electric Rate	3151
7			Reform Act	
8		Subchapter IV	Older Citizens	3171
9			Policy	
10		Subchapter V	Bulk Power	3181
11			Transactions	
12			and Wheeling	
13	33.	Small Power Production Facilities		3301
14		and Cogeneration Facilities		
15	35.	Consumer-owned Electric Utilities		3501
16	37.	Rural Electrification Cooperatives		3701
17		Subchapter I	General Provi-	3701
18			sions	
19		Subchapter II	Organization	3731
20		Subchapter III	Powers	3751
21		Subchapter IV	Generation and	3771
22			Transmission	
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24	39.	Municipal Power Districts		3901
25	41.	Maine Municipal and Rural Electri-		4101
26		fication Cooperative Agency Act		
27		Subchapter I	General Provi-	4101
28			sions	
29		Subchapter II	Establishment	4131
30			and Organiza-	
31			tion	
32		Subchapter III	Form and Na-	4151
33			ture of Bonds	
34			and Notes	
35		Subchapter IV	Miscellaneous	4171
36			Provisions	
37	43.	Nuclear Power Generating Facili-		4301
38		ties		

1		Subchapter I	Construction	4301
2		Subchapter II	Emissions and	4331
3			Safety Report-	
4			ing	
5		Subchapter III	Decommissioning	4351
6		Subchapter IV	Spent Fuel and	4371
7			High-level	
8			Waste Require-	
9			ments	
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11			Disposal Trust	
12			Fund	

13 PART 4

14 GAS

15	45.	Natural Gas Pipeline Utilities	4501
16	47.	Gas Utilities	4701

17 PART 5

18 FERRIES

19	51.	Regulation of Ferries in Casco Bay	5101
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20 PART 6

21 WATER

22	61.	General Provisions and Rates	6101
23	63.	Water Districts	6301
24	65.	Property Taken for Public Use and	6501
25		Assessment of Damages	
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28 PART 7

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4	77.	Emergency Use of Party Lines	7701
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20

PART B

21 Part B amends cross-references within the Maine
22 Revised Statutes to change the references to Title 35
23 to the correct references of Title 35-A.

24

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