

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 964

6
7 S.P. 321

In Senate, March 2, 1983

8 Submitted by the Public Utilities Commission pursuant to Joint
9 Rule 24.

10 Referred to the Committee on Public Utilities. Sent down for con-
currence and ordered printed.

Presented by Senator Baldacci of Penobscot. JOY J. O'BRIEN, Secretary of the Senate

11 Cosponsors: Representative Vose of Eastport, Representative Bost
of Orono and Representative Weymouth of West Gardiner.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT to Improve and Clarify the Rate-
18 setting Procedures for Municipal and Quasi-
19 municipal Water Companies.
20

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

23 Sec. 1. 35 MRSA §72, as repealed and replaced by
24 PL 1981, c. 438, §4, is amended to read:

25 §72. Municipal and quasi-municipal water companies

26 Notwithstanding section 69, municipal and
27 quasi-municipal corporations which are water compa-
28 nies within the definition of section 15, subsection
29 25, shall be subject to the suspension, investiga-
30 tion, hearing and rate substitution provisions of
31 section 69 under the conditions specified in this
32 section.

1 Municipal and quasi-municipal water corporations
2 which elect to set rates under this section shall not
3 file with the commission or increase any rate, toll
4 or charge without first holding a public hearing at
5 which any person, firm or corporation which pays such
6 those rates, tolls or charges to the municipal or
7 quasi-municipal water corporations may testify and
8 may question the officials present regarding such
9 proposed increase. The municipal or quasi-municipal
10 water corporation as described in this section shall,
11 at least 14 days prior to the hearing, publish a
12 notice of the proposed rate increase and the hearing
13 including the date, time, place and purpose of the
14 hearing at least twice in a newspaper of general cir-
15 culation in the area encompassed by the municipal or
16 quasi-municipal water corporation. In addition, each
17 municipal or quasi-municipal water corporation shall
18 give one notice of the proposed rate increase and the
19 date, time and place of the hearing to each of its
20 ratepayers. At the commencement of each hearing held
21 pursuant to this section, the municipal or
22 quasi-municipal water corporation shall inform those
23 present that the rate increase may be investigated by
24 the Public Utilities Commission in accordance with
25 this section. The water utility shall file its
26 changed rates with the commission within 60 days of
27 the public hearing, but not sooner than 10 days fol-
28 lowing the public hearing. The Public Utilities Com-
29 mission may adopt reasonable and nonburdensome regu-
30 lations requiring water utilities to make certain
31 information relating to its proposed rate change
32 available to the customers of the utility at or
33 before the public hearing and file certain informa-
34 tion of a similar nature with the commission at the
35 same time as the rate changes are filed.

36 Water utilities electing to set rates under this
37 section may establish an effective date for any rate
38 change of up to 9 months from the date the rates are
39 filed with the commission. At any time prior to the
40 effective date of a rate change initiated pursuant to
41 this section, a water utility may without first hold-
42 ing a hearing, file with the commission a revised
43 schedule of rates designed to produce less revenues
44 than the schedule of rates originally filed. No revi-
45 sion may alter the rate design of the schedule of
46 rates originally filed.

1 If, on or before the effective date of the rate
2 change within 30 days of the public hearing, 15% of
3 the customers of the municipal or quasi-municipal
4 water corporation or 1,000 customers, whichever is
5 less, file with the treasurer of the corporation and
6 with the Public Utilities Commission petitions
7 demanding a review of the rate changes by the Public
8 Utilities Commission, the rate change may be sus-
9 pended, investigated, reviewed and changed in accor-
10 dance with section 69, except that no suspension
11 order issued by the commission pursuant to section 69
12 may be effective for a period greater than 9 months
13 from the date the rate changes were filed. If the
14 number of signatures on the petitions is 1,000 or if
15 the number of signatures on the petitions equals or
16 exceeds 15% of the customers indicated on the water
17 utility's most recent annual report on file with the
18 Public Utilities Commission, then the commission may
19 suspend the rate change pursuant to section 69. The
20 commission shall notify the water utility of any such
21 suspension. The water utility shall have 10 days to
22 notify the commission whether it intends to contest
23 any aspect of the validity of the petitions, after
24 which it shall lose that right. If the water utility
25 notifies the commission in a timely fashion that it
26 wishes to contest the validity of the petitions, then
27 the commission shall set the matter down for hearing.
28 It shall hold the hearing and issue its decision on
29 the validity of the petitions as soon as practicable,
30 consistent with the commission's other duties and
31 responsibilities. If the commission finds the peti-
32 tions to be invalid, then it shall lift its order of
33 suspension.

34 Nothing in this section may prohibit a municipal
35 or quasi-municipal water corporation from petitioning
36 the Public Utilities Commission for review pursuant
37 to section 69 in the first instance.

38 Upon review of a rate filing made pursuant to
39 this section, the Public Utilities Commission may
40 order the municipal or quasi-municipal water corpora-
41 tion to correct any mathematical or clerical errors.

42 Sec. 2. 35 MRSAs §73, sub-§§3, 4 and 5, as
43 enacted by PL 1981, c. 438, §5, are amended to read:

1 3. Just and reasonable rates. The governing body
2 shall ~~establish~~ file rates, tolls or charges which
3 are just and reasonable and which provide revenue as
4 may be required to perform its public utility service
5 and to attract necessary capital on just and reason-
6 able terms.

7 4. Uniform rates. The governing body shall
8 ~~establish~~ file rates which are uniform within the
9 territory supplied whenever the installation and
10 maintenance of mains and the cost of service is sub-
11 stantially uniform. If, for any reason, the cost of
12 construction and maintenance or the cost of service
13 in a section of the territory exceeds the average,
14 the governing body may ~~establish~~ file higher rates
15 for that section, but these higher rates shall be
16 uniform throughout that section.

17 5. Purposes. The governing body may ~~establish~~
18 file rates under this section so as to provide reve-
19 nue for the following purposes, but no other:

20 A. To pay the current expenses for operating and
21 maintaining the water system and to provide for
22 normal renewals and replacements;

23 B. To provide for the payment of the interest on
24 the indebtedness created or assumed by the util-
25 ity;

26 C. To provide each year a sum equal to not less
27 than 2% nor more than 10% of the term indebted-
28 ness represented by the issuance of bonds created
29 or assumed by the utility, which sum shall be
30 turned into a sinking fund and there kept to pro-
31 vide for the extinguishment of term indebtedness.
32 The money set aside in this sinking fund shall be
33 devoted to the retirement of the term obligations
34 of the utility and may be invested in such
35 securities as savings banks in the State are
36 allowed to hold;

37 D. To provide for annual principal payments on
38 serial indebtedness created or assumed by the
39 utility; and

1 E. To provide for a contingency reserve fund by
2 providing rates to reflect up to a 5% addition to
3 yearly revenues over what is required to operate
4 the water company, in accordance with section
5 3311.

6 STATEMENT OF FACT

7 After a year of experience with partial
8 deregulation of municipal and quasi-municipal water
9 utilities, certain aspects of the statutes effecting
10 the deregulation have shown themselves to be in need
11 of improvement or clarification.

12 The bill specifies the time period in which a
13 utility must file its new rates, after it has held
14 the local public hearing. It also empowers the com-
15 mission to require the water utility to make informa-
16 tion relating to its proposed rate change available
17 to its customers at the time of the hearing and to
18 require similar material to be filed with the commis-
19 sion.

20 The bill allows water utilities to have new rates
21 go into effect within 9 months of filing with the
22 Public Utilities Commission. This allows water utili-
23 ties greater flexibility in financial planning. A
24 rate increase could be timed to go into effect coin-
25 cident with a new bond issuance scheduled to take
26 place many months in the future. The bill also allows
27 the water utility to make a downward revision before
28 the rates go into effect. This would be useful in the
29 event that a bond issuance proved to be less costly
30 than was anticipated at the time the rates were
31 filed. Any such revisions must be accomplished on an
32 "across-the-board" basis.

33 The bill gives aggrieved ratepayers 30 days from
34 the public hearing to file petitions opposing the
35 increase. Under present law, these petitions can be
36 filed at any time up to the date the new rates become
37 effective. This leaves the utility in a state of
38 uncertainty and gives the Public Utilities Commission
39 very little time to evaluate petitions and, perhaps,
40 issue the necessary suspension order. In this bill,

1 which provides a 50-day period for utilities to file
2 rates following the public hearing, these problems
3 will be resolved. The bill also gives the Public
4 Utilities Commission a period of 9 months to investi-
5 gate rates that have been the subject of a petition.
6 The 9-month period is made to run from the filing of
7 the rates and not from the effective date.

8 The bill also establishes a reasonable procedure
9 for the Public Utilities Commission to follow in
10 evaluating the validity of petitions filed under
11 Title 35, section 72.

12 The bill resolves an ambiguity in Title 35,
13 section 73 and makes it clear that water utilities
14 must still file rates with the Public Utilities Com-
15 mission.

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