

MAINE STATE LEGISLATURE

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(New Draft of H.P. 256, L.D. 339)
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1863

H.P. 1361 House of Representatives, June 15, 1987
Reported by Representative ALLEN from the Committee on
Utilities and printed under Joint Rule 2.

EDWIN H. PERT, Clerk

Original bill sponsored by Representative WILLEY of
Hampden. Cosponsored by Representative WEYMOUTH of West
Gardiner.

STATE OF MAINE

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

1 AN ACT to Make Changes in the Laws Governing
2 Public Utilities.
3

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

6 PART A

7 Sec. 1. 35-A MRSA §501, sub-§1, as enacted by PL
8 1987, c. 141, Pt. A, §6, is repealed and the follow-
9 ing enacted in its place:

10 1. Other systems prohibited. Nothing in this
11 Title requires any public utility engaged in inter-
12 state commerce to act contrary to the requirements of
13 any federal law relating to public utilities engaged
14 in interstate commerce.

1 **Sec. 2.** 35-A MRSA §703, sub-§4, as enacted by PL
2 1987, c. 141, Pt. A, §6, is amended to read:

3 4. Forfeiture. A person who violates this sec-
4 tion by knowingly soliciting, accepting or receiving
5 an unlawful preference from a utility commits a civil
6 violation for which a forfeiture not to exceed \$1,000
7 shall be adjudged for each offense. A public utility
8 that offers or grants an unlawful preference commits
9 a civil violation for which a forfeiture not to ex-
10 ceed \$1,000 may be adjudged for each offense.

11 **Sec. 3.** 35-A MRSA §1306, sub-§5, ¶B, as enacted
12 by PL 1987, c. 141, Pt. A, §6, is repealed and the
13 following enacted in its place:

14 B. When signed by the administrative director or
15 within such other time as may be prescribed by
16 the commission.

17 **Sec. 4.** 35-A MRSA §3102, sub-§5, as enacted by
18 PL 1987, c. 141, Pt. A, §6, is amended to read:

19 5. Canceled plant recovery filing fee. Any
20 utility requesting recovery in rates of its invest-
21 ment in a canceled or abandoned electric generating
22 facility shall pay to the commission a filing fee of
23 \$150,000 for each facility. The utility may request
24 the commission to waive all or a portion of the fil-
25 ing fee. The commission shall rule on the request for
26 waiver within 30 days. Filing fees paid as required
27 in this section shall be segregated, apportioned and
28 expended by the commission for the purposes of this
29 section. Any portion of the filing fee that is re-
30 ceived from any utility and is not expended by the
31 commission for the purposes of this section shall be
32 returned to the utility.

33 **Sec. 5.** 35-A MRSA §3132, sub-§9, as enacted by
34 PL 1987, c. 141, Pt. A, §6, is amended to read:

35 9. Filing fee; waiver of fee. When a petition
36 is filed under this section, the electric utility or
37 utilities involved shall pay to the commission an
38 amount equal to 2/100 of 1% of the estimated cost to
39 erect, rebuild or relocate the facility. The utility
40 may, at the time of the filing of notice of its in-

1 tent to file the petition, request the commission to
2 waive all or a portion of the filing fee. The com-
3 mission shall rule on the request for waiver within
4 60 30 days.

5 Filing fees paid as required under this subsection
6 shall be segregated, apportioned and expended by the
7 commission for the purposes of this section. Any
8 portion of the filing fee that is received from any
9 utility and is not expended by the commission to pro-
10 cess the petition for a certification certificate of
11 public convenience and necessity shall be returned to
12 the utility.

13 **Sec. 6. 35-A MRSA §3133, sub-§8, as enacted by**
14 **PL 1987, c. 141, Pt. A, §6, is amended to read:**

15 8. Filing fee. When the petition is filed, the
16 utility or utilities involved shall pay to the com-
17 mission an amount equal to 2/100 of 1% of the esti-
18 mated cost of the purchase or conversion. The utili-
19 ty or utilities may, at the time of the filing of no-
20 tice of its intent to file the petition, request the
21 commission to waive all or a portion of the filing
22 fee. The commission shall rule on the a request for
23 waiver within 60 30 days.

24 Filing fees paid as required by this subsection shall
25 be segregated, apportioned and expended by the com-
26 mission for the purposes of this section. Any por-
27 tion of the filing fee that is received from any
28 utility or utilities and is not expended by the com-
29 mission to process the petition for a certification
30 certificate of public convenience and necessity shall
31 be returned to the utility or utilities.

32 **Sec. 7. 35-A MRSA §3306, sub-§6, as enacted by**
33 **PL 1987, c. 141, Pt. A, §6, is amended to read:**

34 6. Filing fee. The petitioner or petitioners
35 requesting commission intercession shall pay to the
36 commission an amount equal to \$1,000 per megawatt of
37 capacity of the facility in issue. The petitioner or
38 petitioners may request the commission to waive all
39 or part of the filing fee. The commission shall rule
40 on the request for waiver within 30 days. Notwith-
41 standing any other provision of law, filing fees paid

1 as required in this paragraph subsection shall be
2 segregated, apportioned and expended by the commis-
3 sion for the purposes of this section. Any portion
4 of the filing fee that is received from any petition-
5 er or petitioners and is not expended by the commis-
6 sion to process the request for intercession shall be
7 returned to the petitioner or petitioners.

8 Sec. 8. 37-B MRSA §1055, as enacted by PL 1983,
9 c. 460, §3, is amended to read:

10 §1055. Exemptions

11 Dams and projects licensed by or subject to the
12 jurisdiction of the Federal Power Energy Regulatory
13 Commission and dams and projects of public utilities
14 that have been certified to be in a safe condition by
15 the Public Utilities Commission, after inspection at
16 least once in every 5 years, are exempt from this
17 chapter.

18 PART B

19 Sec. 1. 35-A MRSA §1101, sub-§1, ¶A, as enacted
20 by PL 1987, c. 141, Pt. A, §6, is amended to read:

21 A. Sell, lease, assign, mortgage or otherwise
22 dispose of or encumber the whole or part of its
23 property that is necessary or useful in the per-
24 formance of its duties to the public, or any part
25 of its property under construction for the per-
26 formance of its duties to the public, or its
27 franchises, permits or rights under them;

28 Sec. 2. 35-A MRSA §1101, sub-§3, as enacted by
29 PL 1987, c. 141, Pt. A, §6, is amended to read:

30 3. Utilities exclusively outside the State.
31 Nothing in this section applies to property, fran-
32 chises, permits or rights of a utility owned and op-
33 erated exclusively outside the State, unless the
34 property, franchise, permits or rights are owned, op-
35 erated or under construction with respect to the per-
36 formance of the utility's duties to the public inside
37 this State.

38 Sec. 3. 35-A MRSA §1103, sub-§3 is enacted to
39 read:

1 3. Acquiring additional stock. Nothing in this
2 section may be construed to prevent the holding of
3 stock lawfully acquired prior to the effective date
4 of Public Law 1913, chapter 129, section 38, as ap-
5 proved March 27, 1913, or to prevent the acquiring of
6 additional stock by a public utility which owned on
7 that date a majority of the stock of such other util-
8 ity.

9 Sec. 4. 35-A MRSA §3133, sub-§9 is enacted to
10 read:

11 9. Imported power. In its review of any peti-
12 tion filed on or after January 1, 1987, for approval
13 of the purchase of generating capacity or energy from
14 outside the State, the commission may consider the
15 comparative economic impact on the State of produc-
16 tion of additional power within the State, invest-
17 ments in energy conservation and the purchase of the
18 power from outside the State.

19 Sec. 5. 35-A MRSA §3134-A is enacted to read:

20 §3134-A. New England Electric Power Pool Agreement

21 1. Utility review of the New England Electric
22 Power Pool Agreement. The Public Utilities Commis-
23 sion shall require, by rule, that each Maine utility
24 which is a member of the New England Electric Power
25 Pool Agreement review that agreement at least every 3
26 years. The utilities may conduct that review joint-
27 ly. That review shall address the following factors
28 and concerns and any others which the commission
29 finds relevant to participation in the New England
30 Electric Power Pool Agreement:

31 A. Capacity and reserve requirement;

32 B. Energy requirements including reserve re-
33 quirements;

34 C. Reliability;

35 D. Transmission and wheeling;

36 E. Pooled purchases from outside the State;

1 F. Treatment of cogeneration contracts;

2 G. Allocation of interruptible credit;

3 H. Whether the agreement and practices encourage
4 efficient and economic decisions with respect to
5 future electric supply options;

6 I. Planning of generation, power purchases and
7 transmission; and

8 J. Operation and dispatch of supply.

9 The review shall evaluate whether participation in
10 the New England Electric Power Pool Agreement is the
11 best option for the particular Maine utility. It
12 shall also investigate whether the allocation of
13 costs and benefits and responsibility for planning
14 decisions within the New England Electric Power Pool
15 Agreement is reasonable.

16 2. Review by nonmembers. The Public Utilities
17 Commission may require any Maine electric utility
18 serving more than 20,000 customers, which is not a
19 member of the New England Electric Power Pool Agree-
20 ment, to conduct reviews of the possibility of join-
21 ing the New England Electric Power Pool Agreement,
22 similar to the review of subsection 1, at intervals
23 of at least 3 years.

24 3. Public Utilities Commission review of the New
25 England Electric Power Pool Agreement. The utility
26 shall submit to the commission a report of any review
27 undertaken in accordance with this section together
28 with supporting data and additional information as
29 required for review by the commission. If the Public
30 Utilities Commission finds, after consideration of a
31 utility's submission under subsection 1 or 2, that
32 further investigation by the commission is warranted,
33 then the commission shall proceed under section 1303.
34 This shall not preclude the commission from conduct-
35 ing a review of a utility's participation or
36 nonparticipation in the New England Electric Power
37 Pool Agreement at any time on its own motion in ac-
38 cordance with section 1303, even if the utility has
39 filed no submission on the issue.

1 Sec. 6. 35-A MRSA §3153, sub-§5, as enacted by
2 PL 1987, c. 141, Pt. A, §6, is amended to read:

3 5. Utility financing of energy conservation.
4 Electric utility financing or subsidization of capital
5 improvements undertaken by ratepayers to conserve
6 electricity used by the ratepayers in the future.
7 The commission may approve and allow cost recovery
8 for proposals that result in savings in fuel other
9 than electricity. This subsection shall apply to
10 future programs for utility financing of energy con-
11 servation or load management and to such programs
12 that the commission has already approved prior to the
13 effective date of this Act.

14 Sec. 7. 35-A MRSA c. 31, sub-c. V, §3180 is en-
15 acted to read:

16 §3180. Definitions

17 As used in this subchapter, unless the context
18 indicates otherwise, the following terms have the
19 following meanings.

20 1. Affiliate. "Affiliate" means any person who,
21 as determined by the commission:

22 A. Directly controls, is controlled by or is un-
23 der common control with an electric generation
24 enterprise; or

25 B. Substantially owns, is substantially owned by
26 or is substantially under common ownership with,
27 an electric generation enterprise.

28 Sec. 8. 35-A MRSA §3182, sub-§1, as enacted by
29 PL 1987, c. 141, Pt. A, §6, is repealed and the fol-
30 lowing enacted in its place:

31 1. Affiliates. Upon the request of an industri-
32 al enterprise located in the State to transmit or
33 wheel electricity to an affiliate in the State, the
34 electric utility shall enter into an agreement of not
35 more than 30 years' duration to provide transmission
36 or wheeling services subject to reasonable conditions
37 and subject to the conditions of subsection 2.

1 Sec. 9. 35-A MRSA §3182, sub-§5 is enacted to
2 read:

3 5. Reporting. Any electric utility which pro-
4 vides transmission or wheeling services for electric-
5 ity generated outside its service area, or for elec-
6 tricity generated within its service area by any oth-
7 er generator of electricity for delivery outside of
8 the utility's service area, shall inform the commis-
9 sion of the identity of the generator and the terms
10 and conditions for the transmission or wheeling. The
11 report shall be filed within 30 days after any con-
12 tract or agreement is signed.

13 Sec. 10. 35-A MRSA §6101, sub-§1, as enacted by
14 PL 1987, c. 141, Pt. A, §6, is repealed.

15 Sec. 11. 35-A MRSA §6101, sub-§§1-A and 1-B are
16 enacted to read:

17 1-A. Consumer-owned water utility.
18 "Consumer-owned water utility" means any water utili-
19 ty which is wholly owned by its consumers, including,
20 but not limited to, any municipal or quasi-municipal
21 water district or corporation, municipal water de-
22 partment or the water portion of any utility wholly
23 owned by a municipality or district.

24 1-B. Governing body. "Governing body" means the
25 governing body of a consumer-owned water utility.

26 Sec. 12. 35-A MRSA §6104, as enacted by PL 1987,
27 c. 141, Pt. A, §6, is amended to read:

28 §6104. Municipal and quasi-municipal water utilities
29 subject to suspension, investigation, hearing
30 and rate substitution

31 1. Application of this section. Notwithstanding
32 section 310, municipal-and--quasi-municipal--corpera-
33 tions--which--are consumer-owned water utilities are
34 subject to the suspension, investigation, hearing and
35 rate substitution provisions of section 310 under the
36 conditions specified in this section.

37 2. Utilities which elect to set rates under this
38 section. Municipal-----and-----quasi-municipal

1 Consumer-owned water utilities which elect to set
2 rates under this section may not file with the com-
3 mission or increase any rate, toll or charge without
4 first holding a public hearing at which any customer
5 may testify and may question the officials present
6 regarding the proposed increase.

7 3. Notice of proposed rate increase and hearing.
8 The ~~municipal-or-quasi-municipal~~ consumer-owned water
9 utility shall, at least 14 days prior to the hearing,
10 publish a notice of the proposed rate increase and
11 the hearing, including the date, time, place and pur-
12 pose of the hearing, in a newspaper of general circu-
13 lation in the area encompassed by the ~~municipal-or~~
14 ~~quasi-municipal~~ consumer-owned water utility and give
15 one notice of the proposed rate increase and the
16 date, time and place of the hearing to each of its
17 customers. The published and individual notices
18 shall include a statement describing the amount of
19 the increase and the percentage increase for each
20 customer class and copies shall be sent to the com-
21 mission at least 14 days prior to the hearings.

22 4. Notice that rate increase may be investigated
23 by commission. At the commencement of each hearing
24 held pursuant to this section, the ~~municipal-or~~
25 ~~quasi-municipal~~ consumer-owned water utility shall
26 inform those present that the rate increase may be
27 investigated by the commission in accordance with
28 this section.

29 5. Filing changed rates. The water utility
30 shall file its changed rates with the commission
31 within 30 days of the public hearing, but not sooner
32 than 10 days following the public hearing.

33 6. Effective date established for rate change.
34 Subject to the notice and waiver requirements of sec-
35 tion 307, water utilities electing to set rates under
36 this section may establish an effective date for a
37 rate change of at least one month, but not more than
38 9 months, from the date the rates are filed with the
39 commission.

40 7. Authority to investigate rate changes. If,
41 within 30 days of the public hearing, 15% of the cus-
42 tomers of the ~~municipal-or-quasi-municipal~~

1 consumer-owned water utility or 1,000 customers,
2 whichever is less, file with the treasurer of the
3 utility and with the commission petitions demanding a
4 review of the rate changes by the commission, the
5 rate change may be suspended, investigated, reviewed
6 and changed in accordance with section 310, except
7 that no suspension order issued by the commission
8 pursuant to section 310 may be effective for a period
9 greater than 9 months from the date the rate changes
10 were filed.

11 8. Procedure for suspension of rate change. If
12 the number of signatures on the petitions is 1,000 or
13 if the number of signatures on the petitions equals
14 or exceeds 15% of the customers indicated on the wa-
15 ter utility's most recent annual report on file with
16 the commission, the commission may suspend the rate
17 change pursuant to section 310. The commission shall
18 notify the water utility of the suspension.

19 9. Water utility may challenge petitions. The
20 water utility has 10 days from receipt of notice to
21 notify the commission whether it intends to contest
22 any aspect of the validity of the petitions, after
23 which it shall lose that right. If the water utility
24 notifies the commission in a timely fashion that it
25 wishes to contest the validity of the petitions, the
26 commission shall schedule a hearing. It shall hold
27 the hearing and issue its decision on the validity of
28 the petitions within 30 days of notification by the
29 water utility that it intends to contest the validity
30 of the petitions. If the commission finds the peti-
31 tions to be invalid, it shall lift its order of sus-
32 pension.

33 10. Review of rates under section 310. Nothing
34 in this section prohibits a ~~municipal~~---or
35 ~~quasi-municipal~~ consumer-owned water utility from pe-
36 titioning the commission for review pursuant to sec-
37 tion 310 in the first instance.

38 11. Correction of errors. Upon review of a rate
39 filing made pursuant to this section, the commission
40 may order the municipal or quasi-municipal water
41 utility to correct mathematical or clerical errors.

42 Sec. 13. 35-A MRSa §6105, sub-§1, as enacted by
43 PL 1987, c. 141, Pt. A, §6, is amended to read:

1 1. Scope of section. Notwithstanding any other
2 provision of this Title or any charter to the con-
3 trary and in addition to any charter or private and
4 special laws creating or affecting a ~~municipal~~ or
5 ~~quasi-municipal~~ consumer-owned water utility, the
6 rate, toll or charge made, exacted, demanded or col-
7 lected by a ~~municipal~~ ~~water~~ ~~or~~ ~~quasi-municipal~~
8 consumer-owned water utility is governed by this sec-
9 tion.

10 Sec. 14. 35-A MRSA §6105, sub-§4, ¶E, as enacted
11 by PL 1987, c. 141, Pt. A, §6, is amended to read:

12 E. To provide for a contingency reserve fund al-
13 lowance by providing rates to reflect up to a 5%
14 addition to yearly revenues over what is required
15 to operate the water company utility.

16 If this allowance results in an excessive sur-
17 plus, rates may be set which use the excess to
18 offset future revenue requirements. The commis-
19 sion shall adopt rules which define excessive
20 surplus resulting from the allowance, set forth
21 uses of funds in that portion of the surplus
22 which is not excessive, including the retirement
23 of debt where economic, and provide that funds in
24 the surplus which are excessive be returned to
25 customers in the form of temporary rate adjust-
26 ments, credits or reduction in rates.

27 Sec. 15. 35-A MRSA §6106, sub-§1, as enacted by
28 PL 1987, c. 141, Pt. A, §6, is amended to read:

29 1. Investment. The governing body of a ~~municipal~~
30 ~~or~~ ~~quasi-municipal~~ consumer-owned water utility
31 may choose to make no investment in a water main ex-
32 tension or service line and may require persons re-
33 questing a water main extension or service line to
34 advance to the utility the full cost of construction,
35 including associated appurtenances required solely as
36 a result of the construction of the water main exten-
37 sion or service line and used solely for the opera-
38 tion of the main extension or service line. Appor-
39 tionment of the costs among customers shall be deter-
40 mined by the commission by rule.

1 Sec. 16. 35-A M RSA §6107, sub-§§1 to 5, as en-
2 acted by PL 1987, c. 141, Pt. A, §6, are amended to
3 read:

4 1. System development charge authorized. In ad-
5 dition to section 6105, the governing body of a mu-
6 nicipal-water-or-quasi-municipal consumer-owned water
7 utility may establish and file, pursuant to section
8 310 or 6104, a system development charge which is
9 just and reasonable to provide funds to finance capi-
10 tal outlays for water system expansion caused by an
11 increase in demand for service.

12 2. Commission review. If a municipal--or
13 quasi-municipal consumer-owned water utility elects
14 to institute a system development charge, it shall
15 file the proposed charge and a description of the ba-
16 sis of the charge with the commission not less than
17 90 days before the effective date of the charge. The
18 commission shall investigate the system development
19 charge under section 1303 to determine whether it is
20 just and reasonable.

21 3. Use of funds. The funds generated by the
22 system development charge shall be deposited into a
23 special account of the municipal--or--quasi-municipal
24 consumer-owned water utility dedicated to finance
25 capital outlays for water system expansion caused by
26 an increase in demand for service. The funds from
27 the special account shall be used only for the pur-
28 pose of financing the expansion of the system and
29 shall not be used for the repair or replacement of
30 existing facilities unless the replacement is re-
31 quired as a result of increased demand for service.
32 The system development charge shall not be treated as
33 income of the municipal--or--quasi-municipal
34 consumer-owned water utility nor shall it be consid-
35 ered part of the rates established and filed pursuant
36 to section 6105.

37 4. Assessment of charge. The system development
38 charge may be assessed upon all customers of the mu-
39 nicipal-or-quasi-municipal consumer-owned water util-
40 ity that require new connections to the water system,
41 excluding fire service, as of or after the effective
42 date of that charge and upon all existing customers
43 who substantially expand their demand for water ser-

1 vice as of or after the effective date of that
2 charge.

3 5. Water conservation programs. Before a system
4 development charge may be instituted, the ~~municipal~~
5 ~~or--quasi-municipal~~ consumer-owned water utility must
6 report to the commission its efforts in implementing
7 water conservation programs. The utility shall state
8 what combination of system development charges and
9 new conservation programs will allow the utility to
10 meet growing demand in the least costly manner.

11 Sec. 17. 35-A MRSA c. 67, as enacted by PL 1987,
12 c. 141, Pt. A, §6, is repealed and the following en-
13 acted in its place:

14 CHAPTER 67

15 CONDEMNATION BY WATER UTILITIES

16 §6701. Necessity of taking determined

17 The owner of property which is subject to appro-
18 priation for public purposes by a water utility, upon
19 hearing, may have the commission determine the neces-
20 sity of the appropriation.

21 §6702. Petition by owner

22 The owner of the property, within 30 days after
23 the beginning of condemnation proceedings, may file
24 with the commission a petition for a decision as to
25 the necessity of the appropriation. A copy of the
26 petition and order of notice, attested by the admin-
27 istrative director, shall be served on the defendant.

28 §6703. Proceedings before commissioners

29 1. Hearing. The commissioners shall fix a time
30 for a hearing, inside the county where the property
31 is situated, and give written notice of the hearing
32 to the owner and to the water utility seeking to ac-
33 quire the property. At the hearing, all parties in
34 interest shall be heard either in person or by attor-
35 ney, and witnesses may be summoned by either party
36 and attendance compelled as before other judicial
37 tribunals.

1 2. Burden of proof. The burden of proof to show
2 the necessity of the particular taking rests on the
3 party seeking to acquire the property.

4 3. Commission's decision. The decision of a ma-
5 jority of the commissioners is final as to questions
6 of fact.

7 §6704. Condemnation proceedings by water utility

8 Upon the commencement of condemnation proceed-
9 ings, the utility seeking to acquire property, unless
10 otherwise provided by law, may file a petition asking
11 that the necessity of the taking be determined. Af-
12 ter the petition is filed, the proceedings shall be
13 the same as in the case of a petition by the landown-
14 er.

15 §6705. Validation of proceedings

16 All plans and descriptions of land and all de-
17 scriptions of other property taken by a water utility
18 for its purposes and uses, filed in the office of the
19 county commissioners of the county where the land or
20 other property is situated, prior to March 9, 1889,
21 are valid and legal for all purposes of taking.

22 §6706. Water utility line crossing railroad right-
23 of-way

24 Wherever a line or main of a water utility is lo-
25 cated and about to be constructed across the right-
26 of-way of a railroad, unless the officers of the wa-
27 ter utility agree with the corporation operating the
28 railroad as to the time, place, manner and conditions
29 of the crossing, the commission upon petition of ei-
30 ther party, after notice and hearing, shall determine
31 the time, place, manner and conditions of the cross-
32 ing. All the work within the limits of the railroad
33 shall be done under the supervision of the officers
34 of the corporation operating the railroad and to the
35 satisfaction of the commission. The water utility
36 shall bear the expense of the work. The commission
37 shall report its decision in the same manner as in
38 the case of highways located across railroads and
39 subject to the same right of appeal.

- 1 Sec. 18. PL 1987, c. 36 is repealed.
- 2 Sec. 19. PL 1987, c. 65 is repealed.
- 3 Sec. 20. PL 1987, c. 97 is repealed.
- 4 Sec. 21. PL 1987, c. 120 is repealed.
- 5 Sec. 22. PL 1987, c. 224 is repealed.

6 PART C

- 7 Sec. 1. 33 MRSA cc. 33 and 35 are enacted to
- 8 read:

9 CHAPTER 33

10 UNCLAIMED BAGGAGE AND MERCHANDISE

- 11 §1701. Merchandise unclaimed for 6 months, sold to
- 12 pay charges

13 Whenever baggage, goods, merchandise, packages or
14 parcels transported by any railroad, steamboat, ex-
15 press company or stage company existing by virtue of
16 the laws of this State remain unclaimed for 6 months
17 after its arrival at the point to which it shall have
18 been directed, the same may be sold at auction in the
19 city or town where the railroad, steamboat, express
20 company or stage company has its general or principal
21 office or any freight house. Whenever baggage, goods,
22 merchandise, packages or parcels transported by any
23 railroad, steamboat, express company or stage company
24 not existing by virtue of the laws of this State and
25 having no office or president, treasurer, clerk or
26 general superintendent within this State, but doing
27 business in this State, remain unclaimed for 6 months
28 after its arrival at the point to which it shall have
29 been directed, the same may be sold at auction to pay
30 the charges thereon and the expense of advertising
31 and selling.

- 32 §1702. Notice of sale; disposal of proceeds

33 Any company existing by virtue of the laws of
34 this State holding any such articles or merchandise
35 shall give, before selling the same, 30 days' notice

1 of the time and place of sale in 4 public newspapers,
2 one published at Portland, in the County of Cumber-
3 land; one published at Augusta, in the County of Ken-
4 nebec; one published at Lewiston, in the County of
5 Androscoggin; and one published at Bangor, in the
6 County of Penobscot. The notices shall contain a
7 brief description and list of all such property and
8 shall describe such marks thereon as may serve to
9 identify them, together with the name of the consign-
10 ee and the place to which the articles were billed.
11 Any company not existing by virtue of the laws of
12 this State and having no office or president, trea-
13 surer, clerk or general superintendent within this
14 State, but doing business within this State, before
15 selling any such articles or merchandise, shall give
16 30 days' notice of the time and place of sale, by
17 publishing notice in some public newspaper, printed
18 in the county where such merchandise is so held, 3
19 weeks successively, the last publication to be at
20 least 7 days before the day appointed for the sale.
21 If no newspaper is published in the county where such
22 articles or merchandise are so held, such notice
23 shall be published in some newspaper in an adjoining
24 county. Such articles or merchandise shall be sold
25 at the place where held. The proceeds of all goods so
26 sold, after deducting the costs of transportation,
27 storage, advertising and sale, shall be placed to the
28 credit of the owner in the books of the company mak-
29 ing the sale and shall be paid to him on demand. The
30 company shall not be liable to the owner of the prop-
31 erty for any greater sum than so received from the
32 sale.

33 §1703. Common carriers may sell perishable goods
34 which owner neglects or refuses to receive

35 When a common carrier has transported property of
36 a perishable nature, which cannot be kept without
37 great deterioration or substantial destruction, to
38 its place of destination and has notified the owner
39 or consignee of the arrival of the same, and the own-
40 er or consignee, after such notice, has refused or
41 omitted to receive and take away the same and pay the
42 freight and proper charges thereon, the carrier, in
43 the exercise of a reasonable discretion, may sell the
44 same at public or private sale without advertising.
45 The proceeds, after deducting the amount of the

1 freight and charges and expenses of sale, shall be
2 held for the persons entitled thereto. If the owner
3 or consignee cannot be found on reasonable inquiry,
4 the sale may be made without such notice.

5 §1704. Sale of livestock; proceedings when owner or
6 consignee missing; notice of sale

7 When a common carrier has transported livestock,
8 which can be kept only at continual expense, to its
9 place of destination and has notified the owner or
10 consignee of the arrival of the same, and the owner
11 or consignee after such notice has refused or omitted
12 to receive and take away the same and pay the freight
13 and proper charges thereon, the carrier may cause the
14 same to be sold at auction to pay the freight and
15 charges thereon, including the cost of keeping, and
16 the expenses of advertising and selling. If the own-
17 er or consignee cannot be found on reasonable in-
18 quiry, the carrier may cause the same to be adver-
19 tised and sold without such notice. Before selling
20 any such livestock, the common carrier holding the
21 same shall give 2 weeks' notice of the time and place
22 of sale in a newspaper published in the place where
23 the livestock is held, if any; otherwise in a newspa-
24 per published at a place nearest thereto. The notice
25 shall reasonably describe the livestock. The proceeds
26 of sale, after deducting the amount of freight and
27 charges, including the cost of keeping and the ex-
28 penses of advertising and sale, shall be held for the
29 persons entitled thereto.

30 §1705. All sales recorded

31 All sales under this chapter shall be recorded in
32 a suitable book, open to the inspection of claimants,
33 in which the articles sold shall be correctly de-
34 scribed, and the charges and expenses thereon and the
35 price at which they were sold shall be entered.

36 CHAPTER 35

37 TRANSPORTATION OF PROPERTY IN DISPUTE

38 §1751. Transportation of property, when title is in
39 dispute

1 1. Responsibility of carrier. When property is
2 delivered to a common carrier for transportation, and
3 any person other than the consignor or consignee
4 shall claim the title to such property and shall for-
5 bid its transportation, he shall forthwith give writ-
6 ten notice to the carrier forbidding its transporta-
7 tion, and thereupon the carrier shall be authorized
8 to delay the transportation for the space of 5 days,
9 and unless within such 5 days such claimant shall re-
10 plevy such property or if he shall fail to give such
11 written notice, the carrier is authorized to proceed
12 with the transportation of such property and shall
13 not be liable for so transporting.

14 2. Definition. For purposes of this chapter,
15 transportation of property means every service in
16 connection with or incidental to the transportation
17 of property, including in particular its receipt, de-
18 livery, elevation, transfer, switching, carriage,
19 ventilation, refrigeration, icing, dunnage, storage
20 and handling, and the transmission of credit by ex-
21 press or telegraph companies.

22 **Sec. 2. 35-A MRSA §102, sub-§22, as enacted by**
23 **PL 1987, c. 141, Pt. A, §6, is amended to read:**

24 22. Water utility. "Water utility" includes ev-
25 ery person, its lessees, trustees, receivers or
26 trustees appointed by any court, owning, controlling,
27 operating or managing any water works for compensa-
28 tion within this State, including any aqueduct or-
29 ganized under former Title 35, chapter 261 and any of
30 its predecessors.

31 **Sec. 3. 35-A MRSA §701, sub-§3, as enacted by PL**
32 **1987, c. 141, Pt. A, §6, is amended to read:**

33 3. Furnishing appliances. Nothing in this sec-
34 tion requires a public utility to furnish any part of
35 the appliances which are situated in or upon the
36 premises of any customer or user, except telephone
37 station-equipments a telephone interface upon the
38 subscribers' premises, and unless otherwise ordered
39 by the commission, meters and appliances for the mea-
40 surement of any product or service.

1 Sec. 4. 35-A MRSA §1305, sub-§2, as enacted by
2 PL 1987, c. 141, Pt. A, §6, is repealed and the fol-
3 lowing enacted in its place:

4 2. Examiners. The commission may appoint exam-
5 iners who have authority to:

6 A. Administer oaths;

7 B. Examine witnesses;

8 C. Issue subpoenas;

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

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

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

15 Sec. 5. 35-A MRSA §1312, sub-§2, as enacted by
16 PL 1987, c. 141, Pt. A, §6, is amended to read:

17 2. Fees. The State shall audit and pay the fees
18 in the same manner as other state expenses are au-
19 dited and paid upon the presentation of proper vouch-
20 ers approved by the commission. ~~There shall be de-~~
21 ~~ducted from the mileage allowed witnesses under this~~
22 ~~section who travel, or may travel, to and from the~~
23 ~~place of hearing on a pass or other form of free~~
24 ~~transportation, a sum equal to the fare to and from~~
25 ~~the place of hearing at the lowest published rates~~
26 ~~for single or return trip tickets.~~

27 Sec. 6. 35-A MRSA §1710, as enacted by PL 1987,
28 c. 141, Pt. A, §6, is amended to read:

29 §1710. Restriction

30 Unless otherwise provided by law, the duties of
31 the Public Advocate are restricted to those relating
32 to matters within the jurisdiction of the commission.
33 ~~In the event that the selection of the commission is~~
34 ~~required by law to be accomplished by any other meth-~~
35 ~~od than appointment by the Governor, with confirma-~~

1 tion-by-the-Legislature, this chapter is repealed,
2 and the staff and any balance in the budget of the
3 Public Advocate shall be transferred to the commis-
4 sion for the remainder of the fiscal year, effective
5 on the date when a quorum of the commission selected
6 by the other method is qualified for office.

7 Sec. 7. 35-A MRSA §2101, as enacted by PL 1987,
8 c. 141, Pt. A, §6, is amended to read:

9 §2101. Organization of certain public utility corpo-
10 rations

11 Corporations for the operation of telegraphs or
12 telephones and for the purpose of making, generating,
13 selling, distributing and supplying gas or electrici-
14 ty or for the operation of water utilities, ferries
15 or public heating utilities in any municipality, or
16 2 or more adjoining municipalities, within the State,
17 may be organized under ~~Title 13-A~~ the general corpo-
18 rate law of the State.

19 Sec. 8. 35-A MRSA §2521, as enacted by PL 1987,
20 c. 141, Pt. A, §6, is repealed.

21 Sec. 9. 35-A MRSA §3501, sub-§1, ¶¶C and D, as
22 enacted by PL 1987, c. 141. §6, are amended to read:

23 C. Any municipal, ~~plantation~~ or quasi-municipal
24 electric utility;

25 D. The electric portion of any municipal,
26 ~~plantation~~ or quasi-municipal entity providing
27 electric and other services; and

28 Sec. 10. 35-A MRSA §4331, as enacted by PL 1987,
29 c. 141, Pt. A, §6, is amended to read:

30 §4331. Purpose

31 The Legislature finds that nuclear power plants
32 routinely release radioactive materials to the envi-
33 ronment. These radioactive materials are generally
34 released in a controlled manner and within the limits
35 established by the United States Nuclear Regulatory
36 Commission. Some of these releases have been un-
37 planned, unscheduled and inadvertent. On occasion,

1 they exceed technical specification limits. No--firm
2 evidence--exists--that--these--radioactive--emissions--do
3 or--do--not--present--a--genetic--or--long--term--health--risk--
4 Most authorities agree that it should be assumed that
5 radiation at any dose level has a finite risk. The
6 Legislature finds, therefore, that the public welfare
7 will be better protected if the public is fully in-
8 formed on any release of radioactive materials to the
9 environment.

10 Sec. 11. 35-A MRSA §4507, as enacted by PL 1987,
11 c. 141, Pt. A, §6, is amended to read:

12 §4507. Franchise area; restricted sale

13 A natural gas pipeline utility may not supply or
14 sell natural gas to any person within the franchise
15 area of another utility, which is authorized by the
16 State to transmit or sell gas within the franchise
17 area, except to that other utility, unless the other
18 utility consents to the sale and the commission
19 approves or the commission permits the sale, after
20 notice and hearing.

21 Sec. 12. 35-A MRSA §6304, sub-§1, as enacted by
22 PL 1987, c. 141, Pt. A, §6, is amended to read:

23 1. Notice to general public and rate payers. In
24 the event that the trustees vote to authorize bonds
25 or notes, the estimated cost of which, singly or in
26 the aggregate included in any one financing, is
27 \$150,000 or more adjusted, relative to 1981 as the
28 base year according to the annual Consumer Price In-
29 dex, as defined in Title 5, section 17001, subsection
30 9, the trustees shall provide notice to the general
31 public of the proposed bond or note issue and the
32 purposes for which the debt is being issued. The no-
33 tice shall be published at least once in a newspaper
34 having general circulation in the district. The
35 trustees shall give notice to each ratepayer by mail.
36 Notice of a rate change under section 6104, which
37 contains the notice required by this section satis-
38 fies the notice requirements of this section.

39 No debt may be incurred under the vote of the trust-
40 ees until the expiration of 7 full days following the
41 date on which the notice was first published and

1 mailed. Prior to the expiration of the period, the
2 trustees shall call a special district meeting for
3 the purpose of permitting the collection of testimony
4 from the public concerning the amount of debt so au-
5 thorized.

6 **Sec. 13.** 35-A MRSA §6307, as enacted by PL 1987,
7 c. 141, Pt. A, §6, is amended to read:

8 §6307. Legislative amendment of charter

9 ~~Each year, on or before April 15th, the joint~~
10 ~~standing committee of the Legislature having juris-~~
11 ~~isdiction over public utilities shall report out legis-~~
12 ~~lation entitled "AN ACT to Amend the Charters of Var-~~
13 ~~ious Water Districts Organized under the Private and~~
14 ~~Special Laws." Amendments to water district charters~~
15 ~~shall generally be included in that Act. Prior to~~
16 acting upon any proposed water district charter
17 amendment, the joint standing committee of the Legis-
18 lature having jurisdiction over public utilities
19 shall obtain written comments from the municipalities
20 that lie in whole or in part within the district.

21 **Sec. 14.** 35-A MRSA c. 69, as enacted by PL 1987,
22 c. 141, Pt. A, §6, is repealed.

23 **Sec. 15.** 35-A MRSA §7102, sub-§1, as enacted by
24 PL 1987, c. 141, Pt. A, §6, is amended to read:

25 1. Emergency. "Emergency" means a situation in
26 which property or human or animal life is in jeopardy
27 and the prompt summoning of aid is essential.

28 **Sec. 16.** 35-A MRSA §8101, sub-§2, as enacted by
29 PL 1987, c. 141, Pt. A, §6, is amended to read:

30 2. Penalty for falsifying contents of dispatch.
31 An operator or agent who intentionally falsifies a
32 dispatch ~~commits a civil violation for which a for-~~
33 ~~feiture of not less than \$20 nor more than \$100 may~~
34 ~~be adjudged. In case of his avoidance or inability~~
35 ~~to pay the judgment, his employer must pay the sum is~~
36 guilty of falsifying a dispatch. Falsifying a dis-
37 patch is a Class E crime.

38 **Sec. 17.** 38 MRSA §1253, sub-§3, as enacted by PL
39 1981, c. 466, §13, is amended to read:

1 3. Legislative amendment of charters. Each year,
2 ~~on or before April 15th, the legislative committee~~
3 ~~having jurisdiction over public utilities shall report~~
4 ~~out legislation entitled "AN ACT to Amend the~~
5 ~~Charters of Various Sewer Districts Organized Under~~
6 ~~the Private and Special Laws." Amendments to sewer~~
7 ~~district charters shall generally be included in that~~
8 ~~Act.~~ Prior to acting upon any proposed sewer district
9 charter amendment the legislative committee shall obtain
10 written comments from the municipalities that
11 lie in whole or in part within the district.

12

STATEMENT OF FACT

13 This new draft has been developed by the Joint
14 Standing Committee on Utilities to follow up on the
15 recodification of the laws affecting public utilities
16 which replaced the former Maine Revised Statutes, Title
17 35 with new Title 35-A.

18 Part A includes a number of minor substantive
19 changes of a housekeeping nature submitted by the
20 Public Utilities Commission.

21 Sections 1 to 7 have the same content as sections
22 4,5,6,3,1,2 and 6 respectively of the original bill,
23 but are modified to refer to new Title 35-A. Section
24 8 is identical to the original bill, deleting an obsolete
25 reference in Title 37-B to a Public Utilities
26 Commission role in dam safety. In addition to federal
27 responsibility for Federal Energy Regulatory Commission
28 licensed dams, the State's responsibility for dam
29 safety now lies with the Department of Environmental
30 Protection under Title 38, chapter 5, subchapter
31 I, article 3-A.

32 Part B repeals and reenacts, in a form based on
33 new Title 35-A, legislation which was previously enacted
34 by the First Regular Session of the 113th Legislature,
35 based on former Title 35. In doing so, it deletes a
36 sentence that was inadvertently included in the Maine
37 Revised Statutes, Title 35, section 93, subsection 5
38 by Public Law 1987, chapter 120.

1 Part C includes a number of other minor substan-
2 tive changes of a housekeeping nature developed by
3 the Joint Standing Committee on Utilities during its
4 review of Title 35.

5 Part C, section 1, reallocates the former Title
6 35, chapters 135 and 137 which were inadvertently re-
7 pealed, and includes with them a necessary defini-
8 tion.

9 Part C, section 2, modifies the definition of wa-
10 ter utility to include any existing aqueduct.

11 Part C, section 3, updates a reference to tele-
12 phone equipment on the subscribers premises.

13 Part C, section 4, deletes outdated language mod-
14 ifying the Public Utilities Commission appointment of
15 hearing examiners.

16 Part C, section 5, deletes obsolete language
17 dealing with transportation passes.

18 Part C, section 6, deletes outdated language re-
19 pealing the Public Advocate if the Public Utilities
20 Commission is elected.

21 Part C, section 7, makes it clear that water
22 utilities, ferries and public hearing utilities may
23 form under the general corporate law, just as other
24 utilities can.

25 Part C, section 8, deletes an obsolete provision
26 providing a \$2 fee for municipal officers carrying
27 out their duties relative to pole placement and simi-
28 lar activities.

29 Part C, section 9, deletes 2 redundant references
30 to plantations.

31 Part C, section 10, deletes without prejudice an
32 inconclusive and somewhat confusing sentence.

33 Part C, section 11, adds a requirement for com-
34 mission approval in the case of sale of gas by a
35 utility, with consent by the other utility, in ano-
36 ther utility's service area.

1 Part C, section 12, is an amendment to avoid du-
2 plicate notice.

3 Part C, section 13, deletes a little-used provi-
4 sion for an omnibus water charter amendment bill.

5 Part C, section 14, repeals a chapter on forma-
6 tion of aqueducts which is no longer used. If there
7 is any existing aqueduct formed under the repealed
8 chapter it is included under the new definition of
9 water utility.

10 Part C, section 15, clarifies the definition of
11 emergency for telecommunications purposes by adding
12 "animal life."

13 Part C, section 16, makes falsification of a tel-
14 egraph message a Class E crime.

15 Part C, section 17, deletes a little-used provi-
16 sion for an omnibus sewer charter amendment bill.

17 3174061487