MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document   No. 502

S.P. 173   In Senate, January 28, 1997

An Act to Require Fair Compensation for Ratepayer Assets Used by a Subsidiary or an Affiliate of a Utility.

Submitted by the Office of Public Advocate pursuant to Joint Rule 204.
Reference to the Committee on Utilities and Energy suggested and ordered printed.

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator CLEVELAND of Androscoggin.
Cosponsored by Representative KONTOS of Windham and
Senators: KIEFFER of Aroostook, MILLS of Somerset, Representative: LaVERDIERE of Wilton.

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

Sec. 1. 35-A MRSA §707, sub-§3, ¶G is enacted to read:

G. For any contract or arrangement expected to involve the use by an affiliated interest of utility facilities, services or intangibles, including good will or use of a brand name, the commission shall determine the value of those facilities, services or intangibles. When its facilities, services or intangibles are used by the affiliated interest, the utility's costs must be charged to and received from the affiliated interest based upon this value. The commission shall also determine the proper allocation of costs for shared facilities, services or intangibles. Notwithstanding paragraph A, within 60 days of the approval of the contract or arrangement, the commission shall perform the value determinations required by this paragraph.

Sec. 2. 35-A MRSA §§713 to 715 are enacted to read:

§713. Unregulated business ventures of utilities

A utility may not charge its ratepayers for costs attributable to unregulated business ventures undertaken by the utility or an affiliated interest. The commission shall allocate, between a utility's shareholders and ratepayers, costs for facilities, services or intangibles, including good will or use of a brand name, that are shared between regulated and unregulated business activities. The commission shall also attempt to ensure that the utility or the affiliated interest does not have an unfair advantage in any competitive market as a result of regulation.

Complaints by entities competing with a utility or an affiliated interest in an unregulated market, alleging that the utility or affiliated interest has an unfair competitive advantage as a result of being regulated, must be adjudicated by the commission.

For the purposes of this section, the term "affiliated interest" has the same meaning as in section 707, subsection 1, paragraph A.

§714. Notice to commission

Within 30 days of the commencement of operations by a utility of any business activity not regulated by the commission, the utility shall notify the commission of the existence of those operations.

§715. Rulemaking

The commission shall adopt rules that prescribe the allocation of costs for facilities, services or intangibles that are shared between regulated and unregulated activities of a utility or an affiliated interest as defined in section 707, subsection 1, paragraph A. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter II-A.

SUMMARY

In recent years, Maine's utilities increasingly have developed subsidiaries to compete in unregulated markets for goods and services such as home security alarm systems, environmental permitting services or electrical engineering. This bill requires the Public Utilities Commission to prevent uncompensated subsidies from utility ratepayers from creating a significant competitive advantage for utility subsidiaries competing in these unregulated markets.