

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 479

S.P. 166

In Senate, February 4, 2003

**An Act To Revise the Funding Formula for the Public Utilities
Commission and the Public Advocate**

Reference to the Committee on Utilities and Energy 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 President DAGGETT of Kennebec.
Cosponsored by Representative COWGER of Hallowell and
Senators: GAGNON of Kennebec, HALL of Lincoln, Representatives: FLETCHER of
Winslow, GOODWIN of Pembroke, LERMAN of Augusta, McKEE of Wayne, O'BRIEN of
Augusta, RICHARDSON of Skowhegan.

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

2
4 **Sec. 1. 35-A MRSA §116, sub-§1**, as amended by PL 2001, c. 136, §1, is further amended to read:

6 **1. Utilities subject to assessments.** Every transmission
8 and distribution, gas, telephone and water utility and ferry
subject to regulation by the commission is subject to an
10 ~~assessment on its intrastate gross operating revenues to produce~~
that produces no more than \$4,918,000 ~~\$5,505,000~~ in revenues
12 annually. ~~The commission shall increase the assessment to~~
~~produce an additional \$318,000 during fiscal year 2001-02 and an~~
~~additional \$587,000 during fiscal year 2002-03.~~ The commission
14 shall assess transmission and distribution utilities at a rate
sufficient to produce \$3,370,000 ~~\$3,772,000~~ and shall assess all
16 other utilities at a rate sufficient to produce \$1,548,000
~~\$1,733,000~~. ~~The commission shall increase the assessment of~~
18 ~~transmission and distribution utilities to produce an additional~~
~~\$218,000 during fiscal year 2001-02 and an additional \$402,000~~
20 ~~during fiscal year 2002-03.~~ ~~The commission shall increase the~~
~~assessment of all other utilities to produce an additional~~
22 ~~\$100,000 during fiscal year 2001-02 and an additional \$185,000~~
~~during fiscal year 2002-03.~~ The commission shall base the
24 assessment for each transmission and distribution utility on the
pro rata share of each utility's intrastate gross operating
26 revenues. The commission shall determine the percent revenue
assessment required from each gas, telephone, water and ferry
28 utility group based on the pro rata share of the intrastate gross
operating revenues from each respective utility group. The
30 commission shall determine the assessment for each individual
gas, telephone and ferry utility based on the pro rata share of
32 each utility's intrastate gross operating revenue pursuant to the
percent revenue assessment determined for each respective utility
34 group. The commission shall determine the assessment for each
individual water utility based on the pro rata share of the
36 utility's metered water sales in thousands of gallons sold
pursuant to the percent revenue assessment determined for each
38 respective utility group. The commission shall determine the
assessments annually prior to May 1st and assess each utility for
40 its pro rata share for expenditure during the fiscal year
beginning July 1st. Each utility shall pay the assessment
42 charged to the utility on or before July 1st of each year. Any
increase in the assessment that becomes effective subsequent to
44 May 1st may be billed on the effective date of the act
authorizing the increase.

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

2 B. For the purposes of this section, "intrastate gross
operating revenues" means intrastate revenues derived from
4 filed rates, except revenues derived from sales for resale.

6 C. Gas utilities subject to the jurisdiction of the
commission solely with respect to safety are not subject to
8 any assessment.

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

14 E. The commission may exempt utilities with annual
16 intrastate gross operating revenues under \$50,000 from
assessments under this section.

18 F. For water utilities that do not have a customer metering
20 program, the commission shall determine water sales to be
22 90% of total water production.

24 **Sec. 2. 35-A MRSA §116, sub-§8,** as amended by PL 2001, c. 28,
§1, is further amended to read:

26 **8. Public Advocate assessment.** Every utility subject to
assessment under this section is subject to an additional annual
28 assessment ~~on its intrastate gross operating revenues~~ to produce
sufficient revenue for expenditures allocated by the Legislature
30 for operating the Office of Public Advocate. The Public Advocate
shall determine the percent revenue assessment required from each
32 transmission and distribution, gas, telephone, water and ferry
utility group based on the pro rata share of the intrastate gross
34 operating revenues from each respective utility group. The
Public Advocate shall base the assessment for each individual
36 transmission and distribution, gas, telephone and ferry utility
on the pro rata share of each utility's intrastate gross
38 operating revenue in conjunction with the percent revenue
assessment determined for each respective utility group. The
40 Public Advocate shall base the assessment for each individual
water utility on the pro rata share of the utility's metered
42 water sales in thousands of gallons sold pursuant to the percent
revenue assessment determined for each respective utility group.
44 The revenues produced from this assessment are transferred to the
Public Advocate Regulatory Fund and may only be used to fulfill
46 the duties specified in chapter 17. The assessments charged to
utilities under this subsection are considered just and
48 reasonable operating costs for rate-making purposes. The Public
Advocate shall develop a method of accounting for staff time
50 within the Office of Public Advocate. All professional and

2 support staff shall account for their time in such a way as to
identify the percentage of time devoted to public utility
4 regulation and the percentage of time devoted to other duties
that may be required by law.

6 A. The Public Advocate shall submit its budget
recommendations as part of the unified current services
8 budget legislation in accordance with Title 5, sections 1663
to 1665. The assessments and expenditures provided in this
10 section are subject to legislative approval. The Public
Advocate shall make an annual report of its planned
12 expenditures for the year and on its use of funds in the
previous year. The Public Advocate may also receive other
14 funds as appropriated by the Legislature.

16 B. The Public Advocate may use the revenues provided in
accordance with this section to fund the Public Advocate and
18 9 employees and to defray the costs incurred by the Public
Advocate pursuant to this Title, including administrative
20 expenses, general expenses, consulting fees and all other
reasonable costs incurred to administer this Title.

22 C-1. Except as specified in this subsection, funds that are
24 not expended at the end of a fiscal year do not lapse but
must be carried forward to be expended for the purposes
26 specified in this section in succeeding fiscal years; but,
with the exception of funds carried forward from fiscal year
28 1996-97 to fiscal year 1997-98 and with the exception of
funds carried forward at the end of fiscal year 2000-01 and
30 fiscal year 2001-02 for use in the following fiscal year,
unexpended funds in excess of 10% of the total annual
32 assessment authorized in this section must, at the option of
the Public Advocate, either be presented to the Legislature
34 in accordance with paragraph A for reallocation and
expenditure or used to reduce the utility assessment in the
36 following fiscal year. In the case of funds carried forward
from fiscal year 1996-97 to fiscal year 1997-98 and funds
38 carried forward from fiscal year 2000-01 and fiscal year
2001-02 for use in the following fiscal year, 100% of these
40 funds may be expended for the purposes specified in this
section.

42 D. Any utility, subject to this section, that willfully
44 fails to pay the assessments in accordance with this section
commits a civil violation for which a forfeiture of not more
46 than \$500 may be adjudged per day for which payment is not
made following the due date.

48 E. For water utilities that do not have a customer metering

2 program, the Public Advocate shall determine water sales to
3 be 90% of total water production.

4 **Sec. 3. Effective date.** This Act takes effect January 1, 2004.

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SUMMARY

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10 This bill changes the method of determining the fee
assessment of utilities for funding of the Public Utilities
Commission and the Public Advocate's office.