

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

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ONE HUNDRED AND NINTH LEGISLATURE

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**Legislative Document**

**No. 1416**

H. P. 1149

House of Representatives, March 22, 1979

Referred to the Committee on Public Utilities. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Brenerman of Portland.

Cosponsor: Mr. Wyman of Pittsfield.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-NINE

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**AN ACT to Clarify the Authority of the Public Utilities Commission in the  
Enforcement of Rebate Orders.**

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

35 MRSA § 298 is repealed and the following enacted in its place:

**§ 298. Adjustment of excessive rates**

**1. Reparation or adjustment authorized.** The commission may institute or any public utility may make complaint as to any matter affecting its own product, service or charges, with like effect as though made by any 10 persons, firms, corporations or associations.

The commission may authorize reparation or adjustment where a rate charged was excessive or unreasonable or collected through error.

**2. Right to file complaint.** Within 2 years after the rendering of any service within the State by any public utility for which service a rate, toll or charge is made by the utility, any person, firm, corporation or association aggrieved may complain to the commission that the rate, toll or charge exacted for that service is discriminatory against him or it, because:

**A. The rate, toll or charge is higher than that charged by the same utility for the same service or service of similar value and cost rendered to other users or consumers thereof;**

**B. The utility has failed, without reasonable cause, to make a more favorable rate, toll or charge published by it for the same or a similar service applicable to the user or consumer or to the class of users or consumers to which he or it belongs or at the place at which the service is rendered; or**

**C. The utility has made a billing error and has charged the user or consumer for services which he or it did not receive.**

**3. Entitlement to reparation. Within 6 months after an order has been made authorizing reparation or adjustment under subsection 1, any person, firm, corporation or association aggrieved may complain to the commission that he or it is entitled to reparation from the same utility by reason of the payment of the same rates which are excessive or unreasonable or collected through error, provided the utility might lawfully have been permitted to make the reparation or adjustment not less than 30 days before filing the aforesaid complaint.**

#### **4. Hearings.**

**A. Upon receipt of a complaint authorized by this section, the commission shall make such investigation as it deems necessary to determine whether a hearing ought to be given thereto. It may order a hearing upon notice to such utility as it deems just and reasonable.**

**B. If, upon the hearing, the commission shall decide that the complainant has been injured in either of the ways mentioned, it shall find what sum the utility ought to refund or repay to the complainant on account thereof, which sum the utility shall refund.**

**C. If it shall refuse or neglect to make the refund within 30 days, the party aggrieved may maintain an action in the courts of this State to recover the amount. In the trial thereof the findings of the commission shall be prima facie evidence of the truth of the facts found by it and no utility shall be permitted to avail itself of the defense of the action that the service involved was in fact made on the published tariff rate in force at the time it was rendered. No utility making a refund upon the order of the commission or pursuant to judgment of the court shall be liable for any penalty or forfeiture or subject to any prosecution under the laws of this State on account of making the refund.**

**5. Adopt regulations. The Public Utilities Commission shall adopt and promulgate reasonable regulations, after hearing, concerning enforcement of rebate orders. These regulations shall apply generally to all the utilities within the commission's jurisdiction.**

STATEMENT OF FACT

Present law prohibits the Public Utilities Commission from ordering a rebate to individual consumers who were overcharged, except where the utility specifically admits that there was a billing error and voluntarily refunds the overcharge.

This bill authorizes the Public Utilities Commission to force rebates for billing errors whenever they are found to exist, even if no formal admission of error is specifically offered by the utility.