

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

SECOND REGULAR SESSION-2008

Legislative Document

No. 2104

H.P. 1490

House of Representatives, December 27, 2007

An Act To Provide for Fairness and Accuracy in Utility Rate Setting

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Utilities and Energy suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative BERRY of Bowdoinham.
Cosponsored by Senator BARTLETT of Cumberland and
Representatives: BLISS of South Portland, BOLAND of Sanford, BRIGGS of Mexico,
CONNOR of Kennebunk.

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

Sec. 1. 35-A M RSA §301, sub-§5 is enacted to read:

5. Utility misconduct. To preserve the integrity of the rate-making process, the commission shall, upon a finding that a regulated utility made a material misrepresentation or omission or engaged in any other misconduct in the course of a previous rate proceeding, apply a penalty against the utility. Any penalty applied under this subsection must be calculated to recover, at a minimum, the excess revenues collected by the utility resulting from the misrepresentation, omission or misconduct and must be refunded to ratepayers in the form of a credit on customer bills.

Sec. 2. 35-A M RSA §9106 is enacted to read:

§9106. Just and reasonable rates

In determining the reasonableness of any rate-adjustment mechanism established under this chapter, the commission shall apply the standards of section 301 to ensure that the rates resulting from the implementation of the mechanism are just and reasonable. Prior to the adoption of a new or replacement alternative form of regulation or renewal of any existing alternative form of regulation, the commission shall, in order to ensure that rates at the starting point of the alternative form of regulation are just and reasonable, conduct a revenue requirement and earnings review pursuant to the standards of section 301. In conducting such a review under this section, the commission, at its discretion, may conduct the review in a manner designed to minimize the cost of the review to ratepayers.

Sec. 3. Remediation of past excessive rates. The Public Utilities Commission shall, in reference to the 2005 remand to the commission by the Maine Supreme Judicial Court in the case of Office of Public Advocate v. Public Utilities Commission, 2005 ME 15, 866 A.2d 851, conduct a traditional rate-of-return proceeding and determine just and reasonable rates for local telephone service provided by the telephone utility based on the test-year costs and revenues in the year 2000, the year that the commission was first obligated to conduct a proceeding pursuant to the Maine Revised Statutes, Title 35-A, section 9103, subsection 1. Based on the determination of the rate proceeding, the commission shall compute the excess revenues that have resulted from the difference between actual local telephone rates charged and the just and reasonable level of local telephone rates determined in the proceeding required by this section for the period from 2000, when the commission was obligated to determine new rates pursuant to the Maine Revised Statutes, Title 35-A, chapters 3 and 91, to the present. At the conclusion of the proceeding, the commission shall promptly order a refund to customers of all such excess revenues received by the utility or its successor in interest.

SUMMARY

This bill requires the Public Utilities Commission to conduct a revenue requirement and earnings review of a utility before the adoption of a new or replacement alternative form of regulation or the renewal of an alternative form of regulation in order to ensure

1 that rates are just and reasonable. It also requires the Public Utilities Commission, upon a
2 finding that a regulated utility made a material misrepresentation or omission or engaged
3 in any other misconduct in the course of a previous rate proceeding, to apply a penalty
4 against the utility. Any such penalty must be calculated to recover, at a minimum, the
5 excess revenues collected by the utility resulting from the misrepresentation, omission or
6 misconduct and must be refunded to ratepayers in the form of a credit on customer bills.

7 The bill further requires the Public Utilities Commission to determine whether rates
8 charged for local telephone service since 2000 have been excessive and, if the
9 commission determines that rates have been excessive, to order a refund to customers.