

MAINE STATE LEGISLATURE

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(EMERGENCY)
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 350

H.P. 267 House of Representatives, February 18, 1987
Reported by Representative Vose from the Committee on
Utilities pursuant to Public Law 1985, Chapter 481, Part B.
Reference to the Joint Standing Committee on Utilities
suggested and printing ordered under Joint Rule 18.

EDWIN H. PERT, Clerk

STATE OF MAINE

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

1 AN ACT to Recodify the Public Utilities Law.
2

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

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

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

12 Whereas, the laws will be clearer if that new
13 legislation is prepared with reference to the new,
14 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 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 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, locomot-
12 ive 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 de-
8 linquent 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 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 origi-
10 nal 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 tion 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 cinity 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 The basic purpose of this regulatory system is to as-
6 sure safe, reasonable and adequate service at rates
7 which are just and reasonable to customers and public
8 utilities.

9 §102. Definitions

10 As used in this Title, unless the context indi-
11 cates otherwise, the following terms have the follow-
12 ing meanings.

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

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

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

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

23 5. Electric utility. "Electric utility" includes
24 every person, its lessees, trustees, receivers or
25 trustees appointed by any court owning, controlling,
26 operating or managing any electric plant for compen-
27 sation within this State, except where electricity is
28 generated on or distributed by the producer through
29 private property alone solely for its own use or the
30 use of its tenants and not for sale to others. "Elec-
31 tric utility" includes, but is not limited to, rural
32 electrification cooperatives organized under chapter
33 37, generation and transmission cooperatives or-
34 ganized under chapter 37, subchapter IV, municipal
35 power districts organized under chapter 39 and the
36 Maine Municipal and Rural Electrification Cooperative
37 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 paging service. "Radio paging service"
30 is a service provided by a communication common car-
31 rier engaged in rendering signaling communication.
32 Signaling communication is one-way communication from
33 a base to a mobile or fixed receiver, or to
34 multi-point mobile or fixed audible or subaudible
35 means, for the purpose of activating a signaling de-
36 vice in the receiver, whether or not the information
37 is to be retained in record form. It is limited to
38 the following types of communications.

39 A. An optical readout paging service consists of
40 a communication of a message on an optical or
41 tactile readout, either in a permanent form or a
42 temporary form.

1 B. A tone only paging service is designed to ac-
2 tivate an aural, visual or tactile signaling de-
3 vice when received.

4 C. A tone-voice paging service is one on which
5 tone is transmitted to activate a signaling de-
6 vice and audio circuit in the addressed receiver,
7 following which a voice-grade signal is trans-
8 mitted, to be amplified by the audio circuitry.

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

15 16. Telegraph utility. "Telegraph utility" in-
16 cludes every person, its lessees, trustees, receiv-
17 ers or trustees appointed by any court, owning, con-
18 trolling, operating or managing any telegraph line
19 for compensation within this State.

20 17. Telegraph line. "Telegraph line" includes
21 all conduits, ducts, poles, wires, cables, instru-
22 ments and appliances and real estate, fixtures and
23 personal property owned, controlled, operated or man-
24 aged in connection with or to facilitate communica-
25 tion by telegraph, whether such communication is had
26 with or without the use of transmission wires.

27 18. Telephone utility. "Telephone utility" in-
28 cludes every person, its lessees, trustees, receiv-
29 ers or trustees appointed by any court, owning, con-
30 trolling, operating or managing any telephone line
31 for compensation within this State.

32 19. Telephone line. "Telephone line" includes
33 all conduits, ducts, poles, wires, cables, instru-
34 ments and appliances, specifically including telecom-
35 munications equipment for customers with special
36 needs subject to the provision of section 7504, and
37 all other real estate, fixtures and personal property
38 owned, controlled, operated or managed in connection
39 with or to facilitate communication by telephone,
40 whether that communication is had with or without use
41 of transmission wires.

1 20. Vessel. "Vessel" includes every boat which
2 is owned, controlled, operated or managed for public
3 use in the transportation of persons or property for
4 compensation within this State.

5 21. Water utility. "Water utility" includes ev-
6 ery person, its lessees, trustees, receivers or
7 trustees appointed by any court, owning, controlling,
8 operating or managing any water works for compensa-
9 tion within this State.

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

19 §103. Establishment of commission; powers and du-
20 ties; seal and office

21 1. Establishment. There is established the Pub-
22 lic Utilities Commission which shall consist of 3
23 members.

24 2. Powers and duties. The commission has the
25 following powers and duties.

26 A. All public utilities are subject to the ju-
27 risdiction, control and regulation of the commis-
28 sion and to this Title.

29 B. The commission shall set the basic policies
30 of the Public Utilities Commission and shall regu-
31 late public utilities in accordance with this
32 Title.

33 3. Seal and office. The commission shall have a
34 seal and be provided with office space.

35 §104. Implied powers

36 The provisions of this Title shall be interpreted
37 and construed liberally to accomplish the purpose of

1 this Title. The commission has all implied and in-
2 herent powers under this Title, which are necessary
3 and proper to execute faithfully its express powers
4 and functions specified in this Title.

5 §105. Appointment and term

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

13 2. Term. The commissioners shall serve for
14 terms of 6 years.

15 A. Each term shall end on March 31st of the 6th
16 year of the term.

17 B. A commissioner may continue to serve beyond
18 the end of this term until a successor is ap-
19 pointed and qualified.

20 C. Any vacancy occurring in the commission shall
21 be filled by appointment for the unexpired por-
22 tion of the term.

23 §106. Chairman of the Public Utilities Commission

24 The following provisions apply to the chairman of
25 the Public Utilities Commission.

26 1. Appointment. The Governor shall designate
27 one member of the commission as chairman.

28 2. General duties. The chairman shall:

29 A. Be the principal executive officer of the
30 commission in carrying out its policies;

31 B. Preside at meetings of the commission; and

32 C. Be responsible for the expedient organization
33 of the commission's work.

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

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

7 §107. The Public Utilities Commission staff

8 The following provisions shall apply to the com-
9 mission's staff.

10 1. Appointment. The commission shall appoint:

11 A. An administrative director, a director of fi-
12 nance, a director of technical analysis and a di-
13 rector of consumer assistance;

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

16 C. Subject to the Civil Service Law, an assist-
17 ant administrative director.

18 2. Salary and conditions of employment. Sala-
19 ries and conditions of employment of employees of the
20 commission shall be as follows.

21 A. The general counsel, the administrative di-
22 rector, the assistant administrative director,
23 the director of finance, the director of techni-
24 cal analysis, the director of consumer assistance
25 and the assistant to the director of consumer as-
26 istance shall serve at the pleasure of the com-
27 mission and their salaries shall be set by the
28 commission within the range established by Title
29 2, section 6-A.

30 B. The compensation of the staff attorney, sea-
31 sonal legal researcher, financial analyst, chief
32 utility accountant and utility accountant III po-
33 sitions shall be fixed by the commission with the
34 approval of the Governor, but the compensation
35 shall not in the aggregate exceed the total
36 amount appropriated or allocated in the commis-
37 sion's budget.

1 C. The salaries of the other subordinate offi-
2 cial and employees of the commission, other than
3 those of the general counsel, the administrative
4 director, the assistant administrative director,
5 the director of finance, the director of techni-
6 cal analysis, the director of consumer assist-
7 ance, the assistant to the director of consumer
8 assistance and the staff attorney, financial anal-
9 yst and chief utility accountant and utility ac-
10 countant III positions, shall be subject to the
11 Civil Service Law, except as provided in para-
12 graph D.

13 D. The seasonal legal researcher positions are
14 not subject to the Civil Service Law.

15 E. The commissioners and all employees shall re-
16 ceive actual expenses when traveling on official
17 business.

18 3. Commission's access to staff. Each commis-
19 sioner may have access to the Public Utilities Com-
20 mission staff and to any information available to the
21 commission, subject to the Maine Administrative Pro-
22 cedure Act, Title 5, section 9055.

23 4. Delegation of powers and duties to the staff.
24 The commission may delegate to its staff such powers
25 and duties as the commission finds proper. All dele-
26 gations existing as of the effective date of this
27 section are valid.

28 5. Administrative director's duties. The admin-
29 istrative director:

30 A. Shall keep a record of the proceedings of the
31 commission which shall be open to inspection at
32 all times; and

33 B. May certify all official acts of the commis-
34 sion, administer oaths and issue subpoenas, pro-
35 cesses, notices, orders and other documents nec-
36 essary to the performance of the commission's du-
37 ties.

38 6. Assistant administrative director's duties.
39 The assistant administrative director shall assist

1 the director in the performance of his duties and in
2 the absence of the director shall have the same power
3 as the director.

4 7. Commission counsel. The commission may em-
5 ploy counsel in any proceeding, investigation or tri-
6 al.

7 8. Dismissal. After successful completion of a
8 probationary period, the employees occupying the po-
9 sitions of staff attorney, financial analyst, chief
10 utility accountant and utility accountant III may be
11 dismissed, suspended or otherwise disciplined only
12 for cause.

13 §108. Commission action; quorum

14 A majority of the duly appointed commissioners
15 shall constitute a quorum and the act or decision of
16 a majority of commissioners present, if at least a
17 quorum is present, shall be the act or decision of
18 the commission in any formal proceeding before the
19 commission.

20 §109. Conflicts of interest

21 In addition to limitations of Title 5, section
22 18, the following are conflicts of interest.

23 1. Public utilities. No member or employee of
24 the commission shall:

25 A. Have any official or professional connection
26 or relation with any public utility;

27 B. Hold any stock or securities in any public
28 utility, as defined in section 103, operating
29 within this State;

30 C. Render a professional service against any
31 such public utility; or

32 D. Be a member of a firm which renders service
33 against any such public utility.

34 2. Appointment to civil office. No commissioner
35 may hold any other civil office of profit or trust

1 under the Federal Government or State Government ex-
2 cept the office to notary public.

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

5 §110. Removal of commissioner

6 Any willful violation of this Title by a commis-
7 sioner shall constitute sufficient cause for his re-
8 moval by the Governor, on the address of both
9 branches of the Legislature or by impeachment pursu-
10 ant to the Constitution of Maine, Article IX, Section
11 5.

12 §111. Rules; assistance

13 The commission may adopt rules and may employ as-
14 sistance to carry out its responsibilities under this
15 Title.

16 §112. Power to obtain information

17 1. Investigation of management of business. The
18 commission may inquire into the management of the
19 business of all public utilities and shall keep it-
20 self informed as to the manner and method in which
21 each is conducted.

22 2. Facilities and information to be furnished.
23 Every public utility shall furnish the commission
24 with:

25 A. All reasonable facilities for the prompt and
26 faithful discharge of its duties; and

27 B. All information necessary to perform its du-
28 ties and carry into effect this Title. If it is
29 unable to furnish the information, it shall give
30 a good and sufficient reason for the failure, and
31 the reason for the failure shall be verified by
32 an officer, owner or agent of the public utility
33 and returned to the commission at its office
34 within the time fixed by the commission.

35 3. Inspection of books and papers; confidential-
36 ity. The following provisions apply to inspection of
37 books and papers.

1 A. The commission or any commissioner or any
2 person employed by it for that purpose, may upon
3 demand inspect and copy the books, accounts, pa-
4 pers, records and memoranda of any public utility
5 in relation to its business and affairs.

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

8 C. A person employed by the commission to in-
9 spect utilities documents may not divulge infor-
10 mation ascertained by inspection except:

11 (1) To the commission; or

12 (2) Under direction of the commission.

13 D. Violation of this subsection is a Class E
14 crime.

15 4. Production of documents; failure to obey.
16 The commission may require the production of docu-
17 ments as follows.

18 A. The commission may require, by order or sub-
19 poena to be served on any public utility in the
20 same manner that a summons is served in a civil
21 action in the Superior Court, the production of
22 any books, accounts, papers, records or verified
23 copies of them kept by a public utility or within
24 the control of a public utility in any office or
25 place within or outside the State, so that an ex-
26 amination may be made by the commission or under
27 its direction.

28 B. A public utility or its agent who fails to
29 comply with an order or subpoena commits a civil
30 violation for which a forfeiture of not less than
31 \$50 nor more than \$500 may be adjudged for each
32 offense. Each day of noncompliance constitutes a
33 separate offense.

34 §113. Management audit

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

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

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

8 C. The degree to which a public utility
9 minimizes or avoids inefficiencies which other-
10 wise would increase costs to customers; or

11 D. Any other consideration which the commission
12 finds relevant to rate setting under chapter 3,
13 sections 301 and 303.

14 2. Independent auditor. The commission may have
15 a management audit performed by an independent audi-
16 tor. If the commission finds it reasonable and nec-
17 essary to have the audit performed, it may:

18 A. Select the independent auditor;

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

21 C. Require the public utility to execute a con-
22 tract with the independent auditor.

23 3. Costs. The full cost of the management audit
24 shall be recovered from ratepayers. In ordering an
25 audit, the commission shall consider the impact of
26 the cost of the audit upon the ratepayers and other
27 alternatives that are available.

28 §114. Utility personnel records

29 1. Confidential. The following records of pub-
30 lic utilities are confidential and, except as other-
31 wise provided in subsection 3, are excluded from the
32 books, accounts, papers, records, memoranda, docu-
33 ments and information otherwise available to the com-
34 mission under this Title and may not be open to pub-
35 lic inspection:

1 A. Working papers, research materials, records
2 and the examinations prepared for and used spe-
3 cifically in the examination or evaluation of ap-
4 licants for positions with a public utility;

5 B. Records containing the following:

6 (1) Medical information of any kind, in-
7 cluding information pertaining to diagnosis
8 or treatment of mental or emotional disor-
9 ders;

10 (2) Performance evaluations and personal
11 references;

12 (3) Information pertaining to the credit
13 worthiness of a named employee;

14 (4) Information pertaining to the personal
15 history, general character or conduct of
16 members of an employee's immediate family;
17 or

18 (5) Complaints, charges or accusations of
19 misconduct, replies to those complaints,
20 charges or accusations or any other informa-
21 tion or materials that may result in disci-
22 plinary action; or

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

25 2. Compliance. Failure or refusal by any public
26 utility or any officer, agent or attorney of any pub-
27 lic utility to comply with any order, data request or
28 subpoena calling for the production of those records
29 other than an order issued pursuant to subsection 3,
30 shall not serve as the basis for any civil or criminal
31 find, penalty or forfeiture.

32 3. In camera inspection. Upon request by the
33 commission staff, the Public Advocate or intervenor
34 in a matter before the commission or upon the commis-
35 sion's own motion and for good cause shown, the com-
36 mission may order a public utility to produce for in
37 camera inspection by the commission or hearing exam-
38 iner the records designated confidential under sub-

1 section 1. The employee whose records are the sub-
2 ject of such a request shall be notified by the com-
3 mission of the request and shall be given the oppor-
4 tunity to be heard before an order to produce is is-
5 sued. If the commission or hearing examiner deter-
6 mines after in camera inspection that a record is
7 reasonably relevant to the matter before it and that
8 production of the record is not unjust or unlawful
9 and that the materiality of the record outweighs any
10 harm to the employee from its disclosure, the commis-
11 sion or hearing examiner may order that the record be
12 made a part of the discovery or evident aspects of
13 the proceedings, subject to the terms and conditions
14 that are just, due consideration being given to the
15 privacy interests of the employee involved.

16 §115. Enforcement of state laws

17 The following provisions apply to the enforcement
18 of state laws.

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

20 A. Inquire into any neglect or violation of
21 state laws by a public utility doing business
22 within the State;

23 B. Inquire into any neglect or violation of
24 state laws by the officers, agents, employees or
25 any person operating the plant of a public utili-
26 ty;

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

29 D. Report all violations of this Title and all
30 other laws relating to public utilities to the
31 Attorney General.

32 2. Duties of the Attorney General and district
33 attorneys. Upon the request of the commission, the
34 Attorney General or the district attorney of the
35 proper county shall:

36 A. Aid in any investigation, hearing or trial
37 had under this Title; and

1 B. Institute and prosecute all proceedings for
2 the enforcement of this Title and of all other
3 state laws relating to public utilities and to
4 the punishment of violations.

5 3. Forfeitures and penalties. The following
6 provisions apply to forfeitures and penalties.

7 A. A complaint for the recovery of a forfeiture
8 or penalty may be made by the commission or one
9 of its members.

10 B. A suit to recover any forfeiture or penalty
11 may be brought in the name of the State in the
12 Superior Court in the county where the main of-
13 fice of the public utility is located or in Ken-
14 nebec County.

15 C. An action commenced by the commission shall
16 be prosecuted by the Attorney General.

17 §116. Funding of the commission

18 1. Utilities subject to assessments. Every
19 electric, gas, telegraph, telephone and water utility
20 and ferry subject to regulation by the commission
21 shall be subject to an assessment of not more than
22 .25% on its intrastate gross operating revenues to
23 produce no more than \$2,079,000 in revenues annually
24 beginning in the 1986-87 fiscal year. The commission
25 shall determine the assessments annually prior to May
26 1st and shall assess each utility for its pro rata
27 share. Each utility shall pay the assessment charged
28 to the utility on or before July 1st of each year.
29 Any increase in the assessment that becomes effective
30 subsequent to May 1st may be billed on the effective
31 date of the act authorizing the increase.

32 A. The assessments charged to utilities under
33 this section are just and reasonable operating
34 costs for rate-making purposes.

35 B. For the purposes of this section, "intrastate
36 gross operating revenues" means intrastate reve-
37 nuues derived from filed rates, except revenues
38 derived from sales for resale.

1 C. Gas utilities subject to the jurisdiction of
2 the commission solely with respect to safety
3 shall not be subject to any assessment until the
4 commission has reviewed the scope and cost of
5 such jurisdiction and an assessment or fee struc-
6 ture is authorized by the Legislature.

7 D. The commission may correct any errors in the
8 assessments by means of a credit or debit to the
9 following year's assessment rather than
10 reassessing all utilities in the current year.

11 2. Legislative approval of budget. The assess-
12 ments and expenditures provided in this section are
13 subject to legislative approval in the same manner as
14 the budget of the Public Utilities Commission is ap-
15 proved. The commission shall also report annually,
16 before February 1st, to the joint standing committee
17 of the Legislature having jurisdiction over public
18 utilities on its planned expenditures for the year
19 and on its use of funds in the previous year. The
20 commission shall also receive other funds as appro-
21 priated by the Legislature.

22 3. Deposit of funds. All revenues derived from
23 assessments levied against utilities described in
24 this section shall be deposited with the Treasurer of
25 State in a separate account to be known as the Public
26 Utilities Commission Regulatory Fund.

27 4. Use of funds. The Public Utilities Commis-
28 sion is authorized to fund 43 employees and 2 season-
29 al legal researchers from the revenues provided in
30 this section to defray the costs incurred by the com-
31 mission pursuant to this Title and to include admin-
32 istrative expenses, general regulatory expenses, con-
33 sulting fees and all other reasonable costs incurred
34 to administer this Title.

35 5. Unexpended funds. Except as specified in
36 this subsection, any amount of the funds that is not
37 expended at the end of a fiscal year shall not lapse,
38 but shall be carried forward to be expended for the
39 purposes specified in this section in succeeding fis-
40 cal years; but any unexpended funds in excess of 7%
41 of the total annual assessment authorized in subsec-
42 tion 1 shall, at the option of the commission, either

1 be presented to the Legislature in accordance with
2 subsection 2 for reallocation and expenditure for
3 commission purposes, or used to reduce the utility
4 assessment in the following fiscal year.

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

11 7. Special assessment. Every utility subject to
12 assessment pursuant to this section shall be subject
13 to an additional assessment on its intrastate gross
14 operating revenues to produce no more than \$250,000
15 in revenues annually in fiscal years 1985-86 and
16 1986-87. The revenues produced from this assessment
17 shall be used to make necessary improvements in the
18 facilities housing the Public Utilities Commission at
19 242 State Street, Augusta, Maine. These funds shall
20 be raised and accounted for in accordance with the
21 provisions of the section in a separate Public Utili-
22 ties Commission Facilities Fund, to which any inter-
23 est on the funds collected shall accrue. The author-
24 ity to issue assessments under this subsection shall
25 terminate on June 30, 1987. The assessments charged
26 to utilities under this subsection shall be deemed
27 just and reasonable operating costs for amortization,
28 with carrying costs, in the utility's next rate case,
29 provided that case is filed before January 1, 1990.
30 Any funds remaining in the fund after the improve-
31 ments have been made will either be returned to the
32 utilities or used to reduce the following year's Pub-
33 lic Utilities Commission Regulatory Fund assessment.

34 §117. Reimbursement fund

35 1. Filing fees and expense reimbursements. All
36 money collected by the commission in the form of fil-
37 ing fees, expense reimbursements ordered by the com-
38 mission or payment for services, such as reproduction
39 and distribution of copies of commission decisions
40 and photocopying or for the use of facilities, shall
41 be deposited with the Treasurer of State in an ac-
42 count to be known as the Public Utilities Commission
43 Reimbursement Fund. This account is a continuous

1 carrying account, with appropriate subaccounts, for
2 reimbursement of commission expenses incurred in pro-
3 cessing the associated matters or providing the asso-
4 ciated services or facilities which generated the
5 filing fee, payment or expense reimbursement and so
6 much of the filing fee, payment or expense reimburse-
7 ment as is allocated for these purposes and for re-
8 fund of the unexpended portion of the filing fee.

9 2. State Controller's approval. All payments
10 under this section shall be made to the commission
11 after approval of the State Controller. In no event
12 may the payments exceed the amounts received by the
13 Treasurer of State from the Public Utilities Commis-
14 sion. Upon certification by the administrative di-
15 rector of the commission that certain amounts in the
16 Public Utilities Commission Reimbursement Fund are
17 not required by the commission, the Treasurer of
18 State shall transfer the amounts to the General Fund.

19 3. Fines. Fines collected by the commission
20 which do not constitute a reimbursement of commission
21 expenses shall be deposited in the General Fund of
22 the State Treasury.

23 4. Annual report. The commission shall report
24 annually, before February 1st, to the joint standing
25 committee of the Legislature having jurisdiction over
26 public utilities, on a case by case basis, on the
27 waiver, exemption, receipt and expenditure of any
28 filing fees, expense reimbursements or fines col-
29 lected under this Title.

30 §118. Participation with other regulatory bodies

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

37 §119. Five-year review

38 Commencing with a review in 1985, the commission
39 shall review the laws governing Public Utilities Com-
40 mission operations and areas of jurisdiction every 5

1 years. Upon the review, the commission shall submit
2 to the joint standing committee of the Legislature
3 having jurisdiction over utilities legislation to re-
4 move any outdated references.

5 CHAPTER 3

6 RATES OF PUBLIC UTILITIES

7 §301. Safe facilities; just and reasonable rates

8 1. Facilities. Every public utility shall fur-
9 nish safe, reasonable and adequate facilities.

10 2. Rates. The rate, toll or charge, or any
11 joint rate made, exacted, demanded or collected by
12 any public utility for production, transmission, de-
13 livery or furnishing of electricity for light, heat,
14 power or water; for communications service; or for
15 transportation of persons or property within this
16 State for any service rendered or to be rendered in
17 connection with any public utility, shall be just and
18 reasonable.

19 3. Unreasonable rates prohibited. Every unjust
20 or unreasonable charge for this service is prohibited
21 and declared unlawful.

22 4. Determining rates. In determining just and
23 reasonable rates, the commission:

24 A. Shall provide such revenues to the utility as
25 may be required to perform its public service and
26 to attract necessary capital on just and reason-
27 able terms; and

28 B. May consider whether the utility is operating
29 as efficiently as possible and is utilizing sound
30 management practices.

31 §302. Limitations on rates

32 The following expenses, whether paid directly or
33 indirectly, through reimbursement or otherwise, in-
34 curring by a public utility shall not be included or
35 incorporated in operating expenses:

1 1. Contributions to political groups or candi-
2 dates. Contributions or gifts to political candi-
3 dates, political parties, political or legislative
4 committees or any committee or organization working
5 to influence referendum petitions or elections.

6 §303. Valuation of property for fixing rates

7 In determining reasonable and just rates, tolls
8 and charges, the commission shall fix a reasonable
9 value upon all the property of a public utility used
10 or required to be used in its service to the public
11 within the State and a fair return on that property.
12 In fixing a reasonable value, the commission shall
13 give due consideration to evidence of the cost of the
14 property when first devoted to public use, prudent
15 acquisition cost to the utility, less depreciation on
16 each, and any other material and relevant factors or
17 evidence, but the other factors shall not include
18 current value. In making a valuation, the commission
19 may consult reports, records or other information
20 available to it in the office of any state office or
21 board.

22 §304. Filing of schedules of rates, terms and condi-
23 tions

24 Every public utility shall file with the commis-
25 sion, within a time to be fixed by the commission,
26 schedules which shall be open to public inspection.
27 The schedules shall show all rates, tolls and charges
28 which the utility has established and which are in
29 force at the time for any service performed by it
30 within the State, or for any service in connection
31 with or performed by any public utility controlled or
32 operated by it or in conjunction with it. Every pub-
33 lic utility shall file with and as part of its sched-
34 ules all terms and conditions that in any manner af-
35 fect the rates charged or to be charged for any ser-
36 vice.

37 Public utility schedules which were formerly des-
38 ignated as rules shall be designated as terms and
39 conditions. All such schedules to be filed with the
40 commission shall be designated as terms and condi-
41 tions.

1 §305. Public inspection of schedules

2 A copy of as much of the schedules as the commis-
3 sion determines necessary for the use of the public
4 shall be printed in plain type and kept on file in
5 every office of the public utility where payments are
6 made by the consumers open to the public under such
7 rules as the commission may prescribe.

8 §306. Schedule of joint rates

9 A schedule of joint rates or charges that is or
10 may be in force between 2 or more public utilities
11 shall be printed and filed with the commission and
12 made open to the public in accordance with the provi-
13 sions of this chapter.

14 §307. Changes in schedules; notice

15 No change may be made in any schedule, including
16 schedules of joint rates, except upon 30 days' notice
17 to the commission, and all such changes must be
18 plainly indicated upon existing schedules by filing
19 new schedules in lieu of them 30 days prior to the
20 time they are to take effect. The commission may,
21 for good cause shown, allow changes upon less than
22 the notice specified or modify the requirements of
23 this section and section 308 in respect to publish-
24 ing, posting and filing of tariffs, either in partic-
25 ular instances or by a general order applicable to
26 special peculiar circumstances or conditions.

27 Without the approval of the commission, no utili-
28 ty may file a schedule or schedules for a general in-
29 crease in rates pursuant to this section within one
30 year of a prior filing for a general increase in
31 rates pursuant to this section, unless the proceeding
32 initiated by a prior filing was terminated without a
33 final determination of the utility's revenue require-
34 ment. This requirement does not prevent any utility,
35 at any time, from notifying the commission in ad-
36 vance, either voluntarily or in accordance with a
37 commission requirement under this section, of its
38 plans to file a general increase in rates. Nothing
39 in this section may be construed to limit any
40 utility's right, at any time, to petition pursuant to
41 section 1323 for temporary rate relief. For the pur-

1 pose of this paragraph, a "final determination of the
2 utility's revenue requirement" means a decision on
3 the merits of the utility's request after considera-
4 tion of at least the utility's direct case in support
5 of its request. The commission shall decide whether
6 a final determination has been made in any specific
7 case.

8 For the purposes of this section, a "general in-
9 crease in rates" means any change in the rates, tolls
10 and charges of the public utility, the effect of
11 which is to increase the annual operating revenues of
12 a public utility by more than 1%, provided that this
13 term does not include a rate change made for the sole
14 purpose of implementing a fuel cost adjustment rate,
15 pursuant to section 3101 or section 4501 or a rate
16 change made for the sole purpose of implementing an
17 energy conservation adjustment rate, pursuant to sec-
18 tion 3154.

19 The commission may, in its discretion, require
20 the filing of information relating to the changes to
21 be filed in a general increase in rates at the same
22 time as the schedules are filed. The commission may
23 require utilities, whose gross revenues exceed
24 \$5,000,000 annually, to notify the commission, not
25 more than 2 months in advance of filing a general in-
26 crease in rates under this section, that such a fil-
27 ing is planned and to disclose the approximate amount
28 of the increase, a general statement of the major is-
29 ssues that might be presented and the approximate rate
30 of return the utility would be seeking.

31 §308. Filing of new schedules

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

37 §309. Adherence to rate schedules; change in form of
38 schedules

39 1. Adherence to schedules. Except as otherwise
40 provided in section 703, it is unlawful for any pub-
41 lic utility to charge, demand, collect or receive for

1 any service performed by it within the State or for
2 any service in connection with that performance, a
3 greater or lesser compensation than is specified in
4 such printed schedules as may at the time be in
5 force, or to demand, collect or receive any rate,
6 toll or charge not specified in the schedules. The
7 rates, tolls and charges named in the schedule are
8 the lawful rates, tolls and charges until they are
9 changed as provided in this Title.

10 2. Exception. Notwithstanding subsection 1,
11 when a public utility changes its rates, tolls or
12 charges pursuant to any provision of this Title, the
13 commission may for billing purposes, order that the
14 change be applied to some or all service reflected in
15 meter readings on or after the effective date of the
16 change, or to such other period as it determines just
17 and reasonable.

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

22 §310. Investigation of proposed changes in rates of
23 public utilities; suspension pending investi-
24 gation

25 1. Investigation of proposed rate changes. When
26 the commission receives notice of any change proposed
27 to be made in a schedule of rates filed with the com-
28 mission under the provisions of law, it may at any
29 time before the effective date of the change, either
30 upon complaint or upon its own motion and after rea-
31 sonable notice, hold a public hearing and make inves-
32 tigation as to the propriety of the proposed change.
33 At any such hearing involving any change, the burden
34 of proof to show that the change is reasonable is
35 upon the public utility. After a hearing and inves-
36 tigation, the commission may make an order with ref-
37 erence to any new rate, joint rate, rental, toll,
38 classification, charge, term, condition or form of
39 contract or agreement proposed as would be proper in
40 a proceeding initiated upon complaint or upon motion
41 of the commission in any rate investigation. In im-
42 plementing the order, the commission shall assure
43 rate design stability.

1 2. Suspension pending investigation. Pending an
2 investigation and order, the commission may at any
3 time within the period preceding the effective date
4 of the schedule, by filing with a schedule and deliv-
5 ering to the public utility affected a statement of
6 its reasons for the suspension, suspend the operation
7 of the schedule or any part of it, but not for a
8 longer period than 3 months from the effective date
9 of the order of suspension. If the investigation can
10 not be concluded within a period of 3 months, the
11 commission may in its discretion extend the time of
12 suspension for 5 additional months.

13 3. Municipal corporations and power districts.
14 This section shall not apply to:

15 A. Municipal or quasi-municipal corporations
16 which are water utilities within the definition
17 of section 102, subsection 21, any provisions in
18 any charter notwithstanding, and which elect to
19 proceed pursuant to the terms of section 6103,
20 unless by the express terms of section 6103, the
21 provisions of this section are made applicable to
22 those corporations; or

23 B. Municipal power districts organized in ac-
24 cordance with chapter 39, unless by the express
25 terms of chapter 39 the provisions of this sec-
26 tion are made applicable to those districts.

27 §311. Comprehensive classification of service

28 The commission shall provide for a comprehensive
29 classification of service for each public utility.
30 The classification may take into account the quantity
31 used, the time when used, the purpose for which used
32 and any other reasonable consideration. Each public
33 utility shall conform its schedules of rates, tolls
34 and charges to the classification.

35 §312. Temporary rates during rate proceeding

36 During any proceeding initiated by a public util-
37 ity by a filing pursuant to section 307 or 1302, the
38 commission may temporarily approve any undisputed
39 amounts of a requested rate increase or rate de-
40 crease. If the parties are unable to agree on an un-

1 disputed amount, any party, at any time after the
2 cross-examination of the utility's direct case has
3 been conducted and all parties have filed their di-
4 rect cases, may request the commission to require the
5 parties to provide a written statement of those is-
6 ssues that are being contested and an estimated dollar
7 value of the extent of the disagreement between the
8 utility and the other party on that issue. The com-
9 mission, after examining the statements of issues
10 presented, may determine an amount which is undis-
11 puted. The commission may include in the undisputed
12 amount, the amount put in question by any party other
13 than the utility, if the commission determines that
14 that party has no possibility of ultimately prevail-
15 ing on that issue. The amounts temporarily approved
16 shall be filed by the utility as a temporary schedule
17 which shall be effective from the date of approval of
18 the temporary schedule until the issuance of the fi-
19 nal order in section 307 proceeding.

20 The utility shall notify each customer of the
21 rate increase allowed under this section. The notice
22 shall be mailed with the first bill mailed to each
23 customer after the date of approval and shall state
24 the following:

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

27 2. Statement. The fact that that rate increase
28 allowed under this section was undisputed or that al-
29 though disputed it was approved by the commission,
30 subject to partial or full refund if the commission
31 in its final order approves an amount less than the
32 increase allowed by the temporary rate schedule;

33 3. Amount of remaining disputed portion. The
34 amount of the remaining disputed portion of the re-
35 quested rate increase; and

36 4. Disputed portion will be decided. If availa-
37 ble, an estimate of the date when the disputed por-
38 tion will be decided.

39 CHAPTER 5

40 ACCOUNTING

1 §501. Uniform system of accounts

2 Every public utility shall keep and render to the
3 commission in the manner and form prescribed by the
4 commission, uniform accounts of all business trans-
5 acted.

6 1. Other systems prohibited. No public utility
7 may keep any other books, accounts, papers or records
8 of its business transacted than those prescribed or
9 approved by the commission. Nothing contained in
10 this Title shall require any public utility engaged
11 in interstate commerce to do, or not to do, anything
12 contrary to the requirements of any federal law re-
13 lating to public utilities engaged in interstate com-
14 merce.

15 2. Formulation of systems. In formulating a
16 system of accounting for any class of public utili-
17 ties, the commission shall consider any system of ac-
18 counting established by any federal law, commission
19 or department and any system authorized by the na-
20 tional association of the particular class of utili-
21 ties.

22 §502. Forms and blanks

23 1. Forms of books and records. The commission
24 shall prescribe the forms of all books, accounts, pa-
25 pers and records required to be kept. Every public
26 utility shall keep and render its books, accounts,
27 papers and records accurately and faithfully in the
28 manner and form prescribed by the commission and
29 shall comply with all directions of the commission
30 relating to its books, accounts, papers and records.

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

34 3. Blanks furnished. The commission shall pre-
35 pare suitable blanks for carrying out the purposes of
36 this Title and shall, when necessary, furnish the
37 blanks to each public utility.

38 §503. Account of subsidiary business

1 Every public utility engaged directly or indi-
2 rectly in any other subsidiary business shall, if or-
3 dered by the commission, keep and render separately
4 to the commission the accounts of the subsidiary
5 business in the manner and form set out in section
6 501, in which case all the provisions of this Title
7 shall apply to the books, accounts, papers and
8 records of the subsidiary business.

9 §504. Time for closing accounts; filing balance
10 sheets

11 The following provisions apply to the accounts of
12 public utilities.

13 1. Time for closing accounts. The accounts of
14 all public utilities shall be closed annually on the
15 31st day of December unless the commission fixes a
16 different date.

17 2. Filing of information. A balance sheet as of
18 the date the account is closed shall be promptly
19 taken from the account. Within 3 months after the
20 account is closed the balance sheet together with
21 other information as the commission may prescribe,
22 shall be verified by an officer or owner of the pub-
23 lic utility and filed with the commission.

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

29 §505. Audit of accounts

30 The commission shall provide for the examination
31 and audit of all accounts and all items shall be al-
32 located to the accounts in the manner prescribed by
33 the commission.

34 §506. Inspection of books and records

35 The agents, accountants or examiners employed by
36 the commission shall have authority inside or outside
37 the State under the direction of the commission to
38 inspect and examine the books, accounts, papers,
39 records and memoranda kept by any public utility.

1 higher rates or charges for energy or service sold to
2 the customer.

3 3. Service and facilities. Every public utility
4 providing electric or gas service, upon reasonable
5 notice, shall furnish to all persons who may apply
6 for facilities and service, suitable facilities and
7 service consistent with policies approved or estab-
8 lished by the commission, without undue delay and
9 without unreasonable discrimination.

10 §703. Rebates

11 1. Free or special rates prohibited. No person
12 may knowingly solicit, accept or receive any rebate,
13 discount or discrimination in respect to any service
14 rendered, or to be rendered by a public utility, or
15 for any related service where the service is rendered
16 free or at a rate less than named in the schedules in
17 force, or where a service or advantage is received
18 other than is specified.

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

21 A. A public utility from granting service at
22 free or reduced rates for charitable or benevo-
23 lent purposes or for national or civilian defense
24 purposes;

25 B. A public utility from supplying water and
26 service free or at reduced or special rates to
27 any person, firm or corporation for fire protec-
28 tion purposes through or by means of any appara-
29 tus or appliances furnished, installed or main-
30 tained by the person, firm or corporation, pro-
31 vided it is approved by the commission; or

32 C. A public utility from making special rates
33 for its employees or in case of emergency ser-
34 vice.

35 3. Contracts. The furnishing by a public utili-
36 ty of a product or service at the rates and upon
37 terms and conditions provided for in a contract in
38 existence January 1, 1913, may not be construed as
39 constituting a discrimination or undue or unreason-

1 able preference or advantage within the meaning spec-
2 ified. When any such contract or contracts are or
3 become terminable by notice of a utility, the commis-
4 sion may order that the contract or contracts be ter-
5 minated by the utility as and when directed by the
6 order. It shall be lawful for a public utility to
7 make a contract for a definite term subject to the
8 commission's approval for its product or service, but
9 the published rates shall not be changed during the
10 term of the contract without the commission's con-
11 sent.

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

16 §704. Termination of utility services

17 The following provisions apply to termination of
18 a customer's utility service.

19 1. Residential customers. The commission shall
20 adopt and promulgate reasonable rules after a hearing
21 concerning the termination or disconnection of any
22 residential customer's service by an electric, gas,
23 water or telephone utility of the State. These rules
24 shall apply generally to all such utilities within
25 the commission's jurisdiction and shall provide for
26 adequate written notice by that utility to the resi-
27 dential customer that his utility bill has not been
28 paid, and a notice of his prospective termination or
29 disconnection and his right, prior to disconnection,
30 to enter into reasonable installment payment arrange-
31 ments with that utility; to settle any dispute con-
32 cerning the proposed disconnection at an informal
33 hearing with that utility and to appeal the results
34 of that utility's decision to the commission. The
35 rules shall also provide that there may be no termi-
36 nation or disconnection during a limited medical
37 emergency and for a just and reasonable procedure re-
38 garding reconnections of utility service and deposit
39 requirements.

40 2. Nonresidential customers. No later than De-
41 cember 31, 1983, every public utility shall file with
42 the commission schedules containing its terms and

1 conditions applicable to termination of utility ser-
2 VICES to any nonresidential customer, which terms and
3 conditions shall be subject to the commission's power
4 under this Title. Every public utility shall comply
5 with its terms and conditions. The commission shall
6 adopt rules which provide a procedure for resolution
7 by the commission or its delegate of disputes as to
8 whether a proposed termination by a public utility is
9 in compliance with its terms and conditions. A pub-
10 lic utility may not terminate service to a nonresi-
11 dential customer if the commission or its delegate
12 rules within 7 days of receipt of the request for
13 ruling that the proposed termination is not in com-
14 pliance with the utility's terms and conditions. If
15 the rules authorize a delegate to resolve disputes,
16 the rule shall include a procedure for appeal of the
17 decision to the commission.

18 3. Violation of rules. If the commission finds
19 that a public utility has willfully or recklessly vi-
20 olated any substantive rule promulgated by the com-
21 mission pursuant to the authority granted in this
22 section, the commission may bring a complaint against
23 the public utility before the Administrative Court as
24 provided in Title 5, section 10051, subsection 4, ex-
25 cept that the jurisdiction in the Administrative
26 Court shall not include the issuance, renewal, denial
27 or revocation of a license of a public utility. The
28 Administrative Court may impose fines in accordance
29 with Title 4, section 1156.

30 4. Property loss suffered by a customer. Upon a
31 finding by the Administrative Court of a property
32 loss suffered by a customer causally related to a vi-
33 olation by a public utility set out in subsection 3,
34 the court may order the public utility to compensate
35 the customer for the actual loss, less any set off
36 for a balance found to be due the utility by the cus-
37 tomer for unpaid utility service. That loss may not
38 include consequential damages. No action for damages
39 resulting from a termination which was in willful or
40 reckless violation of the commissions rules may be
41 commenced until at least 60 days after notice of a
42 claim setting forth the nature of the termination and
43 the damages suffered has been provided to the utili-
44 ty. That notice shall be provided to the utility in
45 writing within 30 days of the alleged termination.

1 §705. Utility deposits

2 The following provisions apply to deposits of
3 utility customers:

4 1. Residential customers. No public utility may
5 require any deposit of any residential customer with-
6 out proof that the customer is likely to be a credit
7 risk or to damage the property of the utility. That
8 proof shall be furnished to the customer upon re-
9 quest. Absence of previous experience with the util-
10 ity shall not be proof that the customer is a credit
11 risk or threatens to damage utility property.

12 2. Nonresidential customers. No later than De-
13 cember 31, 1983, every public utility shall file with
14 the commission schedules containing its terms and
15 conditions for requiring a deposit from nonresiden-
16 tial customers, which terms and conditions shall be
17 subject to the commission's power under this Title.
18 Every public utility shall comply with its terms and
19 conditions. The commission shall adopt rules which
20 provide a procedure for resolution by the commission
21 or its delegate of disputes as to whether a deposit
22 being required by a public utility is in compliance
23 with its terms and conditions. If the rules autho-
24 rize a delegate to resolve disputes, the rules shall
25 include a procedure for appeal of the decision to the
26 commission.

27 3. Interest rate on deposits. The commission
28 shall adopt reasonable rules; after hearing, to pro-
29 vide for a just and reasonable interest rate to be
30 paid by the utility on any deposit of any customer.

31 §706. Tenants not liable for a landlord's utility
32 bills

33 1. Definitions. As used in this section, unless
34 the context otherwise indicates, the following terms
35 have the following meanings.

36 A. "Landlord" means any entity who rents or
37 leases land or structures to others for compensa-
38 tion or any entity who manages or controls the
39 property on behalf of another.

1 B. "Rental property" means property used or oc-
2 cupied by any tenant for which rent is paid to a
3 landlord.

4 C. "Tenant" means any entity who pays rent to
5 any landlord for the use or occupation of any
6 land or structure owned by another or who occu-
7 pies or uses the property, regardless of whether
8 the tenancy is subject to a written lease.

9 2. Disconnection of tenant. In every instance
10 where the landlord has applied for and is granted
11 utility service, the landlord is responsible for pay-
12 ment for that service with respect to any rental
13 property. The utility may not demand payment from
14 the tenant for utility service to the tenant because
15 of the landlord's failure to pay for utility service
16 rendered at the rental property. The utility may
17 disconnect the tenant only after affording the tenant
18 notice and opportunity to assume responsibility for
19 future service in accordance with the rules of the
20 commission.

21 3. Lien against the rental property. In addi-
22 tion to whatever other legal remedies the utility may
23 have against the landlord who does not pay for utili-
24 ty service provided to rental property, the utility
25 shall have a lien upon the rental property and on any
26 interest the landlord has in the same, to secure pay-
27 ment for utility services to that property with
28 costs.

29 4. Dissolution of the lien, lien certificate.
30 This lien shall be dissolved unless within 90 days
31 after the date on which the unpaid bill was served,
32 the utility files in the registry of deeds for the
33 county in which the property is located a lien cer-
34 tificate, setting forth the amount of the lien, the
35 name of the landlord, a statement that a lien is
36 claimed on the rental property to secure the payment
37 of utility services, that a demand has been made for
38 that payment and that payment has not been made. At
39 the time of the recording of the lien certificate in
40 the registry of deeds, the utility shall send a copy
41 of the certificate to the landlord by certified mail,
42 return receipt requested. This lien shall be dis-
43 solved unless, within 120 days after the unpaid bill

1 was served, civil action to enforce the lien is
2 brought in the District Court for the division where
3 the rental property is located.

4 5. Enforcement of the lien. The proceedings in
5 the District Court for enforcement of this lien shall
6 be governed by Title 10, sections 3256 to 3260, and
7 3263 and 3264.

8 6. Subsequent purchaser takes title free of
9 lien. Any person who is a bona fide purchaser for
10 value of rental property shall take title to that
11 property free of the lien established under subsec-
12 tion 3 unless, before the purchaser's deed is re-
13 corded, the utility has filed the certificate set out
14 in subsection 4. The interest of any mortgagee of
15 rental property shall be affected by the lien estab-
16 lished unless, before the mortgage is recorded, the
17 utility has filed the certificate set out in subsec-
18 tion 4.

19 §707. Affiliated interests

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

23 A. "Affiliated interest" means:

24 (1) Any person who owns directly, indirect-
25 ly or through a chain of successive owner-
26 ship, 10% or more of the voting securities
27 of a public utility;

28 (2) Any person, 10% or more of whose voting
29 securities are owned, directly or indirect-
30 ly, by an affiliated interest and defined in
31 subparagraph (1);

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

35 (4) Any person, or group of persons acting
36 in concert, which the commission may deter-
37 mine, after investigation and hearing, exer-
38 cises substantial influence over the poli-

1 cies and actions of a public utility, pro-
2 vided that the person or group of persons
3 beneficially owns more than 3% of the public
4 utility's voting securities; or

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

8 B. "Transaction" means any dealings between a
9 public utility and its affiliated interests as
10 defined in paragraph A which affects, directly or
11 indirectly, any accounting entry of the public
12 utility, as prescribed pursuant to section 501.

13 C. "Voting security" means any security present-
14 ly entitling the owner or holder of any security
15 to vote in the direction or management of the af-
16 airs of a company or any proprietary or other
17 interest serving the same person.

18 2. Access to accounts and records. The commis-
19 sion may require the production of books, accounts,
20 records, papers and memoranda of any affiliated in-
21 terest which relates, directly or indirectly, to its
22 transactions with a public utility. The commission
23 may, in determining the reasonableness of utility
24 rates, disallow all or a portion of the payments un-
25 der the transaction, the account or record of which
26 is not made available to the commission.

27 3. Consent by commission. No public utility may
28 extend or receive credit or make or receive a loan to
29 or from an affiliated interest or make any contract
30 or arrangement for the furnishing of management, su-
31 pervision of construction, engineering, accounting,
32 legal, financial or similar services, or for the fur-
33 nishing of any service other than those enumerated
34 with any affiliated interest until the commission
35 finds that the contract or arrangement is not adverse
36 to the public interest and gives the contract or ar-
37 rangement its written approval.

38 A. Unless the commission disapproves it within
39 60 days of filing, a contract or arrangement
40 filed with the commission under this section is
41 deemed approved. The commission may, however,

1 suspend the effective date of the contract or ar-
2 rangement for an additional 60 days if necessary
3 to enable the commission to complete its review
4 of the contract or arrangement.

5 B. The commission may approve a contract or ar-
6 rangement with an affiliate undertaken after Oc-
7 tober 24, 1977, subject to such terms, conditions
8 and requirements as it determines necessary to
9 safeguard the public interest. If the contracts
10 or arrangements are not consented to or approved
11 by the commission as provided in this section,
12 the commission may disallow, for rate-making pur-
13 poses, payments or part of any such payments as
14 the commission finds not to be in the public in-
15 terest, and the commission may, after notice to
16 the affected parties and opportunity for hearing,
17 declare that contract or arrangement
18 prospectively void. Unless otherwise invalid,
19 that contract or arrangement shall remain in ef-
20 fect until declared prospectively void by an ef-
21 fective final order of the commission issued un-
22 der this section no later than 90 days from the
23 date of service of the notice.

24 C. The commission may, in the case of a utility
25 or group of utilities, exempt from this section
26 from time to time, classes of transactions as it
27 may specify by rule or order in advance and which
28 in its judgment will not be adverse to the public
29 interest.

30 D. Commission approval of a contract or arrange-
31 ment under this section may not limit or restrict
32 the powers of the commission in determining and
33 fixing any rate, fare, toll, charge, classifica-
34 tion, schedule or joint rate as provided in this
35 Title.

36 4. Waiver. The commission may, by general
37 rules, waive the filing and necessity for approval of
38 contracts and arrangements described in subsection 3
39 in cases of:

40 A. Contracts or arrangements made in the ordi-
41 nary course of business for the employment of of-
42 ficers or employees;

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

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

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

9 E. Contracts made by a public utility with any
10 person whose bid is the most favorable to the
11 public utility; however, if the commission finds
12 that any public utility is abusing or has abused
13 the waiver granted in this section in order to
14 evade compliance with this section, the commis-
15 sion may require that public utility to file and
16 receive the commission's approval of all such
17 contracts as provided for in this section, but
18 the general waiver shall remain in effect as to
19 all other public utilities.

20 5. Violations. Any public utility or an affili-
21 ated interest of a public utility which willfully re-
22 fused access to books, accounts, records, papers and
23 memoranda or fails to obtain consent as required by
24 this section after notice by the commission of viola-
25 tion, commits a civil violation for which a forfei-
26 ture not to exceed \$1,000 may be adjudged for each
27 offense. Each day of violation constitutes a sepa-
28 rate offense.

29 §708. Reorganizations

30 1. Definitions. As used in this section, unless
31 the context otherwise indicates, the following terms
32 have the following meanings.

33 A. "Reorganizations" means any creation, organi-
34 zation, extension, consolidation, merger, trans-
35 fer of ownership or control, liquidation, disso-
36 lution or termination, direct or indirect, in
37 whole or in part, of an affiliated interest as
38 defined in section 707 accomplished by the issue,
39 sale, acquisition, lease, exchange, distribution
40 or transfer of voting securities or property.

1 The commission may decide what other public util-
2 ity actions constitute a reorganization to which
3 the provisions of this section apply. Reorgani-
4 zations include any reorganizations for which a
5 proceeding for approval is pending before any
6 state of federal agency or court on or after July
7 13, 1982. For purposes of this subsection, a re-
8 organization does not include any proceedings un-
9 der the federal antitrust laws or the transfer of
10 voting securities by gift, device or inheritance.

11 B. "Voting security" means any security present-
12 ly entitling the owner or holder of any security
13 to vote in the direction or management of the af-
14 airs of a company or any proprietary or other
15 interest serving the same purposes.

16 2. Reorganization subject to commission approv-
17 al. Reorganization shall be subject to commission
18 approval as follows.

19 A. Unless exempted by rule or order of the com-
20 mission, no reorganization may take place without
21 the approval of the commission. No reorganiza-
22 tion may be approved by the commission unless it
23 is established by the applicant for approval that
24 the reorganization is consistent with the inter-
25 ests of the utility's ratepayers and investors.
26 The commission shall rule upon all requests for
27 approval of a reorganization within 60 days of
28 the filing of the request for approval. If it
29 determines that the necessary investigation can-
30 not be concluded within 60 days, the commission
31 may extend the period for a further period of no
32 more than 120 days. In granting its approval,
33 the commission shall impose such terms, condi-
34 tions or requirements as, in its judgment, are
35 necessary to protect the interests of ratepayers.
36 These conditions shall include provisions which
37 assure the following:

38 (1) That the commission has reasonable ac-
39 cess to books, records, documents and other
40 information relating to the utility or any
41 of its affiliates, except that the Public
42 Utilities Commission may not have access to
43 trade secrets unless it is essential to the

1 protection of the interests of ratepayers or
2 investors. The commission shall afford trade
3 secrets and other information such protec-
4 tion from public disclosure as is provided
5 in the Maine Rules of Civil Procedure;

6 (2) That the commission has all reasonable
7 powers to detect, identify, review and ap-
8 prove or disapprove all transactions between
9 affiliated interests;

10 (3) That the utility's ability to attract
11 capital on reasonable terms, including the
12 maintenance of a reasonable capital struc-
13 ture, is not impaired;

14 (4) That the ability of the utility to pro-
15 vide safe, reasonable and adequate service
16 is not impaired;

17 (5) That the utility continues to be sub-
18 ject to applicable laws, principles and
19 rules governing the regulation of public
20 utilities;

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

23 (7) That reasonable limitations be imposed
24 upon the total level of investment in
25 nonutility business, except that the commis-
26 sion may not approve or disapprove of the
27 nature of the nonutility business;

28 (8) That the commission has reasonable re-
29 medial power including, but not limited to,
30 the power, after notice to the utility and
31 all affiliated entities of the issues to be
32 determined and the opportunity for an adju-
33 dicatory proceeding, to order the
34 divestiture of the utility in the event that
35 divestiture is necessary to protect the in-
36 terest of the utility, ratepayers or inves-
37 tors. A divestiture order shall provide a
38 reasonable period within which the
39 divestiture shall be completed; and

1 (9) That neither ratepayers nor investors
2 are adversely affected by any reorganiza-
3 tion.

4 B. The commission may intervene on behalf of the
5 State in any proceeding before any state or fed-
6 eral agency or court before which an application
7 for approval of reorganization is pending. The
8 commission may enter into any binding settlement
9 related to any proceeding in which the commission
10 has intervened and may exercise any powers or
11 rights provided by that settlement and may en-
12 force those powers or rights.

13 3. Waiver. The commission may, by general
14 rules, exempt classes of reorganizations from the re-
15 quirements of subsection 2.

16 4. Filing fee. Within 30 days after the appli-
17 cation for approval of a reorganization is filed pur-
18 suant to subsection 2, the commission may order the
19 applicant to pay a filing fee not to exceed \$50,000,
20 if the commission determines that the application may
21 involve issues which will necessitate significant ad-
22 ditional costs to the commission. The applicant may
23 request the commission to waive all or a portion of
24 the filing fee. The commission shall rule on the re-
25 quest for waiver within 30 days. Notwithstanding any
26 other provision of law, filing fees paid as required
27 in this subsection shall be segregated, apportioned
28 and expended by the commission for the purposes of
29 processing the application. Any portion of the fil-
30 ing fee that is received from an applicant and is not
31 expended by the commission to process the application
32 shall be returned to the applicant.

33 §709. Insider transactions

34 1. Definitions. As used in this section, unless
35 the context otherwise indicates, the following terms
36 have the following meanings.

37 A. "Insider" means any officer or employee who
38 participates or has authority to participate in
39 major policy-making functions of a public utility
40 or of an affiliated interest, as defined in sec-
41 tion 707, or any director or trustee of a public
42 utility or of an affiliated interest.

1 B. "Insider transaction" means any dealings
2 which affect, directly or indirectly, any ac-
3 counting entry as prescribed pursuant to section
4 501 between a public utility and:

5 (1) An insider of the public utility;

6 (2) A person related to an insider of the
7 public utility;

8 (3) Any other person where the transaction
9 is made in contemplation of the person be-
10 coming an insider of the public utility; or

11 (4) Any other person where the transaction
12 inures to the tangible economic benefit of
13 an insider or a person related to an insid-
14 er.

15 C. "Person" means a corporation, partnership,
16 limited partnership, business association, trust,
17 estate or natural person.

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

19 (1) An insider's spouse;

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

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

24 2. Approval and disclosure of insider transac-
25 tions. An insider transaction shall be specifically
26 reviewed and approved by the public utility's board
27 of directors or trustees, provided that when an in-
28 sider transaction is part of a series of related
29 transactions involving the same insider, approval of
30 each separate transaction is not required so long as
31 the public utility's board of directors or trustees
32 has reviewed and approved of each series of related
33 transactions and the terms and conditions under which
34 the transactions may take place. The minutes of the
35 meeting at which approval is given shall indicate the
36 nature of the transaction or transactions, that the
37 review was undertaken and approval given and the

1 names of individual directors or trustees who voted
2 to approve or disapprove the transaction or transac-
3 tions. In the case of negative votes, a brief state-
4 ment of each dissenting director's or trustee's rea-
5 son for voting to disapprove the proposed insider
6 transaction or transactions shall be included in the
7 minutes if its inclusion is requested by the dissent-
8 ing director or trustee.

9 3. Information pertaining to insider transac-
10 tions. Each public utility shall submit to the com-
11 mission with its annual report a record of insider
12 transactions requiring review and approval under sub-
13 section 2. Each public utility shall make readily
14 available to the commission, upon request, all docu-
15 ments and other materials relied upon by the board in
16 approving each insider transaction, including the
17 name of the insider, the insider's positions or rela-
18 tionship that causes the person to be considered an
19 insider, the date on which the transaction was ap-
20 proved by the board, the type of insider transaction
21 and the relevant terms of the transaction, any other
22 pertinent facts which serve to explain or support the
23 basis for the board's decision and any statements
24 submitted for the minutes or the file by directors or
25 trustees who voted not to approve the transaction
26 setting forth their reasons for the vote.

27 4. Discovery of insider relationship. When a
28 public utility becomes aware of the existence of an
29 insider relationship after entering into a transac-
30 tion for which approval would have been required un-
31 der subsection 2, the public utility shall promptly
32 report that transaction in writing to the commission.

33 5. Knowledge of proposed insider transaction.
34 Any insider, having knowledge of an insider transac-
35 tion between the public utility and that insider, a
36 person related to that insider or any other person
37 where the transaction inures to the tangible economic
38 benefit of that insider or person related to that in-
39 sider, shall give timely notice of the transaction to
40 the public utility's board of directors or trustees.

41 6. Civil violation; forfeiture. A public utili-
42 ty or insider which willfully violates this section,
43 commits a civil violation for which a forfeiture not

1 to exceed \$1,000 shall be adjudged for each offense.
2 Each day of violation constitutes a separate offense.

3 §710. Accidents investigated; reports

4 If an accident occurs upon the premises of a public
5 utility or directly or indirectly arises from or
6 is connected with its maintenance or operation, the
7 following provisions apply.

8 1. Accidents resulting in loss of life. If the
9 accident results in the loss of human life, the public
10 utility shall file a report of the accident in
11 accordance with subsection 4 and the commission shall
12 cause an investigation of the accident to be made im-
13 mediately.

14 2. Accidents resulting in personal injury or
15 property damage. If the accident results in personal
16 injury or damage to property, the public utility
17 shall file a report of the accident in accordance
18 with subsection 4 and the commission may investigate
19 if in its judgment the public interest requires it.

20 3. Investigations. Investigations shall be made
21 in compliance with the following provisions:

22 A. An investigation shall be held in the local-
23 ity of the accident unless, for the greater conve-
24 nience of those concerned, the commission orders
25 it to be held at some other place. An investiga-
26 tion may adjourn from place to place as may be
27 necessary and convenient.

28 B. The commission shall seasonably notify the
29 public utility of the time and place of investi-
30 gations.

31 C. The public utility shall have an opportunity
32 to be heard during the investigation.

33 D. The commission may make such order or recom-
34 mendation based on its investigation as in its
35 judgment seems just and reasonable.

36 4. Filing accident reports. Every public utili-
37 ty shall file reports of accidents described in sub-

1 sections 1 and 2 with the commission. Accident re-
2 ports shall be filed in compliance with the commis-
3 sion's rules and in the manner and form designated by
4 the commission. Accidents resulting in loss of human
5 life shall be reported immediately by telephone or
6 telegraph followed by a detailed written report.

7 5. Reports not admitted as evidence in an ac-
8 tion. No order or recommendation of the commission
9 or accident report filed with the commission may be
10 admitted as evidence in any action for damages based
11 on or arising out of the loss of life or injury to
12 person or property referred to in this section.

13 §711. Joint use of equipment

14 1. Joint use permitted. The commission may or-
15 der that joint use be permitted and prescribe reason-
16 able compensation and reasonable terms and conditions
17 for the joint use when, after a hearing had upon its
18 own motion or upon complaint of a public utility or
19 cable television system affected, it finds the fol-
20 lowing:

21 A. That public convenience and necessity require
22 the use by one public utility or cable television
23 system of the conduits, subways, wires, poles,
24 pipes or other equipment, or any part of them,
25 on, over or under any street or highway and be-
26 longing to another public utility or cable tele-
27 vision system;

28 B. That joint use will not result in irreparable
29 injury to the owner or other users of the con-
30 duits, subways, wires, poles, pipes or other
31 equipment or in any substantial detriment to the
32 service; and

33 C. That the public utilities or cable television
34 system have failed to agree upon the use or the
35 terms and conditions or compensation for the use.

36 2. Liability of user. If joint use is ordered,
37 the public utility or cable television system to whom
38 the use is permitted shall be liable to the owner or
39 other users of the conduits, subways, wires, poles,
40 pipes or or other equipment for damage that may re-

1 sult from its use to the property of the owner or
2 other users.

3 3. Interests of cable television subscribers.
4 Any actions taken or orders issued by the commission
5 under this section shall take into account the inter-
6 ests of the subscribers of the affected cable televi-
7 sion system, as well as the customers of the affected
8 public utilities.

9 §712. Competitive bids

10 Any contract in excess of \$2,000 between a public
11 utility and a contractor for the construction of fa-
12 cilities located on private property for the exclu-
13 sive use of a private individual and for which the
14 private individual is required to pay the total cost
15 directly to the utility, shall be awarded by a system
16 of competitive bidding. Unless there are valid rea-
17 sons to the contrary, contracts shall be awarded to
18 the lowest responsible bidder.

19 CHAPTER 9

20 APPROVAL OF STOCKS, BONDS AND NOTES BY
21 PUBLIC UTILITIES COMMISSION

22 §901. Issuance of stocks, bonds and notes

23 Subject to the requirements of this chapter any
24 public utility, organized and existing or incorpo-
25 rated under the laws of this State and doing business
26 in the State, may issue stocks, bonds which may be
27 secured by mortgages on its property, franchises or
28 otherwise, notes or other evidences of indebtedness
29 payable at periods of more than 12 months after the
30 date of issuance, when necessary for:

31 1. Acquisition of property. The acquisition of
32 property to be used for the purpose of carrying out
33 its corporate powers;

34 2. Construction; facilities. The construction,
35 completion, extension or improvement of its facili-
36 ties;

37 3. Improvement; service. The improvement or
38 maintenance of its service;

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

3 5. Reimbursement. Reimbursement of its treasury
4 for money used for the acquisition of property, the
5 construction, completion, extension or improvement of
6 its facilities; for the discharge or lawful refunding
7 of its obligations; and which actually were expended
8 from income or from other money in the treasury of
9 the corporation not secured by or obtained from the
10 issue of stocks, bonds, notes or other evidences of
11 indebtedness of the corporation; or

12 6. Other purposes. Any other lawful purposes.

13 §902. Commission authorization required

14 1. Order authorizing issuance. No public utili-
15 ty may make an issuance as described in section 901,
16 except as provided in section 906, unless it has made
17 a written application, setting forth information the
18 commission may require and has secured from the com-
19 mission an order authorizing the issue and the amount
20 of the issue and stating that in the opinion of the
21 commission the sum of the capital to be secured by
22 the issuance of the stocks, bonds, notes or other ev-
23 idences of indebtedness is required in good faith for
24 purposes enumerated in section 901.

25 2. Matters which may be considered. In determin-
26 ing whether to grant its authorization, the commis-
27 sion may consider the reasonableness of the purpose
28 or purposes for which the proceeds of the issue will
29 be applied, other resources which the utility has
30 available or may have available for those purposes,
31 the justness and reasonableness of the estimated cost
32 to the utility of the issue and the effect of the is-
33 ssue upon the utility's capital structure. The com-
34 mission's decision shall be in writing and shall con-
35 tain findings setting forth the reasons for the deci-
36 sion.

37 3. Procedure upon application. For the purpose
38 of enabling the commission to determine whether it
39 shall issue such an order, the commission shall make
40 such inquiries for investigation, hold such hearings
41 and examine such witnesses, books, papers, documents

1 or contracts as it determines important in enabling
2 it to reach a determination. The commission may de-
3 termine whether and in what manner notice of the ap-
4 plication shall be given and whether a hearing should
5 be held. In view of the public interest in the prompt
6 resolution of questions affecting the issuance of se-
7 curities by public utilities, in cases in which a
8 hearing is held or the application is contested, the
9 commission shall issue its final order within 60 days
10 of the filing of the application or 30 days of the
11 close of hearing on the application, whichever first
12 occurs, unless the commission makes an affirmative
13 determination that additional time is necessary for a
14 proper resolution of issues concerning the applica-
15 tion and, notwithstanding any other provisions of
16 law, shall establish such accelerated notice periods,
17 schedules and limitations on hearings as may be nec-
18 essary in furtherance of the resolution of those is-
19 ssues.

20 4. Approval of issuance not to affect rate-
21 making powers. No order of the commission authoriz-
22 ing the issue of stocks, bonds, notes or other evi-
23 dences of indebtedness may limit or restrict the pow-
24 ers of the commission in determining and fixing any
25 rate, fare, toll, charge, classification, schedule or
26 joint rate as provided in this Title.

27 §903. Stocks sold at less than par value

28 Every order authorizing the issue of stock shall,
29 if authorized to be sold at less than its par value,
30 specify a minimum price at which the shares are to be
31 sold. Any and all shares of stock, issued in accord-
32 ance with such an order, shall be fully paid stock
33 and not liable to any further call or payment, not-
34 withstanding it may have been authorized for sale at
35 less than its par value.

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

37 The commission may at the request of any public
38 utility approve the issue of any stocks, bonds, notes
39 or other evidences of indebtedness authorized, but
40 not issued.

41 §905. Validity of securities issued pursuant to or-
42 der of commission

1 Any stocks, bonds, notes or other evidences of
2 indebtedness issued or sold pursuant to or in reli-
3 ance on and in accordance with any order, authoriza-
4 tion or decision of the commission pursuant to this
5 section, and at least 5 business days after the date
6 of the order, authorization or decision, shall be
7 valid, binding and enforceable in accordance with
8 their terms, including the terms of any agreement,
9 instrument or document under or pursuant to which the
10 stocks, bonds, notes or other evidences of indebted-
11 ness are issued, notwithstanding that the order, au-
12 thorization or decision of the commission is later
13 vacated, modified or otherwise held to be wholly or
14 partly invalid, whether by the commission upon a pe-
15 tition for rehearing or reopening, or otherwise, or
16 by a court, unless operation of the order, authoriza-
17 tion or decision of the commission has been stayed or
18 suspended by the commission or a court of competent
19 jurisdiction prior to the issuance of the stocks,
20 bonds, notes or other evidences of indebtedness.

21 §906. Commission authorization not required

22 Notwithstanding sections 902 or 908, a public
23 utility is not required to apply to the commission
24 for authority to issue stocks, bonds, notes or other
25 evidences of indebtedness for the acquisition of
26 property, for the purposes of carrying out its corpo-
27 rate powers, the construction, completion, extension
28 or improvement of its facilities, or the improvement
29 or maintenance of its service, outside the State.

30 §907. Municipal or quasi-municipal corporations

31 Without in any way restricting the general lan-
32 guage of this chapter, this chapter shall be con-
33 strued to authorize any municipal or quasi-municipal
34 corporation referred to in this Title to issue, upon
35 vote of its trustees or similar governing board,
36 bonds, notes or other evidences of indebtedness for
37 the purposes specified and subject to the approval of
38 the commission. The trustees or similar governing
39 boards of any such corporations may issue notes or
40 other evidences of indebtedness payable at periods of
41 less than 12 months after the date of issuance when
42 necessary to carry out the purposes of the corpora-
43 tions. Notwithstanding the provisions of any legis-

1 lative charter, the trustees or similar governing
2 board of any such corporations may issue the notes or
3 other evidences of indebtedness payable at periods of
4 less than 12 months after the date of issuance, with-
5 out securing authorization from the commission pursu-
6 ant to this chapter.

7 §908. Additional requirements as to issuance

8 1. Commission's order recorded on utility's
9 books. No public utility may issue any stocks,
10 bonds, notes or other evidences of indebtedness, un-
11 less payable within one year from date of issuance,
12 for money, property or services, in payment for them,
13 either directly or indirectly, until the commission's
14 order is recorded on the utility's books.

15 2. Commission consent for refund of indebted-
16 ness. No indebtedness may in whole or in part, di-
17 rectly or indirectly, be refunded by any issue of
18 stocks or bonds or by any other evidence of indebted-
19 ness, running for more than 12 months, without the
20 consent of the commission.

21 §909. Stock for organization purposes

22 Any public utility corporation at the time of its
23 organization may issue for organization purposes,
24 without the consent of the commission, not more than
25 6 shares of stock at par for cash or, if non-par
26 stock, for the consideration of \$100 per share, these
27 shares when issued to be a part of the total capital
28 issue.

29 §910. Consent required for change of capital or pur-
30 poses

31 1. Change of capital. No public utility may
32 without the consent of the commission:

33 A. Decrease its capital;

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

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

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

4 A. Approved by the commission; and

5 B. A certificate of approval is filed with the
6 Secretary of State within 20 days of the date it
7 is approved.

8 §911. Approval of capital leases

9 No capital lease, entered into by a public utili-
10 ty for a term of more than 3 years, of property hav-
11 ing a fair value the greater of \$50,000 or 1% of the
12 public utility's total long-term debt is valid with-
13 out the written approval of the commission. The com-
14 mission's procedure and standards governing approval
15 shall be similar to those which apply to applications
16 under sections 901 and 902.

17 CHAPTER 11

18 AUTHORIZATION OF LEASES, CONSOLIDATIONS
19 AND MORTGAGES

20 §1101. Authorization required

21 1. Utilities to secure authorization from the
22 commission. A public utility must secure an order of
23 authorization from the commission before it may:

24 A. Sell, lease, assign, mortgage or otherwise
25 dispose of or encumber the whole or part of its
26 property that is necessary or useful in the per-
27 formance of its duties to the public or its fran-
28 chises, permits or rights under them;

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

32 2. Failure to secure commission authorization.
33 Every sale, lease, assignment, mortgage, disposition,
34 encumbrance, merger or consolidation made other than
35 in accordance with the order of the commission autho-
36 rizing it is void.

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

5 §1102. Property not necessary or useful to a
6 utility's duties

7 Nothing in section 1101 prevents the sale, lease
8 or other disposition by a public utility of property,
9 which is not necessary or useful in the performance
10 of its duties to the public. The sale of property by
11 a public utility shall be conclusively presumed to
12 have been of property which is not necessary or use-
13 ful in the performance of its duties to the public,
14 as to any purchaser of the property in good faith for
15 value.

16 §1103. Transfer of utility stock

17 The following provisions apply to the acquisition
18 of utility stock by another utility:

19 1. Commission authorization. No public utility
20 may purchase, acquire, take or hold any part of the
21 capital stock of any other public utility organized
22 or existing under the laws of this State without the
23 commission's authorization.

24 2. Transfer of stock void. Every assignment,
25 transfer, contract or agreement for assignment or
26 transfer of stock by or through a person or corpora-
27 tion or otherwise in violation of this section is
28 void. No transfer that violates this section may be
29 made on the books of a public utility.

30 §1104. Abandonment of property or service

31 1. Commission approval. No public utility as
32 defined in this Title may abandon all or part of its
33 plant, property or system necessary to or useful in
34 the performance of its duties to the public, or dis-
35 continue the service which it is providing to the
36 public by the use of such facilities, without first
37 securing the commission's approval.

1 2. Terms and conditions. In granting its ap-
2 proval, the commission may impose such terms, condi-
3 tions or requirements as in its judgment are neces-
4 sary to protect the public interest. A public utili-
5 ty abandoning all or part of its plant, property or
6 system or discontinuing service pursuant to authority
7 granted by the commission under this section is
8 deemed to have waived all objections to the terms,
9 conditions or requirements imposed by the commission
10 in that regard.

11 CHAPTER 13

12 PROCEDURE

13 §1301. Substantial compliance

14 Substantial compliance with the requirements of
15 this Title gives effect to all the commission's
16 rules, orders and acts. The commission's rules, or-
17 ders and acts may not be declared inoperative, ille-
18 gal or void for an omission of a technical and imma-
19 terial nature.

20 §1302. Complaints

21 1. Filing a complaint. When a written complaint
22 is made against a public utility by 10 persons ag-
23 grieved that the rates, tolls, charges, schedules or
24 joint rate or rates of a public utility are in any
25 respect unreasonable or unjustly discriminatory; that
26 a regulation, measurement, practice or act of a pub-
27 lic utility is in any respect unreasonable, insuffi-
28 cient or unjustly discriminatory; or that a service
29 is inadequate or cannot be obtained, the commission,
30 being satisfied that the petitioners are responsible,
31 shall, with or without notice, investigate the com-
32 plaint. The commission may not enter an order af-
33 fecting the rates, tolls, charges, schedules, regula-
34 tions, measurements, practices or acts complained of
35 without a formal public hearing.

36 2. Notice of complaint. The commission, immedi-
37 ately upon the filing of a complaint, shall notify in
38 writing the public utility complained of that a com-
39 plaint has been made and of the nature of the com-
40 plaint. The utility shall file its response to the

1 complaint within 10 days of the date the notice of
2 complaint is issued. After receipt of the response,
3 if the commission is satisfied that the utility has
4 taken adequate steps to remove the cause of the com-
5 plaint or that the complaint is without merit, the
6 complaint may be dismissed. If the complaint is not
7 dismissed, the commission shall promptly set a date
8 for a public hearing. The commission may allow for
9 all parties to attempt to resolve the complaint to
10 their mutual satisfaction. If a mutually satisfac-
11 tory resolution does not appear to be forthcoming,
12 the hearing shall be held on the complaint pursuant
13 to section 1304. In the absence of an informal dis-
14 position pursuant to Title 5, section 9053, the com-
15 mission shall render a decision upon the complaint no
16 later than 9 months after its filing.

17 3. Complaint by utility or commission. The com-
18 mission may institute or any public utility may make
19 complaint as to any matter affecting its own product,
20 service or charges.

21 §1303. Investigations

22 1. Summary investigations. The commission may
23 on its own motion, with or without notice, summarily
24 investigate when it believes that:

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

26 B. A service is inadequate or cannot be ob-
27 tained; or

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

30 2. Formal investigation. If after the summary
31 investigation, the commission is satisfied that suf-
32 ficient grounds exist to warrant a formal public
33 hearing as to the matters investigated, it shall give
34 the interested public utility written notice of the
35 matter under investigation. Seven days after the
36 commission has given notice, it may set a time and
37 place for a formal public hearing. Notice of the
38 time and place of the hearing shall be given to the
39 public utility and to such interested persons as the
40 commission determines proper as provided in section
41 1304.

1 §1304. Notice of hearings

2 1. Notice to utility. The commission shall no-
3 tify the public utility and other interested persons
4 it considers proper of the time and place of the for-
5 mal public hearing as provided in Title 5, section
6 9052.

7 2. Notice to subscribers. If, after the commis-
8 sion has notified the public utility of the hearing
9 as provided in this section or in section 310, it ap-
10 pears that the time, place and nature of the hearing
11 will not be reasonably publicized by newspaper or
12 otherwise, the following provisions apply.

13 A. The commission may upon written notice to the
14 public utility require it to:

15 (1) Give reasonable notice of the time and
16 place of the hearing to each subscriber af-
17 ected or to be affected by the subject of
18 the hearing; or

19 (2) File pertinent information as to the
20 rates or service involved, including sched-
21 ules of proposed rates, in the office of the
22 clerk of the municipality where the sub-
23 scriber resides.

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

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

26 (2) Include a statement that pertinent in-
27 formation as to rates or service is on file
28 in the office of the clerk of the municipal-
29 ity where the subscriber resides.

30 C. Nothing in this section relieves the utility
31 from the provisions of section 1310.

32 3. Subpoenas. The commission may issue subpoe-
33 nas to require the attendance and testimony of wit-
34 nesses and the production of evidence relating to any
35 fact at issue in the hearing.

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

5 5. Commission authorized to act on an expedited
6 basis. In proceedings pursuant to section 1302, 1303
7 or 1322, after reasonable notice and opportunity to
8 be heard, the commission may issue a temporary order
9 pending the conclusion of the formal public hearing.
10 In making the order, the commission shall consider
11 the likelihood that it would be issued at the conclu-
12 sion of the proceeding, the benefit to the public or
13 affected customers compared to the harm to the utili-
14 ty or other customers of issuing the order and the
15 public interest. Notwithstanding any other provi-
16 sions of law, upon a written finding that the proce-
17 dural requirements otherwise required by law will re-
18 sult in unreasonable harm to a utility, a customer or
19 the public, the commission may establish accelerated
20 notice periods, schedules and limitations on hearings
21 as may be necessary to expedite consideration of the
22 order.

23 §1305. Hearings; examiners

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

26 A. Hold hearings;

27 B. Conduct investigations;

28 C. Administer oaths;

29 D. Certify to official acts;

30 E. Issue subpoenas;

31 F. Compel the attendance of witnesses and the
32 production of books, accounts, papers, documents
33 and testimony;

34 G. Punish by fine and imprisonment for contempt;
35 and

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

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

5 A. Administer oaths;

6 B. Examine witnesses;

7 C. Issue subpoenas;

8 D. Require the production of books, accounts,
9 papers, documents and testimony; and

10 E. Receive evidence in any matter under the com-
11 mission's jurisdiction.

12 The examiners also shall perform such other duties as
13 may be assigned to them.

14 3. Evidence. Evidence so taken and received by
15 the examiners has the same effect as evidence taken
16 and received by the commission and shall authorize
17 commission action as though by it taken and received.
18 When objection is made to the admissibility of evi-
19 dence, examiners authorized to practice before the
20 Supreme Judicial Court shall rule on the admissibili-
21 ty of evidence in accordance with the practice and
22 rules of evidence in civil actions in the Superior
23 Court.

24 4. Right to appeal. Either the examiner or the
25 commissioner, who is the presiding officer at the
26 hearing, shall at the outset of the hearing inform
27 the public as to the steps necessary to preserve its
28 right to appeal the final order or decision of the
29 commission to the Supreme Judicial Court under the
30 provision of section 1319.

31 §1306. Decision

32 The following provisions apply to the commis-
33 sion's findings and decisions.

34 1. Unjust rates. If after a formal public hear-
35 ing the commission finds that the rates, tolls,
36 charges, schedules or joint rates are unjust, unrea-

1 sonable, insufficient or unjustly discriminatory or
2 otherwise in violation of this Title, it may fix and
3 order substituted just or reasonable rate or rates,
4 tolls, charges or schedules. In determining the
5 justness and reasonableness of the order, the commis-
6 sion shall assure rate design stability.

7 2. Unjust regulation, practice or service. If
8 after a public hearing the commission finds that a
9 term, condition, measurement, practice, act or ser-
10 vice complained of is unjust, unreasonable, insuffi-
11 cient, unjustly discriminatory or otherwise in viola-
12 tion of this Title or if it finds that a service is
13 inadequate or that reasonable service cannot be ob-
14 tained, the commission may by order establish or
15 change terms, conditions, measurement, practice, ser-
16 vice or acts, as it finds to be just and reasonable.
17 In determining the justness and reasonableness of the
18 order, the commission shall assure rate design sta-
19 bility.

20 3. Conformity to decision. Every public utility
21 to which the order applies shall change its schedules
22 on file to conform to the order.

23 4. Copies. Copies of the commission's order
24 shall be:

25 A. Certified by the administrative director; and

26 B. Delivered to the public utility affected by
27 it.

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

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

31 B. Within the time prescribed by the commission.

32 6. Enforcement. Upon application of the commis-
33 sion or of the Attorney General, the Superior Court
34 has full jurisdiction to enforce the commission's or-
35 der and to enforce the public utilities' performance
36 of the duties imposed on them by law, including the
37 appointment of receivers, agents and special masters
38 to carry the order of said courts and of the commis-

1 sion into effect and providing them with adequate au-
2 thority.

3 §1307. Extension of service

4 A public utility organized by Private and Special
5 Act of the Legislature may extend its service as fol-
6 lows.

7 1. Commission authorization. The commission may
8 authorize a public utility organized by private and
9 special act of Legislature to furnish or extend its
10 service in, to or through a city or town notwith-
11 standing any territorial limitations, express or im-
12 plied, in the private and special act of the Legisla-
13 ture by which it was organized or under which it is
14 enfranchised. Within 20 days after the commission's
15 final authorization, the public utility shall file a
16 certificate that shows the authorization with and pay
17 \$20 to the Secretary of State. When the certificate
18 is filed, the public utility's power to extend its
19 service becomes effective.

20 2. The commission's powers and limitations. The
21 commission's powers and limitations, made applicable
22 under this section, are those applicable by law in
23 like cases concerning public utilities organized un-
24 der Title 13-A or any prior general corporation law.

25 §1308. Reparation or adjustment

26 The commission may order reparation or adjustment
27 when it finds that an amount charged to or collected
28 from a customer was not in accordance with the filed
29 rate applicable to him or was based upon error. The
30 customer shall attempt to settle any dispute concern-
31 ing the alleged over charge or billing error at an
32 informal hearing with the utility company prior to
33 filing a complaint with the commission. If the cus-
34 tommer is dissatisfied with the utility company's de-
35 cision, the customer may appeal the decision to the
36 commission. The commission may not order a rebate
37 for a billing error or excessive charge that ante-
38 dates the order for more than 6 years.

39 §1309. Adjustment of excessive rates

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

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

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

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

41 5. Complaint received with 6 months after
42 reparation or adjustment ordered. With 6 months af-
43 ter an order has been made authorizing reparation or

1 adjustment under subsections 2 and 3, any person ag-
2 grieved may complain to the commission that he is en-
3 titled to reparation from the same utility because he
4 paid the rates which the utility admits are excessive
5 or reasonable or collected through error, provided
6 the utility might lawfully have made the reparation
7 on its own petition, and provided the person has made
8 a written request for the utility to file its own pe-
9 tion for authority to make the reparation or ad-
10 justment not less than 30 days before filing a com-
11 plaint with the commission.

12 6. Commission investigation to determine whether
13 to hold a hearing. Upon receipt of a complaint, the
14 commission shall investigate as it determines neces-
15 sary to determine whether a hearing ought to be held.

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

19 8. Commission decision after hearing; refund.
20 If, after the hearing, the commission decides that
21 the complainant has been injured by paying rates
22 which the utility admits are excessive, unreasonable
23 or collected through error, it shall determine the
24 sum that the utility ought to refund or repay to the
25 complainant, which sum the utility has the right to
26 refund.

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

37 10. Utility that complies may not be held lia-
38 ble. No utility making a refund upon the order of
39 the commission or pursuant to judgment of the court
40 may be liable for any penalty or forfeiture or sub-
41 ject to any prosecution under the laws of this State
42 on account of making the refund.

1 §1310. Funding of intervenors by the commission

2 Notwithstanding sections 111, 112 and 1301, the
3 commission may not order compensation of intervenors
4 by any utility except as authorized by this section.
5 Compensation of intervenors may be ordered only to
6 the extent that compensation is specifically required
7 by the United States Public Utilities Regulatory Po-
8 licies Act of 1978, United States Code, Title 16,
9 Section 2601, et seq.

10 §1311. Practice and rules of evidence; process ser-
11 vice

12 In all actions and proceedings arising under this
13 Title, all processes shall be served and the practice
14 and rules of evidence shall be the same as in civil
15 actions in the Superior Court except as otherwise
16 provided. Every sheriff or other officer empowered
17 to execute civil processes may execute a process is-
18 sued under this Title and shall receive the compensa-
19 tion prescribed by law for that service.

20 §1312. Witnesses and fees

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

29 2. Fees. The State shall audit and pay the fees
30 in the same manner as other state expenses are au-
31 dited and paid upon the presentation of proper vouch-
32 ers approved by the commission. There shall be de-
33 ducted from the mileage allowed witnesses under this
34 section who travel, or may travel, to and from the
35 place of hearing on a pass or other form of free
36 transportation, a sum equal to the fare to and from
37 the place of hearing at the lowest published rates
38 for single or return trip tickets.

39 §1313. Depositions

1 The following provisions apply to depositions.

2 1. Taking depositions. Depositions shall be
3 taken in the manner prescribed by law for taking dep-
4 ositions in civil actions in the Superior Court.

5 2. Use of depositions. The commission or any
6 party may use the deposition of witnesses in a formal
7 public hearing.

8 §1314. Burden of proof

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

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

23 §1315. Self-incrimination; immunity

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

34 2. Immunity. If, but for this section, the per-
35 son would have had the right to withhold the answers
36 given or the evidence produced by him, he may not be
37 prosecuted or subjected to penalty or forfeiture for
38 or on account of any transaction or matter which con-
39 cerns the answers he gave or the evidence he produced
40 in accordance with the order.

1 3. Failure to comply. If a person fails to answer
2 questions or produce evidence as ordered by the
3 commission, following notice and hearing, he is sub-
4 ject to the provisions of section 1502. A person may
5 be prosecuted or subjected to penalty or forfeiture
6 for any perjury, false swearing or contempt that he
7 commits in answering or failing to answer or in pro-
8 ducing or failing to produce evidence in accordance
9 with the order.

10 §1316. Testimony presented by employees of public
11 utilities to legislative committees and to
12 the Public Utilities Commission

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

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

20 B. "Employer" means a public utility licensed to
21 do business in this State with one or more em-
22 ployees.

23 C. "Legislative committee" means a joint stand-
24 ing committee or a joint select committee of the
25 Legislature, a task force, commission or council
26 or any other committee established by the Legis-
27 lature and composed wholly or partly of Legisla-
28 tors for the purpose of conducting legislative
29 business.

30 D. "Own time" means an employee's vacation or
31 personal time, earned as a condition of employ-
32 ment.

33 2. Right to provide testimony. Every employee
34 of a public utility has the right to represent him-
35 self and to testify before a legislative committee or
36 the commission on his own time. No employee of a
37 public utility who complies with this section may be
38 denied the right to testify before a legislative com-
39 mittee or the commission.

1 3. Discharge of, threats to or discrimination
2 against employees of public utilities for testimony
3 presented to legislative committees or the Public
4 Utilities Commission. Unless otherwise provided for,
5 a supervisor may not discharge, threaten or otherwise
6 discriminate against an employee of a public utility
7 regarding the employee's compensation, terms, condi-
8 tions, location or privileges of employment because
9 the employee, in compliance with this section, in
10 good faith testifies before or provides information
11 to a legislative committee or to the commission re-
12 garding the operation of the business of a public
13 utility or because the employee brings the subject
14 matter of the testimony or information to the atten-
15 tion of a person having supervisory authority.

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

26 4. Exceptions. The protection created in sub-
27 section 3, does not apply to testimony which, upon
28 reasonable inquiry by the employee, would be found to
29 be false, slanderous, libelous or defamatory or to
30 testimony which violates a term or condition of a
31 collectively bargained agreement or to testimony
32 which discloses trade secrets or corporate strategy,
33 the disclosure of which would result in harm to the
34 employer.

35 5. Civil actions for injunctive relief or other
36 remedies. An employee of a public utility who al-
37 leges a violation of his rights under this section
38 and who has made reasonable efforts to exhaust all
39 grievance procedures, as provided for in the contract
40 of employment or which otherwise may be available at
41 his place of employment, may bring a civil action,
42 including an action for injunctive relief, within 90
43 days after the occurrence of that alleged violation
44 or after the grievance procedure or similar process

1 terminates. The action may be brought in the Superi-
2 or Court for the county where the alleged violation
3 occurred, the county where the complainant resides or
4 the county where the person against whom the civil
5 complaint is filed resides. An employee must estab-
6 lish each and every element of his case by a prepon-
7 derance of the evidence.

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

18 7. Collective bargaining rights. This section
19 does not diminish or impair the rights of a person
20 under any collective bargaining agreement.

21 8. Jury trial; common-law rights. Any action
22 brought under this section may be heard by a jury.
23 Nothing in this section derogates any common-law
24 rights of an employee or employer.

25 §1317. Appearance by officer or employee of corpora-
26 tion or partnership

27 Notwithstanding Title 4, section 807, the appear-
28 ance of an authorized officer, employee or represen-
29 tative of a party in any hearing, action or proceed-
30 ing before the commission in which the party is par-
31 ticipating or desires to participate is not an unau-
32 thorized practice of law and is not subject to any
33 criminal sanction. In order to facilitate the effi-
34 cient processing of any proceeding, the commission
35 may, in its discretion, require the appearance of
36 counsel on behalf of the party.

37 §1318. Record of proceedings

38 1. Record. The commission shall keep a complete
39 record of:

1 A. All proceedings before it;

2 B. Investigations; and

3 C. Formal public hearings.

4 2. Hearings reporter. The commission shall ap-
5 point, subject to the Civil Service Law, hearings re-
6 porters who shall take all testimony before the com-
7 mission.

8 §1319. Certified copies of orders furnished

9 The commission shall furnish a certified copy un-
10 der the commission's seal of its orders to any person
11 who applies and pays for it as provided in the com-
12 mission's rules. A certified copy of an order is ev-
13 idence of the facts stated in it.

14 §1320. Review of commission action

15 The following procedures apply to an appeal of a
16 decision of the commission.

17 1. Final decisions. An appeal from a final de-
18 cision of the commission may be taken to the Law
19 Court on questions of law in the same manner as an
20 appeal taken from a judgment of the Superior Court in
21 a civil action.

22 2. Parties. Any person who has participated in
23 commission proceedings, and who is adversely affected
24 by the final decision of the commission is deemed a
25 party for purposes of taking an appeal.

26 3. Terms. Where a law or rule regulating the
27 taking of an appeal from the Superior Court in a civ-
28 il action uses the terms "the court," "the clerk,"
29 "the clerk of the courts," or a similar term, they
30 shall for purposes of an appeal from the commission
31 mean, as "the commission," "the administrative direc-
32 tor of the commission," or other appropriate term,
33 respectively.

34 4. Notice of appeal. The notice of appeal shall
35 be accompanied by a brief statement of the nature of
36 the proceeding before the commission, a copy of the

1 decision, order or ruling complained of, a statement
2 of the grounds upon which the order or ruling is
3 claimed to be unlawful and a certificate that the at-
4 torney for the appellant is of the opinion that there
5 is probable ground for the appeal as to make it a fit
6 subject for judicial inquiry and that it is not in-
7 tended for delay.

8 5. Additional court review. An appeal may also
9 be taken in the same manner as an appeal under sub-
10 section 1, when the justness or reasonableness of a
11 rate, toll or charge by any public utility or the
12 constitutionality of any ruling or order of the com-
13 mission is in issue, notwithstanding that the ruling
14 or order is not final.

15 6. Law Court jurisdiction is exclusive. The Law
16 Court has exclusive jurisdiction over appeals and re-
17 quests for judicial review of final decisions and of
18 rulings and orders subject to subsections 1 and 5,
19 with the exception of the Superior Court's jurisdic-
20 tion to review rules under Title 5, section 8058.

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

35 8. Additional evidence. No evidence beyond that
36 contained in the record of the proceedings before the
37 commission may be introduced before the court, except
38 that in cases where issues of confiscation or of con-
39 stitutional right are involved, the court may order
40 additional evidence it determines necessary for the
41 determination of issues to be taken before the com-
42 mission upon the terms and conditions the court de-

1 termines proper. If the court orders additional evi-
2 dence to be taken, the commission shall promptly hear
3 and report that evidence to the court, so that the
4 proof may be brought as nearly as reasonably possible
5 down to the date of its report to the court. The
6 commission may, after hearing the evidence, modify
7 its findings as to facts and its original decision or
8 orders by reason of the additional evidence so taken,
9 and it shall file with the court that amended deci-
10 sion or orders and those modified or new findings.
11 If the commission modifies or amends its original
12 decision or orders, the appealing party or any other
13 party aggrieved by the modified or amended decision
14 or order may file with the court, within such time as
15 the court may allow, a specification of errors
16 claimed to have been made by the commission in the
17 modified decision or orders, which specifications or
18 errors shall be considered by the court in addition
19 to the errors asserted in the original complaint on
20 appeal.

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

35 §1321. Orders altered or amended

36 The commission may at any time rescind, alter or
37 amend any order it has made including an order fixing
38 any rate or rates, tolls, charges or schedules, pro-
39 vided it gives the public utility notice as provided
40 in section 1304 and after opportunity to be heard as
41 provided in section 1304. Certified copies of
42 amended orders shall be served and take effect as
43 provided for original orders.

1 §1322. Orders temporarily suspended, altered or
2 amended

3 1. Orders temporarily amended. When the commis-
4 sion finds it necessary to prevent injury to a pub-
5 lic utility's business or to the interest of the peo-
6 ple, or if the commission finds there is an emergen-
7 cy, it may temporarily alter, amend or, with the pub-
8 lic utility's consent, suspend existing rates, sched-
9 ules or orders affecting any public utility.

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

11 A. Apply to one or more of the utilities in the
12 State or to any part of them as the commission
13 directs; and

14 B. Take effect and remain in force as the com-
15 mission prescribes.

16 §1323. Exhausting rights before commission; applica-
17 tion to Legislature

18 No public utility may apply to the Legislature to
19 grant it a right, privilege or immunity which the
20 commission has power to grant it until the utility
21 has exhausted its rights regarding its request before
22 the commission.

23 In applying to the Legislature, the utility shall
24 state in writing that it has applied to the commis-
25 sion for the right, privilege or immunity requested
26 and that the commission has denied its application.

27 CHAPTER 15

28 LIABILITY AND PENALTIES

29 §1501. Utility liable for civil damages

30 If a public utility violates this Title, causes
31 or permits a violation of this Title or omits to do
32 anything that this Title requires it to do it may be
33 liable in damages to the person injured as a result.
34 Recovery under this section does not affect a recov-
35 ery by the State of the penalty prescribed for the
36 violation.

1 §1502. Contempt

2 Every public utility or person that fails to com-
3 ply with an order, decision, rule, direction, demand
4 or requirement of the commission or of a commissioner
5 is in contempt of the commission and shall be pun-
6 ished by the commission for contempt in the same man-
7 ner as contempt is punished by courts of record.
8 Punishment for contempt is not a bar to and does not
9 affect any other remedy prescribed in this Title, but
10 is cumulative and in addition to other remedies.

11 §1503. Refusal to obey or comply

12 1. Officer, agent or employee of public utility.
13 An officer, agent or employee of a public utility
14 commits a civil violation for which a forfeiture not
15 to exceed \$1,000 shall be adjudged for each offense
16 if he:

17 A. Willfully fails or refuses to fill out and
18 return any blanks required by this Title;

19 B. Willfully fails or refuses to answer ques-
20 tions contained in the blanks;

21 C. Willfully or knowingly gives a false answer
22 to a question contained in the blanks;

23 D. Willfully evades the answer to a question
24 when he knows the answer;

25 E. Willfully fails or refuses, upon proper de-
26 mand, to exhibit to the commission, a commission-
27 er or authorized person, a book, paper, account,
28 record or memorandum of a public utility which is
29 in his possession or under his control;

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

33 G. Willfully refuses to do anything in connec-
34 tion with the utility's system of accounting as
35 directed by the commission.

1 2. Public utility. When the officer, agent or
2 employee acted in obedience to the direction, in-
3 struction or request of the public utility or of an
4 owner or general officer of the public utility, the
5 public utility commits a civil violation for which a
6 forfeiture not to exceed \$1,000 shall be adjudged for
7 each offense.

8 §1504. Each day, distinct offense

9 Every day, during which a public utility or an
10 officer, agent or employee of a public utility
11 willfully fails to comply with an order of the com-
12 mission or to perform a duty enjoined by this Title,
13 constitutes a separate offense.

14 §1505. Illegal issue of stocks, bonds or notes

15 1. Offense. A director or officer of a public
16 utility is guilty of illegally issuing stocks, bonds
17 or notes if he knowingly, directly or indirectly is-
18 suues or causes to be issued stocks, bonds, notes or
19 other evidences of indebtedness contrary to this Ti-
20 tle.

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

23 §1506. Misappropriation of proceeds

24 1. Offense. A director or officer of a public
25 utility is guilty of misappropriating proceeds if he
26 knowingly applies the proceeds from the sale of
27 stocks, bonds or notes to a purpose other than that
28 specified in the commission's order.

29 2. Penalty. Misappropriation of proceeds is a
30 Class B crime.

31 §1507. False statements as to issue of stocks, bonds
32 or notes

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

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

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

7 C. Negotiates or causes to be negotiated stocks,
8 bonds, notes or other evidences of indebtedness
9 in violation of this Title.

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

12 §1508. Punishment where no penalty

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

25 §1509. Limitation on imposing penalty

26 An action which may result in the imposition of a
27 civil or criminal penalty under this chapter shall be
28 commenced within 5 years after the cause of action
29 accrues.

30 CHAPTER 17

31 PUBLIC ADVOCATE

32 §1701. Appointment and staff

33 1. Appointment of the Public Advocate. The Pub-
34 lic Advocate shall be appointed by the Governor, sub-
35 ject to review by the joint standing committee of the
36 Legislature having jurisdiction over public utilities

1 and to confirmation by the Legislature, and shall
2 serve at the pleasure of the Governor. Any vacancy
3 shall be filled by similar appointment.

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

13 3. Service. The professional employees of the
14 Public Advocate shall serve at the pleasure of the
15 Public Advocate; all other employees of the Public
16 Advocate shall be subject to the Civil Service Law.

17 §1702. Duties

18 The duties and responsibilities of the Public Ad-
19 vocate are to represent the using and consuming pub-
20 lic in matters within the jurisdiction of the commis-
21 sion, including, but not limited, to the following:

22 1. Review and recommendations. The Public Advo-
23 cate may review, investigate and make appropriate
24 recommendations to the commission with respect to:

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

27 B. The reasonableness and adequacy of the ser-
28 vice furnished or proposed to be furnished by any
29 public utility;

30 C. Any proposal by a public utility to reduce or
31 abandon service to the public;

32 D. The issuance of certificates of public conve-
33 nience and necessity. Recommendations may in-
34 clude alternative analyses and plans as neces-
35 sary;

36 E. Mergers and consolidations of public utili-
37 ties;

1 F. Contracts of public utilities with affiliates
2 or subsidiaries; and

3 G. Securities, regulations and transactions of
4 public utilities.

5 2. Intervention. The Public Advocate may inter-
6 vene in any proceeding before the commission related
7 to the activities under subsection 1, when determined
8 necessary by the Public Advocate.

9 3. Petition to initiate proceedings. The Public
10 Advocate may petition the commission to initiate pro-
11 ceedings to review, investigate and take appropriate
12 action with respect to the rates or service of any
13 public utility when determined necessary by the Pub-
14 lic Advocate.

15 4. Public complaints. The Public Advocate may
16 investigate complaints affecting the using and con-
17 suming public generally, or particular groups, of
18 consumers and, where appropriate, make recommenda-
19 tions to the commission with respect to these com-
20 plaints.

21 5. Intervention on behalf of public. When de-
22 termined necessary by the Public Advocate, in the in-
23 terest of the using and consuming public, or any par-
24 ticular group of consumers, the Public Advocate may
25 intervene and appear on their behalf in any proceed-
26 ings before the commission, appeals from orders of
27 the commission, or proceedings before state and fed-
28 eral agencies and courts in which the subject matter
29 of the action affects the customers of any utility
30 doing business in this State, except that the Public
31 Advocate shall not intervene in any proceeding in
32 which the commission staff is representing a position
33 substantially similar to that of the Public Advocate.

34 6. Annual report. The Public Advocate shall
35 prepare and submit an annual report of activities of
36 the Public Advocate to the Governor and to the joint
37 standing committee of the Legislature having juris-
38 isdiction over public utilities by August 1st of each
39 year, with copies available to all legislators on re-
40 quest.

1 7. Assist customers of consumer owned electric
2 utilities. The Public Advocate shall assist custom-
3 ers of consumer-owned electric utilities in reviewing
4 proposed rate increases and preparing questions and
5 testimony for public hearings and, on request of a
6 customer and when determined necessary by the Public
7 Advocate, intervene in the proceedings conducted in
8 accordance with sections 3101, 3102 and 3103.

9 §1703. Appeal from commission orders

10 The Public Advocate has the same rights of appeal
11 from commission orders or decisions to which the Pub-
12 lic Advocate has been a party as other parties to
13 commission proceedings.

14 §1704. Legal representation

15 Notwithstanding the provisions of Title 5, sec-
16 tion 191, the Public Advocate, or a staff attorney,
17 may act as the counsel for the office of the Public
18 Advocate. The Public Advocate may request the as-
19 sistance of the Attorney General or employ private
20 counsel for this purpose.

21 §1705. Relationship with the Attorney General

22 This section in no way limits the rights of the
23 Attorney General to intervene before the Public Util-
24 ities Commission or to appeal from commission orders
25 or decisions.

26 §1706. Expert witnesses

27 The Public Advocate may employ expert witnesses
28 and pay appropriate compensation and expenses to em-
29 ploy the witnesses.

30 §1707. Expenses of the Public Advocate

31 The Public Advocate, within established budgetary
32 limits and as allowed by law, shall authorize and ap-
33 prove travel, subsistence and related necessary ex-
34 penditures of the Public Advocate or members of the staff
35 of the Public Advocate, incurred while traveling on
36 official business.

1 §1708. Information from utilities

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

13 §1709. Conflicts of interest

14 In addition to the limitations of Title 5, sec-
15 tion 18, the Public Advocate or any employee of the
16 Public Advocate may not have any official or profes-
17 sional connection or relation with, or hold any stock
18 or securities in any public utility, as defined in
19 section 102, operating within this State; render any
20 professional service against any such public utility;
21 be a member of a firm which renders any such service.

22 §1710. Restriction

23 Unless otherwise provided by law, the duties of
24 the Public Advocate are restricted to those relating
25 to matters within the jurisdiction of the Public
26 Utilities Commission. In the event that the selec-
27 tion of the Public Utilities Commission is required
28 by law to be accomplished by any other method than
29 appointment by the Governor, with confirmation by the
30 Legislature, this chapter repealed, and the staff and
31 any balance in the budget of the Public Advocate
32 shall be transferred to the Public Utilities Commis-
33 sion for the remainder of the fiscal year, effective
34 on the date when a quorum of the Public Utilities
35 Commission selected by the other method is qualified
36 for office.

37 PART 2

38 PUBLIC UTILITIES

39 CHAPTER 21

1 ORGANIZATION, POWERS, SERVICE TERRITORY

2 §2101. Organization of public utility corporations

3 Corporations for the operation of telegraphs or
4 telephones, or both, and for the purpose of making,
5 generating, selling, distributing and supplying gas
6 or electricity, or both, for lighting, heating, manu-
7 facturing or mechanical purposes, in any municipali-
8 ty, or 2 or more adjoining municipalities, within the
9 State, may be organized under Title 13-A.

10 §2102. Approval to furnish service

11 The following provisions apply to furnishing ser-
12 vice.

13 1. Approval required. No public utility may
14 furnish any of the services set out in section 2101
15 in or to any municipality in or to which another pub-
16 lic utility is furnishing or is authorized to furnish
17 a similar service without the approval of the commis-
18 sion.

19 2. Approval not required. The commission's ap-
20 proval is not required for a public utility to fur-
21 nish service in any municipality in which that public
22 utility is furnishing service on October 8, 1967.
23 Approval is not required for the operation of a radio
24 paging service. Approval is not required for an
25 electric utility to sell and distribute electricity
26 to any other authorized electric utility.

27 §2103. Electric utility and cooperative authorized
28 to serve same area

29 After September 1, 1967, where a cooperative or-
30 ganized under chapter 35 and any other electric util-
31 ity are serving or authorized to serve the same mu-
32 nicipality, neither the cooperative nor the other
33 utility may bring electrical service to a new loca-
34 tion except as provided in this section.

35 1. Notice. The cooperative or utility must no-
36 tify the other cooperative or utility and the commis-
37 sion, in writing, of the request by the party for
38 electrical service, where bringing the service re-

1 quires the extension of existing distribution facili-
2 ties.

3 2. Filing objections. If, after notice the oth-
4 er cooperative or utility opposes the bringing of
5 electrical service to the new service location, with-
6 in 7 days of receipt of the notice of proposed ser-
7 vice, it shall:

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

10 B. Send a copy of its objections to the utility
11 or cooperative and to the party requesting elec-
12 trical service.

13 3. Decision. If objections are filed, the com-
14 mission shall immediately set a hearing date, and
15 shall determine which cooperative or utility shall
16 serve. If, after notice, either the cooperative or
17 the utility fails to file its objections pursuant to
18 subsection 2, it will be conclusively presumed that
19 the cooperative or the utility, as the case may be,
20 has consented to the furnishing of the service.

21 4. Temporary service pending a decision. Pend-
22 ing the final determination of the right to serve,
23 the commission may order temporary service brought to
24 the prospective new service location without preju-
25 dice to the rights of any party.

26 §2104. Commission approval required for gas compa-
27 nies to furnish service

28 No gas utility organized under Title 13-A may
29 furnish its service in or to any municipality within
30 the State, without the approval of the commission,
31 even if no other gas utility is furnishing or is au-
32 thorized to furnish a similar service. A gas utility
33 providing service on January 1, 1982, shall have un-
34 til January 1, 1983, to obtain the commission's ap-
35 proval to continue to furnish service.

36 §2105. Approval only after hearing

37 1. Approval only after hearing. No approval re-
38 quired by section 2102, 2103 or 2104 and no license,

1 permit or franchise may be granted to any person to
2 operate, manage or control a public utility named in
3 section 2101 in a municipality where there is in op-
4 eration a public utility engaged in similar service
5 or authorized to provide similar service, until the
6 commission has made a declaration, after public hear-
7 ing of all parties interested, that public conve-
8 nience and necessity require a 2nd public utility.

9 2. Declaration without hearing. The commission,
10 may make a declaration without public hearing, if it
11 appears that the utility serving or authorized to
12 serve, the utility seeking approval from the commis-
13 sion to provide service and any customer to receive
14 service agree that the utility seeking approval to
15 serve should provide service.

16 §2106. Transfer of approval for a radio common car-
17 rier

18 Consent granted by the commission under section
19 2102, or under section 2105, held by a radio common
20 carrier may be assigned and transferred with the ap-
21 proval of the commission by holder of the approval.
22 The commission may impose reasonable conditions upon
23 granting its approval. For the purpose of this sec-
24 tion, "radio common carrier" means a telephone compa-
25 ny, as defined in section 102, subsection 18, that
26 transmits intelligence solely by use of radio.

27 §2107. Approval only to Maine corporations

28 No approval required in section 2102, 2103 or
29 2104 to operate, manage or control a public utility
30 may be granted after October 1, 1975, to a corpora-
31 tion unless it is duly organized under the laws of
32 this State or authorized by laws to do business in
33 this State.

34 §2108. Corporations may hold real estate

35 Corporations organized under sections 2101 and
36 2109 may purchase, hold and convey real estate and
37 personal property that are necessary for the purposes
38 for which they are created.

39 §2109. Organization of rural electric corporations
40 under certain conditions

1 1. Persons not receiving service at reasonable
2 rates may form a corporation. Whenever any electric
3 utility does not supply reasonable adequate electric
4 service in a portion of the territory in which it is
5 authorized to furnish service, 3 or more persons not
6 receiving and unable to receive service in the terri-
7 tory, at reasonable rates, may themselves form a cor-
8 poration for the transmission, use and sale of elec-
9 tricity in the portion of the territory as may be
10 designated by the commission.

11 2. Service to the newly organized corporation.
12 The electric utility authorized to furnish service
13 throughout the territory shall furnish the newly or-
14 ganized corporation with electric current sufficient
15 for their commission. The current shall be furnished
16 from the transmission lines of the electric utility
17 most conveniently located for the purposes of the new
18 corporation.

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

33 CHAPTER 23

34 UTILITY FACILITIES IN THE PUBLIC WAY

35 §2301. Lines along highways and across waters

36 Except as limited, every corporation organized
37 under sections 2101 and 2109, for the purpose of op-
38 erating telegraphs or telephones or for the purpose
39 of transmitting television signals by wire may con-
40 struct, maintain and operate its lines upon and along
41 the route or routes and between the points stated in

1 its certificate of incorporation; and may, subject to
2 the conditions and under the restrictions provided in
3 this chapter and chapter 25, construct its lines and
4 necessary erections and fixtures for them along,
5 over, under and across any of the roads and streets
6 and across or under any of the waters upon and along
7 the route or routes.

8 §2302. Corporations may lay pipelines

9 Every corporation organized under the general
10 laws of the State and owning, controlling, operating
11 or managing any pipeline within or through this State
12 for the transportation as a common carrier for hire
13 of oil, gas, gasoline, petroleum or any other liquids
14 or gases may lay its pipelines and construct and
15 maintain them in, along and under the roads and
16 streets in any municipality, subject to the condi-
17 tions and under the restrictions provided in this
18 chapter and chapter 25.

19 §2303. Water utilities may lay pipelines

20 Every water utility organized under the general
21 or special laws of this State and authorized to do
22 public utility business in this State may lay its
23 pipe in and under the roads and streets in any munic-
24 ipality in which it is authorized to supply water or
25 through which it is necessary or convenient to lay
26 the pipe to supply water from its source of supply to
27 enable it to provide its service, subject to the con-
28 ditions and under the restrictions provided in this
29 chapter and chapter 25. Water utilities must procure
30 a written location permit under section 2503.

31 The installation and maintenance of a water util-
32 ity plant by a utility in accordance with the loca-
33 tion permit constitutes compliance by the utility
34 with the requirements of section 2316.

35 A water utility shall comply with sections 2503,
36 2505, 2506 and 2512.

37 §2304. Gas and electric companies may pass along
38 highways

1 Every gas or electric utility organized under
2 sections 2101 and 2109 for the purposes named in
3 those sections may lay its pipes and wires and con-
4 struct and maintain its lines in, upon, along, over,
5 across and under the roads and streets in any munici-
6 pality in which it is authorized to supply gas or
7 electricity or both, subject to the conditions and
8 restrictions provided in this chapter and chapter 25.

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

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

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

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

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

32 3. Duplication of electric facilities. The Pub-
33 lic Utilities Commission has found that the line will
34 not constitute a duplication of electric facilities.

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

37 §2305. No taking property of another corporation
38 without legislative consent

1 No corporation organized under sections 2101 and
2 2109 may take, appropriate or use the location,
3 pipes, lines, land or other property of any other
4 person doing or authorized to do a similar business,
5 without consent of the other person, except by Pri-
6 vate and Special Act of the Legislature.

7 §2306. Permit required for person laying pipes and
8 wires

9 No person may lay its pipes or place its wires
10 under the surface of any road or street, or dig up or
11 open the ground in a road or street, until it has ob-
12 tained a written permit under section 2307 from the
13 officers of the municipality in which the road or
14 street is located, or from the Department of Trans-
15 portation when the road or street is a state, state
16 aid or federal aid highway, except for a state or
17 state aid highway in the compact areas of municipali-
18 ties having a population over 5,000. The permit must
19 be signed by the municipal officers or the Department
20 of Transportation and shall specify the roads and
21 streets and the location in the roads or streets
22 where the pipes or wires will be laid. The permit
23 may not affect the right of any party to recover dam-
24 ages for any injury to persons or property by the do-
25 ings of any person.

26 §2307. Public utilities may lay wires, pipes and ca-
27 bles under streets subject to municipal per-
28 mit

29 Public utilities may, in any municipality, place
30 their pipes and appurtenances, wires and cables and
31 all conduits and other structures for conducting and
32 maintaining the pipes, wires and cables under the
33 surface of those streets and highways in which the
34 utilities are authorized to obtain locations for
35 their pipes and appurtenances, poles and wires, sub-
36 ject to the written permit of the officers of the mu-
37 nicipality, or from the Department of Transportation
38 when the street or highway is a State, state aid or
39 federal aid highway, except for streets or highways
40 in the compact areas of municipalities having a popu-
41 lation over 5,000 and subject to such rules as to lo-
42 cation and construction as the municipal officers or
43 the Department of Transportation may designate in

1 their permit. A permit must be obtained under sec-
2 tions 2501 to 2508. Permits to open streets and
3 highways for the purpose of relaying or repairing the
4 pipes and appurtenances, wires, cables, conduits and
5 other structures may be granted without notice.

6 §2308. Discontinuance of public ways

7 In proceedings for the discontinuance of public
8 ways, public ways may be discontinued in whole or in
9 part. The discontinuance of a town way shall be pur-
10 suant to Title 23, section 3206. Unless an order
11 discontinuing a public way specifically provides oth-
12 erwise, the public easement provided for in Title 23,
13 section 3026, includes an easement for public utility
14 facilities. A utility may continue to maintain, re-
15 pair and replace its installations within the limits
16 of the way or may construct and maintain new facili-
17 ties within the limits of the discontinued way, if it
18 is used for travel by motor vehicles, in order to
19 provide utility service, upon compliance with the
20 provisions of sections 2503, 2505, 2506, 2507 and
21 2508.

22 §2309. Existing locations valid

23 The location of all pipes, hydrants, wires and
24 cables and all conduits and other structures for the
25 conducting and maintaining of those pipes, hydrants,
26 wires and cables over, under the surface of and in
27 those streets and highways in which those utilities
28 authorized to obtain locations for their pipes,
29 wires, hydrants and cables which have been located
30 over, under the surface of and in the streets and
31 highways prior to January 1, 1984, and which will be
32 so located in accordance with this Title are declared
33 legal and the same shall be legal structures in those
34 streets and highways until their location has changed
35 in any manner required or authorized by law.

36 §2310. Permits to specify time and place of opening

37 Every permit for digging up and opening streets,
38 roads and highways granted under sections 2301 to
39 2309 must specify:

40 1. Time. The time during which the streets,
41 roads or highways may remain open;

1 2. Place. The place where the opening may be
2 made; and

3 3. Surface. The number of square yards of sur-
4 face which may be distributed.

5 §2311. Penalties

6 Any person who digs or makes an excavation in the
7 driveway of a street, road or highway without first
8 obtaining a permit as required by section 2310, or
9 who has obtained a permit and disturbs a greater area
10 of surface than the permit specifies, commits a civil
11 violation for which a forfeiture not to exceed \$25
12 may be adjudged for each offense.

13 §2312. Fees for excavation permits

14 The following provisions apply to fees for exca-
15 vation permits.

16 1. Fees set by municipal officers. The officers
17 of a municipality having the duty to maintain streets
18 may establish a schedule of fees for granting permits
19 for making an excavation within the driveway of a
20 street or highway. The schedule of fees may not ex-
21 ceed the reasonable cost of replacing the excavated
22 pavement.

23 2. Payment of fee. The applicant shall pay to
24 the treasurer of the municipality granting the permit
25 the fees established by the municipal officers. The
26 fees shall be regularly accounted for and shall con-
27 stitute a special fund for the replacement of exca-
28 vated pavement.

29 §2313. Filling and protecting openings

30 1. Filling openings. A person opening a street,
31 road or highway pursuant to a permit granted under
32 sections 2501 to 2509 shall completely fill up the
33 opening. The filling shall be puddled or rammed as
34 the nature of the soil requires and shall be com-
35 pleted within the time designated in the permit.

36 2. Fines. A person failing to comply with this
37 section commits a civil violation for which a forfei-

1 ture not to exceed \$50 may be adjudged for each of-
2 fense.

3 3. Protecting pavement. A person shall protect
4 the paving on either side of the opening with sheet
5 piling or other means to prevent the escape of sand
6 from underneath it.

7 4. Failure to protect pavement. In determining
8 the number of square yards of paving disturbed, the
9 municipal officers or their appointees shall include
10 the area of paving adjoining the trench actually
11 opened which in their opinion is required to be taken
12 up and relaid because the pavement was not properly
13 protected.

14 §2314. Improper work redone

15 If a person improperly repairs or fills an open-
16 ing, the municipal officers or their appointees may
17 have the work redone properly and shall keep an ac-
18 count of the cost of redoing this work. A person in
19 default shall pay a penalty equal to the cost of
20 redoing the work plus 50%. After the work is com-
21 pleted and the cost of the work is determined, the
22 municipality may not issue a new permit to a person
23 in default until it has received, in addition to the
24 fees provided in section 2312, the amount of the pen-
25 alty provided in this section.

26 §2315. Relaying of pavements

27 When an excavation is made in a paved street,
28 road or highway and the opening is filled as required
29 by sections 2313 and 2314, the municipality or vil-
30 lage corporation in which the opening was located
31 shall relay the pavement. The cost of relaying the
32 pavement including materials, labor and inspection
33 shall be paid out of any funds in the special fund
34 for this purpose.

35 §2316. Travel and trees not to be interfered with

36 1. Public travel. Every person in constructing
37 and maintaining its poles, lines, fixtures and appli-
38 ances in, along, over, under and across the roads and
39 streets in which it may obtain locations and across

1 or under the waters upon and along its route or
2 routes may not incommode or obstruct the use of the
3 roads and streets for public travel or interrupt the
4 navigation of the waters.

5 2. Trees. No person may injure, cut down or de-
6 stroy any fruit tree or any tree or shrub standing
7 and growing for the purposes of shade or ornament.

8 3. Bridges. This chapter and chapter 25 may not
9 be construed to authorize the construction of a
10 bridge across any of the waters of the State.

11 §2317. Liability or damages

12 Every corporation organized under sections 2101
13 and 2109 is liable in all cases to repay a municipal-
14 ity all sums of money that the municipality is
15 obliged to pay on a judgment recovered against it for
16 damages caused by an obstruction, digging up or dis-
17 placement of a way or street by the corporation, to-
18 gether with attorneys fees and expenses necessarily
19 incurred in defending the town municipality in the
20 actions. The corporation shall:

21 1. Notice. Be notified of the commencement of
22 any civil actions for damage; and

23 2. Right to defend. Have the right to defend
24 the action at its own expense.

25 §2318. Trespass on a utility pole

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

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

35 CHAPTER 25

36 REGULATION OF POLES AND WIRES

1 §2501. Duties and liabilities imposed

2 All persons engaged in the business of the trans-
3 mission of intelligence, heat, light or power by
4 electricity are subject to the duties, restrictions
5 and liabilities prescribed in this chapter.

6 §2502. Permits to construct facilities

7 Except as otherwise provided, no person may con-
8 struct facilities upon and along highways and public
9 roads, without applying for and obtaining a written
10 permit under section 2503.

11 §2503. Application for permit; procedure

12 Every person operating telegraphs or telephones
13 or transmitting television signals by wire; every
14 person that owns, controls, operates or manages any
15 pipeline within or through this State for the trans-
16 portation as a common carrier for hire of oil, gas,
17 gasoline, petroleum or any other liquids or gases;
18 every water utility and every person making, generat-
19 ing, selling, distributing and supplying gas or elec-
20 tricity; every water utility or sewer company, dis-
21 trict or system privately or municipally owned; every
22 municipally owned or operated fire alarm, police
23 alarm or street lighting circuit or system; every co-
24 operative organized under chapter 35; and any other
25 person engaged in telecommunications or the transmis-
26 sion of heat, light, power or electricity shall pro-
27 cedure a written location permit for its facilities
28 from the applicable licensing authority, defined as
29 follows.

30 1. Definitions. As used in this section, unless
31 the context otherwise indicates, the following terms
32 have the following meanings.

33 A. "Applicable licensing authority" or "licens-
34 ing authority" means:

35 (1) The Department of Transportation, when
36 the public way is a state, state aid or fed-
37 eral aid highway, except for state or state
38 aid highways in the compact areas of munici-
39 palities having a population over 5,000;

1 (2) The municipal officers or their desig-
2 nees, when the public way is a city street
3 or town way or a state or state aid highway
4 in the compact areas of municipalities hav-
5 ing a population over 5,000; and

6 (3) The county commissioners, for all other
7 public ways.

8 B. "Compact areas" in section 2306 and this sec-
9 tion means an area within a municipality having a
10 population over 5,000 where structures on land
11 adjacent to the highway are nearer than 200 feet
12 apart for a distance of 1/4 of a mile.

13 C. "Facilities" means:

14 (1) If under the surface of the public way,
15 pipes, cables and conduits; and

16 (2) If on or over the surface of the public
17 way, poles, guys, hydrants, cables, wires
18 and any plant or equipment located on or
19 over the surface of the public way.

20 D. "Federal-aid highway system" consists of
21 highways selected or designated by the United
22 States Department of Transportation and approved
23 by the United States Secretary, Department of
24 Transportation, in accordance with United States
25 Code, Title 23, Section 103.

26 2. Application. The application must be in
27 writing and describe the facilities, the requested
28 location, the minimum depth if an underground facili-
29 ty, the minimum height of any attached wires or cab-
30 les, if above-ground facilities, all in the manner
31 and form which the licensing authority requires.

32 3. Notice. The applicant may give public notice
33 of the application by publishing its description of
34 the proposed facility once in a newspaper circulated
35 in the municipality or municipalities encompassing
36 the limits of the proposed location. The applicant
37 shall send a copy of any application filed with the
38 Department of Transportation to the municipal clerk
39 of each municipality in which the facilities are lo-

1 cated, or to the clerk of the county commissioners in
2 the case of facilities within a plantation or unorga-
3 nized township, except that the applicant may, with-
4 out publication of its application, place its facili-
5 ty described in its application on receipt of a per-
6 mit from the licensing authority as may be otherwise
7 provided.

8 4. Objection. Objection to the application may
9 be filed according to this subsection.

10 A. Any person owning property within the subject
11 municipality and which abuts the applicable pub-
12 lic way may file a written objection with the ap-
13 propriate licensing authority within 14 days af-
14 ter publication by the applicant. The written
15 objection shall state the reason for the objec-
16 tion. The written objection must be served by
17 delivery in hand or by registered or certified
18 mail.

19 B. If the applicant proceeds without publication
20 of the application, any person owning property
21 within the subject municipality and which abuts
22 the applicable public way may file a written ob-
23 jection with the appropriate licensing authority
24 within 90 days after installation of the facility
25 described in the application. The written objec-
26 tion shall state the cause for the objection.
27 The written objection must be served by delivery
28 in hand or by registered or certified mail.

29 5. Hearing. The licensing authority, on receipt
30 of a written objection, shall fix a time and place
31 for hearing and shall give 7-days' notice of hearing
32 by registered or certified mail to the applicant and
33 any person filing law objections. The licensing au-
34 thority's adjudication on the validity of the appli-
35 cant's notice or procedures is final and conclusive.
36 If the licensing authority finds its notice of hear-
37 ing, the applicant's notice of application or the ap-
38 plicant's procedures defective, it may fix a new time
39 and place for hearing, shall order appropriate notice
40 to be published or defect corrected and shall adjourn
41 the hearing to meet at the time and place fixed in
42 its order.

1 6. Permits. The location permit shall specify
2 the approximate location of the facility and the min-
3 imum depth of any pipes or conduits below, or the
4 minimum height of any wires or cables above, the
5 earth's surface. The licensing authority may specify
6 in the permit other requirements determined necessary
7 in the best interests of the public safety and use of
8 the right-of-way so as not to obstruct use for public
9 travel.

10 7. Liability. Installation and maintenance of
11 the facility and its appurtenances in accordance with
12 the terms of the permit and the provisions of chapter
13 23 and this chapter relieve the applicant of liability
14 to others by reason of location of its facility
15 and appurtenances and no person has any right of re-
16 covery under Title 23, section 3655, because of the
17 location, installation and maintenance and the appli-
18 cant will be liable only for acts of negligence in
19 the installation or maintenance of the facility and
20 its appurtenances.

21 8. Alteration. After the facility is installed,
22 the licensing authority may alter or amend the permit
23 if the installation is determined to impair the high-
24 way improvement or interfere with the free and safe
25 flow of traffic. The procedure for an applicant, or
26 for the licensing authority under this subsection, to
27 alter or amend the terms of a location permit after
28 construction or installation of the facility is the
29 same as for any original application for a permit.

30 9. Relocation. No location permit or alteration
31 of any original location permit is required for relo-
32 cation of the facility when the relocation is because
33 of the construction, reconstruction or relocation of
34 the way, except when required by federal law applica-
35 ble to highways that have been designated for federal
36 aid. The licensing authority, except in such cases
37 of federal aid construction, shall issue a new loca-
38 tion permit to evidence the legality of the reloca-
39 tion.

40 10. Replacement and additions. A new location
41 permit is not required for the replacement of an ex-
42 isting facility or appurtenance or for additions to
43 the facility and appurtenances made within the terms
44 of the existing permit.

1 11. Service lines and improvements. An addi-
2 tional location permit is not required for any person
3 to attach or install wires, cables or associated
4 equipment, service lines or extensions to its facili-
5 ties for which a permit has been issued or which are
6 declared to be legal structures under this section,
7 provided that these attachments or installations con-
8 form to the conditions of the permit. These attach-
9 ments or installations are deemed legal structures.

10 12. Ordered and existing locations. No location
11 permit is required for any facilities constructed in
12 accordance with an order of the municipality issued
13 in writing and signed by the municipal officers, or
14 by county commissioners in the case of plantations or
15 unorganized townships, and agreed to by the owner of
16 the facilities. When installed in accordance with
17 the order, the facilities are deemed legal struc-
18 tures.

19 No location permit is required for any facilities
20 which existed within the limits of a private way be-
21 fore the legal acceptance of the private way as a
22 public way and the facilities are deemed legal struc-
23 tures.

24 13. Records. The licensing authority shall
25 maintain a record of all location permits issued and
26 presently valid.

27 14. Appeals. Appeals from decisions shall be
28 conducted in the following manner.

29 A. The licensing authority shall give notice of
30 their decision to the applicant and to any person
31 filing objections as soon as practicable.

32 B. Any person aggrieved by a decision of the De-
33 partment of Transportation or the county commis-
34 sioners may appeal to the Superior Court in the
35 manner provided in Title 23, sections 2063 to
36 2066, relating to highways.

37 C. In the case of municipalities, the decision
38 of the municipal officers or their designees
39 shall be filed with the clerk of the municipality
40 within one week from the date of the decision.

1 Within 2 weeks from the filing, any person ag-
2 grieved may appeal from their decision by filing
3 notice of appeal with a copy of the original pe-
4 tion and adjudication with the clerk of the mu-
5 nicipality and with the clerk of the board of
6 county commissioners.

7 (1) Once a person aggrieved files a notice
8 of appeal of a revision made by a municipal-
9 ity, the municipal officers may review a de-
10 cision previously made by them to reconsider
11 the issues involved or they may act as a re-
12 view board to evaluate a decision made by
13 their designees. The municipal officers may
14 alter decisions during the 2-week appeal pe-
15 riod specified in paragraph C, but the per-
16 son aggrieved retains the initiative to pur-
17 sue the appeal if not satisfied with the al-
18 tered decision.

19 (2) The county commissioners shall immedi-
20 ately entertain the appeal and give 2 weeks'
21 notice of the time and place of hearing,
22 which must be held within 30 days from the
23 time the appeal is filed. The hearing may
24 be adjourned from time to time, not exceed-
25 ing 30 days in all, and the commissioners
26 shall file their decision within 30 days
27 from the time the hearing is closed and
28 transmit a copy of it to the applicant, any
29 other parties to the appeal and to the clerk
30 of the municipality, who shall immediately
31 record it.

32 15. Opening permits. Notwithstanding section
33 2303, 2502 or 2503, the applicant must procure open-
34 ing permits before making any underground installa-
35 tion as provided in chapter 23 and Title 23, sections
36 54 and 3351 to 3359.

37 16. Agreement. The granting of a permit by the
38 Department of Transportation, municipal officers or
39 their designees or county commissioners, under this
40 section, constitutes an agreement between the utility
41 and the State or political subdivision of the State.

1 17. Rules. The Department of Transportation may
2 adopt reasonable rules to administer this section.
3 These rules may include procedures for application
4 and issue of permits and the conduct of hearings.

5 18. Relocation in certain municipalities. The
6 Department of Transportation has the exclusive
7 rights, powers and duties of municipal officers under
8 section 2508 when state, state aid and federal aid
9 highways are affected, except for state and state aid
10 highways in the compact areas of municipalities hav-
11 ing a population over 5,000.

12 19. Rights of applicable licensing authority.
13 Nothing in Title 30, section 2151, subsection 1, par-
14 agraph H, impairs the rights of the applicable li-
15 censing authority.

16 20. Legal effect. Existing facilities and ap-
17 purtenances maintained and now in use within a public
18 way, together with any facilities and appurtenances
19 installed and maintained in accordance with this sec-
20 tion are deemed legal structures and the party main-
21 taining them is liable for maintaining them only for
22 acts of negligence in the erection or maintenance of
23 them. The failure of the licensing authority to
24 grant or deny a permit for which application is made
25 within 60 days of filing constitutes the issuance of
26 a location permit.

27 21. Exclusive method. Compliance with this sec-
28 tion by any person is the exclusive method of obtain-
29 ing the rights and privileges conferred in this sec-
30 tion and no person or cooperative may be required,
31 with respect to the location of its facilities, to
32 comply with or be subject to any other law, includ-
33 ing, but not limited to, Title 30, chapter 240-A.

34 §2504. Use of facilities alone creates no legal
35 right for continuance

36 No enjoyment by any person for any length of time
37 of the privilege of having or maintaining its facili-
38 ties, as defined in section 2503, in the public way,
39 may give a legal right to the continued use of the
40 enjoyment or raise any presumption of a grant of a
41 legal right.

1 §2505. Damages; recovery of award and costs

2 An owner of land near or adjoining a highway or
3 road along which lines are constructed, erected or
4 altered in location or construction by any person may
5 recover damages as follows.

6 1. Assessment of damages. If the owner's prop-
7 erty is in any way injuriously affected or lessened
8 in value, whether by occupation of the ground, or air
9 or otherwise by the construction, alteration or loca-
10 tion of a line, whether the owner is the owner of the
11 fee in the way or not, he may within 6 months after
12 the construction, alteration or location apply to the
13 municipal officers to assess and appraise the damage.

14 2. Duties of municipal officers. Before enter-
15 ing upon the service, the municipal officers shall
16 each be sworn to perform faithfully and impartially
17 the following duties.

18 A. They shall on view make a just appraisement
19 in writing of the loss or damage, including the
20 elements of damage as provided for land taken for
21 highway purposes under Title 23, section 154,
22 subsections 2, 3 and 4, if any, to the applicant.

23 B. They shall sign duplicates of the written ap-
24 praisement.

25 C. They shall on demand deliver one copy to the
26 applicant and the other to the person construct-
27 ing the line or his agent.

28 3. Award and costs. If damages are assessed and
29 awarded to the land owner the person constructing the
30 line shall pay them, with the costs of the apprais-
31 ers. If the appraisers find that the applicant has
32 suffered no damage, the landowner shall pay the costs
33 of the appraisers.

34 4. Failure to pay award and costs. If the award
35 and costs are not paid within 30 days after a written
36 demand for them is served upon the person or any of
37 his agents, the owner of land may bring a civil ac-
38 tion to recover the award and costs. The Superior
39 Court for the county in which the land is located has

1 jurisdiction of the action and full costs shall be
2 allowed.

3 5. Municipal officers fees. Before entering
4 upon the discharge of their duties under this sec-
5 tion, the municipal officers may require the appli-
6 cant to advance them their fees for one day and from
7 day to day after they have entered upon the discharge
8 of their duties.

9 §2506. Appeals; costs

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

13 1. Complaint and notice. When the appeal is
14 taken the appellant shall:

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

17 B. Give written notice of the appeal with a copy
18 of the complaint to the opposite party.

19 2. Decision. After entry, the matter shall be
20 determined by a jury, or by the court by agreement of
21 parties, in the same manner as other civil actions.

22 3. Costs. If the person constructing the line
23 appeals and the award is not decreased, the person
24 constructing the line shall pay the costs. If the
25 applicant appeals and the award is not increased, the
26 applicant shall pay the costs.

27 §2507. Permits for moving buildings cutting wires,
28 removing poles; expenses; damages

29 The following provisions apply to permits for
30 moving buildings, cutting wires and removing poles.

31 1. Permit required to cut wires and remove
32 poles. No person may cut, disconnect or remove the
33 wires or poles of a telegraph, telephone or electric
34 light utility in order to move a building, alter, re-
35 pair or improve a street, bridge or way, or for any
36 other purpose unless that person:

1 A. Applies in writing to the municipal officers
2 of the towns in which changes or alterations of
3 wires or poles are desired, or in which a build-
4 ing is to be moved; and

5 B. Receives a written permit from the officers.

6 2. Hearings and notice. Upon receipt of the ap-
7 plication, the municipal officers shall:

8 A. Fix a time and place for a hearing; and

9 B. Give reasonable notice of the hearing, in-
10 cluding actual notice to any utility whose ser-
11 vice may be interrupted or property interfered
12 with.

13 3. Granting of permit and apportionment of ex-
14 penditures. Upon hearing, the municipal officers may
15 grant a permit on such terms and conditions and make
16 such apportionment of expenses as they determine
17 best.

18 4. Permit for removal of wires or poles used by
19 a utility for transmitting train orders or operating
20 block signals. No wires or poles owned or used under
21 contract by a utility for transmitting train orders
22 or operating block signals may be cut, disconnected
23 or removed unless:

24 A. The utility and the person desiring to cut,
25 disconnect or remove the wires or poles first
26 agree to the terms of the cutting, disconnection
27 or removal; or

28 B. Upon application for a permit to the commis-
29 sion, actual notice to the utility and a hearing,
30 the commission grants a permit authorizing the
31 cutting, disconnection or removal.

32 5. Offense. At the hearing, the commission may
33 grant a permit on the terms and conditions and appor-
34 tion the expense arising under the permit as it de-
35 termines best. Whoever disconnects or removes wires
36 or poles or moves any building on or over a public
37 way without first obtaining the permit or violates
38 any of the conditions of the permit is guilty of un-
39 authorized removal of poles.

1 6. Penalty. Unauthorized removal of poles is a
2 Class D crime.

3 7. Damages. If a way or bridge is damaged by
4 the moving of a building, the municipal officers
5 shall determine what proportion of the damage the
6 owner of the building shall pay, and this amount may
7 be recovered by the municipality in a civil action
8 against the owner of the building.

9 §2508. Revocation of location; hearings

10 1. Revocation of pole location by municipal of-
11 ficers. When the municipal officers of a municipali-
12 ty having a population of more than 40,000 inhabi-
13 tants, in which a person maintains wires attached to
14 poles located in a public street or way, other than a
15 state, state aid or federal aid highway, except for
16 state or state aid highways in the compact area, as
17 defined in section 2503, subsection 1, paragraph B,
18 for conveying electric current or for the transmis-
19 sion of telephone or telegraph messages, determine,
20 after notice and hearing, that public safety and the
21 public welfare require the revocation of a location
22 for poles already erected in a public street or way,
23 they may revoke the location and order the poles re-
24 moved. The person that owns the poles shall remove
25 them within a reasonable time. Other suitable loca-
26 tions or the right to use other poles jointly shall
27 be granted by the municipal officers to the person.

28 2. Notice and hearings. Before revoking a loca-
29 tion or ordering the removal of any poles or wires,
30 the municipal officers shall give public notice of
31 the hearing as follows.

32 A. All persons interested shall be notified by
33 publication in a newspaper circulated in the ar-
34 ea, the last publication to be 14 days before the
35 hearing.

36 B. Personal notice shall be given to the owners
37 of the poles and wires at least 14 days before
38 the hearing.

39 §2509. Joint use of poles

1 1. Municipality may order joint use of poles.
2 The officers of a municipality may, after notice and
3 hearing, order any wires used for conveying electric
4 current or the transmission of telephone or telegraph
5 messages and attached to poles located in a public
6 street or way of the municipality to be removed and
7 attached to other poles, however owned and con-
8 trolled, legally located in the public streets or
9 ways, as the municipal officers may designate, pro-
10 vided in their judgment the change is practicable and
11 can be made without unreasonably interfering with the
12 business of any person. The municipal officers may
13 establish such regulations as they determine neces-
14 sary for the joint use of the poles.

15 2. Cost of maintaining joint poles. If the sev-
16 eral parties using the joint poles cannot agree as to
17 the proportionate share each will bear of the origi-
18 nal cost and of the expense of maintaining the poles,
19 or a proper annual rental for the use of the poles,
20 the following provisions apply.

21 A. The municipal officers may, after hearing the
22 parties, determine the proportionate part of the
23 expense each party will justly bear or a proper
24 rental.

25 B. The municipal officers shall give personal
26 notice to each party 14 days before the hearing.

27 C. The owner of the poles may recover, in a civ-
28 il action, from each party using the poles, his
29 share of the cost and expense or the rental as
30 determined by the municipal officers.

31 3. Orders and decisions of municipal officers.
32 All orders and decisions of the municipal officers
33 under this section shall be in writing and a record
34 of them shall be made by the municipal clerk. The
35 service of a copy of the order or decision, attested
36 by the clerk, upon the parties affected by it is suf-
37 ficient notice to the party affected to require com-
38 pliance.

39 4. Long distance lines expected. This section
40 does not apply to long distance telephone wires or
41 lines of poles used to support them. For the purpose

1 of this section a wire which does not extend at least
2 20 miles in a direct line from a central office is
3 not a long distance telephone wire.

4 5. Appeals. A party aggrieved by an order or
5 decision of the municipal officers relating to the
6 joint use or occupation of poles; or by any regula-
7 tion established by the municipal officers relating
8 to the joint use of poles; by their decision as to
9 his proportionate share of the original cost; the
10 cost of maintaining the joint poles; or the annual
11 rental for the use of the joint poles, may appeal
12 from the order, decision or regulation at any time,
13 within 10 days after service of notice of them, to
14 the Superior Court in the county in which the municipa-
15 lity is located.

16 A. When an appeal is taken, the appellant shall:

17 (1) Include in the complaint a statement
18 setting forth substantially the facts of the
19 case, and the orders, decisions or regula-
20 tions of the municipal officers from which
21 he appeals and in what respect he is ag-
22 grieved by them; and

23 (2) Give written notice of the appeal with
24 a copy of the complaint to the opposite par-
25 ty.

26 B. The presiding justice at the first term of
27 the Superior Court shall appoint a committee com-
28 prised of 3 disinterested persons, not residents
29 of the municipality named in the complaint, who
30 shall, within 30 days after the appointment, af-
31 ter due notice and hearing:

32 (1) Affirm the orders or decisions of the
33 municipal officers;

34 (2) Amend or modify the orders or deci-
35 sions; or

36 (3) Make new and further orders, decisions
37 or regulations governing the joint use of
38 poles by any of the parties to the proceed-
39 ings, or in relation to the proportionate

1 share of the expense to be borne by each
2 party using the joint poles, or the just and
3 fair rental for the use of the poles.

4 C. The committee's report shall be filed with
5 the clerk of the Superior Court. Upon being ac-
6 cepted by a Justice of the Superior Court the re-
7 port is final and binding on all parties to the
8 proceedings, except that questions of law arising
9 under the proceedings may be reserved for deci-
10 sion by the Law Court.

11 D. A person affected by an order or decision of
12 the municipal officers, who is not joined in the
13 original complaint, may, on motion to the Superi-
14 or Court, be joined in the complaint at any time
15 before hearing by the committee appointed under
16 this section.

17 §2510. Power and authority conferred are additional

18 The power and authority conferred on municipal
19 officers under sections 2508 and 2509 are in addition
20 to those vested in municipal officers under sections
21 2501 to 2507 and 2512. Nothing in sections 2508 and
22 2509 may be construed as giving to any party the
23 right of appeal from the decisions, specifications,
24 orders or permits, or alterations of the decisions,
25 specifications, orders or permits of the municipal
26 officers under this chapter and chapter 23 except as
27 provided in section 2509.

28 §2511. Affixing wires and structures; consent of
29 building owner required

30 Every person maintaining or operating a telephone
31 or electrical line, or anyone who in any manner af-
32 fixes, causes to be affixed or enters upon the prop-
33 erty of another for the purpose of affixing a struc-
34 ture, fixture, wire or other apparatus to the build-
35 ing of another without the consent of the owner of
36 the property or his lawful agent commits a civil vio-
37 lation for which a forfeiture not to exceed \$100 may
38 be adjudged for each offense.

39 §2512. Fees of municipal officers

1 The officers of municipalities may annually ap-
2 point an inspector of meters, who shall:

3 1. Term. Serve for one year or until another is
4 qualified in his stead, at a salary determined by the
5 municipal officers; and

6 2. Duties. Have charge of the inspection of all
7 water, gas and electric meters furnished for use in
8 the municipality.

9 §2703. Duties of inspectors

10 The inspector of meters shall, upon written ap-
11 plication as provided in section 2704 by a consumer
12 of gas, water or electric current in the municipality
13 inspect and ascertain the accuracy of any gas, water
14 or electric meter. When the meter is found or made
15 correct, the inspector shall stamp or mark it with a
16 suitable device. This device shall be recorded in
17 the office of the municipal clerk where the inspector
18 was appointed.

19 §2704. Application for inspection; removal of faulty
20 meter; expense of inspection

21 1. Application for inspection. If a consumer
22 applies in writing to the municipal clerk for the in-
23 spection of his meter, and deposits with the clerk
24 the fee fixed by the municipal officers for this ser-
25 vice, the inspector shall inspect and test the meter.

26 2. Removal of faulty meter. If the meter is
27 found to be incorrect to the extent of 4% if an elec-
28 tric meter or 2% if a gas or water meter, to the
29 prejudice of the consumer, the inspector shall order
30 the person furnishing the meter to remove the meter
31 and to install in its place a meter which has been
32 tested, approved, marked and sealed by an inspector
33 of meters.

34 3. Expense of inspection. Upon finding an in-
35 correct meter, the inspector shall give a certificate
36 to the consumer, showing the result of the test.
37 Upon presenting the certificate to the municipal
38 clerk, the consumer shall receive the fee deposited
39 with the clerk. In the case of an incorrect meter

1 the person shall bear the expense of the inspection
2 and shall pay to the treasurer of the municipality
3 the fee required of the consumer. All fees collected
4 by the municipal clerk or treasurer shall be placed
5 to the credit of the municipality to be used for mu-
6 nicipal purposes.

7 §2705. Civil liability for damages to meters

8 Any person who commits any of the acts prohibited
9 in Title 17-A, section 357-A, or who otherwise dam-
10 ages, destroys or tampers with property of a utility
11 as provided in Title 17-A, section 805 or 806, is li-
12 able in a civil action to the utility owning the
13 property affected. This liability shall be for all
14 damages suffered by the utility including:

15 1. Service. The cost of utility services wrong-
16 fully used;

17 2. Repair. The cost of equipment repair or re-
18 placement, as necessary; and

19 3. Other costs. All other reasonable costs to
20 the utility, including attorney fees and costs of un-
21 dertaking and completing the investigation resulting
22 in a determination of liability.

23 CHAPTER 29

24 MAINE PUBLIC UTILITY FINANCING BANK ACT

25 §2901. Title

26 This chapter shall be known and may be cited as
27 the "Maine Public Utility Financing Bank Act."

28 §2902. Findings and declaration of purpose

29 It is declared to be in the public interest and
30 to be the policy of the State:

31 1. To promote markets for borrowing. To foster
32 and promote by all reasonable means the provision of
33 adequate markets and costs for borrowing money by
34 public utilities, for the financing of the provision,
35 manufacture, generation, transmission and distribu-

1 tion of electric energy, gas and water and any other
2 facilities for the financing of energy conservation
3 measures and renewable energy resources designed to
4 reduce the use of electric energy and gas from the
5 proceeds of bonds issued by those public utilities;

6 2. Creation of indebtedness. To assist those
7 public utilities in fulfilling their needs for these
8 purposes by creation of indebtedness and to the ex-
9 tent possible to encourage continued investor inter-
10 est in the bonds of those public utilities as sound
11 and preferred securities for investment; and

12 3. Encourage independent undertakings. To en-
13 courage its public utilities to continue independent-
14 ly undertaking electric energy, gas and water provi-
15 sion, generation, manufacture, transmission, distri-
16 bution and the promotion of conservation and use of
17 renewable energy resources and providing facilities
18 and improvements and financing for those undertakings
19 and to assist them therein by making funds available
20 to reduced interest costs for orderly financing of
21 those undertakings particularly for those public
22 utilities not otherwise able readily to borrow for
23 those purposes at 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 public utility which is subject to the jurisdiction
16 of the commission and which is an electrical utility,
17 a water utility or a gas utility, as those utilities
18 are defined in section 102.

19 8. Public utility bond or utility bond. "Public
20 utility bond" or "utility bond" means a bond, note or
21 evidence of debt issued by a public utility located
22 in or serving any inhabitants of the State and pay-
23 able from rates, charges or other revenues.

24 9. Revenues. "Revenues" means all fees,
25 charges, money, profits, payments of principal or
26 interest on utility bonds and other investments,
27 gifts, grants, contributions, appropriations and all
28 other income derived or to be derived by the bank un-
29 der this chapter.

30 §2904. Creation of bank and membership

31 1. Creation of bank. There is established a
32 public body corporate and politic to be known as the
33 "Maine Public Utility Financing Bank." The bank is an
34 instrumentality of the State exercising public and
35 essential governmental functions. The exercise by
36 the bank of the powers conferred by this Act shall be
37 deemed an essential governmental function of the
38 State.

1 2. Commissioners. The bank shall be under the
2 direction of a board of 5 commissioners comprised of
3 the commissioners of the Maine Municipal Bond Bank
4 who shall be commissioners ex officio.

5 3. Election and appointment of officers. The
6 board of commissioners shall:

7 A. Elect one of its members as chairman and one
8 as vice-chairman; and

9 B. Appoint an executive director who shall also
10 serve as both secretary and treasurer.

11 4. Powers and quorum. The powers of the bank
12 are vested in the commissioners in office from time
13 to time and 3 commissioners of the bank constitute a
14 quorum at any meeting. Action may be taken and
15 motions and resolutions adopted by the bank at any
16 meeting by the affirmative vote of at least 3 commis-
17 sioners of the bank. No vacancy in the office of
18 commissioner of the bank impairs the right of quorum
19 of the commissioners to exercise all the powers and
20 perform all the duties of the bank.

21 5. Security bonds. Before the issuance of any
22 bonds or notes under this Act, each commissioner of
23 the bank shall execute a surety bond in the penal sum
24 of \$25,000 and the executive director of the bank
25 shall execute a surety bond in the penal sum of
26 \$50,000, each such surety bond to be conditioned upon
27 the faithful performance of the duties of the office
28 of the commissioner or executive director to be exe-
29 cuted by a surety company authorized to transact
30 business in the State as surety and to be approved by
31 the Attorney General and filed in the office of the
32 Secretary of State. At all times after the issuance
33 of any bonds or notes by the bank, each commissioner
34 of the bank and the executive director shall maintain
35 those surety bonds in full force and effect. All
36 costs of those surety bonds shall be borne by the
37 bank.

38 6. Compensation and expenses. Each member of
39 the board of commissioners shall receive \$50 per day
40 for the time actually spent in the discharge or per-
41 formance of his duties as a commissioner in addition

1 to other compensation he may receive as a Commission-
2 er of the Maine Municipal Bond Bank.

3 Each commissioner shall be reimbursed for his reason-
4 able expenses incurred in carrying out his duties un-
5 der this chapter. No officer or employee of the
6 State forfeits his office or employment or any bene-
7 fits or emoluments of that office or employment by
8 accepting the office of commissioner of the bank or
9 his services in the bank.

10 7. Executive director. The board of commission-
11 ers shall fix the duties and compensation of the ex-
12 ecutive director. The executive director may:

13 A. Employ, upon approval of the board of commis-
14 sioners, a general counsel, architects, engi-
15 neers, accountants, attorneys, financial advisors
16 or experts and such other or different officers,
17 agents and employees as may be required; and

18 B. Determine their qualifications, terms of of-
19 fice, duties and compensation.

20 8. Subordinate staff. To the maximum extent
21 feasible and consistent with the other obligations of
22 the Maine Municipal Bond Bank, the executive director
23 and all subordinate staff shall be drawn from the
24 staff of the Maine Municipal Bond Bank and the facil-
25 ities of the Maine Municipal Bond Bank shall be used
26 or shared by the bank.

27 §2905. Lending and borrowing powers generally

28 1. Purchase of utility bonds. The bank, for the
29 purposes authorized by this chapter, may lend money
30 to public utilities by purchasing public utility
31 bonds in full marketable form.

32 2. Purpose of loans. Loans to public utilities
33 may be made for any purpose for which those public
34 utilities may issue bonds and also may be made in
35 connection with the financing of facilities, or any
36 interest in facilities, located outside of the State
37 if facilities or the interest is reasonably related
38 to the provision of public utility services to inhab-
39 itants of the State.

1 3. Bank may issue bonds and notes. The bank,
2 for the purposes authorized by this chapter, may au-
3 thorize and issue its bonds and notes payable solely
4 from the revenues or funds available to the bank for
5 that insurance, and to otherwise assist public utili-
6 ties as provided in this chapter.

7 4. Bonds and notes issued not debt of state.
8 Bonds and notes of the bank issued under this chapter
9 are not in any way a debt or liability of the State
10 and do not constitute a loan of credit of the State
11 or create any debts or liabilities on behalf of the
12 State but all such bonds and notes, unless funded or
13 refunded by bonds or notes of the bank, are payable
14 solely from revenues or funds pledged or available
15 for their payment as authorized in this chapter.
16 Each bond and note shall contain on its face a state-
17 ment to the effect that the bank is obligated to pay
18 the principal or interest and redemption premium, if
19 any, only from the revenues or funds pledged or
20 available for those purposes and that either the
21 faith and credit nor the taxing power of the State is
22 pledged to the payment of the principal of or the in-
23 terest on those bonds or notes.

24 5. Expenses. All expenses incurred in carrying
25 out the purposes of this chapter are payable solely
26 from revenues or funds provided or to be provided
27 under this chapter. Nothing in this chapter may be
28 construed to authorize the bank to incur any indebt-
29 edness or liability on behalf of or payable by the
30 State.

31 §2906. Corporate powers

32 1. Powers. The bank is constituted a public
33 body corporate and politic and an instrumentality of
34 the State and has perpetual succession and, for car-
35 rying out the purposes of this chapter, has the fol-
36 lowing powers:

37 A. To sue and be sued;

38 B. To adopt and have an official seal and alter
39 that seal at pleasure;

- 1 C. To make and enforce bylaws and rules for the
2 conduct of its affairs and business and for use
3 of its services and facilities;
- 4 D. To maintain an office at such place or places
5 inside the State as it may determine;
- 6 E. To acquire, hold, use and dispose of its in-
7 come, revenue, funds and money;
- 8 F. To acquire, rent, lease, hold, use and dis-
9 pose of other personal property for its purposes;
- 10 G. To borrow money; to issue its negotiable
11 bonds or notes; to provide for and secure the
12 payment of its bonds and notes; to provide for
13 the rights of the holders of them; and to pur-
14 chase, hold and dispose of any of its bonds or
15 notes;
- 16 H. To fix and revise from time to time and
17 charge and collect fees and charges for the use
18 of its services or facilities;
- 19 I. To accept gifts or grants of property, funds,
20 money, materials, labor, supplies or services
21 from the United States, this State or any other
22 state, agencies or departments of the State, or
23 from any political subdivision or any person to
24 carry out the terms or provisions or make agree-
25 ments with respect to any gifts or grants and to
26 perform any acts necessary, useful, desirable or
27 convenient in connection with procurement, ac-
28 ceptance or disposition of those gifts or grants;
- 29 J. To perform any acts and things authorized by
30 this chapter under, through or by means of its
31 officers, agents or employees or by contracts
32 with any person;
- 33 K. To make, enter into and enforce all contracts
34 or agreements necessary or desirable for the pur-
35 poses of the bank or pertaining to any loan to a
36 public utility or any purchase or sale of public
37 utility bonds or other investments or to the per-
38 formance of its duties and execution or carrying
39 out of any of its powers under this chapter;

1 L. To purchase or hold public utility bonds at
2 such prices and in such manner as the bank deter-
3 mines advisable and to sell public utility bonds
4 acquired or held by it at such prices without re-
5 lation to cost and in such manner as the bank de-
6 termines advisable;

7 M. To invest any funds or money of the bank not
8 then required for loan to public utilities and
9 for the purchase of public utility bonds in the
10 same manner as permitted for investment of funds
11 belonging to the State or held in the State Treas-
12 ury, except as otherwise permitted or provided
13 by this chapter;

14 N. To fix and prescribe any form of application
15 or procedure to be required of a public utility
16 for the purpose of any loan or the purchase of
17 its public utility bonds and to fix the terms and
18 conditions of any such loan or purchase and to
19 enter into agreements with public utilities with
20 respect to any such loan or purchase;

21 O. To contract with the Maine Municipal Bond
22 Bank for the use of its staff, facilities or con-
23 sultants, for temporary advances of funds or for
24 any other matter, which contracts may provide for
25 payment to the Maine Municipal Bond Bank for any
26 goods or services received and for repayment of
27 any temporary advances of funds made; and

28 P. To do all acts necessary, convenient or de-
29 sirable to carry out the powers expressly granted
30 or necessarily implied in this chapter.

31 §2907. Prohibited acts and limitation of powers

32 Nothing in this chapter permits or authorizes the
33 bank to:

34 1. Loans. Make loans of money to any person
35 other than a public utility or purchase securities
36 issued by any person other than a public utility or
37 for investment, except as provided in this chapter;

38 2. Banking business. Emit bills of credit; ac-
39 cept deposits of money for time or demand deposit;

1 administer trusts; engage in any manner in, or in the
2 conduct of, any private or commercial banking busi-
3 ness; or act as a savings bank or savings and loan
4 association;

5 3. Bank and trust company. Be or constitute a
6 bank or trust company within the jurisdiction or un-
7 der the control of the Bureau of Banking, the Super-
8 intendent of Banking, the Comptroller of the Currency
9 of the United States or the United States Department
10 of the Treasury;

11 4. Security business. Be or constitute a dealer
12 in securities within the meaning of or subject to any
13 securities law, securities exchange law or securities
14 dealers law of the United States, of this State or of
15 any other state or jurisdiction; or

16 5. Public utility. Be a public utility or own
17 and operate for its own account, and not as part of a
18 financing undertaken pursuant to this chapter, any
19 public utility plant, system or facility.

20 §2908. Bonds and notes of the bank

21 1. Issuance of bonds; purposes. The bank may,
22 from time to time, issue its bonds in such principal
23 amounts as it determines necessary to provide funds
24 for any purposes authorized by this chapter, includ-
25 ing:

26 A. The making of loans;

27 B. The payment, funding or refunding of the
28 principal of, or interest or redemption premiums
29 on, any bonds issued by it whether the bonds or
30 interest to be funded or refunded have or have
31 not become due or subject to redemption prior to
32 maturity in accordance with their terms;

33 C. The establishment or increase of the reserves
34 to secure or to pay the bonds or interest on
35 them; and

36 D. All other costs or expenses of the bank inci-
37 dent to and necessary or convenient to carry out
38 its corporate purposes and powers.

1 2. Bonds are special obligations of the bank.
2 Except as otherwise expressly provided in this chap-
3 ter or by the bank, every issue of bonds shall be
4 special obligations of the bank payable solely from
5 the revenues or funds of the bank made available for
6 the purpose and subject to any agreements with the
7 holders of particular bonds pledging any particular
8 revenues or funds. The bonds may be additionally se-
9 cured by a pledge of any grants, subsidies, contribu-
10 tions, funds or money from the United States, this
11 State or any political subdivision of the State, any
12 person or a pledge of any income or revenues, funds
13 or money of the bank from any source.

14 3. Issuance of notes. The bank may issue its
15 notes for any corporate purpose of the bank from time
16 to time, in such principal amounts as it determines
17 necessary, and may renew or pay and retire or refund
18 the notes from the proceeds of bonds or of other
19 notes, or from any other funds or money of the bank
20 available or to be made available for that purpose,
21 in accordance with any contract between the bank and
22 the holder of the notes and not otherwise pledged.
23 The notes shall be issued in the same manner as bonds
24 and the notes and the resolution or resolutions au-
25 thorizing the notes may contain any provisions, con-
26 ditions or limitations which the bonds or a bond res-
27 olution of the bank may contain. Unless provided
28 otherwise in any contract between the bank and the
29 holders of notes and unless the notes have been oth-
30 erwise paid, funded or refunded, the proceeds of any
31 bonds of the bank issued, among other things, to fund
32 the outstanding notes, shall be held, used and ap-
33 plied by the bank to the payment and retirement of
34 the principal of those notes and the interest due and
35 payable. The bank may make contracts for the future
36 sale from time to time of the notes, pursuant to
37 which the purchaser shall be committed to purchase
38 the notes from time to time on terms and conditions
39 stated in the contracts, and the bank may pay such
40 consideration as it determines proper for the commit-
41 ments.

42 4. Bonds and notes are negotiable instruments.
43 Whether or not the bonds or notes of the bank are of
44 such form and character as to be negotiable instru-
45 ments under the Uniform Commercial Code, Title 11,

1 Article 8, the bonds and notes are negotiable instru-
2 ments within the meaning of and for all the purposes
3 of the Uniform Commercial Code, Title 11, Article 8,
4 subject only to the provisions of the bonds and notes
5 for registration.

6 5. Bonds or notes authorized by resolution.
7 Bonds or notes of the bank shall be authorized by
8 resolution of the bank and may be issued in one or
9 more series and shall bear such date or dates, mature
10 at such time or times, bear interest at such rate or
11 rates of interest per year, be in such denomination
12 or denominations, be in such coupon or registered
13 form, carry such conversion or registration privi-
14 leges, have such rank or priority, be executed in
15 such manner, be payable from such sources in such me-
16 di-um of payment at such place or places inside or
17 outside the State and be subject to such terms of re-
18 demption, with or without premium, as the resolution
19 or resolutions may provide.

20 6. Signature of officers. If any officer whose
21 signature appears on the bonds, notes or bond coupons
22 ceases to be an officer before the delivery of the
23 bonds, notes or bond coupons, his signature is valid
24 for all purposes as if he had remained in office.

25 7. Sale of bonds or notes. Bonds or notes of
26 the bank may be sold at a public or private sale at a
27 time and at a price determined by the bank.

28 8. No consent required for issuance. Bonds or
29 notes of the bank may be issued under this chapter
30 without obtaining the consent of any department, di-
31 vision, commission, board, bureau or agency of the
32 State, and without any other proceedings or the hap-
33 pening of any other conditions or acts than those
34 proceedings, conditions or acts which are specificall-
35 ly required by this chapter.

36 9. Notes refunded or retired. The bank may from
37 time to time issue its notes as provided under this
38 chapter and pay and retire or fund or refund its
39 notes from proceeds of bonds or of other notes, or
40 from any other funds or money of the bank available
41 or to be made available for this purpose in accord-
42 ance with any contract between the bank and the hold-

1 ers of the notes. Unless provided otherwise in any
2 contract between the bank and the holders of notes
3 and unless the notes have been otherwise paid, funded
4 or refunded, the proceeds of any bonds of the bank
5 issued, among other things to fund outstanding notes,
6 shall be held, used and applied by the bank to the
7 payments and retirement of the principal of the notes
8 and the interest due and payable on the notes.

9 §2909. Resolutions and indentures

10 In any resolution of the bank authorizing or re-
11 lating to the issuance of any bonds or notes, the
12 bank, in order to secure the payment of the bonds or
13 notes and in addition to its other powers, shall have
14 power by provisions in the resolution which consti-
15 tute covenants by the bank and contracts with the
16 holders of the bonds or notes to enter into any trust
17 agreement or trust indenture with a corporate trust-
18 ee, which may be any trust company or national bank-
19 ing association or state bank having the powers of a
20 trust company inside or outside the State. The trust
21 agreement, indenture or the resolution providing for
22 the issuance of the bonds or notes may pledge or as-
23 sign the revenues of the bank, and may contain provi-
24 sions for protecting and enforcing the rights and
25 remedies of the holder of such bonds and notes as may
26 be reasonable and proper and not in violation of law,
27 including the custody, safeguarding and application
28 of all money. A trust agreement may set forth the
29 rights and remedies of the holders of the bonds and
30 notes and of the trustee, and may restrict the indi-
31 vidual right of action by those holders. The bank
32 may provide by the trust indenture for the payment of
33 the proceeds of the bonds and notes and the revenues
34 to the trustee under the trust indenture or other de-
35 pository, and for the method of disbursement of those
36 payments, with safeguards and restrictions as it may
37 determine. All expenses incurred in carrying out the
38 trust indenture may be treated as a part of the oper-
39 ating expenses of the bank. If the bonds are secured
40 by a trust indenture, the bondholder has no authority
41 to appoint a separate trustee to represent them.

42 §2910. Intent of pledge

1 Any pledge of revenue or other money made by the
2 bank is valid and binding from time to time when the
3 pledge is made. The revenue or other money pledged
4 and received by the bank is immediately subject to
5 the lien of the pledge without any physical delivery
6 of the revenue or other money or further act and the
7 lien of any pledge is valid and binding as against
8 all persons having claims of any kind in tort, con-
9 tract or otherwise against the bank, irrespective of
10 whether those persons have notice of the lien. Nei-
11 ther the resolution nor any other instrument by which
12 a pledge is created need be filed or recorded, except
13 in the records of the bank.

14 §2911. Reserves and funds

15 1. Establishment. The bank may establish such
16 reserves and such other funds or accounts as may be,
17 in its discretion, necessary, desirable or convenient
18 to further the accomplishment of the purposes of the
19 bank or to comply with the provisions of any agree-
20 ment made by or any resolution of the bank.

21 2. Investment. Money at any time in the reserve
22 fund may be invested in the same manner as permitted
23 for investment of funds belonging to the State or
24 held in the treasury.

25 §2912. Personal liability

26 Neither the commissioners of the bank nor any
27 person executing bonds or notes issued pursuant to
28 this chapter is liable personally on the bonds or
29 notes by reason of the issuance of the bonds or
30 notes.

31 §2913. Purchase of bonds and notes of bank

32 The bank may purchase bonds or notes of the bank
33 out of any funds or money of the bank available for
34 that purpose. The bank may hold, cancel or resell
35 the bonds or notes subject to and in accordance with
36 agreements with holders of its bonds or notes.

37 §2914. Bonds as legal investments and security

1 Notwithstanding any restrictions contained in any
2 other law, the State and all public officers, govern-
3 mental units and agencies; all national banking asso-
4 ciations, state banks, trust companies, savings banks
5 and institutions, building and loan associations,
6 savings and loan associations, investment companies
7 and other persons carrying on a banking business; all
8 insurance companies, insurance associations and other
9 persons carrying on an insurance business; and all
10 executors, administrators, guardians, trustees and
11 other fiduciaries may legally invest any sinking
12 funds, money or other funds belonging to them or
13 within their control in any bonds or notes issued by
14 the bank pursuant to this chapter and the bonds or
15 notes shall be authorized security for any and all
16 public deposits.

17 §2915. Tax exemptions

18 All bonds and notes issued under this chapter are
19 deemed to be held or issued in connection with essen-
20 tial public and governmental purposes and those bonds
21 and notes so issued, their transfer and the income
22 from them, including any profits made on their sale,
23 are at all times exempt from taxation within the
24 State.

25 §2916. Exemption of property from execution sale;
26 actions to set aside resolutions

27 1. Bank property exempt. All property of the
28 bank is exempt from levy and sale by virtue of an ex-
29 ecution and no execution or other judicial process
30 may issue against the bank's property nor may any
31 judgment against the bank be a charge or lien upon
32 its property; provided that nothing contained in this
33 chapter applies to or limits the rights of the holder
34 of any bonds or notes to pursue any remedy for the
35 enforcement of any pledge or lien given by the bank
36 on its revenues or other money.

37 2. Action to set aside resolution. An action or
38 proceeding in any court to set aside a resolution au-
39 thorizing the issuance of bonds or notes by the bank
40 under this chapter or to obtain any relief upon the
41 ground that the resolution is invalid must be com-
42 menced within 30 days after the adoption of the reso-

1 lution by the bank. After the expiration of the pe-
2 riod of limitation, no right of action or defense
3 founded upon the invalidity of the resolution or any
4 of its provisions may be asserted nor may the validi-
5 ty of the resolution or any of its provisions be open
6 to question in any court on any ground.

7 §2917. Insurance or guaranty

8 The bank may obtain from any department or agency
9 of the United States or the State or nongovernmental
10 insurer any insurance or guaranty, to the extent
11 available, as to the payment or repayment of interest
12 or principal, or both, or any part of the interest or
13 principal, on any bonds or notes issued by the bank,
14 or on any public utility bonds purchased or held by
15 the bank, pursuant to this chapter; and notwithstand-
16 ing any other provisions of this chapter, may enter
17 into any agreement or contract with respect to any
18 insurance or guaranty, except to the extent that the
19 agreement or contract would in any way impair or in-
20 terfere with the ability of the bank to perform and
21 fulfill the terms of any agreement made with the
22 holders of the bonds or notes of the bank.

23 §2918. Annual report

24 No later than the last day of December, the bank
25 shall make an annual report of its activities for the
26 preceding fiscal year to the Governor. Each report
27 shall set forth a complete operating and financial
28 statement covering its operations during the year.
29 The bank shall cause an audit of its books and ac-
30 counts to be made at least once in each year by cer-
31 tified public accountants. The cost of the audit
32 shall be considered an expense of the bank. The bank
33 shall file a copy of the audit with the Treasurer of
34 State.

35 §2919. Additional powers

36 In order to carry out the purposes and provisions
37 of this chapter, the bank, in addition to any powers
38 granted to it elsewhere in this chapter, may:

39 1. Loans. In connection with any loan to a pub-
40 lic utility, consider the need, desirability or eli-

1 gibility of the loan, the ability of the public util-
2 ity to secure borrowed money from other sources and
3 the costs of the loan and the particular public im-
4 provement or purpose to be financed;

5 2. Charges. Impose and collect charges for its
6 costs and services in review or consideration of any
7 proposed loan to a public utility or purchase of pub-
8 lic utility bonds whether or not the loan has been
9 made or the public utility bonds have been purchased;

10 3. Purchase. Fix and establish terms and provi-
11 sions with respect to any purchase of public utility
12 bonds by the bank, including dates and maturities of
13 the bonds, provisions as to redemption or payment
14 prior to maturity and other matters which in connec-
15 tion with such a purchase are necessary, desirable or
16 advisable in the judgment of the bank;

17 4. Hearings. Conduct examinations and hearings
18 and hear testimony and take proof, under oath or af-
19 firmation, at public or private hearings, on any mat-
20 ter material for its information and necessary to
21 carry out this chapter;

22 5. Insurance. Procure insurance against any
23 losses in connection with its property, operations or
24 assets in and from such amounts and from such insur-
25 ers as it determines desirable; and

26 6. Modification. To the extent permitted under
27 its contracts with the holders of bonds or notes of
28 the bank, consent to any modification with respect to
29 rate of interest, time and payment of any installment
30 of principal or interest, security or any other term
31 of bond or note, contract or agreement of any kind to
32 which the bank is a party.

33 §2920. Undertakings of depositories

34 All national banking associations or state banks,
35 trust companies, savings banks, investment companies
36 and other persons carrying on a banking business may
37 give the bank a good and sufficient undertaking with
38 sureties that are approved by the bank to the effect
39 that the national banking association or state bank
40 or banking institution as described faithfully keeps

1 and pays over to the order of or upon the warrant of
2 the bank or its authorized agent all funds that may
3 be deposited with it by the bank and agreed interest
4 on the funds under this chapter, at such times or
5 upon such demands as are agreed with the bank or in
6 lieu of such sureties, deposit with the bank or its
7 authorized agent or any trustee or for the holders of
8 any bonds, as collateral, such securities as the bank
9 approves. The deposits of the bank may be evidenced
10 by an agreement in such form and upon such terms and
11 conditions as are agreed upon by the bank and the na-
12 tional banking association or state bank or banking
13 institution.

14 §2921. Purchase of public utility securities

15 1. Authorizations of public utilities. Every
16 public utility may:

17 A. Contract to pay interest on, or an interest
18 cost per year for, money borrowed from the bank
19 and evidenced by its public utility bond pur-
20 chased by the bank;

21 B. Contract with the bank with respect to that
22 loan or purchase and the contract shall contain
23 the terms and conditions of the loan or purchase;

24 C. Pay fees and charges required to be paid to
25 the bank for its services; and

26 D. Sell bonds to the bank on such terms and con-
27 ditions as may be agreed to by it and the bank
28 and approved by the commission.

29 2. Officers' signatures on bonds. If any offi-
30 cer whose signature appears on the public utility
31 bonds ceases to be an officer before the delivery of
32 those bonds, his signature is valid for all purposes,
33 as if he had remained in office.

34 §2922. Remedies on default of public utility securi-
35 ties

36 In the event of default by a public utility in
37 the payment of interest on, or principal of, any pub-
38 lic utility bond owned or held by the bank as and

1 when due and payable the bank shall proceed to en-
2 force or cause to be enforced payment pursuant to ap-
3 plicable provisions of law of that interest or prin-
4 cipal or other amounts then due and payable.

5 §2923. Purchase of anticipation notes

6 The bank may purchase notes of any public utility
7 issued in anticipation of the sale of public utility
8 bonds in an amount not exceeding at any one time the
9 outstanding authorized amount of the public utility
10 bonds. In connection with any such purchase of an-
11 ticipation notes, the bank may by agreement with the
12 public utility impose such terms, conditions and lim-
13 itations as in its opinion are proper in the circum-
14 stances and for the purposes and security of the bank
15 and the holders of its bonds or notes. The bank
16 shall enforce all such rights, remedies and provi-
17 sions of law as it has under this section or this
18 chapter or as otherwise provided by law.

19 §2924. Budget

20 No later than June 1st each year, the bank shall
21 prepare and file in the office of the Bureau of the
22 Budget a budget of its operating expenses for the en-
23 suing fiscal year. The budget shall be prepared on
24 the basis of quarterly requirements so that it is
25 possible to determine from the budget the operating
26 expenses for each quarter of the year, and shall set
27 forth the general categories of anticipated expendi-
28 tures and the amount on account of each and shall in-
29 clude provision for reserve for contingencies and for
30 over-expenditures. The budget may set forth such
31 additional material as the bank may determine.

32 §2925. State services

33 1. State may render services to bank. All offi-
34 cers, departments, boards, agencies, divisions and
35 commissions of the State, including, without limita-
36 tion, the Maine Municipal Bond Bank, may render any
37 services to the bank which are within the area of
38 their respective governmental functions as estab-
39 lished by law and which are requested by the bank.

1 2. State to comply with bank requests. All of
2 the officers, departments, boards, agencies, divi-
3 sions and commissions shall comply promptly with any
4 reasonable request by the bank as to the making of
5 any study or review as to desirability, need, cost or
6 expense with respect to any public project, purpose
7 or improvement or the financial feasibility of any
8 project, purpose or improvement or the financial or
9 fiscal responsibility or ability in connection with
10 any project, purpose or improvement of any public
11 utility making application for loan to the bank and
12 for the purchase by the bank of public utility bonds.

13 3. Cost and expense of state services. At the
14 request of the officer, department, board, agency,
15 division or commission rendering the service, the
16 bank shall pay for the cost and expense of services
17 it has requested. The Maine Municipal Bond Bank may
18 make temporary advances of funds to the bank from
19 such funds as it determines are available and on such
20 terms and conditions as it determines.

21 §2926. Agreements with financial institutions

22 1. Public utility bonds. The bank may enter in-
23 to such agreements or contracts with any commercial
24 banks, trusts companies, banking or other financial
25 institutions inside or outside the State as are nec-
26 essary, desirable or convenient as determined by the
27 bank, for rendering services to the bank in connec-
28 tion with:

29 A. The care custody or safekeeping of public
30 utility bonds or other investments held or owned
31 by the bank;

32 B. The payment or collection of amounts due and
33 payable as to principal or interest; and

34 C. The delivery to the bank of public utility
35 bonds or other investments purchased by it or
36 sold by it and may pay the cost of these ser-
37 vices.

38 2. Bank may require security. The bank may al-
39 so, in connection with services to be rendered by
40 commercial banks, trust companies or banking or other

1 financial institutions, as to the custody and safe-
2 keeping of any of its public utility bonds or invest-
3 ments, require security in the way of collateral
4 bonds, surety agreements or security agreements in
5 such form and in such amount as are necessary or de-
6 sirable for the purpose of the bank, as determined by
7 the bank.

8 §2927. Form of public utility securities and invest-
9 ments

10 All public utility or other investments of money
11 of the bank permitted or provided for under this
12 chapter shall at all times be purchased and held in
13 fully marketable form, subject to provision for any
14 registration in the name of the bank. All public
15 utility bonds at any time purchased, held or owned by
16 the bank shall upon delivery to the bank be accompa-
17 nied by documentation, including approving legal
18 opinion, certification and guaranty as to signatures,
19 certification as to absence of litigation and such
20 other or further documentation as shall from time to
21 time be required in the municipal bond market.

22 §2928. Presumption of validity; other laws

23 After issuance, all bonds or notes of the bank
24 are conclusively presumed to be fully authorized and
25 issued under the laws of the State and any person or
26 public utility is estopped from questioning their au-
27 thorization, sale, issuance, execution or delivery by
28 the bank.

29 To the extent that this chapter is inconsistent
30 with or in conflict with any private or special law,
31 this chapter shall be effective and such other pri-
32 vate or special law is of no effect.

33 It is not intended that the general laws relating
34 to public utilities shall be in any way affected by
35 this chapter.

36 §2929. Liberal construction of chapter

37 This chapter shall be construed liberally to ef-
38 fectuate the legislative intent and the purposes of
39 this chapter.

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PART 3

ELECTRIC POWER

CHAPTER 31

GENERAL PROVISIONS

SUBCHAPTER I

ELECTRIC RATES

§3101. Fuel adjustment clause

1. Applicability. Subsections 2 to 8 apply to electric utilities with total assets in excess of \$40,000,000. The commission shall promulgate reasonable rules governing the fuel adjustment clause of electric utilities with total assets less than \$40,000,000. These rules shall be consistent with the purposes of this section.

2. Fuel cost. Subject to the approval of the commission, each electric utility shall include as part of its base rates a reasonable cost for fuel to provide its customers with electricity. The cost of fuel shall include fuel consumed in the electric utility's generating stations and the cost of power purchased by the electric utility for use in this State, pursuant to rules promulgated by the commission under this section and in accordance with the requirements of subsection 4. The amount to be included in a utility's base rates shall be determined at the time of general rate adjustment under section 307 or 1303 and shall be based upon the utility's reasonable costs of fuel during the test year used for the rate adjustment.

3. Fuel cost adjustment. Notwithstanding the requirements of section 310, an electric utility shall adjust its electricity charges to customers to recover increases and to credit for decreases in the cost of fuel used in the generating and supplying of electricity subsequent to a general rate proceeding under section 307 or 1303, subject to the conditions of this section.

1 4. Scope of adjustment. Changes in the cost of
2 fuel consumed in the electric utility's generating
3 stations and changes in the cost of power purchased
4 by the electric utility for use in this State consti-
5 tute the only items subject to adjustment, pursuant
6 to rules promulgated by the commission under this
7 section. Those changes in the cost of purchased power
8 which are subject to that adjustment shall exclude
9 all capacity charges, except that, to the extent the
10 commission determines just and reasonable, capacity
11 charges for power purchased from small power produc-
12 ers or cogenerators, as defined in section 3303, may
13 be included in the adjustment. Credits received by
14 the utility for fuel or the fuel component of either
15 purchased power or power sold to other utilities, in-
16 cluding, but not limited to, credits associated with
17 purchased energy or energy sold which are received
18 from the savings fund of the New England Power Ex-
19 change shall be considered changes in the cost of fu-
20 el for the purposes of the fuel cost adjustment, pur-
21 suant to rules promulgated by the commission under
22 this section.

23 5. Fuel adjustment rate applied uniformly to
24 customers. The fuel cost adjustment established un-
25 der this section shall be billed or credited at a
26 single uniform rate per kilowatt hour for all custom-
27 ers of the electric utility.

28 6. Calculation and billing of fuel adjustment.
29 The commission shall establish rules for the calcula-
30 tion and billing of fuel cost adjustments. The
31 rules shall include, but shall not be limited to:

32 A. The fuel accounting method to be used to de-
33 termine cost of fuel;

34 B. The fuel computation period and method of
35 computation of fuel adjustment rate;

36 C. Definitions and components of fuel costs to
37 be included in the fuel cost adjustment;

38 D. An appropriate method to amortize a utility's
39 unrecovered reasonable fuel costs;

40 E. An appropriate method to credit customers for
41 fuel cost overcharges; and

1 F. Reporting requirements to administer this
2 section.

3 The commission may establish a fuel adjustment rate
4 for a fuel computation period, based on projected ki-
5 lowatt hour sales and fuel costs for that period and
6 make appropriate adjustments for overcharges or
7 undercharges in customer bills in subsequent computa-
8 tion periods to account for the difference between
9 the projected kilowatt hour sales and fuel costs and
10 actual kilowatt hour sales and reasonable fuel costs.

11 7. Commission approval required. In no event
12 may a fuel adjustment charge be billed to customers
13 which has not been approved and ordered into effect
14 by the commission pursuant to this section. Each
15 electric utility shall file application for changes
16 in its fuel adjustment rate in accordance with rules
17 promulgated pursuant to this section. The commission
18 shall issue public notice of the application and the
19 opportunity to request a hearing within 7 days after
20 the application is filed with the commission. The
21 commission may render its decision on the application
22 without holding a public hearing. If a public hear-
23 ing is held, the commission shall hold the first ses-
24 sion within 45 days of the filing of the application.
25 The commission shall render its decision on the ap-
26 plication within 45 days of the close of the hearing,
27 or within 45 days of receipt of the application, if
28 no hearing is held. No electric utility may make ap-
29 plication for changes in its fuel adjustment rate un-
30 til a period of 90 days has elapsed from the filing
31 of its last application, unless otherwise ordered by
32 the commission.

33 8. Reports. The commission may require electric
34 utilities to provide such reports and information as
35 it determines necessary to administer this section.

36 §3102. Recovery of cost of canceled or abandoned
37 electric generating facility

38 1. Determining rate-making treatment. In deter-
39 mining the rate-making treatment for a utility's in-
40 vestment in canceled or abandoned electric generating
41 facilities, the commission shall balance the inter-
42 ests of the utility and ratepayers in a just and rea-

1 sonable manner in each individual case. The commis-
2 sion may not permit a utility to recover in rates any
3 costs incurred imprudently in relation to an invest-
4 ment in a canceled or abandoned electric generating
5 facility.

6 2. Canceled or abandoned generating facilities.
7 As used in this section, the term "canceled or aban-
8 doned generating facilities" means any electric gen-
9 erating facility canceled or abandoned by the owner
10 or by the joint participants in the facility in ac-
11 cordance with the terms of applicable agreements or
12 otherwise.

13 3. Exception. This section does not apply to
14 any canceled or abandoned electric generating facili-
15 ty for which the commission has authorized a recovery
16 of any portion of the costs of that facility from
17 ratepayers prior to July 25, 1984.

18 4. This section not intended to indicate prefer-
19 ence. Neither anything in this section nor the re-
20 peal of section 52-A of former Title 35 is intended
21 to indicate a preference for any particular rate-
22 making treatment of a utility's investment in a can-
23 canceled or abandoned plant and the manner of the recov-
24 ery, if any, of the investment shall be left to the
25 commission's discretion.

26 5. Canceled plant recovery filing fee. Any
27 utility requesting recovery in rates of its invest-
28 ment in a canceled or abandoned electric generating
29 facility shall pay to the commission a filing fee of
30 \$150,000 for each facility. The utility may request
31 the commission to waive all or a portion of the fil-
32 ing fee. Filing fees paid as required in this sec-
33 tion shall be segregated, apportioned and expended by
34 the commission for the purposes of this section. Any
35 portion of the filing fee that is received from any
36 utility and is not expended by the commission for the
37 purposes of this section shall be returned to the
38 utility.

39 §3103. Minimum charge

40 1. Utilities required to provide minimum charge.
41 Any electric utility serving more than 5,000 custom-

1 ers which has in effect for residential customers a
2 flat rate combining energy and demand charges shall
3 recover its customer costs through the same rate. As
4 part of that rate, each such electric utility shall
5 provide for a minimum charge to include such an
6 amount of kilowatt hours as the commission shall de-
7 termine.

8 2. Institution of minimum charge. The minimum
9 charge required by this section shall be instituted
10 not later than the date of the first residential rate
11 order adopted with respect to the utility after Sep-
12 tember 18, 1981. For any such utility which applies
13 a flat rate for residential customers on that date,
14 the commission shall order that the minimum charge be
15 instituted no later than October 18, 1981.

16 3. Billing of minimum charge. The minimum
17 charge shall be billed to the customer in such a man-
18 ner that all charges to the customer for residential
19 service shall appear on the bill as a single item.
20 This requirement does not prohibit separate informa-
21 tion concerning the fuel cost adjustment, as defined
22 in section 3101, from appearing on the statement.

23 SUBCHAPTER II

24 ENERGY PLANNING; CONSTRUCTION; PURCHASES

25 §3131. Definitions.

26 As used in this subchapter, unless the context
27 indicates otherwise, the following terms have the
28 following meanings.

29 1. Domestic electric utility. "Domestic elec-
30 tric utility" means any entity organized under the
31 laws of this State to generate, transmit or distrib-
32 ute electric energy.

33 2. Energy. "Energy" means an entitlement to en-
34 ergy for a period greater than 3 years.

35 3. Foreign electric utility. "Foreign electric
36 utility" means any entity organized under the laws of
37 a state other than this State, or a province of Cana-
38 da, which is authorized under the laws of the state

1 or province in which it is organized to generate,
2 transmit or distribute electric energy, or to own,
3 operate or otherwise participate in utility facili-
4 ties or interests in utility facilities.

5 4. Generating capacity. "Generating capacity"
6 means an entitlement to the output of 1,000 kilowatts
7 or more of an electric generating facility or facili-
8 ties for a period greater than 3 years.

9 5. Transmission capacity. "Transmission capaci-
10 ty" means an entitlement to transmission services
11 over a transmission line with a capacity greater than
12 100 kilovolts for periods greater than 3 years.

13 6. Utility facility. "Utility facility" means
14 an item of plant used or useful in the electric util-
15 ity business, and includes, but is not limited to,
16 such items of plant as generating stations, transmis-
17 sion lines, office buildings and equipment and trans-
18 portation equipment.

19 §3132. Construction of transmission lines and gener-
20 ating facilities prohibited without prior or-
21 der of the commission

22 1. Construction of generating facility and re-
23 sulting line. Whenever any electric utility or util-
24 ities proposes to erect within this State a perma-
25 nently installed generating facility of more than
26 1,000 kilowatts or any transmission line of 100
27 kilovolts or more, the construction of which is re-
28 quired as a result of the generating facility, the
29 following provisions apply.

30 A. The utility shall file with the commission,
31 no less than 3 months in advance of submitting
32 its petition for approval of the proposed facili-
33 ty or lines, a notice of its intent to file the
34 petition.

35 The notice of intent to file shall inform the
36 commission of the location, size, type of facili-
37 ty, estimated cost and proposed construction
38 schedule of the generating facility or lines, to-
39 gether with such other facts and details concern-
40 ing the proposed facility or lines as the commis-
41 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 the party to that time
14 having prosecuted its case in good faith and with
15 due diligence, be unreasonably disadvantaged un-
16 less the extension were granted.

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. Schedule of transmission line rebuilding or
31 relocation projects. Beginning on January 1, 1987,
32 each electric utility shall file annually with the
33 commission a schedule of transmission line rebuilding
34 or relocation projects which it intends to carry out
35 during the next 5 years concerning transmission lines
36 that will become, or will remain at, voltages of 100
37 kilovolts or more. The schedule shall describe each
38 project, showing the length, location and estimated
39 cost. If the commission determines that an investi-
40 gation of any transmission reconstruction project is
41 warranted, it shall notify the electric utility with-
42 in 60 days of the annual filing and the electric
43 utility shall then be required to comply with the

1 provisions of this section with respect to that
2 project. The absence of a commission notification to
3 file does not preclude such notification in subse-
4 quent years.

5 4. Map of proposed transmission line. The elec-
6 tric utility shall submit a map to the commission at
7 least 14 days prior to a public hearing held by the
8 commission as to the construction of a transmission
9 line. The map shall:

10 A. Be available to the public at the offices of
11 the commission; and

12 B. Indicate the proposed location and route of
13 the transmission line and a description of any
14 planned equipment and facilities to be placed
15 there.

16 5. Commission approval of the proposed line.
17 The commission may approve or disapprove all or por-
18 tions of the proposed transmission line and shall
19 make such orders regarding its character, size, in-
20 stallation and maintenance as are necessary, having
21 regard for any increased costs caused by the orders.

22 6. Commission order; certificate of public con-
23 venience. In its order, the commission shall make
24 specific findings with regard to the need for these
25 facilities. If the commission finds that a need ex-
26 ists, it shall issue a certificate of public conve-
27 nience and necessity for the facilities proposed. If
28 the commission orders or allows the erection of these
29 facilities, the order shall be subject to all other
30 provisions of law and the right of any other agency
31 to approve the facilities.

32 7. Environmental protection agency modification.
33 If the commission has issued a certificate of public
34 convenience and necessity for the transmission or
35 generating facilities proposed and the Board of Envi-
36 ronmental Protection in an order under Title 38, sec-
37 tion 484, makes a modification in the location, size,
38 character or design of the facilities, the company
39 shall:

40 A. Deliver a copy of the order to the commis-
41 sion; and

1 B. State the nature of the modifications and all
2 cost adjustments occasioned by the modifications
3 to the cost of the proposed facilities relied
4 upon by the commission in issuing its certificate
5 of public convenience and necessity under this
6 section.

7 8. Cost adjustments. If the cost adjustments
8 specified in subsection 7 exceed the cost relied upon
9 by the commission in the original proceeding under
10 this section by more than 20% of the original cost,
11 the utility may not proceed with any construction of
12 the proposed facilities, the commission's original
13 certificate of public convenience and necessity not-
14 withstanding. The commission, upon notification of
15 the cost increase, shall:

16 A. Reopen its original decision concerning the
17 facilities;

18 B. Make specific findings with regard to the
19 need for the facilities to the same extent and
20 with the same authority as if the company's peti-
21 tion for approval were before it; and

22 C. Except as modified in this section, retain
23 all authority granted to it under section 1321.

24 9. Filing fee; waiver of fee. When the petition
25 is filed, the electric utility involved shall pay to
26 the commission an amount equal to 2/100 of 1% of the
27 estimated cost of the purchase or conversion. The
28 utility may, at the time of the filing of notice of
29 its intent to file the petition, request the commis-
30 sion to waive all or a portion of the filing fee.
31 The commission shall rule on the request for waiver
32 within 60 days. Filing fees paid as required under
33 this subsection shall be segregated, apportioned and
34 expended by the commission for the purposes of this
35 section. Any portion of the filing fee that is re-
36 ceived from any utility and is not expended by the
37 commission to process the petition for a certifica-
38 tion of public convenience and necessity shall be re-
39 turned to the utility.

40 10. Exemption from filing fees. Notwithstanding
41 any other requirement in this section, the commission

1 may, by rule, exempt from filing fees applications
2 concerning transmission lines not associated with a
3 major new generating facility or construction of
4 small generating facilities, the review of which does
5 not place an unusual burden on the commission's bud-
6 get.

7 §3133. Purchase of generating capacity, energy or
8 transmission capacity or fuel conversion of
9 generating facilities prohibited without pri-
10 or order of the commission

11 1. Commission approval required. An electric
12 company is required to obtain commission approval as
13 follows whenever it proposes:

14 A. To purchase any right, title or interest in
15 generating capacity, transmission capacity or en-
16 ergy, as defined in section 3131; or

17 B. To convert a permanently installed generating
18 facility of more than 1,000 kilowatts to use a
19 type of fuel different from that which the facil-
20 ity currently is equipped to use.

21 2. Notice of intent to file. The utility shall
22 file with the commission, no less than 2 months in
23 advance of submitting its petition for a certificate
24 of public convenience and necessity for the proposed
25 purchase or conversion, a notice of its intent to
26 file the petition. The notice shall inform the com-
27 mission of the terms of the proposed purchase or con-
28 version and, after receiving the notice, the commis-
29 sion may, by rule or otherwise, require the petition-
30 er to make available such additional information as
31 it determines necessary. The commission may waive
32 the requirement that at least 2 months advance notice
33 be given. The commission shall rule on the request
34 for waiver within 60 days. If there is then out-
35 standing for the utility a long-range plan approved
36 pursuant to section 3134, the utility need not pro-
37 vide an advance notice of its intent to file the pe-
38 tion.

39 3. Petition for certificate of public conve-
40 nience and necessity. The petition for a certificate
41 of public convenience and necessity shall contain

1 such information as the commission may by rule pre-
2 scribe.

3 4. Hearing. The petition shall be set down for
4 public hearing.

5 5. Deadline for issuance of commission order.
6 The commission shall issue its order within 12 months
7 after the petition is filed. If there is then out-
8 standing for the utility a long-range plan approved
9 pursuant to section 3134, the commission shall issue
10 its order within 9 months of filing.

11 6. Certificate of public convenience and neces-
12 sity. The following provisions apply to the issuance
13 of a certificate of public convenience and necessity.

14 A. No electric utility may purchase any generat-
15 ing capacity, transmission capacity or energy as
16 defined in section 3131, or carry out a fuel
17 conversion within the meaning of this section,
18 unless the commission has issued a certificate of
19 public convenience and necessity approving the
20 petition.

21 B. In its order, the commission shall make spe-
22 cific findings with regard to the need for such
23 facilities and, if the commission finds that a
24 need for the purchase or conversion exists, it
25 shall issue a certificate of public convenience
26 and necessity for the purchase or conversion.

27 C. In ruling upon a fuel conversion petition,
28 the commission may consider the benefit to the
29 public of any increased security of fuel supply
30 which may result from the conversion.

31 D. The issuance of a certificate of public con-
32 venience and necessity establishes that, as of
33 the date of issuance of the certificate, the de-
34 cision by the utility to purchase or convert was
35 prudent.

36 7. Exclusions. Nothing in this section applies
37 to any purchases made by an electric utility from any
38 cogenerator or small power producer, as defined in
39 chapter 33.

1 8. Filing fee. When the petition is filed, the
2 utility involved shall pay to the commission an
3 amount equal to 2/100 of 1% of the estimated cost of
4 the purchase or conversion. The utility may, at the
5 time of the filing of notice of its intent to file
6 the petition, request the commission to waive all or
7 a portion of the filing fee. The commission shall
8 rule on the request for waiver within 60 days.

9 Filing fees paid as required by this subsection shall
10 be segregated, apportioned and expended by the com-
11 mission for the purposes of this section. Any por-
12 tion of the filing fee that is received from any
13 utility and is not expended by the commission to pro-
14 cess the petition for a certification of public con-
15 venience and necessity shall be returned to the util-
16 ity.

17 §3134. Long-range energy plan

18 1. Filing by electric utilities. Every electric
19 utility whose total sales of electric energy for pur-
20 poses other than resale exceeded 300,000,000-kilowatt
21 hours during any calendar year beginning after Decem-
22 ber 31, 1980, may submit to the commission a long-
23 range energy plan for the 15-year period subsequent
24 to the date the plan is submitted. This plan shall:

25 A. Include the utility's annual peak-load fore-
26 casts, annual energy forecasts, projected annual
27 fuel mix type and location of proposed generating
28 facilities and alternatives, type and route of
29 major proposed transmission lines and alterna-
30 tives and an analysis of the cost and financing
31 of the plan, together with such other information
32 as the commission may by rule require; and

33 B. List and describe all the assumptions used by
34 the utility in formulating the plan required by
35 this section.

36 2. Hearing and decision. The commission shall
37 set down for public hearing each long-range energy
38 plan filed in accordance with subsection 1. Notice
39 of the hearing and opportunity to intervene shall be
40 provided in accordance with the Maine Administrative
41 Procedure Act, Title 5, chapter 375, and the commis-

1 sion's rules of practice and procedure. The commis-
2 sion shall issue a decision approving, disapproving
3 or modifying each plan within one year after the fil-
4 ing of such energy plan in accordance with this sub-
5 section. Each long-range energy plan as approved or
6 modified by the commission shall constitute the ener-
7 gy plan of each electric utility which files such a
8 plan in accordance with subsection 1 and, unless al-
9 tered as the result of judicial review or subsequent-
10 ly modified by commission order, shall represent the
11 final finding of fact of the matters contained in the
12 plan for the purposes of subsection 3.

13 3. Construction, purchase or conversion of elec-
14 tric generating facilities. If, at the time the com-
15 mission issues an order granting a certificate of
16 public convenience and necessity to a utility pursu-
17 ant to section 3133, there is in existence a long-
18 range energy plan for the utility approved or modi-
19 fied by the commission 2 years or less before the
20 date of the order, the certificate shall not be
21 granted unless the facility subject to the granting
22 of the certificate conforms to that plan. The find-
23 ings by the commission, as embodied in its order un-
24 der subsection 2, shall to the extent relevant repre-
25 sent the commission's findings of fact of the matters
26 contained in the order in any proceeding pursuant to
27 section 3133 that is decided within 2 years from the
28 date of the order.

29 §3135. Physical connection between lines of utili-
30 ties authorized

31 1. Connection with feed lines. An electric
32 utility may extend its lines to connect with the feed
33 lines of an electric utility generating and selling
34 electricity. The electric utility shall furnish
35 electricity if requested to the extent of its reason-
36 able capacity and at reasonable rates, provided that
37 the commission so orders upon application, after pub-
38 lic hearing of all parties interested. The commis-
39 sion may fix such terms and conditions as will safe-
40 guard the rights and interests of both utilities.
41 Ten individuals who contemplate the organization of
42 an electric utility as provided may petition for a
43 public hearing. The commission may hold its hearing
44 on the petition and make its order. If the petition-

1 ers organize an electric utility and begin business
2 within one year, the order shall be effective to give
3 authority to the electric utility.

4 2. Transport of energy to alleviate power short-
5 age caused by emergency. The commission, in the in-
6 terest of public convenience and necessity, may order
7 any utility which is municipally, cooperatively or
8 privately owned and which is principally engaged in
9 the manufacture, transmission, distribution or sale
10 of electricity directly to the public or to be used
11 ultimately by the public for lighting, heating or
12 power to transport temporarily electric energy over
13 its transmission or distribution facilities at a rea-
14 sonable charge and in a manner as the commission di-
15 rects when the transmission will alleviate an elec-
16 tric power shortage within this State which exists by
17 reason of an emergency.

18 3. Commission's findings and order to connect
19 lines in an emergency. Whenever the commission, upon
20 its own motion or upon application of any electric
21 utility, after due notice to all interested parties
22 and an opportunity for a hearing, makes findings
23 based upon substantial evidence that an emergency ex-
24 ists and that action is necessary and appropriate in
25 the public interest and is not detrimental to the in-
26 terests of investors and consumers, it may order a
27 utility to establish physical connection of its
28 transmission or distribution facilities with the fa-
29 cilities of one or more other utilities to sell ener-
30 gy to, to exchange energy with, to transmit or dis-
31 tribute energy for any other utility for a temporary
32 period.

33 4. Limitation on commission's authority to order
34 connection of lines in an emergency. The commission
35 may not compel a company to sell, exchange, transmit
36 or distribute energy under this section when to do so
37 would impair its ability to render adequate service
38 to its customers or would require it to enlarge its
39 generating facilities.

40 5. Terms and conditions; costs. The commission
41 may prescribe the terms and conditions of the ar-
42 rangement to be made between the utilities affected
43 by the order, including the compensation or reim-

1 bursement reasonably due to any of them, and, in the
2 case of a new physical connection, the apportionment
3 of costs between them or among them provided that a
4 utility making application for or receiving the benef-
5 it of a connection which will inure to its sole ben-
6 efit assumes the entire cost of the connection.

7 §3136. Electric utilities have eminent domain; ap-
8 proval

9 1. Land necessary for location of transmission
10 lines carrying 5,000 volts. Electric utilities or-
11 ganized under chapter 37 for the purpose of making,
12 generating, selling, distributing and supplying elec-
13 tricity for lighting, heating or other public pur-
14 poses may take and hold by right of eminent domain
15 lands and easements necessary for the proper location
16 of their transmission lines which are designed to
17 carry voltages of 5,000 volts or more and of neces-
18 sary appurtenances, located within the territory in
19 which the utilities are authorized to do public util-
20 ity business, in the same manner and under the same
21 conditions as set forth in chapter 65.

22 2. Right of eminent domain not applicable. The
23 right of eminent domain does not apply to:

24 A. Lands or easements located within 300 feet of
25 an inhabited dwelling;

26 B. Lands and easements on or adjacent to any de-
27 veloped or undeveloped water power;

28 C. Lands or easements so closely paralleling ex-
29 isting wire lines of other utilities that the
30 proposed transmission lines would substantially
31 interfere with service rendered over the existing
32 lines, except with the consent of the owners; and

33 D. Lands and easements owned or used by railroad
34 corporations.

35 3. Prior right to locate lines and appurtenances
36 in right-of-way limits of public way. Electric util-
37 ities may take and hold by right of eminent domain
38 land or easements necessary for the proper location
39 of their distribution lines and the necessary appur-

1 tenances, but only where the electric utilities had a
2 prior right to locate their distribution lines and
3 necessary appurtenances in the right-of-way limits of
4 a public way and the body having jurisdiction over
5 the public way has caused the electric utility to re-
6 move its distribution lines and appurtenant struc-
7 tures outside the right-of-way limits of the public
8 way. This right does not apply to lands and ease-
9 ments on or adjacent to any developed or undeveloped
10 water power; lands or easements so closely parallel-
11 ing existing wire lines of other utilities that the
12 proposed distribution lines would substantially in-
13 terfere with service rendered over the existing
14 lines, except with the consent of the owners; or
15 lands and easements owned or used by railroad corpo-
16 rations.

17 4. Commission approval; environmental factors.
18 A location to be taken by eminent domain for such
19 transmission or distribution lines must be approved
20 by the commission. Environmental factors to be con-
21 sidered for proper location of a transmission or gas
22 pipeline are not subject to review by the commission
23 when the location of the transmission line has re-
24 ceived site location of development approval under
25 Title 38, section 484.

26 §3137. Area within which domestic electric utility
27 may generate and transmit electric energy

28 1. Domestic electric utility may generate and
29 transmit electric energy inside or outside this
30 State. Notwithstanding any limitation imposed by its
31 charter, each domestic electric utility may generate
32 and transmit electric energy and acquire and operate
33 anywhere inside or outside this State utility facili-
34 ties or interests in utility facilities of any nature
35 or form used or required to be used in its service to
36 the public, provided that:

37 A. Nothing in this section authorizes a utility
38 to sell electric energy in this State to any per-
39 son or within any area, except as otherwise au-
40 thorized by its charter or the general statutes
41 of this State; and

1 B. That section 701, notwithstanding the last
2 sentence of section 701, subsection 1, applies to
3 any domestic electric utility acquiring and oper-
4 ating utility facilities outside this State.

5 2. Legislative consent to application of laws of
6 other states with respect to taxes. Legislative con-
7 sent is given to the application of the laws of other
8 states with respect to taxation, payments in lieu of
9 taxes and the assessment of taxes or payments in lieu
10 of taxes to any domestic electric utility which is
11 acting outside this State under this section.

12 §3138. Joint ownership of facility; waiver of right
13 to partition

14 Notwithstanding Title 14, chapter 719, any domes-
15 tic electric utility or foreign electric utility that
16 acquires or owns a joint or common interest with one
17 or more other electric utilities or other persons in
18 any property which is used or acquired for use as a
19 utility facility may surrender or waive its right to
20 have a partition by division or partition by sale of
21 the property for a period which does not exceed the
22 period for which the property is used or useful for
23 electric utility purposes.

24 §3139. Powers of foreign electric utility

25 One or more foreign electric utilities may con-
26 struct, purchase, own, control, operate, manage,
27 mortgage, lease, sell, dispose of or otherwise par-
28 ticipate in a utility facility or have interest in a
29 utility facility or the product or service from a
30 utility facility within this State in common or
31 jointly with one or more domestic electric utilities
32 owning, in the aggregate, not less than a majority
33 interest in that utility facility, provided that
34 nothing in this section authorizes a foreign electric
35 utility to sell electric energy at retail to custom-
36 ers located within this State.

37 §3140. Regulation of foreign electric utility

38 1. Foreign electric utility to notify commission
39 before acting within this State. A foreign electric
40 utility acting under section 3139 shall, before con-

1 structing, purchasing, owning, controlling, operat-
2 ing, managing or otherwise participating in a joint
3 or common interest in a utility facility within this
4 State:

5 A. Notify the commission in writing of the ac-
6 tion to be taken by it; and

7 B. Provide any information reasonably required
8 by the commission under section 3132.

9 2. Annual report of foreign electric utility.
10 After giving notice, the foreign electric utility
11 shall:

12 A. Annually file with the commission a copy of
13 the annual report filed by it with the appropri-
14 ate regulatory agency of its domicile or princi-
15 pal locus; and

16 B. Furnish to the commission from time to time
17 such other information with respect to its activ-
18 ities within this State as the commission may
19 reasonably require.

20 3. Registered office and agent; service of pro-
21 cess. A foreign electric utility acting under sec-
22 tion 3139 shall:

23 A. Designate and continuously maintain in this
24 State a registered office and a registered agent
25 in accordance with Title 13-A, section 1212; and

26 B. Be subject to service of process, notice or
27 demand as provided in Title 13-A, section 1212.

28 4. Certificate of agency with regulatory juris-
29 isdiction over foreign electric utility. Upon the fil-
30 ing with the commission of a certificate of the ap-
31 propriate regulatory agency of the state of domicile
32 or principal locus of a foreign electric utility, or
33 of the United States, stating either that the agency
34 has regulatory jurisdiction over the issuance of
35 stocks, bonds or other evidences of indebtedness pay-
36 able more than 12 months from date of issue by that
37 foreign electric utility to finance a utility facili-
38 ty in this State or that the agency has general su-

1 pervision of that foreign electric utility in the
2 conduct of its electric utility business, that for-
3 foreign electric utility shall not be deemed an "elec-
4 tric utility" as defined in section 102, subsection
5 5, merely by reason of the exercise by it of the au-
6 thority granted in section 3139.

7 §3141. Taxation

8 1. Utility facilities owned by domestic electric
9 utility. All utility facilities, real and personal,
10 situated within this State and owned by a domestic
11 electric utility are subject to assessment and taxa-
12 tion to the same extent and in the same manner as
13 provided in Title 36.

14 2. Utility facilities owned by foreign electric
15 utility. All utility facilities situated within this
16 State and owned by a foreign electric utility other
17 than a municipal or quasi-municipal corporation or
18 other political subdivision of a state or province
19 are subject to assessment and taxation to the same
20 extent and in the same manner as though owned by a
21 domestic electric utility.

22 3. Foreign utility facility that is a municipal
23 or quasi-municipal corporation exempt from taxation.
24 All utility facilities situated in this State and
25 owned by a foreign electric utility that is a muni-
26 cipal or quasi-municipal corporation or other political
27 subdivision of a state or province are exempt from
28 taxation. In lieu of taxes the owner shall on or be-
29 fore September 1st of each year pay to the municipal-
30 ity where the utility facility lies the amount which
31 would be assessable as property taxes if the utility
32 facility were the property of a foreign electric
33 utility other than a municipal or quasi-municipal
34 corporation or other political subdivision of a state
35 or province.

36 4. Procedures relating to payment in lieu of
37 taxes. The assessment, abatement and appellate pro-
38 cedures and all other procedures relating to the pay-
39 ment in lieu of taxes shall be as provided in Title
40 36 with respect to taxes.

41 SUBCHAPTER III

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ELECTRIC RATE REFORM ACT

§3151. Title

This subchapter shall be known and may be cited as the "Electric Rate Reform Act."

§3152. Policy and findings

The Legislature declares and finds that improvements in electric utility rate design and related regulatory programs have great potential for reducing the cost of electric utility services to consumers, for encouraging energy conservation and efficient use of existing facilities and for minimizing the need for expensive new electrical generating and transmission capacity. It is the purpose of this chapter to:

A. Require the commission to relate electric rates more closely to the costs of providing electric service;

B. Encourage the commission to promote the maximum efficient utilization of natural energy resources existing in the State in setting electric rates in order to promote the use of indigenous energy resources to the extent that overall electric costs can be reduced.

§3153. The Public Utilities Commission to develop proposals to improve electric utility rate design

The commission, as it determines appropriate, shall order electric utilities to submit specific rate design proposals and related programs for implementing energy conservation techniques and innovations, either in conjunction with or independent of any rate-making proceeding pending before the commission. The proposals shall, as the commission determines, be designed to encourage energy conservation, minimize the need for new electrical generating capacity, and minimize costs of electricity to consumers, and shall include, but not be limited to, proposals which provide for the development and implementation of:

1 1. Load management. Load management techniques;

2 2. Marginal costs of service. Rates which re-
3 fect marginal costs of services at different
4 voltages, times of day or seasons of the year and in-
5 cluding long-run marginal costs associated with the
6 construction of new electric generating facilities;

7 3. Policies. Policies which encourage economic
8 use of fuel and which encourage the maximum efficient
9 utilization of natural energy resources indigenous to
10 the State;

11 4. Rates or regulatory policies. Rates or other
12 regulatory policies which encourage electric utility
13 system reliability; and

14 5. Utility financing of energy conservation.
15 Electric utility financing or subsidization of capi-
16 tal improvements undertaken by ratepayers to conserve
17 the ratepayer's future use of electricity.

18 §3154. The Public Utilities Commission to require
19 the necessary improvements

20 1. Rate design and conservation improvements.
21 The commission shall mandate, after notice and hear-
22 ing on the proposed schedule, a scheduled phasing-in
23 of the improvements in electric utility rate design
24 and related regulatory programs approved under sec-
25 tion 3153 and is authorized to order utilities to de-
26 velop and implement electric utility rate design im-
27 provements approved by the commission on temporary,
28 pilot and experimental basis, affecting either a por-
29 tion or all of any class of consumers of any utility
30 as the commission may determine is appropriate to
31 carry out the purposes of this subchapter, and order
32 other energy conservation techniques, programs and
33 innovations relating to electric utility service
34 that, in the commission's judgment, are practicable,
35 just and reasonably related to fulfilling the pur-
36 poses of this chapter. In ordering any rate design
37 improvements or any other programs for implementing
38 energy conservation techniques and innovations re-
39 ferred to in section 3153, the commission shall con-
40 sider rate design stability and shall assure the reve-
41 nuue requirements of the utility.

1 2. Initial cost recovery. In assuring the reve-
2 nuce requirements of the utility with respect to pro-
3 grams for implementing energy conservation techniques
4 or innovations, the commission shall, upon petition,
5 permit the utility to adjust rates to recover the
6 reasonable incremental costs associated with imple-
7 menting those programs to the extent that the costs
8 are not already reflected in the utility's existing
9 rates and provided that that adjustment does not re-
10 sult in rates that are unjust or unreasonable. The
11 adjustment shall include reasonable costs of all pro-
12 grams ordered under this subchapter incurred as of
13 the time of the adjustment and reasonable estimated
14 costs of operating the conservation programs.

15 3. Rules. The commission shall adopt rules im-
16 plementing the requirements of subsection 2. Not-
17 withstanding any other provision of this Title, such
18 rules may include:

19 A. Procedures to periodically reconcile or ad-
20 just any rate adjustment ordered under subsection
21 2 or similar costs reflected in the utility's ex-
22 isting rates;

23 B. Procedures which provide incentives and
24 disincentives for the effective implementation of
25 this subchapter; and

26 C. Procedures to provide for the financial cost
27 or benefit of under-collection or
28 over-collection.

29 4. Federal standards. On its own initiative or
30 during a rate proceeding, and to the extent that is
31 feasible, the commission shall consider and adopt the
32 federal standards established in the United States
33 Public Utility Regulatory Policies Act of 1978, Pub-
34 lic Law 95-617. If, and to the extent that, the com-
35 mission should decide not to adopt any of the federal
36 standards referred to in this section, it shall set
37 forth fully the facts and the rationale supporting
38 the rejection of the standards.

39 5. Load management devices. The commission
40 shall mandate, in any electric utility rate schedule
41 approved or taking effect after January 1, 1983, a

1 rate for any user who installs a load management de-
2 vice, approved by the commission, which reflects the
3 savings to the utility resulting from the use of the
4 device.

5 §3155. The Attorney General authorized to intervene
6 before the commission to protect consumer in-
7 terests

8 The Department of Attorney General may:

9 1. Make assessments. Make general factual as-
10 sessments of the impact of proposed rate changes and
11 other proposed regulatory actions upon all affected
12 consumers;

13 2. Assist consumers. Assist consumers in the
14 presentation of their positions before utility regu-
15 latory commissions;

16 3. Advocate position. Advocate, on its own be-
17 half, a position which it determines represents the
18 position most advantageous to consumers, taking into
19 account developments in rate design reform; and

20 4. Obtain grants. Obtain grants pursuant to
21 Public Law 94-385, Section 205(a), 42 United States
22 Code, Section 6805 and the funds made available are
23 to be in addition to, and not in substitution for,
24 funds made available to that department from other
25 sources.

26 SUBCHAPTER IV

27 OLDER CITIZENS POLICY

28 §3171. Title

29 This chapter shall be known and may be cited as
30 the Older Citizens Policy.

31 §3172. Policy

32 It is declared that it is a policy of the State
33 to insure an adequate electric utility service to
34 older citizens at a price they can afford. Older
35 citizens today face a special crisis in surviving un-

1 der the constant increase in the cost of living and
2 particularly in the cost of fuel and utility ser-
3 vices. It is the purpose of lifeline electric ser-
4 vice to alleviate the upward spiral in the cost of
5 electric service to older citizens and at the same
6 time to encourage as well as reward the conservation
7 of scarce energy supplies by adopting the approach of
8 constant per unit cost for the use of electricity.
9 It is the policy of the State that older citizens be
10 able to receive electric service for basic necessi-
11 ties of modern life, such as lighting and refrigera-
12 tion, at a stable, fair and reasonable minimum cost
13 and to encourage the reduction of electric power con-
14 sumption for all other uses beyond such basic neces-
15 sities.

16 CHAPTER 33

17 SMALL POWER PRODUCTION FACILITIES AND
18 COGENERATION FACILITIES

19 §3301. Title

20 This chapter shall be known and may be cited as
21 the "Small Power Production Facilities Act."

22 §3302. Purpose

23 The Legislature finds that it is in the best in-
24 terest of the State to reduce the State's dependence
25 upon fossil fuels for its energy needs. It is neces-
26 sary to diversify energy producing systems and energy
27 sources to ensure an adequate and reliable supply of
28 energy for Maine citizens. The Legislature further
29 finds that the development of small energy production
30 facilities using renewable resources and cogeneration
31 facilities will have a significant and beneficial ef-
32 fect upon this State. The Legislature further finds
33 that the replacement of fossil fuels by municipal
34 solid waste reduces dependence upon fossil fuels,
35 diversifies energy sources, reduces municipal costs
36 and reduces the negative environmental effects of
37 solid waste disposal.

38 The Legislature intends through this legislation
39 to:

1 1. Encourage development. Encourage the devel-
2 opment of energy producing systems using renewable
3 resources; particularly abundant, indigenous, renew-
4 able resources or resources in close proximity to
5 Maine; and

6 2. Promote existing use. Promote the more effi-
7 cient use of existing energy systems particularly
8 through the cogeneration of power.

9 §3303. Definitions

10 As used in this chapter, unless the context oth-
11 erwise indicates, the following terms have the fol-
12 lowing meanings.

13 1. Associate. "Associate" means any person oth-
14 er than an electric utility that substantially partic-
15 ipates in the ownership or operation of a
16 cogeneration or small power production facility or
17 any person that contracts to receive the thermal out-
18 put of a cogeneration facility.

19 2. Cogenerator. "Cogenerator" means a munici-
20 pality or person:

21 A. Owning or operating a facility which gener-
22 ates electricity and steam or other useful forms
23 of energy which are used for commercial, indus-
24 trial, heating or cooling purposes; and

25 B. Not primarily engaged in the generation or
26 sale of electric power, other than the power gen-
27 erated at the cogeneration facility.

28 For purposes of this chapter, a cogenerator is con-
29 sidered not primarily engaged in the generation or
30 sale of electric power if 50% or less of the equity
31 interest in the cogeneration facility is owned by an
32 electric utility, a subsidiary of an electric utility
33 or an affiliate of an electric utility.

34 3. Existing transmission and distribution line
35 improvement costs. "Existing transmission and dis-
36 tribution line improvement costs" means any costs the
37 utility reasonably incurs for upgrading and improving
38 transmission and distribution lines and related fa-

1 ilities that are already operable as part of that
2 utility's existing power grid.

3 4. Interconnection costs. "Interconnection
4 costs" means the reasonable costs incurred solely due
5 to connecting the qualifying facility with the exist-
6 ing facilities of the electric utility purchasing the
7 power. Interconnection costs do not include the
8 costs of improvements to existing transmission and
9 distribution lines.

10 5. Municipal solid waste. "Municipal solid
11 waste" means solid waste emanating from domestic and
12 commercial sources within the State over which munic-
13 ipalities are authorized to exercise control.

14 6. Municipal solid waste energy recovery facili-
15 ty. "Municipal solid waste energy recovery facility"
16 means a "small power producer" as defined in this
17 section, which depends upon municipal solid waste for
18 its primary source of energy. For the purposes of
19 this definition, "primary" means at least 50%.

20 7. Qualifying facility. "Qualifying facility"
21 means any small power producer or cogenerator as de-
22 finied in this section.

23 8. Renewable resources. "Renewable resources"
24 means resources that are capable of being reproduced,
25 replenished or restored following the use of these
26 resources and resources that are inexhaustible. Re-
27 newable resources shall include biomass, wood, water,
28 waste, solid waste, as defined by Title 38, section
29 1303, solar and wind, but do not include, nuclear fu-
30 el sources, coal and oil.

31 9. Small power producer. "Small power producer"
32 means a municipality or person owning or operating a
33 power production facility with a power production ca-
34 capacity which, together with any other facilities lo-
35 cated at the same site, does not exceed 80 megawatts
36 of electricity and which depends upon renewable re-
37 sources for its primary source of energy. For pur-
38 poses of this chapter, a power producer is not con-
39 sidered a "small power producer" if more than 50% of
40 the equity interest in the power production facility
41 is owned by a electric utility, a subsidiary of a

1 electric utility or an affiliate of a electric utili-
2 ty.

3 §3304. Control and regulation of generating facili-
4 ties

5 Notwithstanding the definition of a public utili-
6 ty in section 102, subsection 13, a small power pro-
7 duction facility and or a cogeneration facility, as
8 defined in section 3303, is not deemed a public utili-
9 ty and is not subject to control or regulation by
10 the commission, except that the commission may treat
11 all or a portion of the equity investment, whether
12 direct or indirect, by an electric utility in a qual-
13 ifying cogeneration facility or a qualifying small
14 power production facility as public utility property
15 for retail rate-making purposes. Commission determi-
16 nation and regulation of rates of electric utilities,
17 which include purchases of power from a qualifying
18 small power production facility or cogeneration fa-
19 ility, shall not be considered control or regulation
20 of these facilities.

21 §3305. Sale of electricity

22 1. Authorized markets for electricity. Any
23 small power producer or cogenerator may sell elec-
24 tricity without prior approval or rate approval by
25 the commission to any electric utility.

26 2. Use of electricity by the producer. Any
27 small power producer or cogenerator may generate or
28 distribute electricity through his private property
29 solely for his own use, the use of his tenants or the
30 use of, or sale to, his associates in a small power
31 production or cogeneration facility and not for the
32 use of or sale to others without approval or regula-
33 tion by the commission.

34 3. Interconnections and existing transmission
35 line improvements. A small power producer or
36 cogenerator selling electricity to an electric utili-
37 ty shall be obligated to pay all reasonable intercon-
38 nection costs. Any existing transmission and distri-
39 bution line improvement costs incurred in order for
40 the utility to utilize fully the power from a quali-
41 ifying facility shall be equitably apportioned between
42 the electric utility and the small power producer.

1 §3306. Transactions

2 1. Rate. The small power producer or
3 cogenerator and the electric utility shall determine
4 the rate paid by the electric utility for the pur-
5 chase of electricity as described in this section.

6 2. Small power producer or cogenerator and pub-
7 lic utility unable to agree. In the event that the
8 small power producer or cogenerator and the electric
9 utility are unable to agree to a contract for elec-
10 tricity, or to a price for the electricity purchased
11 by the utility, or to an equitable apportionment of
12 existing transmission and distribution line improve-
13 ment costs, the commission shall require the utility
14 to purchase the power at such rates and under such
15 terms as the commission establishes by rule or order.

16 3. Competing petitions filed by small power pro-
17 ducers. In the event competing petitions are filed
18 by small power producers or cogenerators which are
19 otherwise equivalent with respect to the standards
20 set forth in section 3307, and implementing rules
21 promulgated by the commission, the commission may
22 give preference to any facility that is fueled pri-
23 marily by municipal solid waste.

24 4. Apportionment of transmission and distribu-
25 tion line improvement costs. The Commission shall
26 base the equitable apportionment of existing trans-
27 mission and distribution line improvement costs upon
28 the benefits to the small power producer or
29 cogenerator and the electric utility or cooperative.

30 5. Commission decision of petition. The commis-
31 sion shall issue a decision within 6 months from re-
32 ceipt of a petition signed by a small power producer,
33 cogenerator or electric utility for commission
34 intercession.

35 6. Filing fee. The petitioner or petitioners
36 requesting commission intercession shall pay to the
37 commission an amount equal to \$1,000 per megawatt of
38 capacity of the facility in issue. The petitioner or
39 petitioners may request the commission to waive all
40 or part of the filing fee. Notwithstanding any other
41 provision of law, filing fees paid as required in

1 this paragraph shall be segregated, apportioned and
2 expended by the commission for the purposes of this
3 section. Any portion of the filing fee that is re-
4 ceived from any petitioner or petitioners and is not
5 expended by the commission to process the request for
6 intercession shall be returned to the petitioner or
7 petitioners.

8 §3307. Review of rates

9 During a rate proceeding before the commission
10 which involves the review of rates paid by a electric
11 utility for electricity purchased by the utility from
12 a small power producer, or upon petition to the com-
13 mission in accordance with section 3306, the commis-
14 sion shall follow the standards prescribed in this
15 section as the basis of the commission's decision
16 pertaining to these rates.

17 1. Term of contract. Long-term contracts for
18 the purchase of electricity by the electric utility
19 from small power producers and cogenerators shall be
20 encouraged in order to enhance the economic feasibil-
21 ity of small power production and cogeneration facil-
22 ities.

23 2. Alternative cost of energy to the utility.
24 The rates paid by an electric utility to a small power
25 producer or cogenerator may not exceed, over the
26 term of the purchase power contract, the cost to the
27 electric utility of the electric energy which, but
28 for the purchase from the cogenerator or small power
29 producer, the utility would generate or purchase from
30 another source. A determination of alternative en-
31 ergy costs to the utility shall include consideration
32 of the cost of additional or existing generating ca-
33 capacity which could be displaced over the term of the
34 contract as well as the cost of fuel and other oper-
35 ating expenses of electric energy production which a
36 utility would otherwise incur in generating or pur-
37 chasing power from another source.

38 3. Displacement of fossil fuel. Displacement of
39 fossil fuel by the production of energy from renew-
40 able resources or by the more efficient use of energy
41 by cogeneration shall be encouraged by contracts with
42 and by rates paid to small power producers or
43 cogenerators that make displacement feasible.

1 4. Availability and reliability of power. The
2 rate charged by a small power producer or cogenerator
3 for electricity produced shall reflect the reliability
4 of the power with respect to the number of hours
5 per day and days per year that it is available; the
6 time of day and season of the year at which the elec-
7 tricity is made available; and the time of day, sea-
8 son of the year and the total need for power required
9 by an electric utility.

10 §3308. Purchase and resale of electric energy or ca-
11 capacity by Public Utilities Commission

12 1. Commission representation of the State in
13 energy transactions. The commission when authorized
14 by the Governor, shall represent the State in negoti-
15 ating, contracting for and purchasing electric energy
16 generated outside of the State, and in reselling the
17 purchased energy to electric utilities serving this
18 State, as defined in chapter 1, when the commission
19 determines that the purchases and resales will serve
20 the energy needs of the State in a manner consistent
21 with the public interest. As used in this section,
22 the term "electric energy" includes capacity.

23 2. Pricing of resales of electric energy. All
24 resales of electric energy under this section shall
25 be on a nonprofit basis without preference or dis-
26 crimination, and may include, subject to the Gover-
27 nor's approval, costs incurred by the commission in
28 its negotiating, contracting and purchasing activi-
29 ties under this section. If no purchase-sale agree-
30 ment is made, the Governor is responsible for propos-
31 ing a method of paying the costs he has approved in
32 conjunction with the negotiations.

33 3. Resale of energy to electric utilities out-
34 side the State. The commission may resell purchased
35 energy or capacity under this section to electric
36 utilities operating outside of the State if the re-
37 sale is reasonably incidental to the resale of power
38 within the State.

39 4. Commission has implied powers to carry out
40 this section. In addition, the commission may con-
41 tract for the transmission of energy purchased under
42 this section to the place of resale and shall have

1 all implied and incidental powers which are reason-
2 ably necessary and proper to enable it to carry out
3 the purpose of this section.

4 5. Electric utility may not refuse to transmit
5 energy. No electric utility may refuse to transmit
6 energy purchased under this section via its facili-
7 ties at reasonable rates if it has capability to
8 transmit the energy.

9 §3309. Energy and capacity purchases from small pow-
10 er producer and cogenerator facilities.

11 1. Establishment of a purchase price for energy
12 or energy and capacity delivered to a trustee or re-
13 organized utility. If an electric utility which has
14 entered into a power purchase contract with a small
15 power producer or cogenerator facility for the pur-
16 chase of energy or energy and capacity pursuant to
17 section 3305, subsection 1 or section 3306, files for
18 bankruptcy or for reorganization under the bankruptcy
19 laws of the United States and, if the trustee in
20 bankruptcy or debtor, receiver, examiner or any other
21 party in possession and control of the assets of the
22 electric utility rejects that power purchase contract
23 pursuant to the United States Bankruptcy Code or any
24 similar power or law, the trustee, debtor, receiver,
25 examiner or other party in possession and control of
26 the assets of the electric utility shall be obligated
27 to continue to purchase without interruption from the
28 small power producer or cogenerator facility whose
29 contract was rejected any energy or energy and capac-
30 ity which the small power producer or cogenerator fa-
31 ility makes available to it. If the power purchase
32 contract is rejected, the avoided cost for the ener-
33 gy, or energy and capacity from the small power pro-
34 ducer or cogenerator facility for the time period
35 commencing on the date of the rejection and ending on
36 the original expiration date of the rejected contract
37 shall be the avoided cost determined for the period
38 as if the determination were being made on the date
39 on which the electric utility and small power produc-
40 er or cogenerator facility entered into the rejected
41 contract.

42 2. Nature of capacity contract. If a small pow-
43 er producer or cogenerator facility contracts to pro-

1 vide an electric utility with electric generating ca-
2 capacity, that portion of the power purchase contract
3 which requires the delivery of the capacity shall not
4 be executory in nature under the laws of the State
5 once the small power producer or cogenerator facility
6 has first made available to the electric utility the
7 electric generating capacity. This section shall not
8 be interpreted to mean that any other sections of
9 such a contract are executory in nature.

10 3. Commission approval of rates of reorganized
11 utility. At any time that the commission is re-
12 quested or required to approve rates for an electric
13 utility which has rejected a power purchase contract
14 with a small power producer or cogenerator facility
15 as a result of a bankruptcy or reorganization pro-
16 ceeding, or to approve rates of a person controlling
17 and in possession of the assets of an electric utili-
18 ty which was a party to such a rejected contract, it
19 shall not grant any rate approval; unless the elec-
20 tric utility or person seeking the rates includes
21 within the rates provision for payment of all energy
22 and energy and capacity made available by a small
23 power producer or cogenerator facility, either at the
24 original contract rate or at the rate specified in
25 subsection 1.

26 Any person who is obligated to comply with this
27 section may not be permitted to operate as an elec-
28 tric utility in the State, unless it is in full com-
29 pliance with this section.

30 §3310. Transmission or wheeling of electric power

31 1. Affiliated industrial enterprises. Upon the
32 request of an industrial enterprise located in the
33 State to transmit or wheel electric energy to another
34 industrial facility in the State owned in whole or in
35 part by or otherwise affiliated with the enterprise,
36 the electric utility shall enter into an agreement of
37 not more than 30 years' duration to provide transmis-
38 sion or wheeling services subject to reasonable con-
39 ditions and subject to the conditions of subsection
40 2.

41 2. Conditions. The conditions shall ensure that
42 the fulfillment of the transmission or wheeling

1 agreement is unlikely to result in a reasonably as-
2 certainable uncompensated loss by or place an undue
3 burden on the wheeling utility or its customers and
4 will not unreasonably impair the ability of the
5 wheeling utility to adequately serve its customers in
6 the State.

7 In the event that the person requesting wheeling and
8 the utility requested to transmit or wheel the elec-
9 tric energy are unable to agree to any matter per-
10 taining to transmission or wheeling services, the
11 commission may require the utility to provide the
12 transmission or wheeling services under such condi-
13 tions as may be reasonable, for a period of time de-
14 termined by the commission to be reasonable.

15 3. Wheeling to electric utilities. Subject to
16 all other provisions of this Title, any person may
17 petition the commission for an order requiring one or
18 more electric utilities to transmit energy or energy
19 and capacity from any utility, qualifying facility or
20 other supplier of electricity to any utility. The
21 commission may issue such an order if the proposed
22 transmission or wheeling is in the public interest
23 and meets reasonable conditions, including the condi-
24 tions of subsection 2.

25 4. Capacity obligation. In the event a utility
26 is required to provide transmission service under
27 this section, the utility's obligation to provide
28 electric service to the facility receiving the trans-
29 mitted electricity shall cease, to the extent of the
30 maximum level of electrical capacity demand met by
31 that transmission.

32 CHAPTER 35

33 CONSUMER-OWNED ELECTRIC UTILITIES

34 §3501. Definitions

35 1. "Consumer-owned electric utility." For the
36 purposes of this chapter, "consumer-owned electric
37 utility" means any electric utility which is wholly
38 owned by its consumers, including, but not limited
39 to:

1 A. Any rural electrification cooperative or-
2 ganized under chapter 37;

3 B. Any electrification cooperative organized on
4 a cooperative plan under the laws of the State;

5 C. Any municipal plantation or quasi-municipal
6 electric utility or district; and

7 D. The electric portion of any municipal, plan-
8 tation or electric and other services or any
9 electric utility wholly owned by a municipality.

10 §3502. Procedures for changes in rates

11 Notwithstanding section 310, any consumer-owned
12 electric utility which proposes to increase rates,
13 tolls or charges by not more than 15% of the
14 utility's annual operating revenues, may elect to set
15 rates pursuant to this section and section 3503.
16 These sections do not apply to fuel adjustment
17 clauses as governed by section 3101.

18 1. Public hearing. No consumer-owned electric
19 utility which elects to set rates under this section
20 may file with the commission or increase any rate,
21 toll or charge without first holding a public hearing
22 at which the Public Advocate and any customer of the
23 consumer-owned electric utility may present testimony
24 and may question the officials present regarding the
25 proposed increase.

26 2. Notification. The consumer-owned electric
27 utility shall, at least 30 days prior to the hearing,
28 publish a notice of the amount of the proposed rate
29 increase, the percent of increase for each customer
30 class and the hearing, including the date, time,
31 place and purpose of the hearing at least twice in a
32 newspaper of general circulation in the area encom-
33 passed by the consumer-owned electric utility. In
34 addition, 60 days prior to the hearing, the
35 consumer-owned electric utility shall notify the com-
36 mission and the Public Advocate of its intent to in-
37 crease rates, tolls or charges.

38 3. Ratepayer notification. Each consumer-owned
39 electric utility shall give, at least 30 days prior

1 to the public hearing, one notice to each of its
2 ratepayers of:

3 A. The amount of the proposed rate increase;

4 B. The percent of increase for each customer
5 class;

6 C. The customer's right to request information
7 relating to the present and proposed rates;

8 D. The customer's right to an open and fair
9 hearing and his right to further hearings before
10 the commission;

11 E. The availability of assistance from the Pub-
12 lic Advocate; and

13 F. The date, time and place of hearing.

14 4. Customer rights. At the commencement of each
15 hearing held pursuant to this section, the
16 consumer-owned electric utility shall inform those
17 present of customer rights as specified in subsection
18 3 and that the rate increase may be investigated by
19 the commission in accordance with subsection 8.

20 5. Supporting materials. The consumer-owned
21 electric utility shall file a copy of all materials
22 supporting the proposed increase with the commission
23 and the Public Advocate, at least 30 days prior to
24 the hearing. A copy of all material supporting the
25 proposed increase shall be made available to custom-
26 ers for examination at the offices of the
27 consumer-owned electric utility for at least 30 days
28 prior to the hearing. The consumer-owned electric
29 utility shall promptly provide any relevant addition-
30 al material or information requested by a customer or
31 by the commission or by the Public Advocate.

32 6. Rate filing. The consumer-owned electric
33 utility shall file its changed rates with the commis-
34 sion within 30 days of the public hearing, but not
35 sooner than 10 days following the public hearing.
36 The commission may order the consumer-owned electric
37 utility to correct any mathematical or clerical er-
38 rors.

1 7. Effective date of rate change. Subject to
2 the notice and waiver requirements of section 307,
3 consumer-owned electric utilities electing to set
4 rates under this section may establish an effective
5 date for any rate change of at least one month, but
6 not more than 9 months, from the date the rates are
7 filed with the commission.

8 8. Authority to investigate rate changes. If,
9 within 30 days of the public hearing, 10% of the cus-
10 tomers of the consumer-owned electric utility or 750
11 customers, whichever is less, file petitions with the
12 treasurer of the corporation and with the commission,
13 the rate change may be suspended, investigated, re-
14 viewed and changed by the commission in accordance
15 with section 310, except that no suspension ordered
16 issued by the commission pursuant to section 310 may
17 be effective for a period greater than 9 months from
18 the date the rate changes were filed.

19 9. Procedures for suspension of rate change. If
20 the number of signatures on the petition is at least
21 750 or if the number of signatures on the petition
22 equals or exceeds 10% of the customers indicated on
23 the consumer-owned electric utility's most recent an-
24 nuual report on file with the Public Utilities Commis-
25 sion, the commission may suspend the rate change pur-
26 suant to section 310. The commission shall notify
27 the electric utility of any such suspension.

28 10. Electric utility may challenge petitions.
29 The electric utility shall have 10 days from the re-
30 ceipt of notice to notify the commission whether it
31 intends to contest any aspect of the validity of the
32 petition, after which it shall lose that right. If
33 the electric utility notifies the commission in a
34 timely fashion that it wishes to contest the validity
35 of the petitions, the commission shall set the matter
36 down for hearing. It shall hold the hearing and is-
37 sue its decision on the validity of the petitions
38 within 30 days of notification by the electric utili-
39 ty that it intends to contest the validity of the pe-
40 titions. If the commission finds the petitions to be
41 invalid, it shall lift its order of suspension. For
42 the purposes of this subsection, "customer" means, in
43 the case of residential accounts, any adult residing
44 in a household where the utility's electric service

1 is provided, and in the case of all other accounts
2 where the utility's electric service is provided, a
3 corporate officer, a partner or a proprietor. No one
4 person may sign on behalf of more than one account
5 unless receiving service at the account.

6 11. Review of rates under section 310. Nothing
7 in this section prohibits a consumer-owned electric
8 utility from petitioning the commission for review
9 pursuant to section 310 in the first instance.

10 12. Frequency of rate increases. No
11 consumer-owned electric utility may initiate a pro-
12 ceeding under this section for a general increase in
13 its rates within one year of its most recent notifi-
14 cation in accordance with subsection 3. For the pur-
15 poses of this section, a "general increase in rates"
16 means any change in the rates, tolls and charges of
17 the electric utility, the effect of which is to in-
18 crease the annual operating revenues of an electric
19 utility by more than 1%, provided that this term does
20 not include a rate change made for the sole purpose
21 of implementing a fuel cost adjustment rate, pursuant
22 to section 3101.

23 13. Penalty. If, upon the filing of a rate in-
24 crease pursuant to this section, the commission finds
25 that the utility has failed to comply with this sec-
26 tion, the commission may suspend the rates for inves-
27 tigation pursuant to section 310. If there is a sub-
28 stantial procedural violation of this section, the
29 commission may prohibit the utility from filing rates
30 pursuant to this section in its next rate case.

31 §3503. Rates for consumer-owned electric utilities

32 1. Scope of section. Notwithstanding any other
33 provision of law or any charter to the contrary and
34 in addition to any charter or private and special
35 laws creating or affecting any consumer-owned elec-
36 tric utility, the rate, toll or charge made, exacted,
37 demanded or collected by the consumer-owned electric
38 utility is governed by this section.

39 2. Definition. As used in this section, the
40 term "governing body" means the governing body of a
41 consumer-owned electric utility.

1 3. Just and reasonable rates. The governing
2 body shall establish and file rates, tolls and
3 charges which are just and reasonable and which pro-
4 vide revenue as may be required for the
5 consumer-owned electric utility to perform its public
6 utility service and to attract necessary capital on
7 just and reasonable terms.

8 4. Nondiscriminatory rates. The governing body
9 shall establish and file rates which are nondiscrimi-
10 natory and which are applied on a nondiscriminatory
11 basis.

12 5. Purposes. The governing body may establish
13 and file rates under this section to provide revenue
14 for the following purposes, but no other:

15 A. To pay the current expenses for operating and
16 maintaining the electric system and to provide
17 for normal renewals and replacements;

18 B. To provide for the payment of the interest on
19 the indebtedness created or assumed by the utili-
20 ty;

21 C. For consumer-owned electric utilities, except
22 rural electrification cooperatives:

23 (1) To provide each year a sum equal to not
24 less than 2% nor more than 10% of the term
25 indebtedness represented by the issuance of
26 bonds created or assumed by the utility,
27 which sum shall be turned into a sinking
28 fund and there kept to provide for the ex-
29 tinguishment of term indebtedness. The mon-
30 ey set aside in this sinking fund and all
31 interest accrued to this fund shall be de-
32 voted to the retirement of the term obliga-
33 tions of the utility and may be invested in
34 such securities as savings banks in the
35 State are allowed to hold;

36 (2) To provide for annual principal pay-
37 ments on serial indebtedness created or as-
38 sumed by the utility; and

1 (3) To provide for a contingency reserve
2 fund to reflect up to a 5% addition to year-
3 ly revenues over what is required to operate
4 the electric utility. Any surplus in ex-
5 cess of 5% shall be used to offset future
6 revenue requirements in the setting of
7 rates. Any interest generated on these
8 funds shall be deposited into the contingen-
9 cy reserve fund. The balance in the contin-
10 gency reserve fund at the close of the
11 utility's fiscal year shall not exceed 5% of
12 the yearly revenues over what is required to
13 operate the electric utility; and

14 D. For rural electrification cooperatives sup-
15 plying or authorized to supply energy, to provide
16 for a contingency reserve fund by providing rates
17 to reflect an additional amount no more than the
18 amount of yearly long-term interest payments.
19 The total accumulation of funds shall not exceed
20 the level of equity required by the lender and in
21 no case may exceed 25% of the long-term debt.
22 Any surplus in excess shall be used to offset fu-
23 ture revenue requirements in the setting of
24 rates.

25 6. Penalty. If, as a result of investigation
26 pursuant to section 310, 1302 or 1303, the commission
27 finds that the utility has set rates pursuant to sec-
28 tion 3502 which significantly exceed the limits of
29 this section, the commission may order the utility to
30 use any existing surplus to offset future revenue re-
31 quirements and may suspend the utility's rights pur-
32 suant to section 3502 for a specified time period.

33 §3504. Treatment of certain small electric utilities

34 Upon request of a consumer-owned electric utility
35 of not more than 150 customers, the commission may
36 exempt the utility from any of the requirements of
37 this Title and any commission rules with the excep-
38 tion of sections 3502 and 3503. The commission when
39 promulgating rules shall take into account the effect
40 of those rules on the consumer-owned utilities with
41 not more than 150 customers and in doing so shall not
42 impose unreasonable requirements.

1 §3505. Sunset provision

2 This section and sections 3501 to 3504 are re-
3 pealed on June 30, 1989, pending review by the joint
4 standing committee of the Legislature having juris-
5 isdiction over utilities and unless continued by legis-
6 lative Act.

7 CHAPTER 37

8 RURAL ELECTRIFICATION COOPERATIVES

9 SUBCHAPTER I

10 GENERAL PROVISIONS

11 §3701. Short title

12 This chapter shall be known and may be cited as
13 the "Rural Electrification Cooperative Enabling Act."

14 §3702. Purpose

15 Cooperative nonprofit membership corporations may
16 be organized under this chapter for the purpose of
17 supplying electric energy and promoting and extending
18 the use of electric energy.

19 §3703. Definitions

20 As used in this chapter, unless the context oth-
21 erwise indicates, the following words have the fol-
22 lowing meanings:

23 1. Person. "Person" means person as defined in
24 section 102, subsection 11, or any public agency,
25 state or political subdivision or agency of the
26 State, or any body politic.

27 2. Rural electrification cooperative or coopera-
28 tive. "Rural electrification cooperative or coopera-
29 tive" means any corporation organized under this
30 chapter or which becomes subject to this chapter in
31 the manner provided.

32 §3704. Name

1 The name of a cooperative shall be distinct from
2 the name of any other cooperative or corporation or-
3 ganized under the laws of, or authorized to do busi-
4 ness in this State.

5 §3705. Refunds

6 Revenues of a cooperative for any fiscal year
7 shall be applied as follows:

8 1. Expenses. To defray the expenses of the op-
9 eration and maintenance of the facilities of the co-
10 operative during the fiscal year;

11 2. Interest and obligations. To pay interest
12 and principal obligations of the cooperative coming
13 due in the fiscal year;

14 3. Reserve for construction of facilities. To
15 finance or to provide a reserve for the financing of
16 the construction or acquisition by the cooperative of
17 additional facilities to the extent determined by the
18 board of trustees;

19 4. Reserve for working capital. To provide a
20 reasonable reserve for working capital; and

21 5. Reserve for indebtedness. To provide a re-
22 serve for the payment of indebtedness of the coopera-
23 tive in an amount not less than the total of the in-
24 terest and principal payments in respect thereof re-
25 quired to be made during the next following fiscal
26 year;

27 Any remaining revenues shall, unless otherwise
28 determined by a vote of the members, be distributed
29 by the cooperative to its members as patronage re-
30 funds prorated in accordance with the patronage of
31 the cooperative by the respective members, paid for
32 during such fiscal year. Nothing in this section
33 prohibits the payment by a cooperative of all or any
34 part of its indebtedness prior to the date when it
35 becomes due.

36 §3706. Nonliability of members for debts of coopera-
37 tive

1 No member may be liable or responsible for any
2 debts of the cooperative and the property of the mem-
3 bers may not be subject to execution for the cooper-
4 ative's debts. This section does not apply to a gen-
5 eration and transmission cooperative organized in ac-
6 cordance with subchapter IV.

7 §3707. Recordation of mortgages; effect

8 All after-acquired property of a cooperative or
9 foreign corporation described or referred to as being
10 mortgaged or pledged in a mortgage, deed of trust or
11 other instrument is subject to the lien on that prop-
12 erty immediately upon the acquisition of the property
13 by the cooperative or foreign corporation, whether or
14 not the property was in existence at the time of the
15 execution of the mortgage, deed of trust or other in-
16 strument. Recordation of a mortgage, deed of trust
17 or other instrument constitutes notice and otherwise
18 has the same effect with respect to the after-ac-
19 quired property owned by the cooperative or foreign
20 corporation at the time of the execution of the mort-
21 gage, deed of trust or other instrument and described
22 or referred to in the instrument as being mortgaged
23 or pledged.

24 §3708. Fees

25 The Secretary of State shall charge and collect
26 for filing articles of incorporation, articles of
27 amendment, articles of consolidation or articles of
28 conversion a fee of \$5, and for filing certificate of
29 election to dissolve, articles of dissolution or cer-
30 tificate of change of principal office a fee of \$2.

31 §3709. Cooperatives are public utilities; jurisdic-
32 tion of Public Utilities Commission

33 Cooperatives are public utilities and subject to
34 this Title, notwithstanding any public or private and
35 special laws to the contrary.

36 1. Commission to hear complaints. Any person
37 who has been refused membership in or service by a
38 cooperative or who is receiving inadequate service
39 may complain to the commission which may, after hear-
40 ing, upon finding that such service may reasonably be

1 rendered, order the cooperative to provide the person
2 with reasonably adequate service.

3 2. Unreasonable membership requirement. If the
4 commission, after hearing, determines that a require-
5 ment of membership in a cooperative is unreasonable
6 or unjust, it shall order the requirement repealed or
7 not to be enforced.

8 §3710. Filing of articles

9 1. Articles filed by Secretary of State. Arti-
10 cles of incorporation, amendment, conversion or dis-
11 solution, when executed and acknowledged and accompa-
12 nied by such affidavits as may be required by this
13 chapter shall be presented to the Secretary of State
14 for filing in the records of his office. If the Sec-
15 retary of State determines that the articles pre-
16 sented conform to the requirements of this chapter he
17 shall, upon the payment of the fees as provided in
18 section 3708, file the articles in the records of his
19 office.

20 2. Articles in effect upon filing. Upon the
21 filing by the Secretary of State the incorporation,
22 amendment, conversion or dissolution provided for in
23 the articles is in effect.

24 3. Application of this section to certificates
25 of election to dissolve. This section applies to
26 certificates of election to dissolve and affidavits
27 executed in connection with the certificates pursuant
28 to section 3755, subsection 2.

29 SUBCHAPTER II

30 ORGANIZATION

31 §3731. Incorporators

32 Five or more natural persons or 2 or more cooper-
33 atives may organize a cooperative in the manner pro-
34 vided in this subchapter.

35 This section does not apply to a generation and
36 transmission cooperative organized in accordance with
37 subchapter IV.

1 §3732. Articles of incorporation

2 1. Contents of articles. The articles of incor-
3 poration of a cooperative shall recite that they are
4 executed pursuant to this chapter and shall state:

5 A. The name of the cooperative;

6 B. The address of its principal office;

7 C. The names and addresses of the incorporators;
8 and

9 D. The names and addresses of its trustees.

10 2. Articles not inconsistent with this chapter.
11 The articles of incorporation may contain any provi-
12 sions not inconsistent with this chapter determined
13 necessary or advisable for the conduct of its busi-
14 ness.

15 3. Articles signed by incorporators. The arti-
16 cles shall be signed by each incorporator and ac-
17 knowledged by at least 2 of the incorporators, or on
18 their behalf, if they are cooperatives.

19 4. Purpose and corporate powers. It is not nec-
20 essary to recite in the articles of incorporation of
21 a cooperative the purpose for which it is organized
22 or any of its corporate powers.

23 §3733. Bylaws

24 1. Trustees adopt first bylaws. The board of
25 trustees shall adopt the first bylaws of a coopera-
26 tive to be adopted following an incorporation, con-
27 version or consolidation.

28 2. Members adopt, amend or repeal following by-
29 laws. After the first bylaws have been adopted, the
30 members shall adopt, amend or repeal the bylaws by
31 the affirmative vote of a majority of those members
32 voting at a meeting of the members.

33 3. Contents of bylaws. The bylaws shall set
34 forth the rights and duties of members and trustees
35 and may contain other provisions for the regulation

1 and management of the affairs of the cooperative not
2 inconsistent with this chapter or with its articles
3 of incorporation.

4 §3734. Members

5 1. Incorporators are members. Each incorporator
6 of a cooperative is a member of the cooperative, but
7 no other person may become a member unless that per-
8 son agrees to use electric energy or other services
9 furnished by the cooperative when they are made
10 available through its facilities.

11 2. Requirements of membership. Any member of a
12 cooperative who agrees to use electric energy shall
13 cease to be a member if he does not use electric en-
14 ergy supplied by the cooperative within 6 months af-
15 ter it is made available to him or if electric energy
16 is not made available to him by the cooperative with-
17 in 2 years after he becomes a member or such lesser
18 period as the bylaws of the cooperative may provide.

19 3. Joint membership. A husband and wife may
20 hold a joint membership in a cooperative.

21 4. Membership not transferable. Membership in a
22 cooperative is not transferable, except as provided
23 in the bylaws.

24 5. Additional qualifications. The bylaws may
25 prescribe additional qualifications and limitations
26 in respect to membership.

27 §3735. Meetings

28 1. Annual meetings. An annual meeting of the
29 members of a cooperative shall be held at such time
30 and place as provided in the bylaws.

31 2. Special meetings. Special meetings of the
32 members may be called by the president, by the board
33 of trustees, by any 3 trustees or by not less than
34 10% of the members.

35 3. Notice. Except as otherwise provided in this
36 chapter, written or printed notice stating the time
37 and place of each meeting of the members and, in the

1 case of a special meeting, the purpose or purposes
2 for which the meeting is called, shall be given to
3 each member, either personally or by mail, not less
4 than 10 days nor more than 25 days before the date of
5 the meeting. If mailed, notice shall be deemed given
6 when deposited in the United States mail with postage
7 prepaid addressed to the member at his address as it
8 appears on the records of the cooperative.

9 4. Quorum. Unless the bylaws prescribe the
10 presence of a greater percentage or number of the
11 members for a quorum, a quorum for the transaction of
12 business at all meetings of the members of a coopera-
13 tive, having not more than 1,000 members, shall be 5%
14 of all members, present in person, and of a coopera-
15 tive, having more than 1,000 members, shall be 50
16 members, present in person. If less than a quorum is
17 present at any meeting, a majority of those present
18 in person may adjourn the meeting from time to time
19 without further notice.

20 This subsection does not apply to a generation and
21 transmission cooperative organized in accordance with
22 subchapter IV. A quorum for such a cooperative shall
23 be specified in the bylaws.

24 5. Voting. Each member shall be entitled to one
25 vote on each matter submitted to a vote at a meeting
26 of the members. Voting shall be in person, but, if
27 the bylaws so provide, may also be by proxy or by
28 mail, or both. If the bylaws provide for voting by
29 proxy or by mail, they shall also prescribe the con-
30 ditions under which such voting shall be permitted.
31 No person may vote as proxy for more than 3 members
32 at any meeting of the members.

33 §3736. Waiver of notice

34 Any person entitled to notice of a meeting may
35 waive the notice in writing either before or after
36 the meeting. If the person attends the meeting, his
37 attendance constitutes a waiver of notice of the
38 meeting, unless the person participates in the meet-
39 ing solely to object to the transaction of any busi-
40 ness because the meeting has not been legally called
41 or convened.

1 §3737. Board of trustees

2 1. Number and qualifications. A board of not
3 less than 5 trustees shall manage the business of a
4 cooperative. Each trustee shall be a member of the
5 cooperative or of another cooperative which is a mem-
6 ber of the cooperative. The bylaws shall prescribe
7 the number of trustees, their qualifications, other
8 than those prescribed in this chapter, the manner of
9 holding meetings of the board of trustees and of
10 electing successors to trustees and of electing suc-
11 cessors to trustees who resign, die or otherwise be-
12 come incapable of acting.

13 2. Removal and salaries. The bylaws may provide
14 for the removal of trustees from office and for the
15 election of their successors. Trustees may not re-
16 ceive any salaries for their services as trustees
17 and, except in emergencies, may not be employed by
18 the cooperative in any capacity involving compensa-
19 tion without the approval of the members. The bylaws
20 may provide that a fixed fee and expenses of attend-
21 ance be allowed to each trustee for attendance at
22 each meeting of the board of trustees.

23 3. Term of office. The trustees of a cooper-
24 ative named in the articles of incorporation or con-
25 version shall hold office until the next annual meet-
26 ing of the members and until their successors are
27 elected and qualify. At each annual meeting or, in
28 case of failure to hold the annual meeting as speci-
29 fied in the bylaws, at a special meeting called for
30 that purpose, the members shall elect trustees to
31 hold office until the next annual meeting of the mem-
32 bers, except as otherwise provided in this chapter.
33 Each trustee shall hold office for the term for which
34 he is elected and until his successor is elected and
35 qualified.

36 4. Staggered terms. Instead of electing the
37 whole number of trustees annually, the bylaws may
38 provide that the trustees be divided into either 2 or
39 3 classes, each class to be as nearly equal as possi-
40 ble. The term of office of trustees of the first
41 class shall expire at the first annual meeting of
42 members after their election, that of the 2nd class
43 shall expire at the 2nd annual meeting after their

1 election and that of the 3rd class, if any, shall ex-
2 pire at the 3rd annual meeting after their election.
3 At each annual meeting after classification, the num-
4 ber of trustees equal to the number of the class
5 whose term expires at the time of the meeting shall
6 be elected to hold office until the 2nd succeeding
7 annual meeting, if there are 2 classes, or until the
8 3rd succeeding annual meeting, if there are 3
9 classes. No classification of trustees may be effec-
10 tive prior to the first annual meeting of members.

11 5. Quorum. A majority of the board of trustees
12 shall constitute a quorum.

13 6. Joint membership. If 2 or more individuals
14 hold a joint membership in a cooperative, only one of
15 them, may be elected a trustee.

16 7. Powers. The board of trustees may exercise
17 all of the powers of a cooperative not conferred upon
18 the members by this chapter or its articles of incor-
19 poration or bylaws.

20 §3738. Districts

21 The bylaws may provide for the division of the
22 territory served or to be served by a cooperative in-
23 to 2 or more districts for any purpose, including,
24 without limitation, the nomination and election of
25 trustees and the election and functioning of district
26 delegates. In such case, the bylaws shall prescribe
27 the boundaries of the districts or the manner of es-
28 tablishing the boundaries, or the manner of changing
29 the boundaries, and the manner in which the districts
30 shall function. No member at any district meeting
31 and no district delegate at any meeting may vote by
32 proxy or by mail.

33 §3739. Officers

34 The officers of a cooperative shall consist of a
35 president, vice-president, secretary and treasurer,
36 who shall be elected annually by and from the board
37 of trustees. When a person holding office ceases to
38 be a trustee, he shall cease to hold office. The of-
39 fices of secretary and of treasurer may be held by
40 the same person. The board of trustees may elect or

1 appoint other officers, agents or employees as it de-
2 termines necessary or advisable and shall prescribe
3 their powers and duties. Any officer may be removed
4 from office and his successor elected in the manner
5 prescribed in the bylaws.

6 SUBCHAPTER III

7 POWERS

8 §3751. Powers generally

9 A cooperative may:

10 1. Sue. Sue in its corporate name;

11 2. Be sued. Be sued in its corporate name;

12 3. Seal. Adopt and alter a corporate seal;

13 4. Use of electric energy. Generate, manufac-
14 ture, purchase, acquire, accumulate and transmit
15 electric energy, and distribute, sell, supply and
16 dispose of electric energy to its members;

17 5. Use of electrical and plumbing appliances.
18 Assist persons to whom electric energy is or will be
19 supplied by the cooperative in wiring their premises
20 and in acquiring and installing electrical and plumb-
21 ing appliances, equipment, fixtures and apparatus by
22 financing, or otherwise; wire or cause to be wired
23 the premises; and purchase, acquire, lease as lessor
24 or lessee, sell, distribute, install and repair the
25 electric and plumbing appliances, equipment, fixtures
26 and apparatus;

27 6. Electric cold storage or processing plants.
28 Assist persons to whom electric energy is or will be
29 supplied by the cooperative in constructing, equip-
30 ping, maintaining and operating electric cold storage
31 or processing plants, by financing or otherwise;

32 7. Acquire certain plants and equipment. Con-
33 struct, purchase, lease as lessee or otherwise ac-
34 quire; equip, maintain and operate; sell; assign;
35 convey; lease as lessor; or mortgage, pledge or oth-
36 erwise dispose of or encumber electric transmission

1 and distribution lines or systems, electric generat-
2 ing plants, electric cold storage or processing
3 plants, lands, buildings, structures, dams, plants
4 and equipment and any other real or personal proper-
5 ty, tangible or intangible, which is determined nec-
6 essary, convenient or appropriate to accomplish the
7 purpose for which the cooperative is organized. In
8 the construction and operation of their facilities,
9 cooperatives shall comply with all safety laws and
10 regulations applicable to electric utilities;

11 8. Electric transmission and distribution lines.
12 Construct, maintain and operate electric transmission
13 and distribution lines along, upon, under and across
14 publicly owned lands and public thoroughfares, in-
15 cluding all roads, highways, streets, alleys, bridges
16 and causeways, subject to chapter 25;

17 9. Franchises, licenses, rights and easements.
18 Purchase, lease as lessee, or otherwise acquire; use
19 and exercise, and sell, assign, convey, mortgage,
20 pledge or otherwise dispose of or encumber fran-
21 chises, rights, privileges, licenses and easements;

22 10. Contract indebtedness. Borrow money and
23 otherwise contract indebtedness; issue notes, bonds
24 and other evidences of indebtedness; and secure the
25 payment by mortgage, pledge or deed of trust, or any
26 other encumbrance upon, any or all of its then owned
27 or after-acquired real or personal property, assets,
28 franchises, revenues or income;

29 11. Member of other cooperatives. Become a mem-
30 ber of other cooperatives or corporations or to own
31 stock in them;

32 12. Bylaws. Adopt, amend and repeal bylaws;

33 13. Other consistent acts. Perform any other
34 acts and have and exercise any other powers which may
35 be necessary, convenient or appropriate to accomplish
36 the purpose for which the cooperative is organized.

37 §3752. Amendment of articles

38 A cooperative may amend its articles of incorpo-
39 ration as follows.

1 1. Meeting and notice. The proposed amendment
2 shall be presented to a meeting of the members. The
3 proposed amendment shall be set forth in or attached
4 to the notice of the meeting.

5 2. Approval. If the proposed amendment, with
6 any changes, is approved by the affirmative vote of
7 not less than 2/3 of those members voting on the
8 amendment at the meeting, articles of amendment shall
9 be executed and acknowledged on behalf of the cooper-
10 ative by its president or vice-president and its seal
11 shall be affixed to the articles and attested by its
12 secretary.

13 3. Contents of articles of amendment. The arti-
14 cles of amendment shall recite that they are executed
15 pursuant to this chapter and shall state:

16 A. The name of the cooperative;

17 B. The address of its principal office; and

18 C. The amendment to its articles of incorpora-
19 tion.

20 4. Affidavit. The president or vice-president
21 executing the articles shall make and attach to the
22 articles an affidavit stating that this section was
23 complied with.

24 §3753. Change of location of principal office

25 A cooperative may, upon authorization of its
26 board of trustees or its members, change the location
27 of its principal office by filing a certificate re-
28 citing the change, executed and acknowledged by its
29 president or vice-president under its seal, attested
30 by its secretary, in the office of the Secretary of
31 State.

32 §3754. Conversion of existing corporations

33 A corporation organized on a cooperative plan
34 under the laws of this State and supplying or autho-
35 riized to supply electric energy may be converted into
36 a cooperative by complying with the following re-
37 quirements and shall upon compliance be subject to

1 this chapter with the same effect as if originally
2 organized under this chapter.

3 1. Meeting and notice. The proposition for the
4 conversion of the corporation into a cooperative and
5 proposed articles of conversion shall be submitted to
6 a meeting of the members or stockholders of the cor-
7 poration. The proposed articles of conversion shall
8 be attached to the notice of the meeting.

9 2. Approval. If the proposition for the conver-
10 sion of the corporation into a cooperative and the
11 proposed articles of conversion, with any amendments,
12 are approved by the affirmative vote of not less than
13 2/3 of those members of the corporation voting on the
14 articles at the meeting, or, if the corporation is a
15 stock corporation, by the affirmative vote of the
16 holders of not less than 2/3 of those shares of the
17 capital stock of the corporation represented at the
18 meeting and voting on the articles, articles of con-
19 version shall be executed and acknowledged on behalf
20 of the corporation by its president or vice-president
21 and its seal shall be affixed to the articles and at-
22 tested by its secretary.

23 3. Contents of articles of conversion. The ar-
24 ticles of conversion shall recite that they are exe-
25 cuted pursuant to this chapter and shall state:

26 A. The name of the corporation and the address
27 of its principal office prior to its conversion
28 into a cooperative;

29 B. The law or laws under which it was organized;

30 C. A statement that the corporation elects to
31 become a cooperative, nonprofit, membership cor-
32 poration subject to this chapter;

33 D. Its name as a cooperative;

34 E. The address of the principal office of the
35 cooperative;

36 F. The names and addresses of the trustees of
37 the cooperative; and

1 G. The manner in which members or stockholders
2 of the corporation may or shall become members of
3 the cooperative; and may contain any provisions
4 not inconsistent with this chapter determined
5 necessary or advisable for the conduct of the
6 business of the cooperative.

7 4. Affidavit. The president or vice-president
8 executing the articles shall make and attach to the
9 articles an affidavit stating that this section was
10 complied with. The articles of conversion shall be
11 deemed to be the articles of incorporation of the co-
12 operative.

13 §3755. Dissolution generally

14 1. When a cooperative has not commenced busi-
15 ness. A cooperative which has not commenced business
16 may be dissolved by delivery to the Secretary of
17 State articles of dissolution which shall be executed
18 and acknowledged on behalf of the cooperative by a
19 majority of the incorporators and which shall state:

20 A. The name of the cooperative;

21 B. The address of its principal office;

22 C. That the cooperative has not commenced busi-
23 ness;

24 D. That any sums received by the cooperative,
25 less any part disbursed for expenses of the coop-
26 erative, have been returned or paid to those en-
27 titled to them;

28 E. That no debt of the cooperative is unpaid;
29 and

30 F. That a majority of the incorporators elect
31 that the cooperative is dissolved.

32 2. When cooperative has commenced business. A
33 cooperative which has commenced business may be dis-
34 solved in the following manner.

35 A. The members at any meeting shall approve, by
36 the affirmative vote of not less than 2/3 of

1 those members voting on the proposal at the meet-
2 ing, a proposal that the cooperative be dis-
3 solved.

4 B. Upon such approval, a certificate of election
5 to dissolve, executed and acknowledged on behalf
6 of the cooperative by its president or vice-
7 president under its seal, attested by its secre-
8 tary and stating the name of the cooperative; the
9 address of its principal office; and that the
10 members of the cooperative have duly voted that
11 the cooperative be dissolved, shall, together
12 with an affidavit made by its president or vice-
13 president executing the certificate, stating that
14 the statements in the certificate are true, be
15 submitted to the Secretary of State for filing.

16 C. Upon the filing of the certificate and affi-
17 davit by the Secretary of State, the cooperative
18 shall cease to carry on its business, except to
19 the extent necessary for the winding up of its
20 business, but its corporate existence shall con-
21 tinue until articles of dissolution have been
22 filed by the Secretary of State.

23 3. Notice to creditors. The board of trustees
24 shall immediately cause notice of the dissolution
25 proceedings to be mailed to each known creditor of
26 and claimant against the cooperative and to be pub-
27 lished once a week for 2 successive weeks in a news-
28 paper of general circulation in the county in which
29 the principal office of the cooperative is located.

30 4. Actions against the cooperative. All actions
31 against the cooperative shall be commenced within one
32 year from the date of filing the certificate of elec-
33 tion to dissolve.

34 5. Winding up cooperative affairs. The board of
35 trustees shall wind up and settle the affairs of the
36 cooperative, collect sums owing to it, liquidate its
37 property and assets, pay and discharge its debts, ob-
38 ligations and liabilities and perform all other acts
39 required to wind up its business. After paying or
40 discharging or adequately providing for the payment
41 or discharge of all its debts, obligations and lia-
42 ilities, the board of trustees shall, after one year

1 from the date of filing the certificate to dissolve,
2 distribute any remaining sums among its members and
3 former members in proportion to the patronage of the
4 respective members or former members during the 7
5 years next preceding the date of the filing of the
6 certificate by the Secretary of State, or if the co-
7 operative has not been in existence for that period,
8 then during the period of its existence prior to the
9 filing.

10 6. Articles of dissolution when a cooperative
11 has commenced business. The board of trustees shall,
12 upon the winding up of the cooperative, authorize the
13 execution of articles of dissolution, which shall be
14 executed and acknowledged on behalf of the cooper-
15 ative by its president or vice-president, and its seal
16 shall be affixed to the articles and attested by its
17 secretary. The president or vice-president executing
18 the articles of dissolution shall make and attach to
19 the articles an affidavit stating that the statements
20 made in them are true. The articles of dissolution
21 shall recite that they are executed pursuant to this
22 chapter and shall state:

23 A. The name of the cooperative;

24 B. The address of its principal office;

25 C. The date on which the certificate of election
26 to dissolve was filed by the Secretary of State;

27 D. That there are no actions or suits pending
28 against the cooperative;

29 E. That all debts, obligations and liabilities
30 of the cooperative have been paid and discharged
31 or that adequate provision has been made for
32 their payment or discharge; and

33 F. That this section has been complied with.

34 SUBCHAPTER IV

35 GENERATION AND TRANSMISSION COOPERATIVES

36 §3771. Organization of generation and transmission
37 cooperatives

1 One or more cooperatives formed under this Title
2 may organize and control a cooperative having as its
3 principal purpose the generation, manufacture, pur-
4 chase, acquisition, accumulation, transmission, sale,
5 supply and disposal of electric energy. Such a coop-
6 erative shall have all of the powers of cooperatives
7 formed under this Title.

8 §3772. Jurisdiction of Public Utilities Commission

9 Cooperatives formed under this subchapter are
10 public utilities and subject to the requirements of
11 this Title, except for those requirements of this
12 chapter which are inconsistent with the operation of
13 cooperatives formed under this subchapter, notwith-
14 standing any public or private laws to the contrary.
15 Those cooperatives require the authorization of the
16 commission to transmit, sell, supply or dispose of
17 electric energy to any member of the cooperative.
18 That authorization may be granted by order or rule.

19 CHAPTER 39

20 MUNICIPAL POWER DISTRICTS

21 §3901. Short Title

22 This chapter shall be known and may be cited as
23 the "Municipal Power District Enabling Act."

24 §3902. Purpose

25 The purpose of each municipal power district
26 formed under this chapter is to generate, supply or
27 extend the efficient use of electric energy for pub-
28 lic purposes and for the health, welfare, comfort and
29 convenience of the inhabitants of the district.

30 §3903. Formation of single-member district

31 A municipal power district may be formed under
32 the following provisions.

33 1. By municipal officers. The municipal offi-
34 cers of any municipality may, by majority vote, de-
35 termine that a municipal power district should be es-
36 tablished under the terms of this chapter. If they

1 make such a determination they shall call an election
2 under subsection 3.

3 2. By petition. Ten percent of the legal voters
4 of a municipality may petition the municipal officers
5 to call an election, under subsection 3, for the pur-
6 pose of forming a municipal power district.

7 3. Election. After a determination by the mu-
8 nicipal officers, or upon petition in accordance with
9 subsection 2, the municipal officers shall, at the
10 next regular election or town meeting, or at a spe-
11 cial election or town meeting called and held by
12 them, submit the following question to the legal vot-
13 ers in accordance with their charter or Title 30,
14 section 2061:

15 "Shall the (name of municipality) Power District
16 be created and incorporated under the Maine Revised
17 Statutes, Title 35-A, chapter 39?"

18 4. Favorable vote. If a majority of the legal
19 votes cast on this question favor incorporation, a
20 municipal power district may be created for that mu-
21 nicipality under this chapter upon declaration of the
22 vote by the municipal officers, provided that the to-
23 tal number of votes cast for and against the incorpo-
24 ration equals or exceeds 40% of the total votes cast
25 in that municipality for all candidates for Governor
26 at the previous gubernatorial election. If not, the
27 proposed district is not created at that time. Upon
28 certification of a favorable vote by the municipal
29 officers, the commission shall approve formation of
30 the district if the commission finds that formation
31 would be in conformance with the requirements of this
32 Title. Upon approval by the commission, the district
33 is created and the commission shall file certifica-
34 tion of that approval with the Secretary of State.

35 §3904. Formation of multimember district

36 Two or more municipalities may form a multimember
37 municipal power district under the following provi-
38 sions.

39 1. By municipal officers. The municipal offi-
40 cers of each municipality may, by majority vote, de-

1 termine that a municipal power district should be es-
2 tablished under the terms of this chapter. If the
3 municipal officers of every municipality involved
4 make such a determination, they shall call an elec-
5 tion under subsection 3.

6 2. Petition. Upon petition of 10% of the legal
7 voters of each municipality, the municipal officers
8 of those municipalities shall call an election, under
9 subsection 3, for the legal voters of their respec-
10 tive municipalities for the purpose of forming a mu-
11 nicipal power district.

12 3. Election. After a determination by the mu-
13 nicipal officers or upon petition of the legal voters
14 of each municipality wishing to form a district, the
15 municipal officers shall, at the next regular elec-
16 tion or town meeting, or at a special election or
17 town meeting if the petition so requests, submit the
18 following question to the legal voters of their re-
19 spective municipalities in accordance with their
20 charter or Title 30, section 2061:

21 "Shall the (name of municipalities) Power Dis-
22 trict be created and incorporated under the Maine Re-
23 vised Statutes, Title 35-A, chapter 39?"

24 4. Favorable vote. If, in each municipality, a
25 majority of the legal votes cast on this question fa-
26 vor incorporation, a municipal power district may be
27 created for those municipalities under this chapter
28 upon declaration of the vote of the municipal offi-
29 cers, provided that the total number of votes cast in
30 each municipality for and against the incorporation
31 equals or exceeds 40% of the total votes cast in the
32 municipality for all candidates for Governor at the
33 previous gubernatorial election. Upon certification
34 of a favorable vote by the municipal officers, the
35 commission shall approve formation of the district if
36 the commission finds that formation would be in con-
37 formance with the requirements of this Title. Upon
38 approval by the commission, the district is created
39 and the commission shall file certification of that
40 approval with the Secretary of State.

41 §3905. Existing districts

1 Any quasi-municipal district organized under the
2 private and special laws which is an electric utility
3 within the meaning of section 102, may reorganize in
4 accordance with this chapter. In addition to the
5 methods of sections 3903 and 3904, the trustees may,
6 by majority vote, petition the municipal officers for
7 an election and those officers shall hold an election
8 in accordance with those sections.

9 §3906. Organization of single-member district

10 A municipal power district shall be organized un-
11 der the following provisions.

12 1. Trustee. Upon formation of a district under
13 section 3903, all the affairs of the district shall
14 be managed by a board of 3 trustees who must be resi-
15 dents of the district. They shall hold office as
16 provided in subsection 2 and until their respective
17 successors are elected and qualified. When any
18 trustee ceases to be a resident of the district, his
19 office as trustee becomes vacant. Trustees are sub-
20 ject to Title 30, section 2251, concerning conflict
21 of interest.

22 2. Election. Within 60 days after the formation
23 of a district, the municipal officers shall appoint
24 the initial board of trustees, one member for a term
25 of one year, one member for a term of 2 years and one
26 member for a term of 3 years. Each year as the term
27 of a trustee expires, the legal voters of the dis-
28 trict, at an annual election, shall elect a successor
29 to serve for a full term of 3 years. The annual
30 election shall be held within the district concu-
31 rently with the election of the municipal officers.
32 The trustees shall conspicuously post notice of the
33 election in 2 public places within the district, not
34 less than 7 days before the election. Any vacancy in
35 the board shall be filled by the municipal officers
36 for the unexpired term.

37 3. Meetings. As soon as convenient after each
38 annual election, the trustees shall hold a meeting at
39 the offices of the district, elect a chairman and
40 clerk and adopt a corporate seal. They may choose a
41 treasurer and all other officers and agents for the
42 proper management of the affairs of the district.

1 Other meetings of the trustees may be called by the
2 chairman or by any 2 of the trustees. Trustees shall
3 determine their own compensation. The trustees
4 shall, in the bylaws, determine the number constitut-
5 ing a quorum, but in no event less than half of the
6 total number of trustees.

7 §3907. Organization of multimember district

8 A municipal power district formed under section
9 3904 shall be organized under the following provi-
10 sions.

11 1. Trustees. Upon formation of a district under
12 section 3904, all the affairs of the district shall
13 be managed by a board of trustees comprised of 2
14 trustees from each municipality. Trustees shall be
15 residents of their respective municipalities. They
16 shall hold office as provided in subsection 2 and un-
17 til their respective successors are elected and qual-
18 ified. When any trustee ceases to be a resident of
19 his municipality, his office as trustee becomes va-
20 cant. Trustees are subject to Title 30, section
21 2251, concerning conflict of interest.

22 2. Election. Within 60 days after the formation
23 of a district, the municipal officers of each munic-
24 ipality shall appoint 2 members to the initial board
25 of trustees. The initial members shall agree, or de-
26 termine by lot, the term of each so that, as nearly
27 as possible, an equal number will serve for one year,
28 an equal number for 2 years and an equal number for 3
29 years. Each year as the term of a trustee expires,
30 the legal voters of that trustee's municipality, at
31 an annual election, shall select a successor to serve
32 for a full term of 3 years. The annual election
33 shall be held concurrently with the election of mu-
34 nicipal officers. The trustees shall conspicuously
35 post notice of the election in 2 public places within
36 each municipality of the district, not less than 7
37 days before the election. Any vacancy in the board
38 shall be filled by the municipal officers for the un-
39 expired term.

40 3. Meetings. As soon as convenient after each
41 annual election, the trustees shall hold a meeting at
42 the offices of the district, elect a chairman and

1 clerk and adopt a corporate seal. They may choose a
2 treasurer and all other officers and agents for the
3 proper management of the affairs of the district.
4 Other meetings of the trustees may be called by the
5 chairman or by any 3 of the trustees, after prior
6 notice to the public. Trustees shall determine their
7 own compensation, not to exceed \$10 per meeting per
8 trustee. A majority of trustees constitutes a quo-
9 rum. The trustees shall conduct public hearings
10 whenever they propose matters affecting rates, by-
11 laws, service, an annual budget or their own compen-
12 sation.

13 §3908. Powers of district

14 A district may:

15 1. Sue. Sue or be sued in its capacity as a
16 district;

17 2. Electric energy. Generate, manufacture, pur-
18 chase, acquire, accumulate, transmit, distribute,
19 sell, supply and dispose of electric energy to indi-
20 viduals and corporations within the district;

21 3. Assist users. Assist persons who are or will
22 be users of electric energy supplied by the district
23 in making repairs and energy saving improvements to
24 improve energy efficiency in buildings;

25 4. Acquire plants and equipment. Construct,
26 purchase, lease, equip, maintain and operate electric
27 transmission and distribution lines or systems, elec-
28 tric generating plants, lands, buildings, structures,
29 dams, equipment and any other real or personal prop-
30 erty, tangible or intangible which are determined
31 necessary, convenient or appropriate to accomplish
32 the purposes of this chapter;

33 5. Contract. Contract and be contracted with;

34 6. Gain access. Gain access, through its offi-
35 cers or agents, to all premises served by its trans-
36 mission lines, poles and wires at all reasonable
37 hours to ascertain the amount of electric power pur-
38 chased;

1 7. Borrow money. Issue bonds and notes, includ-
2 ing revenue obligation securities as otherwise author-
3 ized by this chapter, to such amounts as the commis-
4 sion may authorize for the purpose of raising the
5 amount required to accomplish the purposes of this
6 chapter. The bonds and notes may be of the date and
7 denomination and payable at such times and places and
8 bear such rate of interest as the district may autho-
9 rize in accordance with the procedures of section
10 3909. The district may borrow money temporarily, for
11 periods of less than one year, without vote of the
12 inhabitants, except as provided in this chapter, in
13 amounts which in the judgment of the trustees are
14 necessary to accomplish the purposes of this chapter;

15 8. Bylaws. Make and enforce bylaws, rules for
16 the conduct of the district affairs and business and
17 for use of its services and facilities; and

18 9. Other consistent acts. Perform any other
19 acts which may be necessary, convenient or appropri-
20 ate to accomplish the purposes of this chapter.

21 §3909. Issuance of bonds and notes

22 1. Notice. In the event that the trustees vote
23 to authorize bonds or notes for a period exceeding
24 one year or for acquisition of any plant or equip-
25 ment, they shall provide notice to the general public
26 of the proposed bond or note issue and the purposes
27 for which the debt is being issued. The notice shall
28 be published at least once in a newspaper having gen-
29 eral circulation in the district. The trustees shall
30 give notice to each voter of the district by mail.
31 No such debt may be incurred under the vote of the
32 trustees until the expiration of 7 full days follow-
33 ing the date on which the notice was first published
34 and mailed.

35 2. District approval. The procedure for dis-
36 trict approval of the issuance of bonds and notes is
37 as follows.

38 A. For bonds or notes which singly or in the ag-
39 gregate included in any one financing amount to
40 \$150,000 or more, subject to adjustment relative
41 to 1981 as the base year according to the annual

1 Consumer Price Index, as published by the appro-
2 prate federal agency, the trustees shall call a
3 special district meeting for the purpose of per-
4 mitting members of the public to express their
5 views concerning the proposed amount of debt.
6 That meeting shall also express approval or dis-
7 approval of the proposed amount of debt. If a
8 majority of voters present and voting expresses
9 disapproval of the amount of debt proposed by the
10 trustees, the debt shall not be incurred and the
11 vote of the trustees authorizing it shall be of
12 no effect.

13 B. The procedure of paragraph A shall also be
14 followed for debts in amounts smaller than the
15 amount specified in paragraph A, if requested by
16 petition of not less than 50 qualified voters of
17 the district, filed with the clerk of the dis-
18 trict before the expiration of 7 full days after
19 publication of the public notice required under
20 subsection 1.

21 §3910. Revenue obligation securities

22 A district created under this chapter shall be
23 deemed a municipality for purposes of Title 10, chap-
24 ter 110, subchapter IV, with respect to a qualifying
25 electric generating system, electric distribution
26 system, or both. The board of trustees are deemed to
27 be municipal officers for purposes of that subchap-
28 ter.

29 §3911. Eminent domain

30 A district may exercise the right of eminent do-
31 main under the same conditions and for the same pur-
32 poses as electric utilities under section 3136. Ti-
33 tle to property acquired shall be taken in the name
34 of the district.

35 §3912. Rates

36 All persons whether private, public or municipal,
37 shall pay to the district the rates established by
38 the trustees for the electricity used by them and the
39 rates may not be unjustly discriminatory within the
40 district. The rates shall be established in accord-

1 ance with this chapter and shall provide for the fol-
2 lowing purposes only:

3 1. Payment of current expenses of operation and
4 maintenance. To pay the current expenses for operat-
5 ing and maintaining the electric system, including
6 the cost of fuel and to provide for normal renewals
7 and replacements;

8 2. Payment of interest indebtedness. To provide
9 for the payment of the interest on the indebtedness
10 created or assumed by the utility;

11 3. Retirement of term indebtedness. To provide
12 each year a sum equal to not less than 2% nor more
13 than 10% of the term indebtedness represented by the
14 issuance of bonds created or assumed by the utility,
15 which sum shall be turned into a sinking fund and
16 kept there to provide for the retirement of term in-
17 debtedness. The money set aside in this sinking fund
18 shall be devoted to the retirement of the term obli-
19 gations of the utility and may be invested in such
20 securities as savings banks in the State are allowed
21 to hold; and

22 4. Principal payments on serial indebtedness.
23 To provide for annual principal payments on serial
24 indebtedness created or assumed by the utility.

25 §3913. Rate setting

26 Municipal power districts, which are electric
27 utilities within the definition of section 102, are
28 subject to the supervision, investigation, hearing
29 and rate substitution provisions of sections 310,
30 3501, 3502, 3503, 3504 and 3505 applicable to elec-
31 tric utilities.

32 §3914. Quasi-municipal body

33 A municipal power district formed in accordance
34 with this chapter is a quasi-municipal corporation
35 within the meaning of the laws of this State, includ-
36 ing, but not restricted to, Title 36, section 651.

37 §3915. Existing service areas

1 No municipal power district may serve as a public
2 utility, as defined in section 102, without consent
3 from the commission in accordance with section 2101.

4 CHAPTER 41

5 MAINE MUNICIPAL AND RURAL
6 ELECTRICIFICATION COOPERATIVE AGENCY ACT

7 SUBCHAPTER I

8 GENERAL PROVISIONS

9 §4101. Short Title

10 This chapter shall be known and may be cited as
11 the "Maine Municipal and Rural Electrification Coop-
12 erative Agency Act."

13 §4102. Findings and declaration of necessity

14 It is found and declared that:

15 1. Supply necessary. An adequate, reliable and
16 economical supply of electric power and energy in the
17 State is a necessity to the enjoyment of life and
18 health by the people of the State and its absence
19 would endanger the State, its people and its economy;

20 2. Development. The provision of a means of
21 promoting the development of an adequate, reliable
22 and economical supply of electric power and energy is
23 a matter of public and state concern, is a public
24 purpose and is for the general good of the inhabi-
25 tants of the State;

26 3. Deficiency. There exists a serious deficien-
27 cy in the ability of various municipalities and rural
28 electric cooperatives in the State presently provid-
29 ing electric power and energy for sale at retail to
30 finance the acquisition, construction and installa-
31 tion of generation, transmission and distribution fa-
32 ilities necessary to ensure an adequate, reliable
33 and economical supply of electric power and energy,
34 and that deficiency constitutes an exigency under
35 which the Legislature may act;

1 4. Supply. The enactment of this chapter con-
2 stitutes the most expedient way for the Legislature
3 to provide a means for those municipalities and rural
4 electric cooperatives to develop an adequate, reli-
5 able and economical supply of electric power and en-
6 ergy; and

7 5. Public interest. The necessity of the public
8 interest for the provisions enacted is declared as a
9 matter of legislative determination.

10 §4103. Definitions

11 As used in this chapter, unless the context oth-
12 erwise indicates, the following terms have the fol-
13 lowing meanings.

14 1. Agency. "Agency" means the Maine Municipal
15 and Rural Electrification Cooperative Agency.

16 2. Cooperative. "Cooperative" means any corpo-
17 ration organized as of January 1, 1981, under chapter
18 37 or former Title 35, chapters 221 to 227 on a coop-
19 erative plan under the laws of the State and supply-
20 ing or authorized to supply electric energy.

21 3. Municipality. "Municipality" means any mu-
22 nicipal, plantation or quasi-municipal electric, or
23 electric and utility, corporation, or municipal elec-
24 tric, or electric and utility, system within the
25 State which, as of January 1, 1981, was authorized to
26 and engaged in the manufacture, generation, transmis-
27 sion, distribution, purchase or sale of electricity
28 to the general public.

29 4. New England power pool. "New England power
30 pool" means the relationship or organization created
31 by the New England power pool agreement.

32 5. New England power pool agreement. "New
33 England power pool agreement" means the contractual
34 agreement between electric utilities which is open to
35 all electric utilities, whether private or governmen-
36 tal, operating in New England, which provides for co-
37 operation and joint participation in developing and
38 implementing a regional bulk power supply of elec-
39 tricity, which constitutes the central dispatching

1 and primary pooling arrangements for electric utili-
2 ties in the New England states, and which has been
3 permitted to become effective under the Federal Power
4 Act by the Federal Power Commission.

5 6. Person. "Person" means person as defined in
6 section 102 or any public agency, state or political
7 subdivision or agency of the State, or any body poli-
8 tic of any nature organized and existing under the
9 law of any state, the United States, any Province of
10 Canada and also includes Canada, its provinces and
11 all political subdivisions, departments, agencies and
12 instrumentalities of Canada.

13 7. Project. "Project" means any plant, works,
14 system or facilities inside or outside the State, and
15 real and personal property of any nature or any in-
16 terest in any of them, together with all parts of
17 them and appurtenances to them, used or useful in the
18 generation, production, transmission, distribution,
19 purchase, sale, exchange or interchange of electric
20 energy and in the acquisition, extraction, conver-
21 sion, transportation or storage or reprocessing of
22 fuel of any kind for any purposes or an interest in,
23 or the right to the use, services, output or capacity
24 of a plant quota, works, system or facilities; pro-
25 vided that "project" does not include construction of
26 a nuclear generating facilities or the storage,
27 reprocessing or transportation of nuclear fuel within
28 the State.

29 8. Project cost. "Project cost" means, but is
30 not limited to, the cost of acquisition, construc-
31 tion, reconstruction, improvement, enlargement, bet-
32 terment, extension or disposal of a project or part
33 of a project, including:

34 A. The cost of studies, plans, specifications,
35 surveys and estimates of costs and revenues re-
36 lating to them;

37 B. The cost of land, land rights, rights-of-way
38 and easements, water rights, fees, permits, ap-
39 provals, licenses, certificates, franchises and
40 preparation of applications for them;

41 C. Administrative, legal, engineering and in-
42 spection expenses;

1 3. Appointment of directors. Directors shall be
2 appointed as follows.

3 A. The governing body or board of directors of
4 any municipality and the board of trustees or di-
5 rectors of any cooperative shall each select a
6 single director to serve on the board, provided
7 that no director may be selected by more than one
8 cooperative or municipality.

9 B. The Governor shall also appoint as a member a
10 person who is not affiliated with any municipali-
11 ty or cooperative, as defined in section 4103,
12 subsection 5, to represent the general public.

13 C. The Director of the Office of Energy Re-
14 sources, or another employee of the Office of En-
15 ergy Resources, as the director may from time to
16 time designate in writing filed with the clerk of
17 the agency, shall serve as a member of the board
18 of directors.

19 4. Oath. Each director, before entering upon
20 his duties, shall take and subscribe an oath to per-
21 form the duties of office faithfully, impartially and
22 justly to the best of his ability. A record of the
23 oaths shall be filed in the office of the Secretary
24 of State.

25 5. Term. Directors shall serve for terms of 5
26 years each. Each director shall hold office until
27 his successor is appointed and qualified. A director
28 is eligible for reappointment.

29 6. Vacancy. Any vacancy in the office of direc-
30 tor occurring other than by expiration of term shall
31 be filled by a successor director, who shall serve
32 for the remaining term of office so vacated.

33 7. Removal. Each director may be removed from
34 office by the Governor for cause, after a public
35 hearing, and may be suspended by the Governor pending
36 the completion of the hearing.

37 8. Quorum. A majority, but not less than 3, of
38 the directors then in office constitutes a quorum for
39 the transaction of any business or the exercise of

1 any power of the agency. Action may be taken and
2 motions and resolutions adopted by the agency at any
3 meeting by the affirmative vote of a majority of di-
4 rectors of the agency then in office. No vacancy in
5 the office of director of the agency may impair the
6 right of a quorum of the directors to exercise all
7 powers and take any action.

8 9. Bylaws. The board of directors of the agency
9 shall adopt bylaws or other rules and regulations for
10 the management of the affairs of the agency and car-
11 rying out the purposes of this chapter.

12 10. Officers. The board of directors shall also
13 elect one of its member directors as chairman of the
14 agency and shall also elect a treasurer and secretary
15 who may be, but need not be, directors. It may elect
16 other officers and agents as necessary to perform
17 those acts commonly delegated to the officers and
18 agents of a business corporation and shall set their
19 compensation.

20 11. Voting; conflict of interest. A director or
21 officer of the agency who is also an officer, employ-
22 ee or member of a legislative body of a municipality
23 or other public body or the State may not be pre-
24 cluded from voting or acting on behalf of the agency
25 on a matter involving the municipality or public body
26 or the State. Neither shall service as a director or
27 officer of the agency constitute a conflict of inter-
28 est for an officer, employee or member of a munici-
29 pality or public body or the State.

30 12. Agency existence. The agency and its exis-
31 tence shall continue as long as it has notes, bonds
32 or other obligations or indebtedness outstanding, in-
33 cluding notes, bonds or other obligations or indebt-
34 edness issued or incurred, and until its existence is
35 terminated by law. The net earnings of the agency,
36 beyond that necessary for retirement of its notes,
37 bonds or other obligations or indebtedness or to im-
38 plement the public purposes and programs authorized
39 in this chapter, may not inure to the benefit of any
40 person other than the State. Upon termination of the
41 existence of the agency, title to all of the property
42 owned by the agency, including any net earnings of
43 the agency, shall vest in the State. The State re-

1 serves the right at any time to alter, amend, repeal
2 or otherwise change the structure, organization, pro-
3 grams or activities of the agency, including the pow-
4 er to terminate the agency, subject to any limitation
5 on the impairment of the obligation of any contract
6 entered into by the agency.

7 §4132. General powers and duties

8 The agency has all the powers necessary or conven-
9 ient to carry out this chapter, including, without
10 limitation, those general powers provided a business
11 corporation by the Maine Business Corporation Act,
12 Title 13-A, and including, without limiting the gen-
13 erality of this paragraph, the power:

14 1. Acceptance, grants or gifts. To accept gifts
15 or grants of property, funds, money, materials, la-
16 bor, supplies or services from the United States or
17 from any person, and to carry out the terms or provi-
18 sions or make agreements with respect to any gifts or
19 grants, and to do any acts necessary, useful, desir-
20 able or convenient in connection with procuring ac-
21 ceptance or disposition of gifts or grants;

22 2. Acquisition. To acquire by purchase, lease,
23 gift or otherwise, or to obtain options for the ac-
24 quisition of any property, real or personal, improved
25 or unimproved, tangible or intangible, including an
26 interest in land of less than the fee;

27 3. Disposal of real or personal property. To
28 sell, lease, mortgage, exchange, transfer or other-
29 wise dispose of any real or personal property or in-
30 terest in it, or to grant options for any of those
31 purposes;

32 4. Assignment of revenues. To pledge or assign
33 any money, fees, charges or other revenues of the
34 agency and any proceeds derived by the agency from
35 the sale of property, or from insurance or condemna-
36 tion awards;

37 5. Authorization. To perform any act authorized
38 by this chapter through its officers, agents or em-
39 ployees or by the contracts with any person, firm or
40 corporation;

1 6. Borrow funds. To borrow money and issue its
2 notes and bonds as provided in this chapter;

3 7. Purchase energy. To purchase electric power
4 and energy, including without limiting the generality
5 of this section, all or a portion of the capacity and
6 output of one or more specific projects;

7 8. Sale of energy. To sell electric power and
8 energy and other products and services of electric
9 power facilities to any person inside or outside the
10 State or the United States. Utilities may purchase
11 electric power and energy sold by the agency, pro-
12 vided that nothing in this chapter authorizes resale
13 of electric power and energy purchased from the agen-
14 cy, except as otherwise authorized by law. This sub-
15 section does not allow retail sales of power and en-
16 ergy to consumers or commercial and industrial users,
17 except as otherwise provided by law;

18 9. Contracts. To contract for the use of trans-
19 mission and distribution facilities owned by others
20 for the delivery to the agency of electric power and
21 energy purchased by the agency and to purchasers of
22 electric power and energy sold by the agency. These
23 other owners may contract with the agency;

24 10. Other contracts. To contract with respect
25 to the purchase, sale, delivery, exchange, inter-
26 change, wheeling, pooling, transmission or use of
27 electric power and energy and to otherwise partici-
28 pate in intrastate, interstate and international ar-
29 rangements with respect to those matters, including
30 the New England power pool, except that this power
31 may not be exercised so as to conflict with or dimin-
32 ish in any way the powers and obligations of the com-
33 mission under this Title regarding planning and en-
34 tering into agreements for the supply of electric
35 power and energy;

36 11. Plan. Individually or jointly with any oth-
37 er person to plan, finance, acquire, construct, im-
38 prove, purchase, operate, maintain, use, share costs
39 of, own, lease, sell, dispose of or otherwise partici-
40 porate in projects or portions of projects, the
41 product or service from them, securities or obliga-
42 tions issued or incurred in connection with the fi-

1 nancing of them or research and development relating
2 to them, inside or outside the State. The agency may
3 also enter into and perform contracts with any person
4 with respect to the powers set out in this subsec-
5 tion. If the agency acquires or owns an interest as
6 a tenant in common with others in any projects, the
7 surrender or waiver by the agency or by the other
8 property owner of its right to partition the property
9 for a period not exceeding the period for which the
10 property is used or useful for electric utility pur-
11 poses may not be invalid and unenforceable by reason
12 of length of the period, or as unduly restricting the
13 alienation of the property.

14 12. Apply for permits. To apply to the appro-
15 priate agencies of the State, other states, the
16 United States, Canada, any of its provinces and any
17 divisions, departments, agencies and instrumental-
18 ities of Canada, and to any other proper agency for
19 permits, licenses, certificates or approvals which
20 may be necessary, and to construct, maintain and op-
21 erate projects in accordance with these licenses,
22 permits, certificates or approvals;

23 13. Application to expend assistance. To apply
24 and contract for and to expend assistance from the
25 United States or other sources, whether in form of a
26 grant or loan or otherwise;

27 14. Contract; administrative services. To con-
28 tract for administrative services with any person;

29 15. Execution. To make and execute all con-
30 tracts and agreements and other instruments necessary
31 or convenient in the exercise of the powers and func-
32 tions of the agency under this chapter; and

33 16. Other powers and duties. To perform all
34 acts necessary, convenient or desirable to carry out
35 the purposes of this chapter or the powers expressly
36 granted or necessarily implied in this chapter.

37 §4133. Additional powers

38 1. Contracts. The agency may contract to sell,
39 and municipalities, cooperatives, utilities and gov-
40 ernmental units, agencies or other public bodies may

1 contract to purchase, all or a portion of, the capac-
2 ity and output of one or more specific projects, or
3 may contract to sell or purchase electric power and
4 energy without designation as to source. Without
5 limiting the generality of this subsection, such a
6 contract may provide for planning, engineering, de-
7 sign, acquiring sites or options for sites and ex-
8 penditures preliminary or incidental to that project.
9 Such a contract may:

10 A. Be for the life of a project or other term or
11 for an indefinite period;

12 B. Provide for the payment of unconditional ob-
13 ligations imposed without regard to whether a
14 project is undertaken, completed, operable or op-
15 erating and despite the suspension, interruption,
16 interference, reduction or curtailment of the
17 output of a project;

18 C. Contain provisions for prepayment,
19 nonunanimous amendment, arbitration, delegation,
20 requirements, purchases, restraints on resale or
21 other dealings, exclusive dealing, territorial
22 division, pricing and other conduct or arrange-
23 ments and other matters determined necessary or
24 desirable to carry out its purposes. For the
25 purposes of this section, the agency has the same
26 status with respect to antitrust actions as has
27 the government of the State; and

28 D. Provide for the creation of a committee of
29 representatives of the municipalities, cooperat-
30 ives and utilities purchasing power and energy
31 or services under such a contract, with such pow-
32 ers of supervision of the operation of the
33 projects as the contract may provide which are
34 not inconsistent with this chapter.

35 Such a contract may also provide, in the event of de-
36 fault by any party to the contract in the performance
37 of its obligations under the contract, for the other
38 parties, including municipalities and cooperatives,
39 to assume the obligations and succeed to the rights
40 and interests of the defaulting party, pro rata or
41 otherwise as may be agreed upon in the contract.

1 2. Agreements. The agency may enter into any
2 contract or agreement necessary, appropriate or inci-
3 dental to the effectuation of its lawful purposes and
4 the exercise of the powers granted by this chapter,
5 including, without limitation, contracts or agree-
6 ments for the purchase, sale, exchange, interchange,
7 wheeling, pooling, transmission, distribution or
8 storage of electrical power and energy and fuel of
9 any kind in accordance with section 4103, subsection
10 9, for any such purposes in accordance with section
11 4103, subsection 9, inside and outside the State, in
12 such amounts as it determines is necessary and appro-
13 priate to make the most effective use of its powers
14 and to meet its responsibilities and with such per-
15 sons, on such terms and for such period of time as
16 its board of directors determines.

17 3. Debt limitation. Neither the obligations of
18 the agency nor the obligations of any municipality
19 under capacity and output contracts under this sec-
20 tion may be included in computing the debt limita-
21 tions of the municipalities. These obligations of
22 municipalities shall be treated as expenses of oper-
23 ating their electric plants and shall constitute spe-
24 cial obligations of these municipalities payable
25 solely from the revenues and other money derived by
26 them from their electric system or electric and util-
27 ity systems. The liability of these municipalities
28 from other funds is limited to obligations undertaken
29 by them to pay for the electric power and energy used
30 by them.

31 4. Obligation. Municipalities and cooperatives
32 are obligated to fix, revise and collect fees and
33 charges for electric power and energy and other ser-
34 vices, facilities and commodities furnished or sup-
35 plied through its electric system or electric and
36 utility system at least sufficient to provide reve-
37 nuues adequate to meet its obligations under any out-
38 put and capacity contracts and to pay all other
39 amounts payable from or constituting a charge and
40 lien upon those revenues.

41 5. Conveyance of real or personal property. Any
42 municipality or cooperative may convey, transfer or
43 assign to the agency, with or without consideration,
44 any real or personal property or interest in either,
45 including a leasehold estate.

1 §4134. Acquisition of property

2 1. Eminent domain. The agency may acquire by
3 the exercise of the power of eminent domain any real
4 property, or any interest in real property, which it
5 determines necessary for its purposes under this
6 chapter, after the adoption by it of a resolution de-
7 claring the acquisition of the real property or in-
8 terest in it described in the resolution is necessary
9 for those purposes.

10 2. Restrictions. The agency shall exercise the
11 power of eminent domain in the manner provided in Ti-
12 tle 30, section 4807. References in Title 30, sec-
13 tion 4807, to an urban renewal project and a renewal
14 project area and the like are inapplicable. Notwith-
15 standing Title 30, section 4807, subsection 2:

16 A. No facility for the generation, transmission
17 or distribution of electric power and energy
18 owned by any person may be taken, except for the
19 purpose of acquiring property or rights in it in
20 order to permit the crossing of existing trans-
21 mission or distribution facilities. In the event
22 of a taking, the respective rights and obliga-
23 tions of the agency and the property owner shall,
24 upon petition of either party, be determined by
25 the Public Utilities Commission.

26 B. No site for a project for which any utility
27 or person had filed an application for prelimi-
28 nary permit, a license or application for exemp-
29 tion from the Federal Energy Regulatory Commis-
30 sion on or before November 1, 1977, may be taken
31 until the time, if ever, that the application is
32 denied, and no further renewals or appeals are
33 available to the utility or person, or the utili-
34 ty or person abandons its application, permit or
35 license; and

36 C. No property may be taken, except as may be
37 necessary for the proper location of transmission
38 or distribution lines and necessary appurtenances
39 to them, unless the property is located within
40 the territory in which a municipality or coopera-
41 tive provides service or within one mile of the
42 territory.

1 §4135. Tax exemption

2 1. Bonds or notes. All bonds, notes or other
3 evidences of indebtedness issued under this chapter
4 are issued by a political subdivision or a body cor-
5 porate and politic of the State, and for an essential
6 public and governmental purpose. Those bonds, notes
7 or other evidences of indebtedness and the interest
8 on them and the income from them, including any prof-
9 it on their sale, and all activities of the agency
10 and fees, charges, funds, revenues, incomes and other
11 money of the agency, whether or not pledged or avail-
12 able to pay or secure the payment of those bonds,
13 notes or other evidences of indebtedness or interest
14 on them, are exempt from all taxation, franchise fees
15 or special assessments of whatever kind, except for
16 transfer, inheritance and estate taxes.

17 2. Property taxes. All real and personal prop-
18 erty acquired by the agency is subject to taxes to
19 the same extent as real and personal property owned
20 by electric utilities, as defined in section 102,
21 subsection 5.

22 §4136. Rules and rates

23 1. Rules. The agency may make and enforce rules
24 consistent with the purpose of this chapter.

25 2. Rates. It may establish, levy and collect or
26 may authorize by contract, franchise, lease or other-
27 wise, the establishment, levying and collection of
28 rents, rates and other charge;

29 A. For the services afforded by the agency or
30 afforded by or in connection with any project or
31 properties which it may construct, erect, ac-
32 quire, own, operate or control or with respect to
33 which it may have any interest or any right to
34 capacity; and

35 B. For the sale of electric energy or of genera-
36 tion or transmission capacity or service as it
37 determines necessary, proper, desirable and rea-
38 sonable.

1 Rents, rates and other charges shall be at least suf-
2 ficient to meet the expenses of the agency, including
3 operating and maintenance expenses, reasonable re-
4 serves, interest and principal payments, including
5 payments into one or more sinking funds for the re-
6 tirement of principal, and other requirements of any
7 trust agreement or resolution and any additional
8 amounts which must be realized in order to meet the
9 requirements of any rate covenant imposed by any
10 resolution or trust agreement authorizing and se-
11 curing bonds, notes or other evidences of indebted-
12 ness. The agency may pledge its rates, rents and
13 other revenues, or any part of them, as security for
14 the repayment, with interest and redemption premiums,
15 if any, of any money borrowed by it or advanced to it
16 for any of its authorized purposes and as security
17 for the payment of amounts due and owing by it under
18 any contract.

19 §4137. Powers of municipalities and cooperatives

20 By resolution of its governing body, a municipal-
21 ity or cooperative may:

22 1. List. Submit a list of 3 natural persons as
23 recommendations to the Governor for appointment to
24 the board of trustees of the agency;

25 2. Contracts. Contract with the agency for the
26 generation, manufacture, purchase, sale, exchange,
27 distribution or transmission of electric energy and
28 other services on such terms and for such period of
29 time as the resolution may provide;

30 3. Appropriation. Appropriate or provide reve-
31 nuues and other money derived by them from their elec-
32 tric departments or systems or, in the case of those
33 municipalities having combined electric, water, sewer
34 and other utility systems, the revenues derived from
35 such combined systems under any contract with the
36 agency; and

37 4. Other contracts. Make and execute all con-
38 tracts, agreements and other instruments, and perform
39 all acts necessary and convenient or desirable to
40 carry out the purposes of this chapter or the powers
41 expressly granted or necessarily implied in this
42 chapter.

1 §4138. Construction contracts

2 The agency may contract for the planning, acqui-
3 sition, construction, operation, maintenance, repair,
4 extension and improvement of any project or may con-
5 tract with other public or private owners of any
6 project to perform these functions without preparing
7 final plans and specifications in advance of con-
8 struction or securing performance and payment bonds,
9 except to the extent that the directors determine
10 that these actions are desirable in furtherance of
11 the purposes of this chapter. Except as otherwise
12 provided by this section, no contract may be invalid
13 or unenforceable by reason of nonperformance of the
14 conditions required by any other law relating to pub-
15 lic contracts. The agency shall adopt a procedure
16 for awarding contracts relating to a project 50% or
17 more of which is owned by the agency, which procedure
18 may not be inconsistent with that of the State estab-
19 lished in Title 5, chapters 153 and 155.

20 SUBCHAPTER III

21 FORM AND NATURE OF BONDS AND NOTES

22 §4151. Bonds and notes

23 1. Bonds and notes. The issuance of bonds,
24 notes and other evidences of indebtedness is subject
25 to the following.

26 A. The agency may, from time to time, issue its
27 bonds, notes or other evidences of indebtedness
28 in the principal amount as the agency determines
29 is necessary to provide sufficient funds for
30 achieving any of its corporate purposes, includ-
31 ing the payment of interest on bonds, notes or
32 other evidences of indebtedness of the agency,
33 establishment of reserves to secure the bonds,
34 notes or other evidences of indebtedness and all
35 other expenditures of the agency incident to and
36 necessary or convenient to carry out its corpo-
37 rate purposes and powers. Without limiting the
38 generality of this paragraph, the bonds, notes or
39 other evidences of indebtedness may be issued for
40 project costs or the agency's share of project
41 costs.

1 B. The agency may, from time to time, issue
2 notes, renew notes and bonds, pay notes, includ-
3 ing the interest on them and, whenever it deter-
4 mines refunding expedient, refund any bonds by
5 the issuance of new bonds, whether the bonds to
6 be refunded have or have not matured, and issue
7 bonds partly to refund bonds then outstanding and
8 partly for any of its corporate purposes.

9 C. Except as may otherwise be expressly provided
10 by resolution of the agency, every issue of its
11 bonds, notes or other evidences of indebtedness
12 shall be general obligations of the agency, pay-
13 able out of any revenue or money of the agency,
14 subject only to any agreements with the holders
15 of particular bonds, notes or other evidences of
16 indebtedness pledging any particular revenues.

17 D. Bonds, notes or other evidences of indebted-
18 ness may be issued in accordance with this chap-
19 ter.

20 E. The bonds, notes or other evidences of in-
21 debtedness shall be authorized by resolution of
22 the agency, bear the date and mature at the time
23 as the resolution may provide. The bonds may be
24 issued as serial bonds payable in annual
25 installments or as term bonds, or as a combina-
26 tion of them. The resolution may provide that
27 the bonds, notes or other evidences of indebted-
28 ness bear interest at a given rate or may provide
29 a method of determining a rate, be in certain de-
30 nominations, in temporary, coupon or registered
31 form, carry certain registration privileges, be
32 executed in a given manner, payable in a given
33 medium of payment, at a place inside or outside
34 the State and subject to specified terms of re-
35 demption. The bonds, notes or other evidences of
36 indebtedness of the agency may be sold by the
37 agency, at public or private sale, at the price
38 the agency determines.

39 2. Authorization. Any resolution authorizing
40 any bonds, notes or other evidences of indebtedness
41 or any issue of them, may contain provisions which
42 shall be a part of the contract or contracts with the
43 bond or noteholders, as to:

- 1 A. Pledging, mortgaging or granting a security
2 interest in any real or personal property and all
3 or any part of the revenues of the agency or any
4 revenue-producing contract made by the agency
5 with any person to secure the payment of the
6 notes or bonds or of any issue of them subject to
7 agreements with noteholders or bondholders that
8 may then exist;
- 9 B. The custody, collection, securing, investment
10 and payment of any revenues, assets, money, funds
11 or property with respect to which the agency may
12 have any rights or interest;
- 13 C. The rates or charges for electric energy sold
14 by, or services rendered by, the agency, the
15 amount to be raised by the rates or charges and
16 the use and disposition of any revenue;
- 17 D. The setting aside of reserves or sinking
18 funds and their regulation and disposition;
- 19 E. Limitations on the purpose to which the pro-
20 ceeds of sale of bonds, notes or other evidences
21 of indebtedness may be applied and the pledging
22 of the proceeds to secure the payment of the
23 bonds, notes or other evidences of indebtedness
24 or of any issue of them;
- 25 F. Limitations on the issuance of additional
26 bonds, notes or other evidences of indebtedness
27 the terms upon which additional bonds, notes or
28 other evidences of indebtedness may be issued and
29 secured and the refunding of outstanding or other
30 bonds, notes or other evidences of indebtedness;
- 31 G. The procedure, if any, by which the terms of
32 any contract with noteholders or bondholders may
33 be amended or abrogated, the amount of bonds,
34 notes or other evidences of indebtedness the
35 holders must consent and the manner in which con-
36 sent may be given;
- 37 H. The vesting in a trustee or trustees, inside
38 or outside the State, of such property, rights,
39 powers and duties in trust as the agency may de-
40 termine, which may include any of the rights,

1 powers and duties of the trustee appointed by the
2 bondholders pursuant to this chapter and limiting
3 or abrogating the right of the bondholders to ap-
4 point a trustee under this chapter or limiting
5 the rights, powers and duties of the trustee;

6 I. Defining the act or omission to act which
7 constitutes a default in the obligations and du-
8 ties of the agency to the holders of the bonds,
9 notes or other evidences of indebtedness and pro-
10 viding for the rights and remedies of the holders
11 of the bonds, notes or other evidences of indebt-
12 edness in the event of such default, space in-
13 cluding as a matter of right the appointment of a
14 receiver, which rights and remedies may vary from
15 those provided in section 4156; and

16 J. Any other matters, of like or different char-
17 acter, which in any way affect the security or
18 protection of the holders of the bonds, notes or
19 other evidences of indebtedness.

20 3. Pledges. Any pledge made by the agency is
21 valid and binding from the time when the pledge is
22 made. The revenue, money or property pledged and
23 then received by the agency shall immediately be sub-
24 ject to the lien of the pledge without any physical
25 delivery of it or further act. That pledge is valid
26 and binding as against all parties having claims of
27 any kind in tort, contract or otherwise against the
28 agency, irrespective of whether those parties have
29 notice of it. Neither the resolution nor any other
30 instrument by which a pledge is created need be filed
31 or recorded.

32 4. Liability. Neither the directors nor execu-
33 tive officers of the agency nor any other person exe-
34 cuting the bonds, notes or other evidences of indebt-
35 edness may be subject to any personal liability or
36 accountability by reason of the issuance of the
37 bonds, notes or other evidences of indebtedness.

38 5. Agency; power. The agency, subject to what-
39 ever agreement with noteholders or bondholders as may
40 then exist, may, out of any funds available for that
41 purpose, purchase notes or bonds of the agency, which
42 shall then be canceled.

1 6. Bonds or notes secured. In the discretion of
2 the agency, the bonds, notes or other evidences of
3 indebtedness may be secured by a trust indenture by
4 and between the agency and a corporate trustee, which
5 may be any trust company or bank having the power of
6 a trust company inside or outside the State. The
7 trust indenture may contain provisions for protecting
8 and enforcing the rights and remedies of the
9 noteholders or bondholders that may be reasonable and
10 proper and not in violation of law, including
11 covenants setting forth the duties of the agency in
12 relation to the exercise of its corporate powers and
13 the custody, safeguarding and application of all mon-
14 ey. The agency may provide by the trust indenture
15 for the payment of the proceeds of the bonds or notes
16 and the revenue to the trustee under the trust inden-
17 ture or other depository and for the method of dis-
18 bursement, with safeguards and restrictions as it may
19 determine. All expenses incurred in carrying out
20 the trust indenture may be treated as a part of the
21 operating expense of the agency. If the bonds or
22 notes are secured by a trust indenture, the trust in-
23 denture may provide that the noteholders and bond-
24 holders may not appoint a separate trustee to repre-
25 sent them.

26 7. Negotiability of bonds or notes. Unless the
27 agency expressly provides otherwise, a bond, note or
28 other evidence of indebtedness issued under this
29 chapter is fully negotiable for all purposes of the
30 applicable provisions of Title 11 and each holder or
31 owner of a bond or note, or any coupon appurtenant to
32 a bond or note, by accepting the bond, note or coupon
33 shall be conclusively deemed to have agreed that the
34 bond, note or coupon is fully negotiable for those
35 purposes.

36 8. Investment securities. All bonds, notes and
37 interest coupons appertaining to them issued by the
38 agency have all the qualities and incidents, includ-
39 ing negotiability, unless the agency expressly pro-
40 vides otherwise, of investment securities under the
41 applicable provisions of Title 11, article 8, but no
42 provision of Title 11, article 9, respecting the fil-
43 ing of a financing statement to perfect a security
44 interest shall be applicable to any pledge made or
45 security interest created in connection with the is-
46 suance of the bonds, notes or coupons.

1 9. Signature; validity. If any director or ex-
2 ecutive officer of the agency whose signature appears
3 on any notes, bonds or coupons ceases to be a direc-
4 tor or executive officer before the delivery of the
5 notes or bonds, the signature is valid for all pur-
6 poses, as if he had remained in office until that de-
7 livery.

8 §4152. Presumption of validity

9 After issuance, all bonds or notes of the agency
10 shall be conclusively presumed to be fully authorized
11 and issued under the laws of the State and any person
12 or governmental unit shall be stopped from question-
13 ing their authorization, sale, issuance, execution or
14 delivery by the agency.

15 §4153. Federal insurance of guaranty; taxable bond
16 option

17 1. Agency authorization. The agency may obtain
18 from any department or agency of the United States or
19 nongovernmental insurer any insurance or guaranty, to
20 the extent available as to, of, or for, the payment
21 or repayment of, interest or principal, or both, or
22 any part of interest or principal, on any bonds,
23 notes or other evidences of indebtedness issued by
24 the agency, or on any municipal obligations of gov-
25 ernmental units or cooperatives purchased or held by
26 the agency, pursuant to this chapter; and notwith-
27 standing any other provision of this chapter, enter
28 into any agreement or contract with respect to any
29 insurance or guaranty, except to the extent that the
30 same would in any way impair or interfere with the
31 ability of the agency to perform and fulfill the
32 terms of any agreement made with the holders of the
33 bonds or notes of the agency.

34 2. Interest. The agency may covenant and consent
35 that the interest on certain of its bonds shall
36 be includable under the United States Internal Reve-
37 nuue Code of 1954 or any subsequent corresponding in-
38 ternal revenue law of the United States, in the gross
39 income of the holders of the bonds to the same extent
40 and in the same manner that the interest on bills,
41 bonds, notes or other obligations of the United
42 States is includable in the gross income of the hold-

1 ers of them under the United States Internal Revenue
2 Code or any subsequent law. Nothing contained in
3 this chapter may be construed to covenant or consent
4 or to authorize any covenant or consent to the appli-
5 cation of any other provision of any other laws, fed-
6 eral or state, to the agency or its bonds or notes to
7 the elimination or modification in any way of any
8 other exemption, privilege or immunity of them, ex-
9 cept to the extent that may be required to undertake
10 projects outside of the State.

11 §4154. Refunding obligations; issuance

12 The agency may provide for the issuance of re-
13 funding obligations for the purpose of refunding any
14 obligations then outstanding which have been issued
15 under this chapter, including the payment of any cost
16 of issuance of them, if any, redemption premium on
17 them and any interest accrued or to accrue to the
18 date of redemption of these obligations and for any
19 corporate purpose of the agency. The issuance of the
20 obligations, the maturities, and other details per-
21 taining to them, the rights of their holders and the
22 rights, duties and obligations of the agency in re-
23 spect to them shall be governed by this chapter which
24 relate to the issuance of obligations, insofar as
25 those provisions may be appropriate.

26 §4155. Refunding obligations; sale

27 Refunding obligations issued as provided in sec-
28 tion 4154 may be sold or exchanged for outstanding
29 obligations issued under this chapter and, if sold,
30 the proceeds from them may be applied, in addition to
31 any other authorized purposes, to the purchase, re-
32 demption or payment of those outstanding obligations.
33 Pending the applicaton of the proceeds of any refund-
34 ing obligations, with any other available funds, to
35 the payment of the principal, accrued interest and
36 any redemption premium on the obligations being re-
37 funded, and, if so provided or permitted in the reso-
38 lution authorizing the issuance of these refunding
39 obligations or in the trust agreement securing them,
40 to the payment of any interest on refunding obliga-
41 tions to be refunded or the trust agreement securing
42 and any expenses in connection with refunding, such
43 proceeds may be invested as specified in the resolu-

1 tion authorizing the obligations and any expenses in
2 connection with refunding, such proceeds may be in-
3 vested as specified in the resolution authorizing the
4 obligations to be refunded or the trust agreement se-
5 curing them. These investments shall mature or shall
6 be subject to redemption by their holders, at the op-
7 tion of the holders, not later than the respective
8 dates when the proceeds, together with the interest
9 accruing on them, will be required for the purposes
10 intended.

11 §4156. Remedies of bondholders and noteholders

12 1. Default. In the event that the agency de-
13 faults in the payment of principal or interest on any
14 bonds or notes issued under this chapter after it be-
15 comes due, whether at maturity or upon call for re-
16 demption and the default continues for a period of 30
17 days, or in the event that the agency fails or re-
18 fuses to comply with this chapter, or defaults in any
19 agreement made with the holders of an issue of bonds,
20 notes or other evidences of indebtedness of the agen-
21 cy, the holders of 25% in aggregate principal amount
22 of the bonds or notes of the issue then outstanding,
23 by instrument or instruments filed in the office of
24 the Secretary of State and proved or acknowledged in
25 the same manner as a deed to be recorded, may appoint
26 a trustee to represent the holders of those bonds or
27 notes for the purposes provided in this chapter.

28 2. Trustee; duties. The trustee appointed in
29 subsection 1 may, and upon written request of the
30 holders of 25% in principal amount of the bonds and
31 notes then outstanding shall, in the trustee's own
32 name:

33 A. Enforce all rights of the bondholders or
34 noteholders, including the right to require the
35 agency to fix and collect rates, fees and charges
36 relating to projects or other obligations held by
37 it adequate to carry out any agreement as to, or
38 pledge of, the revenues of the agency and to re-
39 quire the agency to carry out any other agree-
40 ments with the holders of the bonds or notes and
41 to perform its duties under this chapter;

1 B. Enforce all rights of the bondholders or
2 noteholders, including the right to take posses-
3 sion and control of the business and properties
4 of the agency, operate and maintain the business,
5 make any necessary repairs, renewals and replace-
6 ments to them and fix, revise and collect fees
7 and charges, so as to carry out any contract as
8 to, or pledge of, revenues and require the agency
9 to carry out and perform the terms of any con-
10 tract with the holders of the bonds or notes or
11 its duties under this chapter;

12 C. Bring suit upon all or any part of the bonds,
13 notes or other evidences of indebtedness;

14 D. By action or suit, require the agency to ac-
15 count as if it were the trustee of an express
16 trust for the holders of the bonds, notes or oth-
17 er evidences of indebtedness;

18 E. By action or suit, enjoin any acts which may
19 be unlawful or in violation of the rights of the
20 holders of the bonds, notes or other evidences of
21 indebtedness; and

22 F. Declare all bonds, notes or other evidences
23 of indebtedness due and payable and, if all de-
24 faults are made good, with the consent of the
25 holders of 25% of the principal amount of the
26 bonds or notes then outstanding, annul the decla-
27 ration and its consequences.

28 The trustee shall, in addition to the powers set out
29 in paragraphs A to F, possess all the powers neces-
30 sary or appropriate for the exercise of any functions
31 specifically set forth in this chapter or incident to
32 the general representation of bondholders or
33 noteholders in the enforcement and protection of
34 their rights.

35 3. Notice. Before declaring the principal of
36 bonds, notes or other evidences of indebtedness due
37 and payable, the trustee shall first give 30 days'
38 notice in writing to the Governor, the agency and the
39 Department of Attorney General.

1 4. Action. The Superior Court of Kennebec County
2 has jurisdiction of any suit, action or proceeding
3 by the trustee on behalf of the bondholders or
4 noteholders.

5 §4157. Credit of State and members of agency not
6 pledged

7 Obligations issued under this chapter are not
8 deemed to constitute a debt, liability or obligation
9 of the State, any political subdivision other than
10 the agency or any municipality or cooperative, nor
11 may they be deemed to constitute a pledge of the
12 faith and credit of the State, any political subdivi-
13 sion or any municipality or cooperative, but are pay-
14 able solely from the revenues or assets of the agen-
15 cy. Each obligation issued by the agency shall con-
16 tain on its face a statement to the effect that the
17 agency is not obligated to pay the obligation or the
18 interest on it, except from the revenues or assets
19 pledged or otherwise available for those purposes and
20 that neither the faith and credit nor the taxing pow-
21 er of the State, any political subdivision other than
22 the agency or any municipality or cooperative is
23 pledged to the payment of the principal of or the in-
24 terest of these obligations.

25 §4158. Notes and bonds as legal investment

26 The State and all public officers, governmental
27 units and agencies of the State, all banks, trust
28 companies, savings banks and institutions, building
29 and loan associations, savings and loan associations,
30 investment companies and other persons carrying on a
31 banking business, all insurance companies, insurance
32 associations and other persons carrying on an insur-
33 ance business, all credit unions and all executors,
34 administrators, guardians, trustees and other fiduci-
35 aries may legally invest any sinking funds, money or
36 other funds belonging to them or within their control
37 in any bonds, notes or other evidences of indebted-
38 ness issued under this chapter, and the bonds, notes
39 or other evidences of indebtedness are authorized se-
40 curity for any public deposits.

41 §4159. No impairment of obligation

1 The State pledges to and agrees with the holders
2 of the bonds, notes and other evidences of indebted-
3 ness issued under this chapter that the State will
4 not limit or restrict the rights vested in the agency
5 to perform its obligations and to fulfill the terms
6 of any agreement made with the holders of its bonds
7 or notes. The State will not impair the rights and
8 remedies of the holders until the bonds, notes and
9 other evidences of indebtedness together with inter-
10 est on them, and interest on any unpaid installments
11 of interest, are fully met, paid and discharged. The
12 agency may execute this pledge and agreement of the
13 State in any agreement with the holders of the bonds,
14 notes or other evidences of indebtedness.

15 SUBCHAPTER IV

16 MISCELLANEOUS PROVISIONS

17 §4171. Annual reports; audit

18 On or before 90 days after the end of each fiscal
19 year, the agency shall submit a report of its activi-
20 ties for the preceding fiscal year to the Governor,
21 the commission and the Legislature. Each report
22 shall set forth a complete operating and financial
23 statement covering its operations during the year,
24 and shall contain a full and complete statement of
25 the agency's anticipated budget and operations for
26 the ensuing year. The agency shall cause an audit of
27 its books and accounts to be made at least once in
28 each fiscal year by certified public accountants.
29 The cost shall be considered an expense of the agency
30 and copies shall be filed with the Treasurer of
31 State.

32 The State Auditor and his authorized representa-
33 tives may at any time examine the accounts and books
34 of the agency, including its receipts, disbursements,
35 contracts, sinking funds, investments and any other
36 matters relating to its financial statements.

37 §4172. State services

38 All offices, departments, boards, agencies, divi-
39 sions and commissions of the State may render any
40 services to the agency as may be within the area of

1 their respective governmental functions as fixed or
2 established by law and as may be requested by the
3 agency shall, at the request of the officer, depart-
4 ment, board, agency, division or commission rendering
5 the services, be met and provided for by the agency.

6 §4173. Jurisdiction of Public Utilities Commission

7 The agency is subject to the jurisdiction of the
8 commission in the same manner as a public utility;
9 provided that, with respect to the approval of secu-
10 rities to be issued to finance the costs of a project
11 or an interest in a project by the agency, upon the
12 request of the agency, the commission shall approve,
13 at one time, bonds which are sufficient to finance
14 the agency's entire costs of the project even if the
15 bonds are to be issued in series from time to time
16 and even though the exact amount of the cost has not
17 been finally determined and the approval may be of an
18 undetermined or indefinite amount; as long as the
19 project has been approved by the commission pursuant
20 to section 6102 and provided that, with respect to
21 the fixing of rates to be charged by the agency for
22 power and energy and other services, where the acqui-
23 sition or construction of a project or any interest
24 in a project is to be financed by the issuance of secu-
25 rities under this chapter secured by a pledge of
26 revenues derived from contracts for the sale of power
27 and energy, transmission and related services and
28 such contracts as proposed provide for rate and
29 charges to be set by a formula or formulas based upon
30 costs incurred or to be incurred in connection with
31 the financing and operation of the project, which may
32 include reasonable reserves for the costs, if the
33 commission determines that the formula and formulas
34 are reasonably related to the costs, the commission
35 shall issue an order approving the formula or formu-
36 las and no further approval by the commission of the
37 rates and charges determined pursuant to the con-
38 tracts shall be required.

39 §4174. Environmental regulation

40 The agency is subject to the jurisdiction of the
41 Department of Environmental Protection and the Land
42 Use Regulation Commission in the same manner as a
43 public utility.

1 §4175. Liberal construction

2 Neither this chapter nor anything contained in
3 this chapter is a restriction or limitation upon any
4 powers which the agency might otherwise have under
5 any laws of the State and this chapter is cumulative
6 to any such powers. This chapter provides a com-
7 plete, additional and alternative method for doing
8 acts authorized by it and shall be regarded as sup-
9 plemental and additional to powers conferred by other
10 laws.

11 §4176. Inconsistent provisions of other laws super-
12 seded

13 Insofar as the provisions of this chapter are in-
14 consistent with the provisions of any special act or
15 any charter of any participating municipality, this
16 chapter is controlling.

17 CHAPTER 43

18 NUCLEAR POWER GENERATING FACILITIES

19 SUBCHAPTER I

20 CONSTRUCTION

21 §4301. Findings and purpose

22 1. Investment in nuclear power plants. The Leg-
23 islature finds that construction of a nuclear power
24 plant is a major financial investment, which will
25 have consequences for ratepayers for years to come.
26 In the recent past, investments in nuclear power
27 plants have caused severe financial strain on consum-
28 ers and utilities.

29 2. Costs. The Legislature finds that there are
30 many uncertain future costs associated with nuclear
31 power plants, including the costs of low-level and
32 high-level waste disposal, decommissioning and long-
33 term care. These costs shall be borne by the consum-
34 ers.

35 3. Citizen participation. The purpose of this
36 subchapter is to provide for citizen participation in

1 any decision to construct a nuclear power plant with-
2 in the State.

3 §4302. Referendum

4 1. Question submitted to voters. After review
5 of the proposed plant by the commission in accordance
6 with section 3132 or 3133, but prior to the construc-
7 tion of any nuclear power plant within the State, the
8 question of approving that construction shall be sub-
9 mitted to the voters of the State in the manner pre-
10 scribed by law for holding a statewide election.
11 This question shall be submitted to the legal voters
12 of the State at the next following statewide elec-
13 tion. The city aldermen, town selectmen and planta-
14 tion assessors of this State shall notify the inhabi-
15 tants of their respective cities, towns and planta-
16 tions to meet, in the manner prescribed by law for
17 holding a statewide election, to vote on the accept-
18 ance or rejection of construction by voting on the
19 following question:

20 "Do you approve construction of the nuclear power
21 plant proposed for (insert locations)?"

22 2. Manner of voting and counting ballots. The
23 legal voters of each city, town and plantation shall
24 vote by ballot on this question and shall designate
25 their choice by a cross or check mark placed within a
26 corresponding square below the words "Yes" or "No."
27 The ballots shall be received, sorted, counted and
28 declared in open ward, town and plantation meetings
29 and returns made to the Secretary of State in the
30 same manner as votes for members of the Legislature.
31 The Governor shall review the return and, if it ap-
32 pears that a majority of the legal voters are in fa-
33 vor of construction, the Governor shall proclaim that
34 fact without delay.

35 3. Preparation of ballots. The Secretary of
36 State shall prepare and furnish to each city, town
37 and plantation all ballots, returns and copies of
38 this subchapter necessary to carry out the purpose of
39 this referendum.

40 §4303. Notice; effective date of certificate; prohi-
41 bition

1 A. Scheduled releases of radioactive materials,
2 at least 24 hours before the release is planned
3 to occur;

4 B. Unscheduled releases of radioactive materi-
5 als, as soon as possible, but not more than 24
6 hours after the discovery of the release; and

7 C. Breakdowns or malfunctions of any safety re-
8 lated equipment that must be reported under the
9 United States Code of Federal Regulations, Title
10 10, Part 21, as soon as possible, but not more
11 than 24 hours after the discovery of the break-
12 down or malfunction.

13 3. Information required. The notice required by
14 this section shall contain a description of the fol-
15 lowing:

16 A. The total amount of radioactivity released or
17 planned to be released;

18 B. The estimated individual dose that may occur
19 due to the event;

20 C. Weather conditions at the time of the re-
21 lease;

22 D. The area affected or anticipated to be af-
23 ected by the event;

24 E. The equipment that malfunctioned, or the op-
25 erator error or other condition that caused the
26 release; and

27 F. The corrective actions taken.

28 §4333. Reports by the Commissioner of Human Services

29 1. Review and distribution of reports. The Com-
30 missioner of Human Services, or his designee, shall
31 review and study the reports, if any, and consolidate
32 them for distribution to the Public Utilities Commis-
33 sion, state agencies and public officials concerned
34 with nuclear energy and interested members of the
35 public. The report shall include an abstract written
36 in a manner that is easily understood by the general
37 public.

1 2. Reports of release that exceeds specification
2 limits. Reports of release which exceed technical
3 specification limits or result in overexposure to
4 plant personnel or members of the public shall be re-
5 viewed expeditiously by the Commissioner of Human
6 Services, or his designee, and a report shall be for-
7 warded to the individuals and agencies as provided in
8 this section.

9 §4334. Safety reporting; penalty

10 1. Reports. The operator of any nuclear plant
11 in this State shall submit annually by April 1st to
12 the Public Utilities Commission, with a copy sent to
13 the Bureau of Civil Emergency Preparedness, the De-
14 partment of Environmental Protection, the Bureau of
15 Health and the Maine State Library Bureau, a report
16 which shall include the following information:

17 A. A list and summary description of any
18 safety-related incidents at that nuclear power
19 plant reported to the United States Nuclear Regu-
20 latory Commission during the previous calendar
21 year, including a statement of the cause of the
22 incident, its effects on human health and the en-
23 vironment, corrective measures which have been
24 taken and the costs;

25 B. A list and summary description of those
26 unresolved safety issues as defined by the United
27 States Nuclear Regulatory Commission which per-
28 tain to that nuclear power plant and the status
29 of resolution and implementation of those
30 unresolved safety issues; and

31 C. A list and summary description of any
32 unresolved safety issues which have been con-
33 verted to regulation by the United States Nuclear
34 Regulatory Commission for implementation at that
35 nuclear power plant, together with the best
36 available estimates of the cost and time required
37 for that implementation.

38 2. Penalty. Any person who fails to comply with
39 this chapter shall be subject to chapter 15.

1 3. Additional information. The operator may in-
2 clude in the report required under subsection 1 a
3 list and summary description of any other
4 safety-related problems judged by the operator to be
5 significant. Notwithstanding subsection 2, failure
6 to provide information under this subsection shall
7 not be subject to penalty.

8 SUBCHAPTER III

9 DECOMMISSIONING

10 §4351. Short title; findings

11 This subchapter shall be known and may be cited
12 as the "Nuclear Decommissioning Financing Act."

13 The Legislature has made the following findings.

14 1. Proper decommissioning is essential. The
15 Legislature finds that timely proper decommissioning
16 of any nuclear power plant beginning at the time of
17 its closing is essential to protect public health,
18 safety and the environment at the time of closing
19 that nuclear power plant and that the cost of decom-
20 missioning will be significant.

21 2. Collection of funds to pay for decommission-
22 ing costs. To ensure that the customers who received
23 the benefits of these facilities pay for these decom-
24 missioning costs, the Legislature finds that it is
25 prudent for the State to require the licensee operat-
26 ing a nuclear power plant in the State to collect
27 sufficient funds during the remaining useful life of
28 the plant to pay for these costs.

29 3. Trust fund. The Legislature finds that the
30 best way to ensure that the funds collected will be
31 available when they are needed for decommissioning is
32 to require that the funds be placed in a separate
33 trust fund for each plant and invested by a trustee
34 until they are needed for decommissioning.

35 4. Decommissioning fund committee. The Legisla-
36 ture finds that it is in the public interest to have
37 a decommissioning fund committee responsible for the
38 prudent management of the trust fund. That committee

1 could be licensee established, with the Public Utili-
2 ties Commission approval, or publicly established,
3 but in either case would be subject to the require-
4 ments of this subchapter.

5 5. Taxes. The Legislature finds that funds set
6 aside for decommissioning protect the people of the
7 State and thus serve an essential governmental func-
8 tion, that payment of taxes on these funds would be
9 an unreasonable and inappropriate burden on the
10 ratepayers and that the income earned by the fund
11 should be tax exempt and payments made to the fund by
12 the licensee should be tax deductible.

13 6. Premature closing of plant. The Legislature
14 finds that assurance is needed that funds will be
15 available for the cost of decommissioning which would
16 occur if a nuclear power plant is prematurely closed.

17 §4352. Definitions

18 As used in this subchapter, unless the context
19 indicates otherwise, the following terms have the
20 following meanings.

21 1. Closing. "Closing" means the time at which a
22 nuclear power plant ceases to generate electricity
23 and is retired from active service.

24 2. Decommissioning. "Decommissioning" means the
25 series of activities undertaken beginning at the time
26 of closing of a nuclear power plant to ensure that
27 the final disposition of the site or any radioactive
28 components or material, but not including spent fuel,
29 associated with the plant is accomplished safely, in
30 compliance with all applicable state and federal
31 laws. Decommissioning includes activities undertaken
32 to prepare a nuclear power plant for final disposi-
33 tion, to monitor and maintain it after closing and to
34 effect final disposition of any radioactive compo-
35 nents of the nuclear power plant.

36 3. Decommissioning expenses. "Decommissioning
37 expenses" means the following:

38 A. All reasonable costs and expenses of removing
39 a nuclear power plant from service, including,

1 without limitation, dismantling, mothballing, re-
2 moving radioactive waste material except spent
3 fuel to temporary or permanent storage sites,
4 decontaminating, restoring and supervising the
5 site, and any costs and expenses incurred in con-
6 nection with proceedings before governmental reg-
7 ulatory authorities relating to the authorization
8 to decommission the plant;

9 B. All costs of labor and services, including
10 services of foremen, inspectors, supervisors,
11 surveyors, engineers, counsel and accountants,
12 performed in connection with the decommissioning
13 of the plant, and all costs of materials, sup-
14 plies, machinery, construction equipment and ap-
15 paratus acquired for or in connection with the
16 decommissioning of the plant. It is understood
17 that any amount, exclusive of proceeds of insur-
18 ance, realized by a licensee as salvage on or re-
19 sale of any machinery, construction equipment and
20 apparatus, the cost of which was charged as a de-
21 commissioning expense, shall be treated as a de-
22 duction from the amounts otherwise payable on ac-
23 count of the cost of decommissioning of the
24 plant; and

25 C. All overhead costs applicable to the plant
26 during its decommissioning period, including, but
27 not limited to, taxes, other than taxes on or in
28 respect of income; licenses; excises and assess-
29 ments; casualties; surety bond premiums and in-
30 surance premiums.

31 Without limiting the generality of this subsection,
32 amounts expended or to be paid with respect to decom-
33 missioning a nuclear power plant shall constitute
34 part of the decommissioning expenses if they are, or
35 when paid will be, either properly chargeable to any
36 account related to decommissioning of a nuclear power
37 plant in accordance with the systems of accounts then
38 applicable to the licensee, or properly chargeable to
39 decommissioning of a nuclear power plant in accord-
40 ance with then applicable regulations of the United
41 States Nuclear Regulatory Commission, Federal Energy
42 Regulatory Commission or any other regulatory agency
43 having jurisdiction.

1 4. Decommissioning financing plan. "Decommissioning financing plan" means the plan approved by the commission under section 4353.

4 5. Decommissioning fund committee. "Decommissioning fund committee" means a committee established to have overall responsibility, as described in section 4354, for a decommissioning trust fund.

8 6. Decommissioning trust fund or fund. "Decommissioning trust fund" or "fund" means a trust fund set up as prescribed in sections 4353 and 4355 to hold money for the eventual purpose of paying decommissioning expenses.

13 7. Escrow account. "Escrow account" means an account established under Public Utilities Commission rules to hold funds collected under an interim decommissioning financing plan promulgated under section 4353, subsection 5, until a decommissioning trust fund is established or to hold funds for other temporary purposes under this subchapter.

20 8. Licensee. "Licensee" means the holder of the operating permit from the United States Nuclear Regulatory Commission for a nuclear power plant.

23 9. Nuclear power plant or plant. "Nuclear power plant" or "plant" means a nuclear fission thermal power plant situated in this State.

26 10. Owner. "Owner" means any electric utility which owns any portion of a nuclear power plant, whether directly or through ownership of stock in a company which owns any portion of a nuclear power plant or through membership in a holding company which owns any portion of a nuclear power plant or through other means.

33 11. Premature closing. "Premature closing" means the closing of a nuclear power plant before the projected date of decommissioning, as projected in the decommissioning financing plan under section 4353.

38 12. Prompt removal and dismantlement. "Prompt removal and dismantlement" means to immediately re-

1 move radioactive or radioactively contaminated mate-
2 rial down to allowable residual levels which permit
3 release of the property for unrestricted access.

4 13. Trustee. "Trustee" means a bank or trust
5 company qualified to act as a fiduciary in this
6 State.

7 §4353. Decommissioning financing plans; physical de-
8 commissioning plan

9 1. Submission of plans. Decommissioning financ-
10 ing plans shall be submitted as follows.

11 A. Any licensee receiving a certificate of pub-
12 lic convenience and necessity under section 3132
13 for a nuclear power plant shall submit a decom-
14 missioning financing plan for the plant to the
15 commission not less than one year prior to begin-
16 ning commercial operation of the plant.

17 B. Any licensee operating a nuclear power plant
18 on July 13, 1982, shall submit a proposed decom-
19 missioning financing plan for the plant to the
20 Public Utilities Commission as soon as possible,
21 but not later than September 11, 1982, or such
22 later date as the Public Utilities Commission may
23 consider appropriate.

24 2. Content of plan. A decommissioning financing
25 plan submitted under subsection 1 includes:

26 A. An estimate of the time of closing of the nu-
27 clear power plant;

28 B. An estimate of the cost of decommissioning
29 the plant expressed in dollars current in the
30 year the plan is prepared and based upon an engi-
31 neering report issued any time within 3 years of
32 the date the plan is submitted to the commission;

33 C. The share of the estimated decommissioning
34 expenses attributed to each electric utility to
35 which the plant supplies power;

36 D. Plans for periodic review and updating of the
37 plan, including the cost of decommissioning esti-

1 mated under paragraph B, consistent with subsection
2 6;

3 E. Plans for establishing as soon as possible a
4 decommissioning trust fund adequate to pay the
5 cost estimated under paragraph B, consistent with
6 subsection 4 and section 4355;

7 F. Plans and options for insuring against or
8 otherwise financing any shortfall in the fund re-
9 sulting from a premature closing of the nuclear
10 power plant;

11 G. Reasonable assurance of responsibility in the
12 event of insufficient assets in accordance with
13 section 4356;

14 H. A general description of the stages by which
15 decommissioning is intended to be accomplished,
16 but only at the level of detail necessary to sup-
17 port the cost estimate of paragraph B;

18 I. If the licensee intends to establish its own
19 decommissioning fund committee, a statement of
20 its intent to do so, together with its proposed
21 membership and a copy of the proposed decommis-
22 sioning trust and its plan for implementing the
23 trust and establishing the committee;

24 J. A fully executed decommissioning financing
25 agreement between the licensee and each owner,
26 evidencing each owner's acceptance of its respec-
27 tive share of the ultimate financial responsibil-
28 ity for decommissioning. In satisfaction of this
29 requirement, the licensee may submit existing
30 ownership agreements together with documentation
31 from each owner of the applicability of the
32 agreement to the case of financial responsibility
33 for decommissioning; and

34 K. Any other information related to the financ-
35 ing of decommissioning which the commission re-
36 quests.

37 3. Approval of plan. The plan shall be approved
38 as follows.

1 A. The commission shall conduct a public hearing
2 on the proposed decommissioning financing plan.

3 B. The commission shall approve the decommis-
4 sioning financing plan if it finds that the li-
5 icensee, in the judgment of the Public Utilities
6 Commission, has provided reasonable assurance
7 that:

8 (1) The estimated time of closing of the
9 nuclear power plant and the estimated cost
10 of decommissioning are reasonable;

11 (2) The share of the estimated cost of de-
12 commissioning for each electric utility to
13 which the plant supplies power is reason-
14 able;

15 (3) The principal and income which will
16 have accumulated in the decommissioning
17 trust fund at the estimated time of closing
18 the plant will be adequate to cover the es-
19 timated cost of decommissioning, plus the
20 expenses of administering the fund;

21 (4) The provisions of the proposed form of
22 the decommissioning trust fund will ensure
23 that the funds in the trust are judiciously
24 invested and will adequately protect the
25 funds until decommissioning is completed
26 and, in the event the licensee proposes to
27 establish its own decommissioning fund com-
28 mittee, that the licensee-established com-
29 mittee will ensure that the funds in the
30 trust are judiciously invested and will ade-
31 quately protect the funds until decommis-
32 sioning is completed;

33 (5) The funds in the fund cannot be with-
34 drawn unless approved by the decommissioning
35 fund committee under section 4355, subsec-
36 tion 5, prior to completion of decommission-
37 ing;

38 (6) Contributions to the fund are equitably
39 spread over the useful life of the plant to
40 the extent feasible;

1 (7) The plans and options for insuring
2 against or otherwise financing any shortfall
3 in the fund resulting from a premature clos-
4 ing are adequate and reasonable;

5 (8) The owners are legally bound to accept
6 their respective shares of the ultimate fi-
7 nanacial responsibility for decommissioning
8 and the plan reflects full compliance with
9 section 4356; and

10 (9) The plan will periodically be reviewed
11 and revised to reflect more closely the
12 costs and available techniques for decommis-
13 sioning. This update shall occur at least
14 every 5 years.

15 C. If the commission finds that the decommis-
16 sioning financing plan does not meet the criteria
17 under paragraph B, the commission shall reject
18 the plan and order that it be modified as the
19 commission determines necessary to meet those
20 criteria.

21 D. The commission shall take final action on the
22 proposed decommissioning financing plan within
23 180 days after the filing date. The filing date
24 shall be the date when the commission notifies
25 the applicant that the filing is complete. If
26 the commission does not notify the applicant of
27 any deficiencies in the information in the appli-
28 cation within 60 days of receipt, the application
29 shall be deemed complete as of the date of re-
30 ceipt.

31 E. If the licensee requested approval of a
32 licensee-established decommissioning fund commit-
33 tee, the commission shall approve the plan, in-
34 cluding the plans for implementing a licensee de-
35 commissioning fund committee and a decommission-
36 ing trust fund, with such modifications as the
37 commission finds necessary to meet the criteria
38 of paragraph B, but only if the commission finds
39 that the plans will reasonably ensure that the
40 responsibilities and duties of section 4354, sub-
41 section 6, will be carried out, that the funds
42 will be managed in order to ensure that they will

1 be available when needed, and that the funds will
2 only be used for decommissioning expenses and the
3 costs of administering the trust fund.

4 4. Cost of decommissioning. Based upon the
5 plan, the Public Utilities Commission shall establish
6 the cost of decommissioning of any nuclear power
7 plant located in the State and shall establish a
8 schedule of monthly payments into the decommissioning
9 trust fund established for that plant as necessary
10 and convenient to meet that cost of decommissioning
11 at the time of closing. The cost of decommissioning
12 shall not include the cost of final disposal of spent
13 nuclear fuel. The schedule shall be established so
14 that contributions received by the licensee are paid
15 to the fund as soon after receipt as practicable.
16 For purposes of cost estimates, the method of decom-
17 missioning shall be the method of prompt removal and
18 dismantling, unless the United States Nuclear Regula-
19 tory Commission or its successor requires another
20 method. The commission shall periodically review the
21 estimated cost of decommissioning in accordance with
22 subsection 6 and based upon that review shall revise
23 the schedule of monthly payments as necessary.

24 When establishing the cost of decommissioning under
25 this subsection, the commission shall obtain from the
26 licensee, for information purposes, a determination
27 of any possible federal income tax liability related
28 to funds collected for decommissioning purposes until
29 a definitive final determination has been made by the
30 Federal Government that no such liability exists.
31 Notwithstanding any other provision of this subchap-
32 ter, the licensee may collect additional funds to es-
33 tablish a segregated escrow account for payment of
34 potential federal taxes, as approved by the Federal
35 Energy Regulatory Commission. In the event that no
36 final determination has been made by the Federal Gov-
37 ernment that no income tax liability exists related
38 to funds collected for decommissioning, the licensee
39 shall exercise all reasonable efforts to obtain such
40 a determination. In no event shall the licensee pay
41 any federal income tax liability amount from the de-
42 commissioning trust fund.

43 5. Plans required for operation. Decommission-
44 ing financing plans are required as follows.

1 A. No licensee which receives a certificate of
2 public convenience and necessity may commence op-
3 eration of a nuclear power plant, unless it has
4 a decommissioning financing plan approved by the
5 commission under subsection 3.

6 B. The Public Utilities Commission shall promul-
7 gate an interim decommissioning financing plan by
8 July 13, 1982, for any licensee which does not
9 have a decommissioning financing plan approved
10 under subsection 3. Payments shall commence im-
11 mediately under the interim decommissioning fi-
12 ncing plan and be deposited in an escrow ac-
13 count. That escrow account may be invested in
14 investments permitted for the trust fund under
15 section 4355, subsection 3, paragraph B. When a
16 decommissioning plan is approved and a decommis-
17 sioning trust fund established, the interim plan
18 shall terminate and the money in that escrow ac-
19 count shall be transferred to the fund.

20 6. Periodic review of plan. Decommissioning fi-
21 ncing plans for nuclear power plants shall be re-
22 viewed as follows.

23 A. If the commission approves a decommissioning
24 financing plan under subsection 3, the commission
25 shall, at least every 5 years and annually in the
26 5 years preceding scheduled closing, and annually
27 thereafter until decommissioning is completed,
28 review the financing plan to assess its adequacy.
29 If changed circumstances make a more frequent re-
30 view desirable or if the licensee requests it,
31 the commission may review the plan after a short-
32 er time interval. The review shall include, but
33 not be limited to, the following considerations:

34 (1) The estimated date of closing the
35 plant;

36 (2) The estimated cost of decommissioning;

37 (3) The reasonableness of the method se-
38 lected for cost estimate purposes;

39 (4) The size and growth rate of the decom-
40 missioning trust fund, taking into account
41 the effect of inflation; and

1 (5) The adequacy of the plans for financing
2 any shortfall required under subsection 2,
3 paragraph F.

4 B. After review under paragraph A, the commis-
5 sion may, after public hearing, order such
6 changes in the decommissioning financing plan as
7 it determines necessary to make the plan comply
8 with the criteria in subsection 3, paragraph B.

9 7. Physical decommissioning plan. At least 3
10 years prior to closing a nuclear power plant, the li-
11 icensee shall submit a physical decommissioning plan
12 to the Governor and the commission, with updates an-
13 nually thereafter. In the event of premature clos-
14 ing, the plan shall be submitted as soon as possible.

15 The commission shall review the plan to ascertain its
16 contents and determine under subsection 6 the adequa-
17 cy of the decommissioning fund to pay for that plan,
18 but the commission may not duplicate the health and
19 safety review conducted by the United States Nuclear
20 Regulatory Commission or its successor. The licens-
21 ee shall file with the physical decommissioning plan
22 a list of all decommissioning-related permits which
23 it must receive from agencies of the State. The li-
24 icensee shall update its filing annually to indicate
25 the progress of any permit applications which it has
26 undertaken before agencies of the State. The Public
27 Utilities Commission shall transmit copies of this
28 information to all agencies on the list of permits
29 and shall place this information in a separate file
30 which shall be made available for public inspection.
31 Those agencies shall inform the commission when they
32 issue any licenses or permits or take any other final
33 action. No licensee may decommission a nuclear power
34 plant unless the physical decommissioning plan has
35 been submitted to the commission.

36 §4354. Decommissioning fund committee

37 1. Establishment of decommissioning fund commit-
38 tee by the licensee. A decommissioning fund committee
39 may be established for a particular nuclear power
40 plant by the licensee operating that plant within one
41 year after July 13, 1982. Upon a finding by the Pub-
42 lic Utilities Commission that this

1 licensee-established decommissioning fund committee
2 will be able to carry out the responsibilities and
3 duties of subsection 6, that the fund will be managed
4 in accordance with the requirements of section 4355
5 and that it is in the public interest, the commission
6 may approve establishment of the committee by the li-
7 cencee. At that time, the Governor may appoint a
8 voting representative on the licensee-established de-
9 commissioning fund committee.

10 2. Establishment of a public decommissioning
11 fund committee. In the event that the licensee
12 elects not to establish its own decommissioning fund
13 committee, or in the event that the Public Utilities
14 Commission fails to approve a decommissioning fund
15 committee proposed by the licensee, or the commission
16 elects to terminate that committee for good cause
17 shown, a public decommissioning fund committee shall
18 be established consisting of 7 members, including:

19 A. The Treasurer of State, who shall act as
20 chairman;

21 B. A member nominated by the municipal officials
22 of any municipality containing a nuclear power
23 plant;

24 C. Four members nominated by the Governor, in-
25 cluding 2 from the financial community and 2 from
26 the general public; and

27 D. One member designated by the licensee.

28 3. Terms of public decommissioning fund commit-
29 tee members. Initially, the members appointed by the
30 Governor shall draw lots for terms. There shall be a
31 one-year term, a 2-year term, a 3-year term and a
32 5-year term. Thereafter, their terms shall be for 5
33 years. The municipal representative and the
34 licensee's representative shall be named for 5-year
35 terms. In the event of a vacancy, an interim ap-
36 pointment shall be made to fill the unexpired portion
37 of the term. The Treasurer of State shall serve
38 while holding that office. Other members shall serve
39 until their replacements are sworn in.

1 4. Compensation. Members of the decommissioning
2 fund committee shall receive compensation and be re-
3 imbursed for expenses as determined reasonable by the
4 Public Utilities Commission. They shall be paid from
5 the decommissioning trust fund, for which services
6 are rendered or expenses incurred. Members of a
7 licensee-established committee are not entitled to
8 any compensation under this subsection.

9 5. Conflict of interest. Except for the
10 licensee's representative and members of a
11 licensee-established decommissioning fund committee,
12 members of the committee shall have no direct or sub-
13 stantial indirect financial interest in any nuclear
14 power plant covered by this subchapter in any company
15 which owns directly or indirectly any portion of a
16 nuclear power plant covered by this subchapter or in
17 any institution involved in managing or handling a
18 decommissioning trust fund.

19 6. Responsibilities and duties. Whether estab-
20 lished by the licensee or otherwise, a decommission-
21 ing fund committee is responsible for the prudent
22 management of the decommissioning trust fund in order
23 to assure that the principal and income which will
24 have accumulated in the fund at the time of closing
25 the nuclear power plant for which it was established
26 will equal the cost established in the decommission-
27 ing financing plan approved by the commission. The
28 specific duties of a decommissioning fund committee
29 are to:

30 A. Appoint the trustee;

31 B. Approve selection of other financial manag-
32 ers, if any, by the trustee;

33 C. Establish investment policy;

34 D. Evaluate investment policy and trustee per-
35 formance;

36 E. Establish procedures for expenditures from
37 the fund for decommissioning and administrative
38 expenses; and

39 F. Perform other duties it finds necessary to
40 carry out its responsibilities.

1 7. Report; audit. The decommissioning fund com-
2 mittee shall report annually to the Governor, the
3 Legislature and the Public Utilities Commission on
4 its activities and the status of the decommissioning
5 trust fund. It shall also report to the owners of
6 any nuclear power plant in the State on its activi-
7 ties relating to that plant and on the status of the
8 associated fund. The report shall contain a break-
9 down of all administrative expenses. A decommission-
10 ing fund committee shall cause an annual audit to be
11 made of each decommissioning trust fund.

12 8. Separate committee for each plant. There
13 shall be a separate decommissioning fund committee
14 for each nuclear power plant covered by this subchap-
15 ter. Members may serve on more than one decommis-
16 sioning fund committee.

17 9. Modification. In the event and to the extent
18 that it is necessary in order to establish the tax
19 exempt status of payments to or income of the decom-
20 missioning trust fund, the decommissioning fund com-
21 mittee shall, subject to the approval of the Public
22 Utilities Commission, modify its structure and proce-
23 dures, including if necessary changing from any
24 licensee-established trust committee established un-
25 der subsection 1 to a public trust committee estab-
26 lished under subsection 2, provided that no such mod-
27 ification may be contrary to the purpose for which
28 the trust was established under this subchapter.

29 §4355. Decommissioning trust fund

30 1. Trustee. The decommissioning fund committee
31 shall select a trustee or trustees to execute the po-
32 licies set by the decommissioning fund committee and
33 manage the money within a decommissioning trust fund
34 in order to ensure that it will be available when
35 needed and, insofar as possible, consistent with pro-
36 tection of the principal, so that it may grow to keep
37 pace with inflation or faster. Preference may be
38 given to financial institutions incorporated in the
39 State if consistent with their fiduciary responsibil-
40 ity, but only if they meet the criteria for trustees
41 established by the decommissioning fund committee.
42 That committee may, by a majority vote of its entire
43 membership, change trustees at any time. Any trustee

1 shall be subject to the same duties and may exercise
2 the same powers as trustees under Title 18-A, article
3 VII, and the provisions of the decommissioning trust
4 to the extent that they are not inconsistent with
5 this subchapter. The trustee may appoint subsidiary
6 financial managers, subject to approval by the decom-
7 missioning fund committee. Any fees charged by the
8 trustee shall be subject to review by the Public
9 Utilities Commission.

10 2. Tax exemptions. The following tax exemptions
11 apply to the decommissioning trust fund.

12 A. Payments to a decommissioning trust fund
13 shall be considered a necessary operating expense
14 of the licensee and shall be tax deductible for
15 state income tax purposes. All income of the
16 fund shall be exempt from state income taxation,
17 as long as the fund is to be used exclusively for
18 the purposes of decommissioning and the licensee
19 may not use the fund for any other purpose.

20 B. Payments to a decommissioning trust fund are
21 deemed to be a necessary operating expense to the
22 licensee and exempt from federal income tax. It
23 is the legislative intent that all income of the
24 fund be exempt from federal income taxation.

25 3. Restrictions. The following restrictions ap-
26 ply to the decommissioning trust fund.

27 A. All funds collected by any licensee for de-
28 commissioning shall be immediately segregated
29 from the company's assets and amounts not subject
30 to refund or required to pay tax liabilities
31 shall be transferred to the trustee for placement
32 in the decommissioning trust fund established for
33 the licensee's plant. Amounts collected for de-
34 commissioning, but subject to refund or required
35 to pay tax liabilities, shall be deposited in a
36 separate escrow account.

37 B. The assets in a decommissioning trust fund
38 may be invested only in secure assets as follows:

39 (1) The bonds, notes, certificates of de-
40 posit or other obligations issued or guaran-

1 ted by the United States or by any agency
2 or instrumentality of the United States;

3 (2) The bonds, notes, certificates of de-
4 posit or other obligations issued or guaran-
5 teed by any state or by any agency, instru-
6 mentality or political subdivision of any
7 state, provided that securities are rated
8 within the 2 highest grades by any rating
9 service approved by the Superintendent of
10 Banking;

11 (3) The bonds and other obligations of any
12 United States corporation, provided that
13 they are rated within the 2 highest grades
14 by any rating service approved by the Super-
15 intendent of Banking; or

16 (4) Until a definitive final determination
17 has been made by the Federal Government that
18 the income of the fund is exempt from feder-
19 al income taxation, the assets in the fund
20 may be invested only in securities exempt
21 from federal income taxation.

22 The assets in a fund shall not be invested in the
23 securities of the owner of any nuclear power
24 plant. The decommissioning fund committee may
25 impose such other restrictions as it determines
26 necessary or desirable.

27 C. Except as provided in section 4354, subsec-
28 tions 1, 2 and 5, a decommissioning trust fund
29 shall be administered only by persons not normal-
30 ly involved with operations of the licensee or
31 any owner of a nuclear power plant within the
32 State.

33 D. Neither the licensee nor any other owner of
34 any nuclear power plant in the State may receive
35 any benefit from funds remaining in the decommis-
36 sioning trust fund after completion of decommis-
37 sioning.

38 E. All income of a fund shall be accumulated and
39 added to the principal of the fund, except as
40 otherwise provided in subsection 5.

1 F. Any indenture of trust governing the decom-
2 missioning trust fund is subject to review and
3 approval by the commission. That indenture of
4 trust shall contain a provision that it shall be
5 amended as necessary to conform to any future
6 changes in state law or rule.

7 4. Contributions to the fund. The trustee of a
8 decommissioning trust fund shall bill the licensee
9 operating the nuclear power plant for which the fund
10 was established and the licensee shall make payments
11 to the trustee of the fund in amounts and on a sched-
12 ule determined by the Public Utilities Commission in
13 accordance with section 4353, subsection 4.

14 5. Expenditures from the fund; payments for
15 costs of decommissioning. At the time of decommis-
16 sioning, the decommissioning fund committee shall au-
17 thorize the trustee to make payments as necessary
18 from the fund to the licensee to cover actual decom-
19 missioning expenses in accordance with the decommis-
20 sioning plan authorized by the United States Nuclear
21 Regulatory Commission or its successor. The decom-
22 missioning fund committee may not approve any with-
23 drawal for this purpose prior to completion of decom-
24 missioning, unless the physical decommissioning plan
25 has been received and reviewed by the Public Utili-
26 ties Commission under section 4353, subsection 7.

27 The decommissioning fund committee may authorize
28 withdrawals from the fund as necessary to pay reason-
29 able expenses for administering the fund. No other
30 withdrawal may be made prior to the commencement of
31 decommissioning without the approval of the commis-
32 sion and unless the withdrawal is for the purpose of
33 paying reasonable expenses related to decommission-
34 ing.

35 6. Expenditure of money remaining after decom-
36 missioning. Upon termination of decommissioning, the
37 commission shall conduct a final audit of the decom-
38 missioning trust fund. The commission may by rule,
39 if the public interest requires, establish a decom-
40 missioning contingency reserve at that time. If
41 there are assets remaining in the fund attributable
42 to a given plant, after its decommissioning has been
43 completed, those assets shall be returned, in propor-

1 tion to their payments, to the owners and any other
2 persons who originally made payments to the licensee
3 for decommissioning purposes in accordance with the
4 order or orders of any regulatory agency having ju-
5 risdiction. No portion of the remaining assets in a
6 fund may accrue to the benefit of the licensee.

7 An electric utility in the State which receives re-
8 maining decommissioning funds under this subchapter
9 shall distribute the funds equitably, under the guid-
10 ance of the commission, to its customers.

11 7. Public Utilities Commission review for
12 licensee-established committee. Notwithstanding any
13 other section of this subchapter, if the decommis-
14 sioning fund committee is established by the company
15 under section 4354, subsection 1, withdrawals from
16 the fund shall be reviewed and approved by the Public
17 Utilities Commission. No withdrawal may be approved,
18 except for the purpose of paying reasonable expenses
19 related to decommissioning or to the administration
20 of the fund.

21 8. Separate fund for each plant. There shall be
22 a separate decommissioning trust fund for each nucle-
23 ar power plant covered by this subchapter. The as-
24 sets of these funds shall not be commingled in any
25 way.

26 §4356. Responsibility for decommissioning

27 1. Decommissioning trust fund. In the first in-
28 stance, the cost of decommissioning shall be paid
29 from the decommissioning trust fund established for
30 the plant being decommissioned.

31 2. Licensee responsible. If the assets of the
32 decommissioning trust fund are insufficient to pay
33 for the cost of decommissioning, the licensee shall
34 be responsible for the additional cost.

35 3. Insufficient assets. If the assets of the
36 licensee are insufficient to cover the remaining cost
37 of decommissioning after the decommissioning trust
38 fund is exhausted, the owners are jointly and sever-
39 ally liable for the safe and proper decommissioning
40 of that nuclear power plant. If, under this subsec-

1 tion, any in-state owner pays decommissioning ex-
2 penditures in excess of its ownership share in the plant,
3 that owner shall have a cause of action to recover
4 that excess from the other owners. The Department of
5 the Attorney General shall assist in bringing such an
6 action.

7 4. State not financially responsible; protective
8 action. The State shall have no financial responsi-
9 bility for decommissioning. If the Governor finds
10 that, because of inadequate action by the responsible
11 parties in carrying out decommissioning, protective
12 action is reasonably required to protect the public
13 health and safety, the State may undertake that ac-
14 tion. In that case, the Department of the Attorney
15 General shall bring action against the fund, the li-
16 icensee and the owners to recover the cost of that
17 protective action. Expenses incurred by the Depart-
18 ment of the Attorney General in bringing that action
19 shall be paid from the decommissioning trust fund.

20 5. Additional expense in rates. The Public
21 Utilities Commission shall include, as an allowable
22 operating expense, in calculation of authorized
23 rates, additional decommissioning funds actually sup-
24 plied by an electric utility in the State, to the ex-
25 tent these are just and reasonable.

26 §4357. Incorporation by reference; construction

27 To the extent that they are not in conflict with
28 this chapter, chapters 13 and 15 apply to this chap-
29 ter. This subchapter shall be construed liberally in
30 order to achieve the purposes stated in this chapter.

31 §4358. Cost of review

32 The licensee shall submit to the commission, with
33 the initial filing or upon a subsequent formal review
34 of a decommissioning financing plan under this sub-
35 chapter, a filing fee as determined by the commis-
36 sion, but not to exceed \$50,000, in order to assist
37 in covering the cost of review by the commission.
38 Within one year after establishment of a decommis-
39 sioning fund under this subchapter, the licensee may
40 recover the licensing fee from the fund. Money re-
41 ceived from the filing fee shall be segregated, ap-

1 portioned and expended by the commission for the pur-
2 poses stated in this section, with a report to the
3 joint standing committee of the Legislature having
4 jurisdiction over appropriations and financial af-
5 fairs. Any unexpended funds from the filing fee
6 shall be transferred to the decommissioning trust
7 fund after approval of the plan.

8 §4359. Enforcement

9 All provisions of this subchapter shall be en-
10 forced by the Department of the Attorney General,
11 with the cost of enforcement paid from the decommis-
12 sioning trust fund.

13 SUBCHAPTER IV

14 SPENT FUEL AND HIGH-LEVEL WASTE REQUIREMENTS

15 §4371. On-site storage of spent fuel assemblies;
16 limitations

17 After July 1, 1992, no nuclear fission thermal
18 power plant licensee may store or maintain in on-site
19 spent fuel element pools or other on-site temporary
20 storage facilities any spent nuclear fuel which was
21 removed from the nuclear reactor core more than 3
22 years previously.

23 §4372. Definitions

24 As used in this subchapter, unless the context
25 otherwise indicates, the following terms have the
26 following meanings.

27 1. Construction. "Construction" means the in-
28 stallation of permanent equipment or structures.

29 2. High-level radioactive waste. "High-level
30 radioactive waste" means the highly radioactive mater-
31 ial resulting from the reprocessing of spent nuclear
32 fuel, including liquid waste produced directly in
33 reprocessing and any solid material derived from that
34 liquid waste that contains fission products in suffi-
35 cient concentrations; and other highly radioactive
36 material that the United States Nuclear Regulatory
37 Commission, consistent with existing law, determines
38 by rule to require permanent isolations.

1 3. Nuclear power plant. "Nuclear power plant"
2 means a nuclear fission thermal power plant.

3 4. Technology or means for the disposal of
4 high-level nuclear waste. "Technology or means for
5 the disposal of high-level nuclear waste" means a
6 method for the permanent and terminal disposal of
7 high-level nuclear waste. It does not necessarily
8 require that facilities for the application of such
9 technology and means be available at the time the
10 commission makes its findings. This disposition does
11 not necessarily preclude the possibility of an ap-
12 proved process for retrieval of such waste.

13 §4373. Certification required prior to construction
14 of nuclear power plants

15 No construction may commence on a nuclear power
16 plant after October 24, 1977, until the Public Utili-
17 ties Commission has complied with this subchapter.

18 §4374. Conditions for certification of nuclear power
19 plants

20 If the conditions of this section have been met,
21 the commission may certify a nuclear power plant if
22 it finds that:

23 1. Federal Government identification and approv-
24 al of technology. The Federal Government, through
25 its authorized agency, has identified and approved a
26 demonstrable technology or means for the disposal of
27 high-level nuclear waste;

28 2. Waste storage facilities operational. Spe-
29 cific facilities with adequate capacity to contain
30 high-level nuclear waste are in actual operation, or
31 will be in operation, at the time the nuclear power
32 plant being certified requires the means for the dis-
33 posal of high-level nuclear waste; and

34 3. Proposal for disposal is in conformity. The
35 disposal of high-level nuclear waste proposed for any
36 nuclear power plant to be certified according to this
37 subchapter is in full conformity with the technology
38 approved by the authorized agency of the Federal Gov-
39 ernment.

1 §4375. Commission action upon petition

2 Upon petition of any person, the commission shall
3 within a reasonable time conduct public hearings and
4 make specific findings as to the conditions set forth
5 in section 4374.

6 §4376. Commission action if power to grant certifi-
7 cates not granted

8 If the conditions of section 4374 have not been
9 met, the commission may continue to receive and process
10 applications for certification, but may not certify a nuclear power plant. Any other governmental
11 entity which grants necessary permits, licenses, approvals or authorizations for construction of a nuclear
12 power plant may process and grant those permits, licenses, approvals or authorizations, subject
13 to the commission's granting of certification under
14 this chapter.

18 SUBCHAPTER V

19 SPENT FUEL DISPOSAL TRUST FUND

20 §4391. Definitions

21 As used in this subchapter, unless the context
22 indicates otherwise, the following terms have the
23 following meanings.

24 1. Licensee. "Licensee" means the holder of the
25 operating permit from the United States Nuclear Regu-
26 latory Commission for a nuclear power plant.

27 2. Nuclear power plant or plant. "Nuclear power
28 plant" or "plant" means a nuclear fission thermal
29 power plant.

30 3. Owner. "Owner" means any electric utility
31 which owns any portion of a nuclear power plant,
32 whether directly or indirectly, through ownership of
33 stock in a company which owns any portion of a nucle-
34 ar power plant, through membership in a holding com-
35 pany which owns any portion of a nuclear power plant
36 or through other means.

1 4. Spent nuclear fuel disposal. "Spent nuclear
2 fuel disposal" means the activities undertaken to
3 safely dispose of spent nuclear fuel offsite and in
4 compliance with all applicable state and federal
5 laws.

6 5. Trustee. "Trustee" means a fiduciary as de-
7 defined under Title 18-A, section 1-201, which fiduci-
8 ary shall administer the spent fuel disposal trust
9 funds subject to sections 4392 and 4393 and in ac-
10 cordance with Title 18-A, article VII.

11 6. Trust fund or fund. "Trust fund" or "fund"
12 means a trust fund established as set out in section
13 4392 to hold money for the eventual purpose of spent
14 nuclear fuel disposal.

15 §4392. Spent Nuclear Fuel Disposal Trust Fund

16 1. Established. Any licensee operating a nucle-
17 ar power plant in this State shall establish by Janu-
18 ary 1, 1986, a segregated Spent Nuclear Fuel Disposal
19 Trust Fund in accordance with this subchapter for the
20 eventual disposal of spent nuclear fuel resulting
21 from the use of that fuel before April 7, 1983. The
22 licensee shall make payments into the fund in accord-
23 ance with a schedule based on sound financial prac-
24 tices designed to accumulate sufficient money to make
25 the payments to the United States Department of Ener-
26 gy in the manner described in subsection 5. The li-
27 icensee shall also review the schedule at least annu-
28 ally to determine if the level of deposits in the
29 fund remains reasonably capable of accumulating ap-
30 propriate money for application to these payments.

31 2. Financing agreement. The licensee shall file
32 with the Public Utilities Commission by January 1,
33 1986, a fully executed spent nuclear fuel financing
34 agreement between the licensee and each owner, evi-
35 dencing each owner's acceptance of its respective
36 share of the ultimate financial responsibility for
37 spent nuclear fuel. In satisfaction of this require-
38 ment, the licensee may submit existing ownership
39 agreements, together with documentation from each
40 owner, of the applicability of the agreement to the
41 case of financial responsibility for spent nuclear
42 fuel.

1 3. Trustee. The licensee shall select a trustee
2 or trustees to manage the money within the fund to
3 ensure that it will be available when needed. Pref-
4 erence may be given to financial institutions incor-
5 porated in the State if such a determination can be
6 made consistent with the fiduciary responsibility of
7 the trustees. The licensee may change trustees at
8 any time upon appropriate notice. Trustees shall be
9 subject to the same duties and may exercise the same
10 powers as trustees under Title 18-A, article VII, to
11 the extent that they are not inconsistent with this
12 subchapter. The trustee may appoint subsidiary fi-
13 ncial managers, subject to the approval of the li-
14 icensee.

15 4. Restrictions. The following restrictions ap-
16 ply to the fund.

17 A. The fund shall be segregated from the
18 licensee's assets and administered by an independ-
19 ent trustee in accordance with this subchapter.

20 B. The fund may be invested only in secure as-
21 sets with maturity no later than the announced or
22 reasonably projected date for the making of the
23 payments required under this section, as follows:

24 (1) Bonds, notes or other obligations is-
25 sued or fully guaranteed by the full faith
26 and credit of the Federal Government or by
27 any agency or instrumentality of the United
28 States;

29 (2) Bonds, notes or other obligations is-
30 sued or fully guaranteed by the full faith
31 and credit of any agency, instrumentality or
32 political subdivision of any state, provided
33 that the investment security is rated within
34 the 2 highest grades by any rating service
35 approved by the Superintendent of Banking;

36 (3) Bonds and other obligations of any cor-
37 poration organized under the laws of the
38 United States or any state, provided that at
39 the time of purchase the investment security
40 is rated within the 2 highest grades by any
41 rating service approved by the Superintend-
42 ent of Banking; and

1 (4) Money Market Funds or similar invest-
2 ment vehicle of the trustee's choice, but
3 only as a temporary investment where it is
4 not practical to invest any amount in the
5 fund in the investments described in
6 subparagraphs (1) to (3).

7 C. The funds shall not be invested in the secu-
8 rities of the owner of any nuclear power plant.

9 D. Income to the fund shall be reinvested for
10 the benefit of the fund or used to pay the rea-
11 sonable expenses of administration of the fund.

12 5. Expenditures from the fund. The trustee
13 shall make payments from the fund to the United
14 States Department of Energy in accordance with the
15 United States Nuclear Waste Policy Act of 1982 and
16 any contract between the licensee and the department
17 under that Act for the disposal of all spent nuclear
18 fuel used prior to April 7, 1983.

19 6. Sunset. After payment of all fees in accord-
20 ance with subsection 5, the trustee shall report to
21 the commission and, upon certification by the commis-
22 sion, the fund shall be dissolved expeditiously and
23 this subchapter is repealed.

24 7. Assets remaining in the fund. Any assets re-
25 maining in the fund shall be returned, in proportion
26 to their payments, to the owners and any other per-
27 sons who originally made payments to the licensee for
28 the fund. Any amounts returned to the electric util-
29 ities within the State will be subject to ultimate
30 rate treatment by the commission. No portion of the
31 remaining assets in the fund may accrue to the ben-
32 efit of the licensee.

33 §4393. Report; audit

34 1. Initial report. The licensee shall report to
35 the commission upon the establishment of the fund.
36 That report shall include the relevant trust agree-
37 ment, spent nuclear fuel disposal contract and other
38 appropriate documentation.

1 Natural Gas Act approved June 21, 1938, as it now
2 reads, or as amended, authorizing it to construct and
3 operate natural gas pipeline and appurtenant facili-
4 ties within this State, or to construct and operate
5 an intrastate natural gas pipeline, which has ob-
6 tained authorization from the commission to construct
7 and operate such intrastate natural gas pipeline or
8 pipelines and appurtenant facilities, may, upon com-
9 pliance with this chapter, purchase, hold and convey
10 real estate and personal property for the purposes
11 for which it was created.

12 §4503. Filing certificate of public convenience

13 At least 30 days before beginning construction of
14 an interstate natural gas pipeline within this State,
15 the corporation shall file with the Secretary of
16 State a certified copy of the certificate of public
17 convenience and necessity issued to it under the Fed-
18 eral Natural Gas Act or, if the pipeline is intra-
19 state, a certificate exhibiting the commission's au-
20 thorization.

21 §4504. Eminent domain

22 If the commission determines that a taking by
23 eminent domain is necessary under the conditions and
24 procedures set out in sections 6901 to 6904 relative
25 to condemnation by water districts, a corporation
26 that has complied with this section and, in the case
27 of a foreign corporation with Title 13-A, chapter 12,
28 may take and hold by right of eminent domain lands or
29 rights in lands that are necessary to the safe, eco-
30 nomical and efficient operation of the pipeline and
31 to providing adequate service to the public, under
32 the same procedures and conditions as set forth in
33 chapter 67.

34 Nothing in this section authorizes a corporation
35 to take by eminent domain property or facilities of
36 another public utility, used or acquired for use in
37 the performance of a public duty, unless expressly
38 authorized in this section or by an Act of the Legis-
39 lature.

40 §4505. Exemption from eminent domain

1 1. Owner's consent required. No natural gas
2 pipeline utility may take, without the owner's con-
3 sent:

4 A. Meeting houses;

5 B. Dwelling houses; or

6 C. Public or private burying grounds.

7 2. Public lands. No natural gas pipeline utili-
8 ty may take by eminent domain lands or rights in:

9 A. A public street or highway;

10 B. A public park or reservation;

11 C. Other public property; or

12 D. The location of a railroad or public utility.

13 3. Pipeline constructed under or through public
14 property. A natural gas pipeline utility may con-
15 struct a natural gas pipeline under or through a pub-
16 lic highway or street, public park or reservation or
17 other public property if the method, plans and speci-
18 fications for construction have been approved by the
19 authority having jurisdiction over the maintenance of
20 the public highway or street, public park or reserva-
21 tion or other public property and the authority has
22 granted a written location permit to the corporation
23 in accordance with section 2302. The natural gas
24 pipeline utility has all the rights, privileges and
25 duties arising out of section 2302 to the extent they
26 apply to a natural gas pipeline utility formed under
27 this chapter.

28 4. Pipelines constructed over or across a rail-
29 road or public utility. A natural gas pipeline utili-
30 ty may construct a natural gas pipeline over or
31 across the location of a railroad or public utility
32 by agreement with the railroad or public utility or
33 in the event of failure to agree with the commis-
34 sion's approval and in a place and manner and under
35 conditions determined by the commission. All work on
36 the property or a railroad or public utility must be
37 done under the supervision and to the satisfaction of

1 the railroad or public utility, but at the natural
2 gas pipeline utility's expense.

3 §4506. Duties of corporation

4 1. Soil requirements. A natural gas pipeline
5 must be laid at least 24 inches below the surface of
6 the soil. The soil above the pipeline must be graded
7 to the level of the adjacent land and left in good
8 working condition unless otherwise agreed to by the
9 natural gas pipeline utility and the property owner.

10 2. Damage to growing crops. The natural gas
11 pipeline utility shall pay for any damage to growing
12 crops caused by the construction, operation, mainte-
13 nance, repair or reconstruction of a natural gas
14 pipeline.

15 3. Driveways, drains, pipes and wires left in
16 good condition. Driveways, drains, water pipes and
17 other service pipes or wires located on land on which
18 a natural gas pipeline is constructed shall be left
19 in as good condition as they were prior to the con-
20 struction, maintenance, repair or reconstruction of
21 the pipeline, except when the natural gas pipeline
22 utility and the owner of the property or right-of-way
23 agree otherwise.

24 4. Closing right-of-way prohibited. No driveway
25 or right-of-way over the land on which a natural gas
26 pipeline is located may, except during the construc-
27 tion, maintenance, repair or reconstruction of the
28 pipeline, be closed for passage, except by agreement
29 between the natural gas pipeline utility and the own-
30 er of the property or right-of-way.

31 5. Buildings. A building erected by a natural
32 gas pipeline utility shall conform in its method of
33 construction with the building laws or regulations in
34 force in the location in which it is erected, and the
35 exterior design of the building shall conform to the
36 extent possible with the general architectural stan-
37 dards of buildings in the locality.

38 §4507. Franchise area; restricted sale

1 A natural gas pipeline utility may not supply or
2 sell natural gas within the franchise area of another
3 utility, which is authorized by the State to transmit
4 or sell gas within the franchise area to any person
5 except that utility, unless:

6 A. The other utility consents to the sale; or

7 B. The commission permits the sale, after no-
8 tice and hearing.

9 §4508. Powers and authority of Public Utilities Com-
10 mission

11 1. Natural gas pipeline utilities subject to
12 commission's authority. A natural gas pipeline util-
13 ity organized to construct or operate an interstate
14 natural gas pipeline, which holds a certificate of
15 public convenience and necessity issued under the
16 Federal Natural Gas Act authorizing it to construct
17 or operate a natural gas pipeline and appurtenant fa-
18 ilities within the State, or an intrastate natural
19 gas pipeline utility, which has obtained authority
20 from the commission, is subject to the authority of
21 the commission.

22 2. Commission rules and limitation on commission
23 authority. The commission may make necessary rules
24 with respect to the natural gas pipeline utility's
25 pipeline, equipment and manner of operation as they
26 relate to the safety of the public and of the
27 utility's employees, provided that the commission's
28 authority is not inconsistent with or in violation of
29 the Federal Natural Gas Act, as amended, or any
30 rules, orders, regulations or certificates of public
31 convenience and necessity issued under that Act.

32 3. Power to effectuate policies of this chapter.
33 To effectuate the policies and provisions of this
34 chapter and when determined necessary to obtain uni-
35 formity in the formulation, administration and en-
36 forcement of any order or rule issued under this
37 chapter, or promulgated by the authority of the
38 United States, pertaining to the regulating or han-
39 dling of natural gas, the commission may:

40 A. Confer, cooperate and enter into compacts
41 with the authority;

1 B. Avail itself of records and facilities of the
2 authority and make records and facilities availa-
3 ble to the authority;

4 C. Conduct joint investigations and hold joint
5 hearings;

6 D. Issue orders and rules jointly or concurrent-
7 ly with, or complementary to those issued by, the
8 authority; and

9 E. Collaborate with the authority and others in
10 the development and operation of measures for the
11 increased safety of the transportation and dis-
12 tribution of natural gas within the State.

13 §4509. Application of this Title

14 A natural gas pipeline utility is subject to all
15 provisions of this Title as far as applicable and to
16 the orders and rules adopted and promulgated by the
17 commission under the authority of this Title.

18 §4510. Submission of plans to commission

19 Not less than 30 days before the solicitation of
20 bids for construction or installation or, if bids are
21 not solicited, not less than 30 days before actual
22 construction or installation, the natural gas pipe-
23 line utility shall submit to the commission informa-
24 tion concerning the engineering design of its pipe-
25 line and the standards of construction which it pro-
26 poses to follow and any other information the commis-
27 sion determines necessary, so that it may determine
28 whether the public safety and the safety of the
29 utility's employees are being protected. If the com-
30 mission finds that any part of the engineering design
31 does not conform to the minimum standards of the
32 American Standard Code of Pressure Piping, promul-
33 gated by the American Standards Association of New
34 York, or that the condition of any part of the equip-
35 ment or the manner of operating it are dangerous to
36 the public safety or the employees' safety, it shall
37 make an order to remedy the nonconformity or danger-
38 ous condition and furnish a copy of the order to the
39 utility.

1 §4511. Submission of map to commission

2 A natural gas pipeline utility, as soon as it has
3 definitely established a route, but in any event not
4 less than 30 days before the commencement of actual
5 construction or installation, shall submit to the
6 commission and to the governing body of each municipi-
7 ality through which it is proposed that the route
8 shall pass, for their information, a map approved as
9 to form by the commission that clearly sets forth the
10 proposed route.

11 §4512. Compliance with orders

12 A natural gas pipeline utility subject to this
13 chapter shall comply immediately with any proper order
14 of the commission.

15 1. Failure to comply. A natural gas pipeline
16 utility that fails to comply with an order commits a
17 civil violation for which a forfeiture not to exceed
18 \$1,000 may be adjudged for each offense.

19 2. Damages. In addition to the forfeiture pro-
20 vided in subsection 1, a natural gas pipeline utility
21 that fails to comply with an order of the commission
22 shall reimburse any person whose property is damaged
23 as a result of the failure for the amount of the
24 property damage; and be liable in double damages for
25 any injury resulting to a person from the failure.

26 §4513. Interstate and foreign commerce not affected

27 No provision of this chapter or of any order or
28 rule under this chapter applies to or may be construed
29 to apply to interstate or foreign commerce,
30 except as far as the provision is effective pursuant
31 to the Constitution of the United States under the
32 laws of the United States.

33 §4514. Standing of utility in filing for permits

34 1. Utilities may file for license and permit.
35 When a natural gas pipeline utility, which intends to
36 operate within this State, has filed for either a
37 certificate of public convenience and necessity to be
38 issued under the Federal Natural Gas Act or, in the

1 case of an intrastate gas pipeline company, has filed
2 for the necessary authorization from the commission,
3 that utility may file and process an application for
4 any license, permit or order necessary to obtain all
5 governmental approvals with regard to the location,
6 construction, completion and operation of that pipe-
7 line within this State. The effective date of the
8 license, permit, order or governmental approval which
9 is granted or issued may be conditioned upon or sus-
10 pending until the issuance of the certificate of pub-
11 lic convenience and necessity or commission authori-
12 zation.

13 2. Application to Department of Environmental
14 Protection before certificate is issued. If a natu-
15 ral gas pipeline utility applies to the Department of
16 Environmental Protection for any required licenses or
17 approvals before it is issued a certificate of public
18 convenience and necessity under the Federal Natural
19 Gas Act or by the commission, it shall file a bond
20 with the Department of Environmental Protection pay-
21 able to the department in a form satisfactory to the
22 Commissioner of Environmental Protection. The Com-
23 missioner of Environmental Protection shall determine
24 the amount of the bond which may not exceed \$50,000.
25 The bond shall be conditioned to require the appli-
26 cant to reimburse the department for its costs in-
27 curring in processing any application in the event
28 that the applicant does not receive a certificate of
29 public convenience and necessity as described in this
30 section.

31 3. Notification of landowners. A natural gas
32 pipeline utility which applies for site location of
33 development approval under Title 38, chapter 3, sub-
34 chapter I, article 6, shall:

35 A. Prior to filing a notification under Title
36 38, section 483, provide notice to each owner of
37 real property upon whose land the applicant pro-
38 poses to locate a natural gas pipeline by regis-
39 tered mail, postage prepaid at the land owner's
40 last known address as contained in the applicable
41 tax assessor's record; and

42 B. File, with the town clerk of each municipali-
43 ty through which the pipeline is proposed to be

1 located, a map demonstrating the intended approx-
2 imate location of the pipeline within the municipi-
3 ality.

4 The applicant may not be required to provide no-
5 tice of its intent to construct a natural gas
6 pipeline other than as set forth in this subsec-
7 tion.

8 4. Company not excused from obtaining propri-
9 etary rights. Nothing in this section excuses a natu-
10 ral gas pipeline utility or other entity from ob-
11 taining appropriate proprietary rights in state-
12 owned land prior to the construction or operation of
13 a pipeline within this State.

14 §4515. Injunctive relief

15 A natural gas pipeline utility operating or act-
16 ing in violation of a statute or rule or order of the
17 commission may be enjoined from the operation or ac-
18 tion upon complaint addressed to the Superior Court
19 and brought by the commission. Whenever practicable,
20 the commission shall notify a natural gas pipeline
21 utility against whom an action for injunctive relief
22 is contemplated and afford it an opportunity to
23 present its views and, except in the case of a know-
24 ing and willful violation, shall afford it reason-
25 able opportunity to comply. Failure to notify and
26 afford such an opportunity does not preclude the
27 granting of appropriate relief.

28 §4516. Civil violation

29 1. Violation of this Title. A natural gas pipe-
30 line utility that violates any provision of this Ti-
31 tle relating to safety of pipeline facilities or
32 transportation of gas or any rule issued under this
33 Title commits a civil violation for which a forfei-
34 ture not to exceed \$1,000 for each violation may be
35 adjudged. Each day of violation constitutes a sepa-
36 rate offense.

37 2. Maximum civil forfeiture. The maximum civil
38 forfeiture may not exceed \$200,000 for any related
39 series of violations.

1 §4702. Safety jurisdiction only over certain gas
2 utilities

3 A gas utility owning, controlling, operating or
4 managing a central tank system or a petroleum gas
5 system that serves 10 or more customers or any por-
6 tion of which is located in a public place is subject
7 to the jurisdiction of the commission solely with re-
8 spect to safety.

9 §4703. Fuel cost adjustment

10 1. Fuel cost. Subject to the approval of the
11 commission, each gas utility shall include as part of
12 its base rates a reasonable cost for the gas which it
13 supplies to its firm customers who receive uninter-
14 rupted service on a year-round basis. The cost of
15 gas shall include the cost of the gas purchased by
16 the company for use in the State, pursuant to rules
17 promulgated by the commission under this section.
18 The amount to be included in a utility's base rates
19 shall be determined at the time of general rate ad-
20 justment under section 307 or 1303 and shall be based
21 upon the utility's reasonable costs of gas during the
22 test year used for the rate adjustment.

23 2. Fuel cost adjustment for firm and nonfirm
24 customers. Notwithstanding the requirements of sec-
25 tion 310 and subject to the conditions of this sec-
26 tion, a gas utility shall adjust its gas charges to
27 its firm customers to reflect increases and decreases
28 in the price of gas that occur after a general rate
29 proceeding under sections 307 and 1303. For purposes
30 of this section, a "firm customer" means a customer
31 which receives uninterrupted service on a year-round
32 basis. The rates charged to nonfirm customers shall
33 include a cost of gas as determined by the commission
34 and the total rate charged to nonfirm customers shall
35 be subject to the approval of the commission.

36 3. Scope of adjustment. Changes in the cost of
37 gas purchased by the gas utility for use in the State
38 shall constitute the only items subject to adjust-
39 ment, pursuant to rules promulgated by the commission
40 under this section, provided that the commission may
41 credit against the cost of gas any and all profits
42 received by the gas utility from sales of gas to in-

1 interruptible customers to the extent that the revenues
2 exceed the actual costs of the interruptible sales.

3 4. Cost of gas adjustment rate applied uniformly
4 to firm customers. The cost of gas adjustment estab-
5 lished under this section shall be billed or credited
6 at a single uniform rate per 100 cubic feet of gas or
7 therms for all firm customers of the gas utility.

8 5. Rules for calculation and billing of fuel ad-
9 justment. Within 120 days following the effective
10 date of this section, the commission shall establish
11 rules for the calculation and billing of cost of gas
12 adjustments. The rules shall include, but not lim-
13 ited to:

14 A. The accounting method to be used to determine
15 the cost of gas;

16 B. The computation period and method of computa-
17 tion of the cost of gas adjustment rate;

18 C. Definitions and components of gas costs to be
19 included in the cost of gas adjustment;

20 D. An appropriate method to amortize a utility's
21 unrecovered reasonable gas costs;

22 E. An appropriate method to credit customers for
23 gas cost overcharges; and

24 F. Reporting requirements to administer this
25 section.

26 The commission may establish a cost of gas adjustment
27 rate for a computation period based on projected gas
28 sales and gas costs for that period, and make appro-
29 priate adjustments for overcharges or undercharges in
30 customer bills in subsequent computation periods to
31 account for the difference between the projected gas
32 sales and costs and actual gas sales and reasonable
33 gas costs.

34 6. Commission approval required. A utility may
35 not bill customers for a cost of gas adjustment
36 charge which has not been approved and ordered into
37 effect by the commission pursuant to this section.

1 Each gas utility shall file application for changes
2 in its cost of gas adjustment rate in accordance with
3 rules promulgated under this section. The commission
4 shall issue public notice of the application and the
5 opportunity to request a hearing within 7 days after
6 the application is filed with the commission. The
7 commission may render its decision on the application
8 without holding a public hearing. If a public hear-
9 ing is held, the commission shall hold the first ses-
10 sion within 45 days of the filing of the application.
11 The commission shall render its decision on the ap-
12 plication within 45 days of the close of the hearing,
13 or within 45 days of receipt of the application if no
14 hearing is held. No gas utility may make application
15 for changes in its cost of gas adjustment rate until
16 a period of 90 days has elapsed from the filing of
17 its last application, unless otherwise ordered by the
18 commission.

19 7. Reports. The commission may require gas
20 utilities to provide such reports and information as
21 it determines necessary to administer this section.

22 §4704. Injunctive relief

23 A gas utility operating acting in violation of a
24 statute or rule or order of the commission may be en-
25 joined from the operation or action upon complaint
26 addressed to the Superior Court and brought by the
27 commission. Whenever practicable, the commission
28 shall notify a gas utility against whom an action for
29 injunctive relief is contemplated and afford it an
30 opportunity to present its views and, except in the
31 case of a knowing and willful violation, shall afford
32 it reasonable opportunity to comply. Failure to no-
33 tify and afford such an opportunity does not preclude
34 the granting of appropriate relief.

35 §4705. Civil forfeiture

36 1. Violation of this Title. A gas utility that
37 violates any provision of this Title relating to
38 safety of pipeline facilities or transportation of
39 gas or any rule issued under this Title commits a
40 civil violation for which a forfeiture not to exceed
41 \$1,000 for each violation may be adjudged. Each day
42 of violation constitutes a separate offense.

1 County and Peak's Island, Great Diamond Island, Lit-
2 tle Diamond Island, Long Island, Chebeague Island,
3 Bailey Island or Cliff Island, or between the is-
4 lands, without obtaining a certificate of public con-
5 venience and necessity from the commission authoriz-
6 ing the transportation. Any person who must obtain a
7 certificate is a ferry subject to the jurisdiction of
8 the commission with respect to the service which re-
9 quires authority. The commission shall specify in
10 the certificate the business and operation of the
11 ferry and shall attach to it at the time of issuance
12 and from time to time after issuance reasonable
13 terms, conditions and limitation as it determines
14 necessary to maintain adequate transportation to
15 these islands.

16 §5102. Application of this Title

17 All ferries are subject to this Title and to the
18 orders and rules adopted and promulgated by the com-
19 mission under the authority of this Title, provided
20 that ferries are not subject to the jurisdiction of
21 the commission with respect to safety.

22 §5103. Service, rates and schedules

23 All ferries shall maintain adequate service to
24 the islands of Casco Bay as set out in section 5101
25 under rules promulgated by the commission as to rates
26 and schedules.

27 1. Rates. The rates of transportation of prop-
28 erty established by the commission's rules shall be
29 comparable to rates established for the comparable
30 services of other authorized ferries in the State.

31 2. Schedules. The commission, when promulgating
32 rules as to schedules, shall take into consideration
33 the daily service needs of the inhabitants of the is-
34 lands of Casco Bay as set out in section 5101.

35 §5104. Exception for ferries carrying commodities in
36 bulk

37 Nothing in this chapter applies to the transpor-
38 tation of commodities in bulk. This exception ap-
39 plies only in case of commodities in bulk which are

1 loaded and carried without wrappers or containers and
2 received and delivered without transportation mark or
3 count, except that carriers of petroleum fuels in
4 bulk may also transport other products and accesso-
5 ries integral to the operation of motor vehicles and
6 boats when they are included as part of the bulk
7 shipment. The transporting of a commodity in motor
8 vehicles, whether commercial or privately owned, upon
9 a vessel may not be construed as a bulk movement of
10 those commodities.

11 §5105. Medical emergency

12 In the case of a medical emergency, transporta-
13 tion may be obtained from a person who has not been
14 issued a certificate of public convenience and neces-
15 sity.

16 §5106. Temporary certificate of public convenience
17 and necessity

18 Subject to the provisions of this chapter, the
19 commission may issue a temporary certificate of pub-
20 lic convenience and necessity to other persons to
21 better serve the needs of the residents of the is-
22 lands of Casco Bay as set out in section 5101.

23 §5107. Violation of this chapter; penalty

24 1. Offense. Whoever violates this chapter is
25 guilty of unlawfully operating a ferry in Casco Bay.

26 2. Penalty. Unlawful operation of a ferry in
27 Casco Bay is a Class E crime.

28 3. Injunction. In addition to any other remedy
29 provided in this chapter for the enforcement of this
30 chapter or any rule, order or decision of the commis-
31 sion issued with relation to the operations of a
32 ferry covered by this chapter, the Superior Court has
33 jurisdiction upon complaint filed by the commission
34 to enjoin a person from committing an act prohibited
35 by this chapter or prohibited by a rule, order or de-
36 cision of the commission with relation to the opera-
37 tion of transportation facilities in Casco Bay. It
38 is the intention of the Legislature that the commis-
39 sion may seek an injunction under this section with-

1 out first resorting to another form of administrative
2 proceedings or procedure as a condition precedent to
3 the granting of the injunction.

4 §5108. Radar requirements on vessels operating in
5 Casco Bay

6 Every person subject to the regulations of the
7 commission in conjunction with the transport of 6 or
8 more passengers by vessel, for compensation, between
9 or among the islands of Casco Bay and the mainland
10 shall, after appropriate action by the commission
11 acting pursuant to section 5109, provide an operable
12 radar device on each vessel operated by the person
13 which carries 6 or more passengers and shall provide
14 a person qualified to operate the radar device in ac-
15 cordance with all federal rules relating to the oper-
16 ation of federally licensed passenger carrying ves-
17 sels.

18 §5109. Standards; promulgation; enforcement

19 1. Rules for use of radar devices; standards.
20 The commission shall adopt rules relating to the use
21 and installation of radar devices in the vessels re-
22 ferred to in section 5108. These rules shall in-
23 clude, but need not be limited to, the specification
24 of standards for the radar devices to be carried by
25 the vessels referred to in section 5108 and the qual-
26 ifications of those persons responsible for the prop-
27 er operation of the radar devices.

28 2. Time for compliance. The commission, subse-
29 quent to the promulgation of those standards, shall
30 allow a reasonable time not to exceed 180 days for
31 initial compliance.

32 3. Enforcement revocation of certificate of au-
33 thority. The commission may enforce section 5108 and
34 this section or any of the rules promulgated under
35 them in the same manner and with the same effect as
36 it may enforce this Title.

37 The commission may revoke the certificate of authori-
38 ty of any person who does not comply with the commis-
39 sion's order.

1 §6103. Authority for taxation under default

2 1. Issuance of a warrant. If there is a default
3 in the payment of the principal of, or interest on, a
4 note, bond or other evidence of indebtedness issued
5 by a water district created by special Act of the
6 Legislature, the trustees, directors or managing
7 board of the district shall, unless the default is
8 cured, issue their warrant immediately to those por-
9 tions of the municipality or municipalities which
10 constitute the district.

11 2. Form of warrant. The form of the warrant
12 shall be reasonably similar to the warrant used by
13 the Treasurer of State for real estate taxes.

14 3. Assessment and collection of taxes. In the
15 warrant for payment of the sum, the assessors in each
16 municipality shall assess the sum allocated to the
17 municipality or portion of the municipality upon the
18 taxable estates within the municipality or portion of
19 the municipality and shall commit their assessment to
20 the constable or collector of the municipality, who
21 shall have all authority, powers and duty to collect
22 the taxes as is vested by law to collect state, county
23 and municipal taxes.

24 4. Allocation if district is composed of more
25 than one municipality. If the district is composed
26 of more than one municipality or portion of a municipi-
27 ality, the trustees shall make the allocation on a
28 basis resulting in a uniform rate applied to 100% of
29 the state valuation on all taxable property within
30 the water district.

31 5. Treasurer to pay tax within 30 days. Within
32 30 days after the date fixed by the municipalities on
33 which their taxes are due, the treasurer of the mu-
34 nicipality shall pay the tax assessed to the treasurer
35 of the district.

36 6. Section not effective until approved by mu-
37 nicipality. This section may not take effect until
38 it or former Title 35, section 3211, has been ap-
39 proved at a regular or special meeting by a majority
40 of the legislative body of the municipality or munic-
41 ipalities which constitute the district. The appro-

1 priate municipal official shall declare the action of
2 the legislative body, file a certificate of it with
3 the Secretary of State and with the clerk of the dis-
4 trict.

5 §6104. Municipal and quasi-municipal water utilities
6 subject to suspension, investigation, hearing
7 and rate substitution

8 1. Application of this section. Notwithstanding
9 section 310, municipal and quasi-municipal corpora-
10 tions which are water utilities within the definition
11 of section 102, subsection 21, are subject to the
12 suspension, investigation, hearing and rate substitu-
13 tion provisions of section 310 under the conditions
14 specified in this section.

15 2. Utilities which elect to set rates under this
16 section. Municipal and quasi-municipal water utili-
17 ties which elect to set rates under this section may
18 not file with the commission or increase any rate,
19 toll or charge without first holding a public hearing
20 at which any customer may testify and may question
21 the officials present regarding the proposed in-
22 crease.

23 3. Notice of proposed rate increase and hearing.
24 The municipal or quasi-municipal water utility shall,
25 at least 14 days prior to the hearing, publish a no-
26 tice of the proposed rate increase and the hearing,
27 including the date, time, place and purpose of the
28 hearing, in a newspaper of general circulation in the
29 area encompassed by the municipal or quasi-municipal
30 water utility and give one notice of the proposed
31 rate increase and the date, time and place of the
32 hearing to each of its customers. The published and
33 individual notices shall include a statement describ-
34 ing the amount of the increase and the percentage in-
35 crease for each customer class and copies shall be
36 sent to the commission at least 14 days prior to the
37 hearings.

38 4. Notice that rate increase may be investigated
39 by commission. At the commencement of each hearing
40 held pursuant to this section, the municipal or qua-
41 si-municipal water utility shall inform those present
42 that the rate increase may be investigated by the
43 commission in accordance with this section.

1 5. Filing changed rates. The water utility
2 shall file its changed rates with the commission
3 within 30 days of the public hearing, but not sooner
4 than 10 days following the public hearing.

5 6. Effective date established for rate change.
6 Subject to the notice and waiver requirements of sec-
7 tion 307, water utilities electing to set rates under
8 this section may establish an effective date for a
9 rate change of at least one month, but not more than
10 9 months, from the date the rates are filed with the
11 commission.

12 7. Authority to investigate rate changes. If,
13 within 30 days of the public hearing, 15% of the cus-
14 tomers of the municipal or quasi-municipal water
15 utility or 1,000 customers, whichever is less, file
16 with the treasurer of the utility and with the com-
17 mission petitions demanding a review of the rate
18 changes by the commission, the rate change may be
19 suspended, investigated, reviewed and changed in ac-
20 cordance with section 310, except that no suspension
21 order issued by the commission pursuant to section
22 310 may be effective for a period greater than 9
23 months from the date the rate changes were filed.

24 8. Procedure for suspension of rate change. If
25 the number of signatures on the petition is 1,000 or
26 if the number of signatures on the petitions equals
27 or exceeds 15% of the customers indicated on the wa-
28 ter utility's most recent annual report on file with
29 the commission, the commission may suspend the rate
30 change pursuant to section 310. The commission shall
31 notify the water utility of the suspension.

32 9. Water utility may challenge petitions. The
33 water utility has 10 days from receipt of notice to
34 notify the commission whether it intends to contest
35 any aspect of the validity of the petitions, after
36 which it shall lose that right. If the water utility
37 notifies the commission in a timely fashion that it
38 wishes to contest the validity of the petitions, the
39 commission shall schedule a hearing. It shall hold
40 the hearing and issue its decision on the validity of
41 the petitions within 30 days of notification by the
42 water utility that it intends to contest the validity
43 of the petitions. If the commission finds the peti-

1 tions to be invalid, it shall lift its order of sus-
2 pension.

3 10. Review of rates under section 310. Nothing
4 in this section prohibits a municipal or quasi-munic-
5 ipal water utility from petitioning the commission
6 for review pursuant to section 310 in the first in-
7 stance.

8 11. Correction of errors. Upon review of a rate
9 filing made pursuant to this section, the commission
10 may order the municipal or quasi-municipal water
11 utility to correct mathematical or clerical errors.

12 §6105. Rates for municipal and quasi-municipal water
13 utilities

14 1. Scope of section. Notwithstanding any other
15 provision of this Title or any charter to the con-
16 trary and in addition to any charter or private and
17 special laws creating or affecting a municipal or
18 quasi-municipal water utility, the rate, toll or
19 charge made, exacted, demanded or collected by a mu-
20 nicipal water or quasi-municipal water utility is
21 governed by this section.

22 2. Just and reasonable rates. The governing
23 body shall establish and file rates, tolls or charges
24 which are just and reasonable and which provide reve-
25 nuue as may be required to perform its public utility
26 service and to attract necessary capital on just and
27 reasonable terms.

28 3. Uniform rates. The governing body shall es-
29 tablish, and file rates which are uniform within the
30 territory supplied whenever the installation and
31 maintenance of mains and the cost of service is sub-
32 stantially uniform. If, for any reason, the cost of
33 construction and maintenance or the cost of service
34 in a section of the territory exceeds the average,
35 the governing body may establish and file higher
36 rates for that section, but these higher rates shall
37 be uniform throughout that section.

38 4. Purposes. The governing body may establish
39 and file rates under this section to provide revenue
40 for the following purposes, but no other:

1 A. To pay the current expenses for operating and
2 maintaining the water system and to provide for
3 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. To provide each year a sum equal to not less
8 than 2% nor more than 10% of the term indebted-
9 ness represented by the issuance of bonds created
10 or assumed by the utility, which sum shall be
11 turned into a sinking fund and there kept to pro-
12 vide for the extinguishment of term indebtedness.
13 The money set aside in this sinking fund shall be
14 devoted to the retirement of the term obligations
15 of the utility and may be invested in such secu-
16 rities as savings banks in the State are allowed
17 to hold;

18 D. To provide for annual principal payments on
19 serial indebtedness created or assumed by the
20 utility; and

21 E. To provide for a contingency reserve fund al-
22 lowance by providing rates to reflect up to a 5%
23 addition to yearly revenues over what is required
24 to operate the water company.

25 If this allowance results in an excessive sur-
26 plus, rates may be set which use the excess to
27 offset future revenue requirements. The commis-
28 sion shall adopt rules which define excessive
29 surplus resulting from the allowance, set forth
30 uses of funds in that portion of the surplus
31 which is not excessive, including the retirement
32 of debt where economic, and provide that funds in
33 the surplus which are excessive be returned to
34 customers in the form of temporary rate adjust-
35 ments, credits or reduction in rates.

36 §6106. Apportionment of costs for water main exten-
37 sions or service lines

38 1. Investment. The governing body of a municipi-
39 pal or quasi-municipal water utility may choose to
40 make no investment in a water main extension or ser-

1 vice line and may require persons requesting a water
2 main extension or service line to advance to the
3 utility the full cost of construction, including as-
4 sociated appurtenances required solely as a result of
5 the construction of the water main extension or ser-
6 vice line and used solely for the operation of the
7 main extension or service line. Apportionment of the
8 costs among customers shall be determined by the com-
9 mission by rule.

10 2. Assessments. The governing body may assess
11 the full cost of water main extensions on all proper-
12 ty that abuts the water main in accordance with rules
13 promulgated by the governing body. The owner of any
14 property which is not hooked up to the water system
15 may defer payment of the assessment until it is
16 hooked up. The governing body by rule may exempt ap-
17 propriate classes of property from the assessment and
18 may provide for payment of an assessment over a peri-
19 od of time.

20 3. Review by elected local officials. If the
21 governing body is not an elected body, any decision
22 to make no investment under subsection 1 or to assess
23 under subsection 2 must first be endorsed by the mu-
24 nicipal officers of the municipality or municipali-
25 ties involved, prior to filing with the commission.

26 §6107. System development charge

27 1. System development charge authorized. In ad-
28 dition to section 6105, the governing body of a mu-
29 nicipal water or quasi-municipal water utility may
30 establish and file, pursuant to section 310 or 6104,
31 a system development charge which is just and reason-
32 able to provide funds to finance capital outlays for
33 water system expansion caused by an increase in de-
34 mand for service.

35 2. Commission review. If a municipal or quasi-
36 municipal water utility elects to institute a system
37 development charge, it shall file the proposed charge
38 and a description of the basis of the charge with the
39 commission not less than 90 days before the effective
40 date of the charge. The commission shall investigate
41 the system development charge under section 1303 to
42 determine whether it is just and reasonable.

1 3. Use of funds. The funds generated by the
2 system development charge shall be deposited into a
3 special account of the municipal or quasi-municipal
4 water utility dedicated to finance capital outlays
5 for water system expansion caused by an increase in
6 demand for service. The funds from the special ac-
7 count shall be used only for the purpose of financing
8 the expansion of the system and shall not be used for
9 the repair or replacement of existing facilities un-
10 less the replacement is required as a result of in-
11 creased demand for service. The system development
12 charge shall not be treated as income of the municipi-
13 pal or quasi-municipal water utility nor shall it be
14 considered part of the rates established and filed
15 pursuant to section 6105.

16 4. Assessment of charge. The system development
17 charge may be assessed upon all customers of the mu-
18 nicipal or quasi-municipal water utility that re-
19 quires new connections to the water system, excluding
20 fire service, as of or after the effective date of
21 that charge and upon all existing customers who sub-
22 stantially expand their demand for water service as
23 of or after the effective date of that charge.

24 5. Water conservation programs. Before a system
25 development charge may be instituted, the municipal
26 or quasi-municipal water utility must report to the
27 commission its efforts in implementing water conser-
28 vation programs. The utility shall state what combi-
29 nation of system development charges and new conser-
30 vation programs will allow the utility to meet grow-
31 ing demand in the least costly manner.

32 6. Review by elected local officials. If the
33 governing body is not an elected body, any system de-
34 velopment charge proposed under this section must
35 first be endorsed by the municipal officers of the
36 municipality or municipalities involved, prior to
37 filing with the commission.

38 CHAPTER 63

39 WATER DISTRICTS

40 §6301. Short title; purpose

1 This chapter shall be known and may be cited as
2 the "Maine Water District Act." The purpose of this
3 chapter is to provide minimum guidelines to the water
4 districts chartered under private and special laws of
5 the Legislature. These guidelines will provide more
6 public participation and more accountability for wa-
7 ter districts, and encourage the maximum degree of
8 local control consistent with protection of health
9 and economic welfare of the citizens.

10 §6302. Formation of districts

11 The formation of water districts under the pri-
12 vate and special laws to provide public drinking wa-
13 ter supplies is encouraged. The question of the for-
14 mation of the proposed district shall be submitted to
15 the voters residing within it for approval by majori-
16 ty vote.

17 §6303. Trustees

18 1. Authorization. All of the affairs of a water
19 district shall be managed by an elected board of
20 trustees which shall consist of not less than 3
21 trustees, but no municipality nor unorganized terri-
22 tory within a water district may have less than one
23 trustee. Trustees shall serve for a term specified
24 in the charter, but not longer than 3 years.

25 2. Nominations and elections. Nominations and
26 elections shall be conducted in accordance with the
27 laws relating to municipal elections, except that in
28 the unorganized townships, nominations and elections
29 shall be conducted by the county commissioners.

30 3. Organization of board of trustees. Within
31 one week after each annual election, the trustees
32 shall meet for the purpose of electing a chairman,
33 treasurer and clerk from among them to serve for the
34 ensuing year and until their successors are elected
35 and qualified. The trustees, from time to time, may
36 choose and employ, and fix the compensation of, any
37 other necessary officers and agents who shall serve
38 at their pleasure. The treasurer shall furnish bond
39 in the sum and with sureties as approved by the
40 trustees. The district shall pay the cost of the
41 bond.

1 At this original meeting, the trustees shall organize
2 by electing from their own members a chairman and a
3 clerk, and adopting a corporate seal and electing a
4 treasurer who may or may not be a trustee. The
5 trustees may adopt and establish bylaws consistent
6 with the laws of this State and necessary for their
7 own convenience and the proper management of the af-
8 airs of the district, and perform other acts within
9 the powers delegated to them by law.

10 The trustees shall be sworn to the faithful perform-
11 ances of their duties, which shall include the duties
12 of any member who serves as clerk or clerk pro tem.
13 They shall make and publish an annual report, includ-
14 ing a report of the treasurer.

15 4. Trustees' compensation. The trustees shall
16 receive compensation as recommended by them and ap-
17 proved by a majority of the municipal officers of the
18 municipality, including compensation for any duties
19 they perform as officers, as well as for their duties
20 as trustees. For districts serving more than one mu-
21 nicipality, any change in the compensation received
22 by the trustees for any duties they perform within
23 the district shall be recommended by them and ap-
24 proved by majority vote of the municipal officers in
25 municipalities representing a majority of the popula-
26 tion within the district. Certification of the vote
27 shall be recorded with the Secretary of State and re-
28 corded in the bylaws. Their compensation for duties
29 as trustees shall be on the basis of such specific
30 amount as may be specified in the bylaws, for each
31 meeting actually attended and reimbursement for
32 travel and expenses, with the total not to exceed
33 such specific amount as may be specified in the by-
34 laws. Compensation schedules in effect on January 1,
35 1982, shall continue in effect until changed.

36 5. Trustees' retirement. Trustees who have not
37 been members of the Maine State Retirement System
38 prior to January 1, 1982, as a result of their selec-
39 tion as trustees, and who are not full-time employ-
40 ees, shall not be eligible to join the retirement
41 system as a result of their selection as trustees.
42 For purposes of determining a water district
43 trustee's eligibility to be a member of the Maine
44 State Retirement System prior to January 1, 1982, the

1 provisions of the appropriate governing charter in
2 effect at the time of the trustee's application for
3 membership shall control.

4 §6304. Issuance of bonds and notes

5 1. Notice to general public and rate payers. In
6 the event that the trustees vote to authorize bonds
7 or notes, the estimated cost of which, singly or in
8 the aggregate included in any one financing, is
9 \$150,000 or more adjusted, relative to 1981 as the
10 base year according to the annual Consumer Price In-
11 dex, as defined in Title 5, section 17001, subsection
12 9, the trustees shall provide notice to the general
13 public of the proposed bond or note issue and the
14 purposes for which the debt is being issued. The no-
15 tice shall be published at least once in a newspaper
16 having general circulation in the district. The
17 trustees shall give notice to each ratepayer by mail.

18 No debt may be incurred under the vote of the trust-
19 ees until the expiration of 7 full days following the
20 date on which the notice was first published and
21 mailed. Prior to the expiration of the period, the
22 trustees shall call a special district meeting for
23 the purpose of permitting the collection of testimony
24 from the public concerning the amount of debt so au-
25 thorized.

26 2. Voters approval or disapproval of debt. Ex-
27 cept for indebtedness to fund projects specifically
28 mandated by the State Government and Federal Govern-
29 ment, for debts in excess of the amount specified in
30 this section, if requested by petition of not less
31 than 50 voters of the district or 5% of the voters,
32 whichever is greater, filed with the clerk of the
33 district on or before the date of the meeting, the
34 meeting shall express approval or disapproval of the
35 amount of debt so authorized. If a majority of vot-
36 ers present and voting expresses disapproval of the
37 amount of debt authorized by the trustees, the debt
38 shall not be incurred and the vote of the trustees
39 authorizing it shall be void.

40 §6305. Liens

1 Except as otherwise provided in section 706, no
2 water district may include in its charter any provi-
3 sion providing a lien against the property for non-
4 payment of assessments or rates. The district may
5 seek judgment, including a lien in court, in the same
6 manner as any other creditor.

7 §6306. Conformity with private and special laws

8 This chapter governs all water districts formed
9 on or after January 1, 1982. This chapter does not
10 apply to water districts formed before January 1,
11 1982, except that section 6303, subsections 4 and 5,
12 apply to those districts. Any portion of the charter
13 of those districts which is contrary to those subsec-
14 tions is repealed.

15 §6307. Legislative amendment of charter

16 Each year, on or before April 15th, the joint
17 standing committee of the Legislature having juris-
18 isdiction over public utilities shall report out legis-
19 lation entitled "AN ACT to Amend the Charters of Var-
20 ious Water Districts Organized under the Private and
21 Special Laws." Amendments to water district charters
22 shall generally be included in that Act. Prior to
23 acting upon any proposed water district charter
24 amendment, the joint standing committee shall obtain
25 written comments from the municipalities that lie in
26 whole or in part within the district.

27 §6308. Long-term indebtedness of water districts

28 The commission may establish reasonable terms
29 upon which water districts shall extinguish their
30 long-term indebtedness, notwithstanding any terms,
31 conditions or limitations, either expressed or im-
32 plied, in the special Act of the Legislature under
33 which the district was organized or in any special
34 Act of the Legislature under which it is franchised.
35 Nothing in this section gives the commission the au-
36 thority to alter the terms of any existing obliga-
37 tions of a water district.

38 CHAPTER 65

39 PROPERTY TAKEN FOR PUBLIC USE

1 AND ASSESSMENT OF DAMAGES

2 §6501. Rights of parties as to procedure

3 1. Locations and damages. All locations made
4 and all damages assessed for the taking of property
5 by the exercise of the right of eminent domain shall
6 be made and assessed and the rights of the parties
7 shall be as stated in this chapter, notwithstanding
8 anything contained in the act granting the right.

9 2. Water utilities may exercise right of eminent
10 domain. Water utilities may exercise the right of
11 eminent domain for obtaining sources of supply and
12 locations for storage and for the protection of them
13 and locations for transmission and distribution of
14 water to the public under this chapter and chapter
15 69.

16 3. Exceptions. This chapter does not apply to:

17 A. Property taken by the United States, the
18 State of Maine, a county or municipality of the
19 State, a quasi-municipal corporation or steam
20 railroad corporation; and

21 B. Property which, when taken, is being or is
22 necessary to be used by the owner in the perform-
23 ance of a public duty.

24 §6502. Proceedings before entry; location and map;
25 description

26 1. Description. All property taken by eminent
27 domain shall, before it is entered upon for any pur-
28 pose except to make surveys, be located by a descrip-
29 tion, signed by the party taking the property. The
30 description shall:

31 A. Describe in detail the property taken;

32 B. Give the names of the owners; and

33 C. Be accompanied by a map showing the property
34 as described.

1 2. Filing location and map. The party taking
2 the property shall file the location and map with the
3 county commissioners of the county where the property
4 is located, who shall:

5 A. Endorse the time of filing on the location
6 and map; and

7 B. Order the location recorded.

8 3. Recording location. The taker shall record
9 the location in the registry of deeds of the county
10 or registry district where the property is located.

11 4. Personal notice given to mortgage holder.
12 When there is a recorded mortgage covering any por-
13 tion of the land taken, which has been recorded with-
14 in 40 years of the taking and bears no record of dis-
15 charge, satisfaction or release, the taker shall give
16 personal notice to the owner of record of the mort-
17 gage by sending to the mortgage holder's residence,
18 if known, otherwise to the residence or address set
19 forth in the record, by registered mail, a written
20 notice of the taking which shall contain a descrip-
21 tion of the property taken and the name of the owner.

22 5. Description corrected. When for any reason
23 the taker fails to acquire the property authorized to
24 be taken and which is described in the location, or
25 the location recorded is defective or uncertain, the
26 taker may, at any time, correct and perfect the loca-
27 tion and file a new description.

28 6. Liability of taker. If a description is cor-
29 rected under subsection 5, the taker is liable in
30 damages only for property for which the owner had not
31 previously been paid, to be assessed as of the time
32 of the original taking, and the taker shall not be
33 liable for any acts which would have been justified
34 if the original taking had been valid.

35 §6503. Damages for property owners; security

36 1. Owners entitled to damages. The owners are
37 entitled to damages for all property taken by eminent
38 domain as if the land were taken for highway purposes
39 under Title 23, chapter 3.

1 2. Application procedure. Upon written applica-
2 tion of either party made within 3 years after the
3 taking, the county commissioners shall estimate the
4 damages and the taker shall pay the damages.

5 3. Commencement of new proceedings. If proceed-
6 ings commenced fail for causes not affecting the mer-
7 its, new proceedings may be commenced within one
8 year. When no estimate is made within this time, the
9 owner may maintain a civil action or have any remedy
10 provided.

11 4. Guardian may give release, interested per-
12 sons. The guardian of a person incapable of giving a
13 valid conveyance whose property is taken may settle
14 and give a valid release for damages. Persons having
15 an interest in the property have the rights and reme-
16 diies of owners to the extent of their interest.

17 5. Owner may request security. When requested
18 by the owner, the county commissioners shall require
19 the taker to give security for the payment of damages
20 and costs by depositing at its risk, with the clerk,
21 within 30 days, specie, notes or obligations of a
22 state or public corporation, or other security satis-
23 factory to the county commissioners.

24 6. Satisfaction of judgment. When the owner is
25 entitled to it, he shall be paid as much of the
26 specie deposited as will satisfy his judgment. Notes
27 or obligations deposited by the taker shall be deliv-
28 ered to the officer having a warrant of distress, to
29 sell as personal property is sold on execution, to
30 satisfy the warrant and fees. Any balance shall be
31 paid to the taker.

32 §6504. Notice to adverse party

33 1. Notice of hearing on petition. A person who
34 petitions the county commissioners for the assessment
35 of damages on account of property taken by eminent
36 domain shall notify the adverse party of the time and
37 place of the hearing on the petition by:

38 A. Giving the adverse party personal notice 14
39 days before the hearing; or

1 B. Publishing the petition and order of notice
2 in a newspaper that is published in the county, 2
3 weeks successively, the last publication being 14
4 days before the hearing.

5 §6505. Terms and conditions for property taken

6 1. Accommodation of the owner and taker. The
7 county commissioners in awarding damages for property
8 taken by eminent domain, upon the application of the
9 taker, may prescribe terms and conditions, for the
10 use of the property taken, that will best accommodate
11 the owner and the taker.

12 2. Appeal. In the case of appeal by either party,
13 the only question in issue shall be the amount or
14 measure of damages on the terms and conditions im-
15 posed by the commissioners.

16 §6506. Commissioners' report

17 1. Contents of the report. The county commis-
18 sioners shall, at a regular meeting, make a report of
19 their general estimate of damages and cause it to be
20 recorded. In their report, the commissioners shall
21 state specifically:

22 A. The terms and conditions imposed by them; and

23 B. The rights and obligations of each party.

24 2. Notice of damage award. After the report has
25 been recorded, the county commissioners' clerk shall
26 prepare a notice to each person, stating the amount
27 of damages awarded to him. An officer shall serve
28 the notice on those residing in the State. Notice to
29 others shall be by publication 3 weeks successively
30 in a newspaper printed in the county. If there is no
31 newspaper printed in the county, the notice shall be
32 published in a newspaper of general circulation in
33 the area where the property is located.

34 3. Expense of notice. The expense of the notice
35 shall be added to the costs of the proceedings which
36 the taker shall pay.

37 §6507. Appeals

1 1. Aggrieved person may appeal within 30 days of
2 report. -A person aggrieved by the county commission-
3 ers' decision as to damages for property taken may
4 appeal to the Superior Court in the county where the
5 property is situated, within 30 days from the date
6 the commissioners' report is made.

7 2. Complaint and notice of appeal. The appel-
8 lant shall:

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

11 B. Give written notice of the appeal with a copy
12 of the complaint to the opposite party.

13 3. Court to determine amount of damages. The
14 court shall determine the amount of damages by a com-
15 mittee of reference if the parties agree or by a jury
16 verdict. The court shall render judgment and issue
17 execution.

18 4. Recovery of costs. The parties may recover
19 costs as follows.

20 A. If the owner appeals and the damage finally
21 recovered is not more than the county commission-
22 ers' award, the taker shall recover costs from
23 the time of appeal, otherwise the owner shall re-
24 cover costs.

25 B. If the taker appeals and the damage finally
26 recovered is not less than the county commission-
27 ers' award, the owner shall recover costs from
28 the time of appeal, otherwise the taker shall re-
29 cover costs.

30 5. Additional review. An appeal may be taken to
31 the Law Court as in other actions.

32 §6508. Deposit of awards

33 When the proceedings are closed, the taker may
34 deposit with the clerk of the court the amount of
35 damages awarded with interest to the time of deposit,
36 which shall be in full satisfaction of all claims,
37 unless a demand has been made previously and payment
38 neglected.

1 §6509. Damages remaining unpaid; proceedings

2 1. Damages unpaid for more than 30 days. When
3 the damages remain unpaid for more than 30 days after
4 they are due and demanded or the security is not de-
5 posited, the owner may file in the Superior Court a
6 complaint praying for an injunction against the use
7 or occupation of his property taken.

8 2. Proceedings for damages not commenced within
9 3 years. If proceedings for an estimation of dam-
10 ages are not commenced within 3 years and the owner
11 of the property files a complaint for them, the court
12 may estimate the damages, decree their payment and
13 issue an execution for the amount.

14 3. Court may issue an injunction prohibiting
15 use. The court, after summary notice to the taker
16 and upon proof of the facts, may, without any bond
17 filed, issue an injunction prohibiting his use and
18 occupation until he pays all damages and costs. If
19 payment has not been made within 90 days, the court
20 may issue a permanent injunction and all rights ac-
21 quired by taking the property cease and the owner may
22 maintain an action for its recovery and protection.

23 §6510. Service of injunction

24 1. Injunction may be served on a person who is
25 not a party. An injunction issued against a person
26 may be served on that person whether or not he is a
27 party to the action and he shall be liable to all the
28 penalties and consequences provided for a breach of
29 the injunction.

30 2. Violation of injunction. The court may order
31 a person who violates the injunction, after service,
32 or who uses the property to show cause at a time
33 fixed why a decree should not be entered and execu-
34 tion issued against him and his goods and estate for
35 the damages, interest, costs and for additional dam-
36 ages and costs for breach of the injunction.

37 3. Court may enter decree. Upon service and re-
38 turn of the order, the court may enter a decree that
39 is just and equitable against the person and issue
40 execution accordingly or may proceed against him for
41 breach of injunction.

1 §6511. Failure to apply for assessment not a waiver

2 The property owner's failure to apply for the as-
3 essment of damages within 3 years may not be held to
4 be a waiver by him of compensation for property taken
5 by eminent domain.

6 §6512. Proceedings to correct defect in taking by
7 eminent domain

8 When a taking or attempted taking by eminent do-
9 main has been adjudged defective either from formal
10 errors in proceedings or substantial error, judgment
11 of ouster or writ of possession shall be stayed as
12 follows.

13 1. Formal errors. If the error is a formal er-
14 ror in proceedings, the judgment or writ shall be
15 stayed until the utility exercising the right of emi-
16 nent domain has an opportunity to retake pursuant to
17 the act conferring the right.

18 2. Substantial error. Failure to provide, in an
19 act expressly conferring the right of eminent domain,
20 for an act necessary to carry out the taking is a
21 substantial error and the plaintiff shall be given
22 judgment of title. If the error is substantial, the
23 judgment of ouster or writ of possession shall be
24 stayed until remedial legislation is passed at the
25 session of the Legislature following the rendition of
26 judgment and a new taking had pursuant to the amended
27 Act.

28 3. New taking; civil action not stayed. The new
29 taking shall be had within 90 days from the rendition
30 of the judgment when the error is merely formal and
31 within 6 months from the adjournment of the Legisla-
32 ture following the rendition of judgment when the er-
33 ror is substantial. Nothing in this section pre-
34 cludes or stays a civil action for damages, and the
35 owner of the land may maintain a civil action for
36 damages as if in possession.

37 CHAPTER 67

38 CONDEMNATION BY WATER DISTRICTS

1 §6701. Necessity of taking determined

2 The owner of property which is subject to appro-
3 riation for public purposes by a water utility may,
4 upon hearing, have the commission determine the ne-
5 cessity of the appropriation.

6 §6702. Proceedings

7 The owner of the property may, within 30 days af-
8 ter the beginning of condemnation proceedings, file
9 with the commission a petition for a decision as to
10 the necessity of the appropriation. A copy of the
11 petition and order of notice, attested by the admin-
12 istrative director, shall be served on the defendant.

13 §6703. Proceedings before commissioners

14 1. Hearing. The commissioners shall fix a time
15 for the hearing, inside the county where the property
16 is situated, and give written notice of the hearing
17 to the owner and to the water utility seeking to ac-
18 quire the property. At the hearing, all parties in
19 interest shall be heard either in person or by attor-
20 ney, and witnesses may be summoned by either party
21 and attendance compelled as before other judicial
22 tribunals.

23 2. Burden of proof. The burden of proof to show
24 the necessity of the particular taking rests on the
25 party seeking to acquire the property.

26 3. Commission's decision. The decision of a ma-
27 jority of the commissioners is final as to questions
28 of fact.

29 §6704. Condemnation proceedings by district or water
30 utility

31 Upon the commencement of condemnation proceed-
32 ings, the utility seeking to acquire property, unless
33 otherwise provided by law, may file a petition asking
34 that the necessity of the taking be determined. Af-
35 ter the petition is filed, the proceedings shall be
36 the same as in the case of a petition by the landown-
37 er.

1 §6705. Validation of proceedings

2 All plans and descriptions of land and all de-
3 scriptions of other property taken by a water utility
4 for its purposes and uses filed in the office of the
5 county commissioners of the county where the land or
6 other property is situated prior to March 9, 1889,
7 are valid and legal for all purposes of taking.

8 §6706. Water utility line crossing railroad right-
9 of-way

10 Wherever a line or main of a water utility is lo-
11 cated and about to be constructed across the right-
12 of-way of a railroad, unless the officers of the wa-
13 ter utility agree with the corporation operating the
14 railroad as to the place, manner and conditions of
15 the crossing, the commission upon petition of either
16 party, after notice and hearing, shall determine the
17 place, manner and conditions of the crossing. All
18 the work within the limits of the railroad shall be
19 done under the supervision of the officers of the
20 corporation operating the railroad and to the satis-
21 faction of the commission. The water utility shall
22 bear the expense of the work. The commission shall
23 report its decision in the same manner as in the case
24 of highways located across railroads and subject to
25 the same right of appeal.

26 CHAPTER 69

27 AQUEDUCTS

28 §6901. Meetings of proprietors for incorporation

29 1. Application for warrant. Any persons who
30 agree in writing to be proprietors of an aqueduct for
31 conveying fresh water into or within a town, or to be
32 proprietors of funds for establishing an aqueduct,
33 may apply in writing to a notary public for the coun-
34 ty in which a portion of the aqueduct is situated or
35 is proposed to be made. The application shall:

36 A. State the name and description of their asso-
37 ciation;

38 B. State the objects of their proposed meeting;
39 and

1 C. Request the notary to issue a warrant to one
2 of the applicants, directing him to call a meet-
3 ing.

4 2. Issuance of the warrant. The notary may,
5 upon receiving the application, issue a warrant which
6 shall state the time, place and object of the meet-
7 ing.

8 3. Notice of the meeting. The proprietor to
9 whom the warrant is directed shall give notice of the
10 meeting by posting the substance of the warrant, with
11 his notice attached, at least 7 days before the meet-
12 ing in a public place in every town in which a por-
13 tion of the aqueduct is or is proposed to be made.

14 §6902. Proprietors to be a corporation

15 The proprietors assembled under the warrant and
16 their successors and assigns shall be a corporation
17 and shall choose any number of directors and other
18 officers to manage their business, and a clerk, who
19 shall be sworn and shall record all bylaws, votes and
20 other proceeding of the corporation, in books pro-
21 vided and kept by the clerk, open to the inspection
22 of any person appointed by the Legislature for that
23 purpose. The corporate name shall be the name stated
24 in the application. The proprietors may at any legal
25 meeting agree on the manner of calling future meet-
26 ings.

27 §6903. Authority of directors; enforcement of as-
28 essments

29 The directors shall designate one of their number
30 president and may make assessments on the proprietors
31 of the shares in the aqueduct or funds as they find
32 necessary. If a proprietor fails to pay an assess-
33 ment for 30 days after notice, the directors may
34 maintain a civil action in their corporate name to
35 recover that amount of may sell, at auction, as many
36 of his shares as are sufficient to pay it, with nec-
37 essary charges. The directors shall give notice of
38 the sale of the shares by:

39 1. Advertising in newspaper. Advertising in a
40 newspaper circulated in the county for 3 successive
41 weeks; or

1 2. Posting in public place. Posting
2 notifications of the sale, at least 20 days before
3 the sale, in at least 2 public places in each municipi-
4 ality in which the aqueduct is, or is proposed to,
5 be made.

6 The directors shall pay any surplus money from
7 the sale to the owner of the share sold.

8 §6904. Registry of shares and transfers

9 At or immediately after the first meeting, the
10 clerk shall enter in the books the names of the pro-
11 prieters and the shares owned by each. The clerk
12 shall enter the subsequent transfer of shares within
13 3 months after it is made in the form and for such
14 fees as the directors order. No person may be a pro-
15 prietor whose share or interest is not entered in the
16 books.

17 §6905. Powers of proprietors; manner of voting

18 The proprietors have one vote for each share and
19 may vote by proxy. With the written consent of the
20 municipal officers, they or any person may dig up or
21 open a road to lay their pipes or to repair or extend
22 their aqueduct, but not so as to inconvenience
23 travel.

24 §6906. Attachment and execution; possessions; re-
25 demption; revival of judgment

26 Shares in the corporation are personal estate and
27 may be attached on a writ and sold on execution for
28 the debts of the holders, like shares in other corpo-
29 rations. The franchise, fixtures, pipes, fountains
30 and interests in lands of the corporations are liable
31 to attachment and sale on execution, as personal
32 property, for their corporate debts; but the purchas-
33 er at the sale may not interfere with the possession
34 of the corporation for 2 months after the sale.
35 Within that time, the corporation may redeem the
36 franchise and property by paying the sum for which
37 they were sold with interest; but if the corporation
38 does not redeem them, the purchaser shall have the
39 same rights under the franchise and to the property
40 as the corporation had. Any creditor of the corpora-

1 tion, whose execution has been satisfied by an inef-
2 fectual sale of the franchise or property, may revive
3 the judgment by motion.

4 §6907. Municipality may use pipes in case of fire

5 A municipality where an aqueduct is located may
6 put conductors into its pipes and draw water, free of
7 expense, to extinguish fire in a burning building, if
8 the conductors are secured so that water may be drawn
9 only for that purpose.

10 §6908. Construction of powers after dissolution; en-
11 forcement of judgment

12 All contracts made by or with the aqueduct corpo-
13 ration are in force after its dissolution. The last
14 shareholders shall have a corporate capacity and may
15 prosecute and defend suits respecting the contracts,
16 commenced within 6 years after the dissolution or af-
17 ter the cause of action accrued. If no corporate
18 property can be found to satisfy the judgments and
19 they are not satisfied within 6 months, the creditors
20 may satisfy them from the private property of the
21 shareholders as if the judgment had been against them
22 in their private capacity.

23 §6909. Proprietors are tenants in common of remain-
24 der

25 If the aqueduct corporation owns any estate in
26 its dissolution, the proprietors shall be tenants in
27 common of the estate in proportion to the shares or
28 interest which they hold in its stock.

29 §6910. Injury to aqueduct penalized

30 Whoever maliciously injures an aqueduct or any of
31 its appurtenances commits a civil violation for which
32 a forfeiture not to exceed \$20 may be adjudged and is
33 liable in a civil action, brought by the aqueduct
34 corporation, to pay treble damages.

35 PART 7

36 TELECOMMUNICATIONS

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CHAPTER 71

GENERAL PROVISIONS

§7101. Telecommunications policy; universal tele-
phone service

The Legislature declares and finds that the 50-year effort to bring affordable, universally available telephone service to the public has served the State well; universal telephone service has contributed to the State's economic, social and political integration and development; the public benefits from universal telephone service because each telephone subscriber receives a more valuable service when virtually anyone else in the State can be called; and a significant rate increase may threaten universal service by forcing some Maine people to discontinue their telephone service. It is the policy of the State that telephone service shall continue to be universally available, especially to the poor, at affordable rates.

§7102. Definitions

As used in this Part, unless the context otherwise indicates, the following terms have the following meanings.

1. Emergency. "Emergency" means a situation in which property or human life is in jeopardy and the prompt summoning of aid is essential.

2. Party line. "Party line" means a subscribers' line telephone circuit, consisting of 2 or more main telephone stations connected with the circuit, each station with a distinctive ring and telephone number.

CHAPTER 73

TELEPHONE RATES

§7301. Telephone charges for local calls from pay
telephones

1 The rate charged by a telephone utility for a lo-
2 cal telephone call made from a public or semipublic
3 pay telephone shall be the same throughout its ser-
4 vice territory for calls of equal duration.

5 §7302. Toll call rates for the deaf, hearing im-
6 paired and speech impaired

7 1. Rate reduction. The commission shall estab-
8 lish a 70% rate reduction for intrastate toll calls
9 from deaf and hearing impaired and speech impaired
10 persons who must rely on teletypewriters for residen-
11 tial telephone communications.

12 2. Customers qualifying for the reduction. To
13 qualify for the reduction, a customer must file an
14 affidavit, on a form approved by the Division of
15 Deafness, with the telephone utility, stating that,
16 due to deafness or hearing impairment or speech im-
17 pairment, he or a member of the household must rely
18 on a teletypewriter for telephone communications, and
19 that the equipment is connected or acoustically cou-
20 pled to his telephone.

21 §7303. Mandatory local measured telephone service
22 prohibited

23 1. Mandatory measured service. Mandatory local
24 measured telephone service is prohibited in the
25 State.

26 2. Traditional flat rate local service. The
27 commission shall establish rates for telephone compa-
28 nies which will preserve traditional flat rate local
29 telephone service at as low a cost as possible, al-
30 lowing for unlimited local exchange calling for a
31 single monthly fee as the standard phone service in
32 the State for both business and residential custom-
33 ers. Flat rate service with unlimited local calling
34 shall be described by the telephone company as the
35 "standard" service in all its communications with the
36 public and the commission. Any other local calling
37 service shall be described as an "optional" service.

38 3. Standard. In any proceeding before the Su-
39 preme Judicial Court or the commission to review the
40 reasonableness and lawfulness of a local telephone

1 rate approved by the commission, it shall be presumed
2 that any rate which results in less than 3/4 of the
3 residential customers maintaining standard flat rate
4 service in those exchanges offering optional measured
5 service is in violation of subsection 2, requiring
6 the commission to establish a rate structure which
7 will preserve traditional flat rate local telephone
8 service at as low a cost as possible. The presump-
9 tion established in this subsection may be overcome
10 by clear and convincing evidence that no reasonable
11 alternative rate could be implemented which will
12 maintain 3/4 of the residential customers as standard
13 flat rate customers.

14 CHAPTER 75

15 SERVICE

16 §7501. Directories

17 1. Customer information included in directory.
18 When a telephone utility publishes a directory of
19 names, addresses and telephone numbers for distribu-
20 tion to its customers or others, it shall, at the re-
21 quest of a customer, include in the directory:

22 A. The full name of the customer;

23 B. The first name of one other person bearing
24 the customer's last name;

25 C. The customer's address; and

26 D. The customer's telephone number.

27 2. No additional charge; this section published
28 in directory. A telephone utility may not make an
29 additional charge to comply with this section, pro-
30 vided that the names are listed in the manner set out
31 in this section. A telephone utility shall publish a
32 copy of this section in each telephone directory dis-
33 tributed to a customer.

34 §7502. Telephone directory errata lists

35 1. List to be provided. Every telephone utility
36 operating in this State, if ordered by the commis-

1 sion, shall provide the customers within a directory
2 area with an errata list of all people in the direc-
3 tory area whose names have been omitted through tele-
4 phone utility error from the white pages of the tele-
5 phone directory. The errata list shall:

6 A. Include the name, address and telephone num-
7 ber of each person who is eligible under this
8 section;

9 B. Be compiled within the first 2 months subse-
10 quent to the delivery of the telephone directory;
11 and

12 C. Be included in the bills sent to telephone
13 customers in the area served by that directory
14 for a period of 2 months.

15 2. Omission at request of customer. Nothing in
16 this chapter prohibits a telephone utility from omit-
17 ting a listing at the request of a customer.

18 §7503. Public telephone service for disabled persons

19 1. Placement of coin telephone. All coin tele-
20 phones placed after September 14, 1979, in a public
21 place, or an area to which the public is invited,
22 which are intended for use by the public, shall be
23 placed at a height and in a position which permits
24 their use by physically disabled persons, as defined
25 in Title 25, sections 2701 and 2702, respectively.

26 2. Violations. Any person violating this sec-
27 tion commits a civil violation for which a forfeiture
28 of not more than \$500 may be adjudged for each tele-
29 phone which is not placed in accordance with this
30 section.

31 §7504. Special telephone equipment

32 The commission shall retain jurisdiction over the
33 sale or lease of volume control and low-speed power
34 telephone equipment and of bone conductor receivers,
35 pursuant to section 103, until it makes an affirma-
36 tive finding, based on full consideration of an evi-
37 dentiary record, that there are adequate retail out-
38 lets in the State to ensure affordable and competi-

1 tive pricing of this equipment and its availability
2 in sufficient quantities to satisfy the current and
3 projected demand for that equipment by customers with
4 hearing or speech impairments. The commission shall
5 have discretion not to regulate any person whose
6 share of the total market in the State of volume con-
7 trol or low-speech power telephone equipment or of
8 bone conductor receivers is considered not to be sub-
9 stantial.

10 CHAPTER 77

11 EMERGENCY USE OF TELEPHONE PARTY LINES

12 §7701. Refusal to surrender party line; penalty

13 1. Offense. A person is guilty of unlawful in-
14 terference with a party line if he:

15 A. Willfully refuses to surrender the use of a
16 party line to another person who needs use of the
17 line to report a fire or summon police, medical
18 or other aid in case of emergency; or

19 B. Requests the use of a party line on pretext
20 that an emergency exists, knowing that an emer-
21 gency does not exist.

22 2. Penalty. Unlawful interference with a party
23 line is a Class E crime.

24 CHAPTER 79

25 TELEPHONE AND TELEGRAPH LINES

26 §7901. Telephone and telegraph lines

27 1. Connection between the lines of 2 or more
28 utilities. Whenever the commission, after a hearing,
29 finds that a physical connection can reasonably be
30 made between the lines of 2 or more telephone utili-
31 ties or 2 or more telegraph utilities whose lines can
32 be made to form a continuous line of communication by
33 the construction and maintenance of suitable connec-
34 tions for the transfer of messages or conversations
35 and that public convenience and necessity will be
36 served by the connection, or finds that 2 or more

1 telegraph or telephone utilities have failed to es-
2 tablish joint rates, tolls or charges for service by
3 or over their lines, and that joint rates, tolls or
4 charges ought to be established, the commission may,
5 by its order:

6 A. Require that the connection be made, except
7 where the purpose of the connection is primarily
8 to secure the transmission of local messages or
9 conversations between points within the same city
10 or town;

11 B. Require that conversations be transmitted and
12 messages transferred over the connection under
13 such rules as the commission may establish; and

14 C. Prescribe through lines and joint rates,
15 tolls and charges to be made and to be used, ob-
16 erved and enforced in the future.

17 2. Division of costs between utilities. If the
18 telephone or telegraph utilities do not agree upon
19 the division between them of the cost of the physical
20 connection or connections or the division of the
21 joint rates, tolls or charges established by the com-
22 mission over the through lines, the commission may,
23 after further hearing, establish the division by sup-
24 plemental order.

25 §7902. Lines along highways and across waters

26 Every telegraph or telephone utility or person
27 transmitting television signals by wire may, except
28 as limited, construct, maintain and operate its lines
29 upon and along the routes and between the points
30 stated in its certificate of incorporation; and may,
31 subject to the conditions and under the restrictions
32 provided in this Title, construct its lines along,
33 over, under and across any of the roads and streets
34 and across or under any of the waters upon and along
35 the routes, with all necessary erections and fix-
36 tures.

37 §7903. Connection with other telephone and telegraph
38 lines

1 Every telegraph or telephone utility in the State
2 may, upon such terms as may be agreed upon by the
3 contracting parties, subject to the control of the
4 commission:

5 1. Connect lines. Connect its lines with those
6 of any other like utility;

7 2. Sell or lease lines. Sell or lease its lines
8 and property, in whole or in part, to any other like
9 utility; and

10 3. Purchase or lease lines. Purchase or lease
11 the lines and property, in whole or in part, of any
12 like utility.

13 §7904. Land for public use

14 Every telegraph or telephone utility in the State
15 may purchase, or take and hold as for public uses,
16 land necessary for the construction and operation of
17 its lines. Land may be taken and damages for it may
18 be estimated, secured, determined and paid as pro-
19 vided by sections 6502 to 6512.

20 CHAPTER 81

21 DUTIES OF TELEGRAPH UTILITIES

22 §8101. Liability for delays and errors; falsifying
23 or divulging contents of dispatch

24 1. Delays and errors. A person or company own-
25 ing or using a telegraph line, wholly or partly in
26 the State, is liable for the whole amount paid on a
27 dispatch if there is an error or unnecessary delay in
28 writing out, transmitting or delivering the dispatch
29 within its delivery limits, making it less valuable
30 to the person interested in it. The operator or
31 agent shall transmit all dispatches in the order in
32 which they are received, under a penalty of \$100 to
33 be recovered by the person whose dispatch is inten-
34 tionally postponed.

35 2. Penalty for falsifying contents of dispatch.
36 An operator or agent who intentionally falsifies a
37 dispatch commits a civil violation for which a for-

1 feiture of not less than \$20 nor more than \$100 may
2 be adjudged. In case of his avoidance or inability
3 to pay the judgment, his employer must pay the sum.

4 3. Penalty for divulging contents of dispatch.
5 An operator or agent is guilty of divulging the con-
6 tents of a private dispatch if he intentionally di-
7 vilges any part of the contents of a private dispatch
8 entrusted to him for transmission or delivery. In-
9 entionally divulging the contents of a dispatch is a
10 Class E crime.

11 §8102. Liability for fraud; common law liabilities

12 Nothing in this chapter exonerates telegraph op-
13 erators, agents, clerks or other officers from lia-
14 bility for fraud committed or attempted by means of
15 telegraphic communication or the utility from any li-
16 ability existing at common law for the neglect or
17 wrong doing of the utility or its agents.

18 CHAPTER 83

19 CABLE TELEVISION COMPANIES

20 §8301. Public Utilities Commission regulation

21 Cable television companies, to the extent they
22 offer services like those of telephone utilities sub-
23 ject to regulation by the commission, shall be sub-
24 ject to the commission's jurisdiction over rates,
25 charges and practices, as provided in this Title.

26 §8302. Pole attachments

27 Where a cable television system and public utili-
28 ty have failed to agree on the joint use of poles or
29 other equipment or on the terms and conditions or
30 compensation for the use, the matter shall be subject
31 to section 711.

32 CHAPTER 85

33 RADIO PAGING SERVICE

34 §8501. Separate accounting a subsidiary by utilities

1 diction to grant equitable relief in proceedings ini-
2 tiated by an agency or the Department of the Attorney
3 General alleging any violation of a license of li-
4 ensing laws or rules.

5 Notwithstanding any other provisions of law, no li-
6 ensing agency may reinstate or otherwise affect a
7 license suspended, revoked or modified by the Admin-
8 istrative Court pursuant to a complaint filed by the
9 Attorney General, without the approval of the Attor-
10 ney General.

11 Sec. 2. 5 MRSa §200-B, as amended by PL 1985, c.
12 393, is further amended to read:

13 §200-B. Authority of Attorney General to request
14 telephone records

15 Whenever the Attorney General, a deputy attorney
16 general or a district attorney has reasonable grounds
17 to believe that the services of a public utility,
18 subject to the jurisdiction of the Maine Public Util-
19 ities Commission, as defined in Title 35 35-A, sec-
20 tion 102, subsections 17 and 19 16 and 18, fur-
21 nished to a person or to a location, is being or may
22 be used for, or to further, an unlawful purpose, he
23 may demand, in writing, all the records in the pos-
24 session of such that public utility relating to such
25 that service. Upon a showing of cause to any Justice
26 of the Supreme Judicial Court or the Superior Court
27 or Judge of the District Court, the justice or judge
28 shall approve the demand. Such The showing shall be
29 by the affidavit of any law enforcement officer. Upon
30 receipt of such a demand, approved by such a justice
31 or judge, such the public utility shall forthwith de-
32 liver to the person making the request all the
33 records or information in compliance with the demand.
34 If the person making request demands that the public
35 utility not release the fact of the request or that
36 records will be or have been supplied, the public
37 utility shall not, without court order, release such
38 the fact or facts. No such public utility or employ-
39 ee thereof may be criminally or civilly responsible
40 for furnishing any records or information in compli-
41 ance with the demand.

42 Sec. 3. 5 MRSa §10051, sub-§1, as amended by PL
43 1985, c. 748, §3, is further amended to read:

1 1. Jurisdiction. Except as provided in section
2 10004; Title 10, section 8003; Title 29; and Title 35
3 35-A, section 13-A 3132, the Administrative Court
4 shall have exclusive jurisdiction upon complaint of
5 any agency or, if the licensing agency fails or re-
6 fuses to act within a reasonable time, upon complaint
7 of the Attorney General to revoke or suspend licenses
8 issued by the agency and shall have original juris-
9 diction upon complaint of an agency to determine
10 whether renewal or reissuance of a license of that
11 agency may be refused.

12 Sec. 4. 5 MRSA §10051, sub-§4, as enacted by PL
13 1983, c. 683, §1, is amended to read:

14 4. Violations. The Administrative Court shall
15 have exclusive jurisdiction to hear complaints of the
16 Public Utilities Commission for violations of Title
17 35 35-A, section 314 704.

18 Sec. 5. 5 MRSA §12004, sub-§7, ¶A, sub-¶(10), is
19 repealed and the following enacted in its place:

20 (10) Maine Public Utility Financ- Legislative 35-A MRSA
21 ing Bank, Board of Commis- per diem §2904
22 sioners

23 Sec. 6. 5 MRSA §12004, sub-§8, ¶A, sub-¶(22), is
24 repealed and the following enacted in its place:

25 (22) Public Utili- Board of Direc- Not Autho- 35-A MRS
26 ties tors, Maine Mu- rized §4131
27 nicipal and Ru-
28 ral Electrifi-
29 cation Coopera-
30 tive Agency

31 Sec. 7. 10 MRSA §963-A, sub-§13, ¶B, as enacted
32 by PL 1985, c. 344, §7, is amended to read:

33 B. For a system which does generate electricity,
34 an energy generating system which uses biomass,
35 peat, solar, waste, water and related dams, wind,
36 wood or coal, and which is owned, in whole or in
37 part, by an individual, municipality, corporation
38 or other governmental entity or business associa-
39 tion which qualifies as a cogenerator or small

1 power producer under Title 35 35-A, chapter 172
2 33.

3 Sec. 8. 10 MRSA §1063, sub-§2, ¶¶H and I, as en-
4 acted by PL 1981, c. 476, §2, are amended to read:

5 H. In the case of water supply system projects:

6 (1) That the project will result in sub-
7 stantial public benefits;

8 (2) That the issuance of securities for the
9 project has been reviewed and approved by
10 the Public Utilities Commission in accord-
11 ance with Title 35 35-A, chapter 9, sections
12 901 to 910 and 6508; and

13 (3) The Public Utilities Commission and the
14 Department of Human Services have certified
15 that all permits, licenses and approvals re-
16 quired from those departments have been is-
17 sued or granted or that none are required,
18 and until a location permit from the appli-
19 cable licensing authority has been issued or
20 it is determined that none is required. Any
21 subsequent enlargement of or addition to the
22 project, for which approval is sought from
23 the authority, shall also require certifica-
24 tion by the Public Utilities Commission and
25 the Department of Human Services;

26 I. In the case of an energy generating system
27 project or energy distribution project which is
28 intended to produce or distribute energy for sale
29 to any person, municipality, firm, corporation or
30 the State that the issuance of securities for the
31 project has been reviewed and approved by the
32 Public Utilities Commission in accordance with
33 Title 35 35-A, chapter 9, sections 901 to 910 and
34 6508;

35 Sec. 9. 12 MRSA §602, sub-§12 is amended to
36 read:

37 12. Eminent domain. When land is taken by emi-
38 nent domain, the proceedings for such purpose shall
39 be in accordance with Title 35 35-A, chapter 263- 65;

1 Sec. 10. 12 MRSA §668, as amended by PL 1979, c.
2 541, Pt. A, §125, is further amended to read:

3 §668. Manner of acquisition by eminent domain

4 Any acquisition of property by the bureau by emi-
5 nent domain pursuant to section 667 shall be made in
6 the manner provided in Title 35 35-A, chapter ~~263~~ 65.

7 Sec. 11. 12 MRSA §4757, 2nd ¶, as amended by PL
8 1975, c. 771, §155, is further amended to read:

9 The board shall cause a copy of such decree to be
10 recorded in the registry of deeds for the county in
11 which the wetland is situated. After a decree has
12 been entered providing that any such order of the
13 board shall not apply to the wetland involved in the
14 appeal, the board may, after causing an appraisal to
15 be made, negotiate for the purchase of such wetland,
16 if it deems that acquisition of the same is necessary
17 for the purposes of section 4751 and Title 38, sec-
18 tions 471 to 478. If purchase, or a written agree-
19 ment therefor, has not been effected within 60 days
20 after negotiations have begun, and the board deter-
21 mines that an emergency situation exists which would
22 cause an immediate threat to the public safety,
23 health and welfare, to the protection of public or
24 private property, or to public or private salt water
25 supplies, or to the conservation of wildlife or
26 freshwater estuarine or marine fisheries, the board
27 shall declare that the public exigency requires the
28 taking of such wetland, and, with the consent of the
29 Governor, may acquire in behalf of the State the fee
30 of such wetland or any lesser interest therein by
31 eminent domain, the proceedings for such taking to be
32 in accordance with Title 35 35-A, chapter ~~263~~ 65.

33 Sec. 12. 13 MRSA §332 is amended to read:

34 §332. Mortgages

35 Title ~~35, sections 1091 to 1139~~ 23, chapter 605,
36 subchapters IV and V, shall apply to and include all
37 mortgages of franchises, lands or other hereditaments
38 or of all of them heretofore or hereafter given by
39 any corporation to trustees to secure scrip or bonds
40 of said corporation. The holder of said scrip or

1 bonds shall have the benefit of all said sections,
2 whether the said mortgages have been or may be fore-
3 closed in the manner provided by Title ~~35~~, ~~section~~
4 ~~1091~~ 23, section 5161, or in any other legal manner,
5 and to the extent of and with reference to the prop-
6 erty covered by the mortgage. The new corporation,
7 when organized, shall have the rights and privileges
8 of the original corporation.

9 Sec. 13. 13-B MRSA §201, sub-§2, ¶B, as amended
10 by PL 1979, c. 129, §94, is further amended to read:

11 B. Cooperatives, as that term is used in Title
12 13, section 1771, et seq; credit unions, as de-
13 fined in Title 9-B, section 131; rural electrifi-
14 cation cooperatives, as that term is used in Ti-
15 tle ~~35~~ 35-A, section ~~2801~~ et seq chapter 37, sub-
16 chapters I, II and III; consumers' cooperatives,
17 as that term is used in Title 13, section 1501 et
18 seq; and fish marketing associations, as that
19 term is used in Title 13, section 2001 et seq.

20 Sec. 14. 17 MRSA §2510, sub-§1, ¶B, as enacted
21 by PL 1981, c. 355, is amended to read:

22 B. Public utilities in maintaining adequate fa-
23 cilities in emergencies in compliance with Title
24 ~~35~~ 35-A, section ~~51~~ 301;

25 Sec. 15. 20-A MRSA §15705, sub-§10, as enacted
26 by PL 1981, c. 693, §§5 and 8, is amended to read:

27 10. Acquire land; eminent domain. Acquire in
28 the name of the authority, by purchase or otherwise,
29 on the terms and conditions and in the manner it
30 deems proper, or by the exercise of the power of emi-
31 nent domain, land or property rights. Using eminent
32 domain, the authority may not take more than 25 acres
33 for one project. In using eminent domain, the au-
34 thority shall be governed by Title ~~35~~ 35-A, chapter
35 ~~263~~ 65;

36 Sec. 16. 23 MRSA §54, as amended by PL 1971, c.
37 593, §22, is further amended to read:

38 §54. Highway openings

1 Wherever highways maintained by the State are af-
2 fected, whether said the highways are situated in
3 cities, towns or plantations, the department shall
4 have all and the same rights, powers and duties in
5 connection therewith as are granted to cities in city
6 streets by sections 3351 to 3359, and to cities and
7 towns by Title 35 35-A, sections ~~2346~~ 2306 and ~~2349~~
8 2310. Whenever the opening fee provided by section
9 ~~3354~~ or by Title 35 35-A, section ~~2351~~ 2312, has been
10 paid to the department and a permit for digging up
11 and opening a highway maintained by the State has
12 been issued by the department, the holder of said
13 permit shall be entitled to make the opening de-
14 scribed therein without the payment of fees to the
15 city or town or village corporation in which the
16 street, road or highway to be opened is situated.

17 Sec. 17. 23 MRSA §255, 3rd ¶ is amended to read:

18 "Utility," as used in this section, ~~shall mean~~
19 means and include includes any public utility under
20 the jurisdiction of the Public Utilities Commission
21 and any corporation which owns and operates a tele-
22 phone or telegraph system or an oil pipe line system
23 and which is subject to the jurisdiction of the Fed-
24 eral Communications Commission or Interstate Commerce
25 Commission and any municipality or any quasi-municipal
26 body operating a utility service such as a fire
27 or police alarm line, street lighting, sewerage or
28 water pipes and any rural electrification cooperative
29 which is subject to Title 35 35-A, ~~chapters 221 to~~
30 227 chapter 37, subchapters I, II and III.

31 Sec. 18. 23 MRSA §651, 4th ¶ is amended to read:

32 Wherever, on or along public highways, ditches or
33 drains have existed for a period of 20 years or
34 longer, which cause water to be flowed away from the
35 highway, there shall be a conclusive presumption that
36 easements for such flowage from such ditches or
37 drains exist, but only to the extent of the original
38 flowage. This paragraph ~~shall~~ does not apply in the
39 cases protected by ~~Title 35, section 1221~~ section
40 6025.

41 Sec. 19. 23 MRSA §1967, sub-§4, as enacted by PL
42 1981, c. 595, §3, is amended to read:

1 4. Authority for transfers of interest in land
2 to the authority. All counties, cities, towns and
3 other political subdivisions or municipalities and
4 all public agencies and commissions of the State, and
5 all public service corporations and districts, not-
6 withstanding any contrary provisions of law, may
7 lease, lend, grant or convey to the authority, upon
8 its request, upon such terms and conditions as the
9 proper authorities of the counties, cities, towns,
10 political subdivisions, other municipalities, agen-
11 cies, commissions, public service corporations and
12 districts deem reasonable and fair and without the
13 necessity for any advertisement, order of court or
14 other action or formality other than the regular and
15 formal action of the authorities concerned, any real
16 or personal property or rights therein which may be
17 necessary or convenient to the effectuation of the
18 authorized purposes of the authority, including real
19 and personal property or rights therein already de-
20 voted to public use. As used in this subsection, the
21 term "public service corporation" includes every pub-
22 lic utility as defined in Title 35 35-A, section 102,
23 subsection 13, and every corporation referred to in
24 Title 13-A.

25 Sec. 20. 23 MRSA §2903, as amended by PL 1971,
26 c. 593, §§19 and 20, is further amended to read:

27 §2903. Maintenance of railroad crossings already
28 laid out

29 Notwithstanding any section of Title 35, chapter
30 51 Part 7, in case of ways already laid out which
31 cross over or under any railroad track or tracks and
32 not at grade, the allocation of the expense of main-
33 taining so much thereof as is within the limits of
34 such railroad shall be determined, de novo, as pro-
35 vided by section 2902, by the Department of Transporta-
36 tion upon application to it by any corporation
37 whose track is or tracks are so crossed, or upon ap-
38 plication by the municipal officers of any town in
39 which the crossing is located, or upon application by
40 the Department of Transportation.

41 Sec. 21. 23 MRSA §2928, as enacted by PL 1981,
42 c.456, Pt. A, §81, is amended to read:

1 §2928. Railroad company may enter private property,

2 For the purpose of creating and maintaining the
3 fair view mentioned in sections 2921 to 2927 or for
4 the purpose of improving the view at one or more an-
5 gles, any steam railroad company subject to this
6 chapter may enter upon private property and remove
7 any embankment or other obstruction except a dwelling
8 house. The owner of the property is entitled to dam-
9 ages, and may have the damages estimated and paid in
10 a manner provided in Title 35, chapter 51 chapter
11 607, and there is the same right of appeal as given
12 in that chapter.

13 Sec. 22. 23 MRSA §4220, as enacted by PL 1977,
14 c. 341, §2, is amended to read:

15 §4220. Prior orders and rules effective

16 All rules, ~~regulations,~~ orders and decrees in ef-
17 fect prior to the effective date of this Act October
18 24, 1977, which were issued by the Public Utilities
19 Commission pursuant to the provisions in former Title
20 35, which provisions are embraced in this subchapter,
21 shall remain in full force and effect until the Com-
22 missioner of Transportation has acted pursuant to ap-
23 plicable provisions of this subchapter.

24 Sec. 23. 24-A MRSA §2338, sub-§2, ¶C, as enacted
25 by PL 1985, c. 372, Pt. B, §5, is amended to read:

26 C. If the State as a market is found to be non-
27 competitive, the Public Advocate, as appointed
28 under Title 35 35-A, section 1-A sections 1701 to
29 1710, may be a party to proceedings under Title
30 39, section 22-D, relating to rates. A filing
31 requesting that proceeding shall pay a filing fee
32 as provided under section 2350, subsection 3,
33 paragraph B.

34 Sec. 24. 24-A MRSA §2350, sub-§3, ¶B, as enacted
35 by PL 1985, c. 372, Pt. B, §5, is amended to read:

36 B. The Public Advocate, as appointed under Title
37 35 35-A, section 1-A sections 1701 to 1710,
38 shall be a party to proceedings under Title 39,
39 section 22-D, relating to rates for the Accident
40 Prevention Account or Safety Pool.

1 Sec. 25. 29 MRSA §242, sub-§1, ¶C, as amended by
2 PL 1981, c. 698, §129, is further amended to read:

3 C. Used for the carrying of passengers for hire
4 and

5 (1) Operating under chapter 25, ~~or under~~
6 ~~Title 35, chapter 91 or 97;~~ or

7 (2) Operating, regularly or seasonally, in
8 interstate commerce, over regular routes be-
9 tween any point or points in this State and
10 any point or points in any other state or
11 between any point or points in any adjacent
12 foreign country and any point or points in
13 this State more than 15 miles from the place
14 of entry into this State, shall pay double
15 the registration fee provided in paragraph
16 A. Except that notwithstanding any other
17 provisions in sections 242 to 245, an owner
18 or operator of interstate motor buses used
19 for the transportation of passengers for
20 hire, operating a fleet of 2 or more motor
21 buses under the authority of the Interstate
22 Commerce Commission and the Public Utilities
23 Commission, shall register and pay registra-
24 tion fees, as scheduled in sections 242 to
25 245, for that number of motor buses of the
26 owner or operator as the proportion which
27 the mileage of all such motor buses of the
28 owner or operator, operated in this State
29 bears to the total mileage of all such motor
30 buses of the owner or operator operated both
31 within and without the State in accordance
32 with the owner or operator or his or its
33 predecessor's operation of the preceding
34 year, and the Secretary of State is autho-
35 rized to promulgate such rules and regula-
36 tions as may be necessary to effectuate such
37 apportionment. Motor vehicles owned by res-
38 idents of any state, province or foreign
39 country, where residents of this State reg-
40 istering motor vehicles are required to pay
41 double the fee charged against resident own-
42 ers, shall pay double the fee provided in
43 paragraph A, whether for private use or for
44 livery or hire.

1 Sec. 26. 29 MRSA §831, as amended by PL 1985, c.
2 658, §1, is further amended to read:

3 §831. Insurance for vehicles for hire

4 The Secretary of State shall not register any mo-
5 tor vehicle rented or leased on plans commonly known
6 as U-Drive, Drive Yourself or Driverless Car plans
7 nor any motor vehicle used for livery or hire, except
8 as provided in Title 35, section 1510 Title 35-A,
9 section 2708, and no person, firm or corporation may
10 operate or cause to be operated upon any public high-
11 way in this State any such motor vehicle, until the
12 owner or owners thereof shall have procured insurance
13 or a bond, having a surety company authorized to
14 transact business in this State or 2 individuals as
15 sureties thereon, in the amount of \$20,000 because of
16 bodily injury or death to any one person, and subject
17 to the limit respecting one person, in the amount of
18 \$40,000 because of bodily injury to or death to 2 or
19 more persons in any one accident, and in the amount
20 of \$10,000 because of injury to and destruction of
21 property in any one accident, which insurance or bond
22 shall be approved by the Secretary of State and shall
23 indemnify the insured against any legal liability for
24 personal injury, the death of any person or property
25 damage, which injury, death or damage may result from
26 or have been caused by the operation of the motor ve-
27 hicle described in the contract of insurance or such
28 bond. The Secretary of State shall not approve the
29 policy or bond unless it provides primary coverage
30 for the operator as well as the owner.

31 Sec. 27. 29 MRSA §1553, as amended by PL 1981,
32 c. 698, §132, is further amended to read:

33 §1553. Effect of rule or code

34 A provision of this Title, excepting this sub-
35 chapter, shall continue to be of force and effect on-
36 ly until superseded by a rule, ~~regulation~~ or code
37 adopted pursuant to the Vehicle Equipment Safety Com-
38 pact and as provided in section 1554. Any such rule,
39 ~~regulation~~ or code shall specify the provision or
40 provisions of existing statute being superseded in
41 accordance with and as required by this subchapter.
42 Any such provision or provisions are repealed, effec-

1 tive on the date when the rule, regulation or code
2 superseding such provision or provisions becomes ef-
3 fective pursuant to the Vehicle Equipment Safety Com-
4 pact. A rule, regulation or code, or any part thereof
5 of a rule or code, which shall be is inconsistent
6 with rules and regulations adopted by either the Bu-
7 reau of State Police Public Safety or the Department
8 of Transportation under chapter 25, Title 35, chap-
9 ters 1 to 17 and the Department of Transportation un-
10 der chapter 91 or 97 or by the Interstate Commerce
11 Commission under Part II of the Interstate Commerce
12 Act of 1935 as amended Ex Parte No. MC -- 40, shall
13 not apply to motor vehicles subject to regulation by
14 the Bureau of State Police, Department of Transporta-
15 tion or by the Interstate Commerce Commission, re-
16 spectively.

17 Sec. 28. 29 MRSA §2241, sub-§1, ¶I, as repealed
18 and replaced by PL 1983, c. 480, Pt. A, §33, is
19 amended to read:

20 I. Has failed to appear in court on the day
21 specified, either in person or by counsel, after
22 being ordered to do so to answer any violation of
23 chapter 25 or Title 35, chapter 91 or 97;

24 Sec. 29. 29 MRSA §2711, sub-§1, as enacted by PL
25 1981, c. 469, §2, is amended to read:

26 1. General penalty. Any person, firm or corpora-
27 tion, or any officer, agent or employee of any
28 corporation, who violates, orders, authorizes or
29 knowingly permits a violation of any of the provi-
30 sions of this chapter, or any rule issued by the bu-
31 reau pursuant to the authority of this chapter, or
32 issued by the Public Utilities Commission and remain-
33 ing in effect pursuant to this chapter, is guilty of
34 a Class E crime.

35 If any such person, after being ordered to appear in
36 court to answer any violation of this chapter or any
37 rule issued by the bureau or by the Public Utilities
38 Commission and remaining in effect pursuant to this
39 chapter, fails to appear in court on the day speci-
40 fied, either in person or by counsel, the court shall
41 notify the Secretary of State, who shall, pursuant to
42 chapter 17, at the expiration of 10 days after mail-

1 ing the person, postage prepaid, a notice of his in-
2 tention to do so, suspend or revoke his license to
3 operate any motor vehicle subject to regulation under
4 this chapter, if licensed in this State, or suspend
5 or revoke his right to operate any motor vehicle sub-
6 ject to regulation under this chapter, if licensed in
7 this State, or suspend or revoke his right to operate
8 any motor vehicle subject to regulation under this
9 chapter in this State, and suspend or annul the reg-
10 istration of the motor vehicle operated or owned by
11 that person so ordered to appear, if the motor vehi-
12 cle is registered in this State, and the suspension,
13 annulment or revocation shall continue in effect un-
14 til that person appears in court as ordered.

15 If any carrier holding a permit from the bureau has
16 been required to appear in any court, through its ap-
17 pointed lawful agent or attorney, and fails to comply
18 with or satisfy any lawful order or judgment of the
19 court issued pursuant to this chapter, the court
20 shall notify the bureau, which shall immediately sus-
21 pend the permit held by the carrier until such time
22 as the carrier complies with or satisfies the order
23 or judgment. In the case of such failure by a carrier
24 holding a certificate issued under Title 35, section
25 ~~1505 or holding or a license issued under Title 35,~~
26 ~~section 1643~~ chapter 25, the court shall notify the
27 Department of Transportation, which shall immediately
28 suspend the certificate or license until such time as
29 the carrier complies with or satisfies the order or
30 judgment.

31 Sec. 30. 29 MRSA §2713, sub-§3, ¶A, as amended
32 by PL 1985, c. 350, §1, is further amended to read:

33 A. There shall be allocated to the Department of
34 Public Safety for State Police up to \$1,100,000
35 annually from the fund to carry out the statutory
36 duties of the bureau imposed by this chapter and
37 Title 35 35-A and for related activities.

38 Sec. 31. 30 MRSA §4882, sub-§1, as enacted by PL
39 1977, c. 617, is amended to read:

40 1. Relocating utility facilities; expenses. Any
41 public utility, as defined in Title 35 35-A, section
42 15 102, subsection 13, that is required to move or

1 relocate its facilities from or in any traveled way
2 because of the requirements of a development plan, as
3 defined in section 4881, subsection 2, which is ap-
4 proved after the effective date of this Act pursuant
5 to the procedures established for the approval of de-
6 velopment plans shall not be required to install the
7 relocated or any new facilities underground at its
8 own expense, but shall be reimbursed from federal
9 funds provided to implement these plans for the costs
10 of placing utility facilities underground. The relo-
11 cation costs subject to reimbursement shall not ex-
12 ceed the cost of underground installation less the
13 cost of providing the same service with the same ca-
14 pacity through a new overhead system.

15 A. In determining the amount of reimbursement,
16 in the first instance, the public utility shall
17 itemize for the administering authority of the
18 development plan, the components of the utility's
19 relocation costs and the cost of providing the
20 same service with the same capacity through a new
21 overhead system. In the event there is disagree-
22 ment with respect to the reimbursement, the dis-
23 agreement shall be submitted to the Public Utili-
24 ties Commission which, after notice and hearings,
25 shall determine the amount of the reimbursement.

26 B. The difference in costs, if any, between the
27 underground and new overhead construction, shall
28 qualify for reimbursement to the administering
29 authority from the Federal Government to the ful-
30 lest extent allowed by law. In the event that
31 federal moneys are not available to refund a pub-
32 lic utility for relocating its facilities as de-
33 scribed in this section, the relocation costs
34 shall be considered ordinary costs of business
35 for rate-making purposes.

36 Sec. 32. 30 MRSA §4982, next to last ¶, as re-
37 pealed and replaced by PL 1971, c. 574, §1, is
38 amended to read:

39 Each year prior to such submission to the municipi-
40 pal officers, the board of directors of the district,
41 by a 2/3 vote of its entire membership, shall estab-
42 lish a formula for contributions to be made by each
43 municipality in order to defray any projected defi-

1 cit, and the formula and estimated amount of such
2 contribution required from each municipality shall be
3 shown in said estimates filed with the municipal of-
4 ficers of each municipality. Such formula shall be
5 based upon such items as route mileage, profit or
6 loss resulting from such service to the municipality,
7 population and such other factors as the board of di-
8 rectors deem relevant. In the event the board of di-
9 rectors is unable to establish the formula by se-
10 curing a 2/3 vote of its entire membership, it shall,
11 on or before November 1st, petition the Public Utili-
12 ties Commission as provided and shall include with
13 its submission of said estimates to the municipal of-
14 ficers of each municipality a statement that a formu-
15 la has not been established but that a petition has
16 been made to the Public Utilities Commission for
17 findings and a decision with respect to a formula. In
18 the event a municipality refuses to accept a formula
19 submitted to it on or before November 1st as estab-
20 lished by the board of directors, the municipal offi-
21 cers of such municipality shall, within 30 days after
22 such submission, notify the board of directors of
23 such refusal and the board of directors shall, on or
24 before December 15th, petition the Public Utilities
25 Commission as provided. Upon the filing of a peti-
26 tion by the district, the Public Utilities Commis-
27 sion, after notice to all the municipalities compris-
28 ing the district and a hearing, shall consider the
29 formula and make its findings and decision with re-
30 spect thereto within 60 days from the date of the
31 filing of the petition by the district. Said find-
32 ings and decision of the Public Utilities Commission
33 shall be binding upon the district and the municipal-
34 ities. The district or any municipality may appeal
35 from the findings and decision of the Public Utili-
36 ties Commission in accordance with Title 35 35-A,
37 section 303 1320.

38 Sec. 33. 32 MRSA §3302, sub-§1, ¶A, as enacted
39 by PL 1977, c. 469, §6, is amended to read:

40 A. Plumbing by regular employees of public util-
41 ities as defined in Title 35 35-A, section 15
42 102, when working as such;

43 Sec. 34. 36 MRSA §1484, sub-§3, ¶C, as amended
44 by PL 1983, c. 828, §3, is further amended to read:

1 C. If the motor vehicle is owned by a corpora-
2 tion or a partnership, the excise tax shall be
3 paid in the following manner.

4 (1) If it is a corporation or partnership
5 other than one described in subparagraph
6 (2), the excise tax shall be paid to the
7 place in which the registered or main office
8 of that organization is located, except that
9 if the organization has an additional perma-
10 nent place, or places, of business where mo-
11 tor vehicles are customarily kept, the tax
12 on these vehicles shall be paid to the place
13 where such permanent place of business is
14 located. The temporary location of an office
15 and the stationing of vehicles in connection
16 with a construction project of less than 24
17 months duration is not considered to consti-
18 tute a permanent place of business. In the
19 case of a foreign corporation or partnership
20 not maintaining a place of business within
21 the State, the excise tax shall be paid to
22 the State.

23 (2) In the case of corporations described
24 in Title 35 35-A, ~~sections 2301~~ sections 2101
25 to 2104, any excise taxes owed shall be paid
26 to the place in which the registered or main
27 office of that organization is located.

28 (3) If a municipality, county or motor ve-
29 hicle owner feels the excise tax has been
30 improperly levied under the authority of
31 this paragraph, the owner, county or munici-
32 pality may request a determination of this
33 question by the State Tax Assessor. The
34 State Tax Assessor's determination shall be
35 binding on all parties. Any party may seek
36 review of the determination in accordance
37 with the Maine Rules of Civil Procedure,
38 Rule 80-B.

39 Sec. 35. 37-B MRSA §504, sub-§1, as enacted by
40 PL 1983, c. 460, §3, is amended to read:

41 1. Land acquisition. The director may acquire
42 by eminent domain in accordance with Title 35 35-A,

1 chapter 263 65 and with approval of the Governor, or
2 by purchase, gift or otherwise, real estate in fee
3 simple, or any interest therein, for use as a Veter-
4 ans' Memorial Cemetery. The land shall not exceed 200
5 acres in area and shall be located near the center of
6 population of the State.

7 Sec. 36. 38 MRSA §484, 4th ¶, as amended by PL
8 1977, c. 696, §343, is further amended to read:

9 In case of a permanently installed power generat-
10 ing facility of more than 1,000 kilowatts or a trans-
11 mission line carrying 100 kilovolts or more proposed
12 to be erected within this State by an electrical com-
13 pany or companies, the proposed development, in addi-
14 tion to meeting the requirements of subsections 1 to
15 4, shall also have been approved by the Public Utili-
16 ties Commission under Title 35 35-A, section 33-A
17 3132.

18 Sec. 37. 38 MRSA §932 is amended to read:

19 §932. Eminent domain; assessment of damages.

20 Any person, firm or corporation authorized and em-
21 powered to build, maintain and operate pipes, con-
22 duits, penstocks, tunnels and canals under section
23 931 is further authorized and empowered to exercise
24 the right of eminent domain by taking and holding as
25 for public uses in the manner and subject to the lim-
26 itations prescribed in Title 35 35-A, section 3242
27 6502, such lands and rights-of-way as such person,
28 firm or corporation may require for such purposes
29 when the water which will be stored, retained and
30 discharged through the use of such pipes, conduits,
31 penstocks, tunnels and canals will be devoted to pub-
32 lic uses. All proceedings relating to damages caused
33 by the building, maintaining and operating of said
34 pipes, conduits, penstocks, tunnels and canals shall
35 be ascertained and determined in the same manner as
36 prescribed in said Title 35 35-A, sections 3243 to
37 3252 6503 to 6512.

38 Emergency clause. In view of the emergency cited
39 in the preamble, this Act shall take effect July 1,
40 1987.

1 STATEMENT OF FACT

2 PART A

3 Section 1 of the bill places the text of the ex-
4 isting Maine Revised Statutes, Title 35, section
5 2361, subsections 2, 3 and 4, dealing with telecommu-
6 nications services for the deaf, within Title 22,
7 chapter 963, entitled "Deaf and Hearing Impaired Per-
8 sons."

9 Sections 2, 3 and 4 place the provisions on rail-
10 roads from Title 35 into proper place in the trans-
11 portation statutes, Title 23.

12 Sections 5 and 6 accomplish the recodification of
13 Title 35, Public Utilities, by enacting a new Title
14 35-A.

15 Section 7 repeals the gas subcommittee as estab-
16 lished by Public Law 1981, c. 660, section 4.

17 Sections 8 and 9 repeal provisions of Private and
18 Special Law 1885, c. 495, sections 10 and 12, con-
19 cerning the Casco Bay Islands Transit District. The
20 substantive matter from these provisions is now found
21 in Title 35-A, Part 5.

22 Section 10 enacts a provision setting out the
23 purposes of the recodification of the public utili-
24 ties laws.

25 The following is the conversion table of Title 35
26 to Title 35-A.

27 TITLE 35-A

28 PUBLIC UTILITIES

29 PART 1

30 PUBLIC UTILITIES COMMISSION

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33		Duties

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14		<u>PUBLIC UTILITIES</u>	
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17	23.	Utility Facilities in the Public	2301
18		Way	
19	25.	Regulation of Poles and Wires	2501
20	27.	Inspection of Meters	2701
21	29.	Maine Public Utility Financing	2901
22		Bank Act	
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24		<u>ELECTRIC POWER</u>	
25	31.	General Provisions	3101
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13

PART B

14

Part B amends cross-references within the Maine Revised Statutes to change the references to Title 35 to the correction refereneces of Title 35-A.

15

16

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