

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 3, 2008 to June 13, 2009**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 12, 2009**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**Augusta, Maine**  
**2009**

resources of the State, the reasonable costs of assessing natural resources damages and the costs of preparing and implementing a natural resources restoration plan. The commissioner shall demand reimbursement of costs, including interest, and payment of damages to be recovered under this section and payment. The interest rate charged may not exceed the prime rate of interest plus 4%. Interest must be computed beginning 60 days from the date of a payment demand by the commissioner. Payment must be made promptly by the responsible party or parties upon whom the demand is made. Requests for reimbursement to the Uncontrolled Sites Fund, if not paid within 30 days of demand, may be turned over to the Attorney General for collection or may be submitted to a collection agency or agent or an attorney retained by the department with the approval of the Attorney General pursuant to Title 5, section 191. The Attorney General or an attorney retained by the department may file suit in the Superior Court and, in addition to relief provided by other law, may seek punitive damages. Notwithstanding the time limits stated in this paragraph, neither a demand nor other recovery efforts against one responsible party may relieve any other responsible party of liability.

**Sec. 17. 38 MRSA §1609, sub-§5**, as enacted by PL 2007, c. 296, §1, is amended to read:

**5. "Deca" mixture of polybrominated diphenyl ethers in electronics.** Effective January 1, 2010, a person may not manufacture, sell or offer for sale or distribute for sale or use in the State a television or computer that has a plastic housing containing more than 0.1% of the "deca" mixture of polybrominated diphenyl ethers.

**Sec. 18. 38 MRSA §1609, sub-§11**, as enacted by PL 2007, c. 296, §1, is amended to read:

**11. Application.** This section does not apply to the sale of used products:

A. Used products;

B. Products if the presence of polybrominated diphenyl ether is due solely to the use of recycled material; or

C. Replacement parts that contain the "octa" or "penta" mixtures of polybrominated diphenyl ether if the parts are for use in a product manufactured before January 1, 2006.

**Sec. 19. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 38, chapter 3, subchapter 2-B, in the subchapter headnote, the words "underground oil storage facilities and ground water protection" are amended to read "oil storage facilities and ground water protection" and the Revisor of Statutes shall im-

plement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

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## CHAPTER 122

### H.P. 796 - L.D. 1152

#### An Act To Amend the Laws Governing Certain Reports and Reviews Related to Utilities and Energy and Certain Positions at the Public Utilities Commission

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

**Sec. 1. 2 MRSA §6-A, sub-§3, ¶B**, as amended by PL 1981, c. 582, §1, is further amended to read:

B. Director of ~~finance~~ telephone and water utility industries;

**Sec. 2. 2 MRSA §6-A, sub-§3, ¶D**, as amended by PL 2005, c. 23, §1, is further amended to read:

D. Director of ~~technical analysis~~ electric and gas utility industries;

**Sec. 3. 3 MRSA §959, sub-§1, ¶P**, as amended by PL 2005, c. 605, §2, is further amended to read:

P. The joint standing committee of the Legislature having jurisdiction over utilities and energy matters shall use the following list as a guideline for scheduling reviews:

- (1) Public Advocate in 2005;
- (2) Board of Directors, Maine Municipal and Rural Electrification Cooperative Agency in 2007;
- (3) Public Utilities Commission, including the Emergency Services Communication Bureau, in 2007; and
- (4) ~~The Emergency Services Communication Bureau within the Public Utilities Commission in 2009; and~~
- (5) Telecommunications Relay Services Advisory Council in 2013.

**Sec. 4. 5 MRSA §949, sub-§1, ¶B**, as enacted by PL 1983, c. 729, §4, is amended to read:

B. Director of ~~Finance~~ telephone and water utility industries;

**Sec. 5. 5 MRSA §949, sub-§1, ¶D**, as amended by PL 2007, c. 482, §3, is further amended to read:

D. Director of ~~Technical Analysis~~ electric and gas utility industries;

**Sec. 6. 25 MRSA §2927, sub-§5**, as amended by PL 1997, c. 409, §1, is further amended to read:

**5. Legislative annual report.** The bureau shall ~~report annually, before February 1st, include in the Public Utilities Commission's annual report pursuant to Title 35-A, section 120, subsection 7 to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters on:~~

A. The bureau's planned expenditures for the year and use of funds for the previous year;

B. The statewide E-9-1-1 surcharge collected under this section;

C. The bureau's recommended statewide E-9-1-1 surcharge for the coming year; and

D. The bureau's recommendations for amending existing and enacting new law to improve the E-9-1-1 system.

**Sec. 7. 35-A MRSA §107**, as amended by PL 2007, c. 482, §5, is further amended to read:

**§107. The Public Utilities Commission staff**

The following provisions ~~shall~~ apply to the commission's staff.

**1. Appointment.** The commission shall appoint:

A. An administrative director, a director of ~~finance telephone and water utility industries~~, a director of ~~technical analysis~~ electric and gas utility industries, a director of energy programs and a director of consumer assistance;

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

C. An assistant administrative director.

**2. Salary and conditions of employment.** Salaries and conditions of employment of employees of the commission ~~shall be~~ are as follows.

A. The general counsel, the administrative director, the assistant administrative director, the director of ~~finance telephone and water utility industries~~, the director of ~~technical analysis~~ electric and gas utility industries, the director of energy programs and the director of consumer assistance serve at the pleasure of the commission and their salaries must be set by the commission within the ranges established by Title 2, section 6-A.

B. The compensation of the staff attorney and utility analyst positions are fixed by the commission with the approval of the Governor, but the

compensation may not in the aggregate exceed the total amount appropriated or allocated in the commission's budget.

C. The salaries of the other subordinate officials and employees of the commission, other than those of the general counsel, the administrative director, the assistant administrative director, the director of ~~finance telephone and water utility industries~~, the director of ~~technical analysis~~ electric and gas utility industries, the director of energy programs, the director of consumer assistance and the staff attorney and utility analyst positions, are subject to the Civil Service Law.

E. The commissioners and all employees ~~shall~~ receive actual expenses when traveling on official business.

**3. Commission's access to staff.** Each commissioner may have access to the Public Utilities Commission staff and to any information available to the commission, subject to ~~the Maine Administrative Procedure Act~~, Title 5, section 9055.

**4. Delegation of powers and duties to the staff.** The commission may delegate to its staff such powers and duties as the commission finds proper. All delegations existing as of the effective date of this section are valid.

**5. Administrative director's duties.** The administrative director:

A. Shall keep a record of the proceedings of the commission, which ~~shall~~ must be open to inspection at all times; and

B. May certify all official acts of the commission, administer oaths and issue subpoenas, processes, notices, orders and other documents necessary to the performance of the commission's duties.

**6. Assistant administrative director's duties.** The assistant administrative director shall assist the director in the performance of ~~his~~ the director's duties and in the absence of the director ~~shall have~~ has the same power as the director.

**7. Commission counsel.** The commission may employ counsel in any proceeding, investigation or trial.

**8. Dismissal.** After successful completion of a probationary period, the employees occupying the positions of staff attorney and utility analyst may be dismissed, suspended or otherwise disciplined only for cause.

**Sec. 8. 35-A MRSA §120, sub-§4**, as amended by PL 2001, c. 137, §1, is further amended to read:

**4. Rural issues.** The commission's efforts undertaken in accordance with its authority under this Title

to ensure that rural areas of this State are not disadvantaged as utility industries are restructured and competitive markets developed. The commission shall identify any rural issues that it has determined may require legislative action; and

**Sec. 9. 35-A MRSA §120, sub-§5**, as enacted by PL 2001, c. 137, §2, is amended to read:

**5. Telephone exemptions.** The commission's activities undertaken pursuant to its authority to grant exemptions to telephone utilities from certain portions of this Title;

**Sec. 10. 35-A MRSA §120, sub-§6** is enacted to read:

**6. Significant developments.** Any significant developments in the utility sectors or other areas of commission oversight; and

**Sec. 11. 35-A MRSA §120, sub-§7** is enacted to read:

**7. Other.** All other subjects that the commission is required to include in the annual report pursuant to law.

**Sec. 12. 35-A MRSA §803**, as enacted by PL 1991, c. 524, §6, is amended to read:

**§803. Blocking service**

Where facilities are available, a collecting utility shall provide all one-party residential and single-line business telephone subscribers with an opportunity to block the access of audiotext service providers to subscribers' telephone lines free of charge and with an opportunity to reopen such access. A utility may not charge for customers' first exercise of either option. Thereafter, collecting utilities shall continue to offer subscribers the ability to block and reopen such access, but may charge a fee for provision of this service, which may not exceed \$5 for each occasion on which the service is provided. ~~Every 4 years, beginning on January 1, 1995, the commission shall review the appropriateness of this \$5 fee and shall report to the joint standing committee of the Legislature having jurisdiction over utility matters its recommendations for any change in the fee.~~ The collecting utility may appeal to the commission for an extension to meet the requirements of this section. The commission may, for good cause shown, grant an extension.

**Sec. 13. 35-A MRSA §3195, sub-§5**, as enacted by PL 1991, c. 413, §1 and affected by §2, is amended to read:

**5. Report.** The commission shall ~~submit to the joint standing committee of the Legislature having jurisdiction over utilities matters an annual report detailing~~ include in its annual report pursuant to section 120, subsection 6 any significant developments with respect to any actions taken or proposed to be taken by the commission under this section, including actions or

~~proposed actions on mechanisms for protecting ratepayers from the transfer of risks associated with rate adjustment mechanisms. The report must be submitted by December 31st of each year.~~

**Sec. 14. 35-A MRSA §3214, sub-§6**, as enacted by PL 2007, c. 97, §3, is amended to read:

**6. Annual report.** The commission shall include in its annual report pursuant to section 120, subsection 7 a report by November 1st of each year to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters on low-income assistance programs established or approved under subsection 2 or 3 and any equitable-treatment program established pursuant to subsection 5. The report must, at a minimum, include:

A. For each month of the program year, the number of participants enrolled in low-income assistance programs, the number receiving oxygen pump benefits and the number receiving ventilator benefits;

B. For each month of the program year, the dollar amount of low-income assistance program benefits, the dollar amount of oxygen pump benefits and the dollar amount of ventilator benefits; and

C. An assessment of the effectiveness of the oxygen pump benefit and the ventilator benefit with regard to covering only those electric charges directly related to use of an oxygen pump or ventilator by the program participant.

**Sec. 15. 35-A MRSA §3217, sub-§1**, as amended by PL 2001, c. 528, §2, is further amended to read:

**1. Annual restructuring report.** ~~On December 31st of each calendar year, the~~ The commission shall ~~submit to the joint standing committee of the Legislature having jurisdiction over utility matters~~ include in its annual report pursuant to section 120, subsection 7 a report describing the commission's activities in carrying out the requirements of this chapter and the activities relating to changes in the regulation of electric utilities in other states.

~~In its report the commission shall provide an accounting of the commission's actual and estimated future costs of enforcing and implementing the provisions of this chapter governing the relationship between a transmission and distribution utility and an affiliated competitive electricity provider and the costs incurred by transmission and distribution utilities in complying with those provisions. The commission shall also provide an assessment of the effects of imposing these costs on ratepayers and the potential effects of assessing transmission and distribution utilities for these costs and prohibiting the costs from being passed through to ratepayers.~~

No later than December 1, 2002, the commission shall submit to the joint standing committee of the Legislature having jurisdiction over utility matters the report required under section 3212, subsection 4, with recommendations for action by the Legislature.

**Sec. 16. 35-A MRSA §4706, sub-§9,** as enacted by PL 1997, c. 707, §10, is amended to read:

**9. Report.** The commission shall submit to the joint standing committee of the Legislature having jurisdiction over utilities matters an annual report detailing include in its annual report pursuant to section 120, subsection 6 any significant developments with respect to any actions taken or proposed to be taken by the commission under this section. The report must be submitted by December 31st of each year.

**Sec. 17. 35-A MRSA §4711, sub-§5,** as enacted by PL 2005, c. 110, §1, is repealed and the following enacted in its place:

**5. Report.** The commission shall include in its annual report pursuant to section 120, subsection 7 actions taken by gas utilities pursuant to this section, including descriptions of all conservation programs in effect, a description of how the commission determines the cost-effectiveness of each conservation program, total expenditures for each gas utility's conservation programs during the program year and any recommendations for changes to the laws relating to energy conservation by gas utilities.

**Sec. 18. 35-A MRSA §7508, sub-§4,** as enacted by PL 2005, c. 131, §2, is amended to read:

**4. Annual report.** Annually prior to February 1st, the The commission shall provide a report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters include in its annual report pursuant to section 120, subsection 7 a report detailing activities undertaken pursuant to this section. The report must include information on the number of petitions for public-interest pay phones the commission has received, the number of such pay phones the commission has approved and the amount of available funds expended.

See title page for effective date.

**CHAPTER 123**

**S.P. 427 - L.D. 1155**

**An Act To Make Certain Changes to the Laws Governing Approval for Transmission Lines**

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

**Sec. 1. 35-A MRSA §3132, sub-§2-A,** as enacted by PL 2003, c. 506, §13, is repealed.

**Sec. 2. 35-A MRSA §3132, sub-§2-B,** as enacted by PL 2003, c. 506, §13, is repealed.

**Sec. 3. 35-A MRSA §3132, sub-§3,** as amended by PL 1999, c. 398, Pt. A, §46 and affected by §§104 and 105, is further amended to read:

**3. Transmission line rebuilding or relocation projects.** Each transmission and distribution utility shall file annually with the commission a schedule of transmission line rebuilding or relocation projects that it intends to carry out during the next 5 years concerning transmission lines that will become, or will remain at, voltages of 400 69 kilovolts or more. The schedule must describe each project, showing the length, location and estimated cost.

If the commission determines that an investigation of any transmission line rebuilding or relocation project is warranted, it shall notify the transmission and distribution utility within 60 days of the annual filing and the transmission and distribution utility is then required to comply with the provisions of this section with respect to that project. The absence of commission notification requiring the utility to file a petition does not preclude such notification in subsequent years.

**Sec. 4. 35-A MRSA §3132, sub-§3-A,** as amended by PL 1999, c. 398, Pt. A, §46 and affected by §§104 and 105, is further amended to read:

**3-A. Minor transmission line construction projects.** Each domestic transmission and distribution utility shall file annually with the commission a schedule of minor transmission line construction projects that it intends to carry out during the next 5 years concerning transmission lines that will be capable of operating at 400 69 kilovolts or more. A minor transmission line construction project is a transmission line construction project the cost of which does not exceed 25% of the utility's current annual transmission property depreciation charge. The schedule must describe each project, showing the length, location and estimated cost.

If the commission determines that an investigation of any minor transmission line construction project is warranted, it shall notify the transmission and distribution utility within 60 days of the annual filing and the utility must then comply with the provisions of this section with respect to that project. The absence of commission notification requiring the utility to file a petition does not preclude such notification in subsequent years.

**Sec. 5. 35-A MRSA §3132, sub-§6,** as amended by PL 2007, c. 148, §5, is further amended to read: