

# MAINE STATE LEGISLATURE

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# 116th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1993

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Legislative Document

No. 638

S.P. 202

In Senate, February 23, 1993

**An Act to Modify Public Utilities Commission Practice and Rules of Evidence.**

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Submitted by the Public Utilities Commission pursuant to Joint Rule 24.  
Reference to the Committee on Utilities suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator VOSE of Washington.  
Cosponsored by Representative: CLARK of Millinocket.

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

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4       Sec. 1. 35-A MRSA §1305, sub-§3, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

6           3. Evidence. Evidence taken and received by the examiners  
8 has the same effect as evidence taken and received by the  
10 commission and ~~shall authorize~~ authorizes commission action as  
12 though taken and received by it. When objection is made to the  
14 admissibility of evidence, examiners authorized to practice  
before the Supreme Judicial Court shall rule on the admissibility  
of evidence in accordance with the practice and rules of evidence  
in civil actions in the Superior Court except as otherwise  
provided.

16       Sec. 2. 35-A MRSA §1311, as enacted by PL 1987, c. 141, Pt.  
18 A, §6, is repealed and the following enacted in its place:

20       §1311. Practice and rules of evidence; process service

22           1. Practice and rules of evidence. In all actions and  
24 proceedings arising under this Title, all processes must be  
served and the practice and rules of evidence are the same as in  
civil actions in the Superior Court except as otherwise provided.

26           2. Hearsay. A statement not specifically covered by the  
28 hearsay exceptions in the rules of evidence but have equivalent  
circumstantial guarantees of trustworthiness may not be excluded  
by the hearsay rules, if the presiding officer determines that:

30           A. The statement is offered as evidence of a material fact  
32 and does not constitute unduly repetitious evidence;

34           B. The statement is the kind of evidence upon which  
36 reasonable persons are accustomed to rely in the conduct of  
serious affairs; and

38           C. The general purposes of the rules of evidence and the  
40 interests of justice are best served by admission of the  
statement into evidence.

42           3. Process service. A sheriff or other officer empowered  
44 to execute civil process may execute a process issued under this  
Title and is entitled to receive the compensation prescribed by  
law for that service.

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## STATEMENT OF FACT

4           The Maine Rules of Evidence do not include a "catch-all"  
6           exception to the hearsay rule that permits the presiding officer  
8           to, in the examiner's discretion, admit otherwise reliable  
10          statements into evidence. The Federal Rules of Evidence, F.R.  
12          Evid. 803(24), and rules that apply to most federal  
          administrative agencies and many Maine administrative agencies,  
          include a "catch-all" for reliable hearsay. The purpose of this  
          bill is to create a comparable exception to the hearsay rule for  
          evidence taken and received at the Public Utilities Commission.