

MAINE STATE LEGISLATURE

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(New Draft of H.P. 95, L.D. 104.)
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document NO. 1035

H.P. 772 House of Representatives, March 31, 1987
Reported by Representative VOSE from the Committee on
Utilities and printed under Joint Rule 2.

EDWIN H. PERT, Clerk
Original bill sponsored by Representative INGRAHAM of
Houlton. Cosponsored by Senator LUDWIG of Arostook.

STATE OF MAINE

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

1 AN ACT Relating to Rate-setting Procedures by
2 Municipally-owned Utilities.
3

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

6 Sec. 1. 35 MRSA §71-A is enacted to read:

7 §71-A. Consumer-owned water utilities

8 For the purposes of this section and sections 72
9 to 73-A, "a consumer-owned water utility" means any
10 water utility which is wholly owned by its consumers,
11 including, but not limited to, any municipal or qua-
12 si-municipal water district or corporation, municipal
13 water department or the water portion of any utility
14 wholly owned by a municipality or district.

1 Sec. 2. 35 M.R.S.A. §72, as amended by PL 1985, c.
2 629, §4, is further amended to read:

3 §72. Municipal and quasi-municipal water companies

4 Notwithstanding section 69, ~~municipal-and-quasi-~~
5 ~~municipal-corporation~~ consumer-owned water utilities
6 which are water companies within the definition of
7 section 15, subsection 25, shall be subject to the
8 suspension, investigation, hearing and rate substitu-
9 tion provisions of section 69 under the conditions
10 specified in this section.

11 ~~Municipal-and-quasi-municipal-water--corporations~~
12 Consumer-owned water utilities which elect to set
13 rates under this section shall not file with the com-
14 mission or increase any rate, toll or charge without
15 first holding a public hearing at which any person,
16 firm or corporation which pays those rates, tolls or
17 charges to the ~~municipal--or--quasi-municipal-water~~
18 ~~corporations~~ consumer-owned water utilities may tes-
19 tify and may question the officials present regarding
20 such proposed increase. The ~~municipal-or-quasi-municipal-~~
21 ~~ipal--water--corporation~~ consumer-owned water utility
22 as described in this section shall, at least 14 days
23 prior to the hearing, publish a notice of the pro-
24 posed rate increase and the hearing including the
25 date, time, place and purpose of the hearing in a
26 newspaper of general circulation in the area encom-
27 passed by the ~~municipal--or--quasi-municipal-water~~
28 ~~corporation~~ consumer-owned water utility. In addi-
29 tion, each ~~municipal---or--quasi-municipal--water~~
30 ~~corporation~~ consumer-owned water utility shall give
31 one notice of the proposed rate increase and the
32 date, time and place of the hearing to each of its
33 ratepayers. The published and individual notices
34 shall include a statement describing the amount of
35 the increase and the percentage increase for each
36 customer class and copies shall be sent to the com-
37 mission at least 14 days prior to the hearings. At
38 the commencement of each hearing held pursuant to
39 this section, the ~~municipal-or-quasi-municipal-water~~
40 ~~corporation~~ consumer-owned water utility shall inform
41 those present that the rate increase may be investi-
42 gated by the Public Utilities Commission in accord-
43 ance with this section. The water utility shall file
44 its changed rates with the commission within 30 days

1 of the public hearing, but not sooner than 10 days
2 following the public hearing.

3 Subject to the notice and waiver requirements of
4 section 64, water utilities electing to set rates un-
5 der this section may establish an effective date for
6 any rate change of at least one month, but not more
7 than 9 months, from the date the rates are filed with
8 the commission.

9 If, within 30 days of the public hearing, 15% of
10 the customers of the ~~municipal or quasi-municipal wa-~~
11 ~~ter corporation consumer-owned water utility~~ or 1,000
12 customers, whichever is less, file with the treasurer
13 of the ~~corporation utility~~ and with the Public Utili-
14 ties Commission petitions demanding a review of the
15 rate changes by the Public Utilities Commission, the
16 rate change may be suspended, investigated, reviewed
17 and changed in accordance with section 69, except
18 that no suspension order issued by the commission
19 pursuant to section 69 may be effective for a period
20 greater than 9 months from the date the rate changes
21 were filed. If the number of signatures on the peti-
22 tions is 1,000 or if the number of signatures on the
23 petitions equals or exceeds 15% of the customers in-
24 dicated on the water utility's most recent annual re-
25 port on file with the Public Utilities Commission,
26 the commission may suspend the rate change pursuant
27 to section 69. The commission shall notify the water
28 utility of any such suspension. The water utility
29 shall have 10 days from receipt of notice to notify
30 the commission whether it intends to contest any as-
31 pect of the validity of the petitions, after which it
32 shall lose that right. If the water utility notifies
33 the commission in a timely fashion that it wishes to
34 contest the validity of the petitions, the commission
35 shall set the matter down for hearing. It shall hold
36 the hearing and issue its decision on the validity of
37 the petitions within 30 days of notification by the
38 water utility that it intends to contest the validity
39 of the petitions. If the commission finds the peti-
40 tions to be invalid, it shall lift its order of sus-
41 pension.

42 Nothing in this section may prohibit a ~~municipal~~
43 ~~or quasi-municipal water corporation consumer-owned~~
44 water utility from petitioning the Public Utilities

1 Commission for review pursuant to section 69 in the
2 first instance.

3 Upon review of a rate filing made pursuant to
4 this section, the Public Utilities Commission may order
5 the ~~municipal---or---quasi-municipal---water~~
6 corporation consumer-owned water utility to correct
7 any mathematical or clerical errors.

8 **Sec. 3.** 35 MRSA §72-A, as enacted by PL 1985, c.
9 716, is amended to read:

10 §72-A. Apportionment of costs for water main exten-
11 sions or service lines

12 1. Investment. The governing body of a ~~municipal---water---department---or---quasi-municipal---water~~
13 district consumer-owned water utility may choose to
14 make no investment in a water main extension or service
15 line and may require persons requesting a water
16 main extension or service line to advance to the ~~department-or-district~~
17 utility the full cost of construction, including associated appurtenances
18 required solely as a result of the construction of the
19 water main extension or service line and used solely
20 for the operation of the main extension or service
21 line. Apportionment of the costs among customers
22 shall be determined by the commission by rule.
23
24

25 2. Definitions. For the purposes of this section,
26 a water main extension is an extension of the
27 pipeline, including associated appurtenances, from an
28 existing water main to serve a previously unserved
29 location or a location served by a seasonal main, and
30 a service line is the pipeline including the meter
31 and other appurtenances extending from a water main
32 to the building or other premises served.

33 3. Assessments. The governing body of a ~~municipal---water---department---or---quasi-municipal---water~~
34 district consumer-owned water utility may assess the
35 full cost of water main extensions on all property
36 that abuts the water main in accordance with rules
37 promulgated by the governing body. The owner of any
38 property which is not hooked up to the water system
39 may defer payment of the assessment until it is
40 hooked up. The governing body by rule may exempt ap-
41

1 appropriate classes of property from the assessment and
2 may provide for payment of an assessment over a period
3 of time.

4 4. Review by elected local officials. If the
5 governing body of the ~~municipal-water-department-or~~
6 ~~quasi-municipal-water-district~~ consumer-owned water
7 utility is not an elected body, any decision to make
8 no investment under subsection 1 or to assess under
9 subsection 3 must first be endorsed by the municipal
10 officers of the municipality or municipalities in-
11 volved, prior to filing with the commission.

12 Sec. 4. 35 MRSA §73, sub-§§1 and 2, as enacted
13 by PL 1981, c. 438, §5, are amended to read:

14 1. Scope of section. Notwithstanding any other
15 provision of law or any charter to the contrary and
16 in addition to any charter or private and special
17 laws creating or affecting any ~~municipal--water--de-~~
18 ~~partment----or----quasi-municipal----water---district~~
19 consumer-owned water utility, the rate, toll or
20 charge made, exacted, demanded or collected by any
21 ~~municipal-water-department-or--quasi-municipal--water~~
22 district consumer-owned water utility, is governed by
23 this section.

24 2. Definition. As used in this section, the term
25 "governing body" means the governing body of a ~~muni-~~
26 ~~cipal--water---department--or--quasi-municipal--water~~
27 district consumer-owned water utility.

28 Sec. 5. 35 MRSA §73-A, as enacted by PL 1985, c.
29 708, is amended to read:

30 §73-A. System development charge

31 1. System development charge authorized. In ad-
32 dition to section 73, the governing body of a ~~muni-~~
33 ~~cipal--water---department---or--quasi-municipal--water~~
34 district consumer-owned water utility may establish
35 and file, pursuant to section 69 or 72, a system de-
36 velopment charge which is just and reasonable to pro-
37 vide funds to finance capital outlays for water sys-
38 tem expansion caused by an increase in demand for
39 service.

1 2. Commission review. If a ~~municipal--water--de-~~
2 ~~partment---or---quasi-municipal---water---district~~
3 ~~consumer-owned water utility~~ elects to institute a
4 system development charge, it shall file the proposed
5 charge and a description of the basis of the charge
6 with the commission not less than 90 days before the
7 effective date of the charge. The commission shall
8 investigate the system development charge under sec-
9 tion 296 to determine whether it is just and reason-
10 able.

11 3. Use of funds. The funds generated by the sys-
12 tem development charge shall be deposited into a spe-
13 cial account of the ~~municipal--water--department--or~~
14 ~~quasi-municipal--water--district consumer-owned water~~
15 ~~utility~~ dedicated to finance capital outlays for wa-
16 ter system expansion caused by an increase in demand
17 for service. The funds from the special account shall
18 be used only for the purpose of financing the expan-
19 sion of the system and shall not be used for the re-
20 pair or replacement of existing facilities unless the
21 replacement is required as a result of increased de-
22 mand for service. The system development charge
23 shall not be treated as income of the ~~municipal-water~~
24 ~~department---or---quasi-municipal---water---district~~
25 ~~consumer-owned water utility~~ nor shall it be consid-
26 ered part of the rates established and filed pursuant
27 to section 73.

28 4. Assessment of charge. The system develop-
29 ment charge may be assessed upon all customers of the ~~mu-~~
30 ~~nicipal-water--department--or--quasi-municipal--water~~
31 ~~district consumer-owned water utility~~ that requires
32 new connections to the water system, excluding fire
33 service, as of or after the effective date of that
34 charge and upon all existing customers of the ~~municipal-~~
35 ~~water--department---or---quasi-municipal---water~~
36 ~~district consumer-owned water utility~~ who substan-
37 tially expand their demand for water service as of or
38 after the effective date of that charge.

39 5. Water conservation programs. Before a system
40 development charge may be instituted, the ~~municipal~~
41 ~~water--department--or--quasi-municipal--water--district~~
42 ~~consumer-owned water utility~~ must report to the com-
43 mission its efforts in implementing water conserva-
44 tion programs. The ~~department--or-district utility~~

1 shall state what combination of system development
2 charges and new conservation programs will allow the
3 department-or-district utility to meet growing demand
4 in the least costly manner.

5 6. Review by elected local officials. If the
6 governing body of the municipal-water-department-or
7 quasi-municipal-water-district consumer-owned water
8 utility is not an elected body, any system develop-
9 ment charge proposed under this section must first be
10 endorsed by the municipal officers of the municipali-
11 ty or municipalities involved, prior to filing with
12 the commission.

13 STATEMENT OF FACT

14 Present law allows municipal and quasi-municipal
15 water utilities to set rates locally, with appeal to
16 the Public Utilities Commission. Municipal and qua-
17 si-municipal water utilities are also treated differ-
18 ently from other water utilities in having special
19 provisions on apportionment of costs for water main
20 extensions and for expansion of the water supply sys-
21 tem.

22 The new draft, which replaces the bill,
23 comprehensively provides that municipal water compa-
24 nies like the Houlton Water Company, whose stock is
25 wholly owned by a municipality or any other water
26 utility which is wholly owned by its consumers, shall
27 be treated for rate-making purposes in a manner iden-
28 tical to municipal and quasi-municipal water dis-
29 tricts and departments.

30

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