

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

SECOND REGULAR SESSION-2010

Legislative Document

No. 1578

H.P. 1116

House of Representatives, December 22, 2009

**An Act To Provide for Equitable Sharing by Service Providers of
the Costs of the Public Utilities Commission and the Office of the
Public Advocate**

Submitted by the Office of the Public Advocate pursuant to Joint Rule 204.

Received by the Clerk of the House on December 18, 2009. Referred to the Committee on Utilities and Energy pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative FLAHERTY of Scarborough.
Cosponsored by Senator BARTLETT of Cumberland and
Representatives: BERRY of Bowdoinham, DOSTIE of Sabattus, FITTS of Pittsfield, HINCK
of Portland, McCABE of Skowhegan, MORRISON of South Portland.

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

2 **Sec. 1. 35-A MRSA §116, sub-§1**, as amended by PL 2007, c. 478, §1, is further
3 amended to read:

4 **1. Utilities and communications service providers subject to assessments.** Every
5 transmission and distribution, gas, telephone and water utility and ferry subject to
6 regulation by the commission and every communications service provider is subject to an
7 assessment on its intrastate gross operating revenues to produce sufficient revenue for
8 expenditures allocated by the Legislature for the Public Utilities Commission Regulatory
9 Fund established pursuant to this section. For purposes of this section, "communications
10 service provider" has the same meaning as set forth in section 9202, subsection 4. The
11 budget for the Public Utilities Commission Regulatory Fund is subject to legislative
12 review and approval in accordance with subsection 2. The portion of the total assessment
13 applicable to each category of public utility and communications service provider is
14 based on an accounting by the commission of the portion of the commission's resources
15 devoted to matters related to each category. The commission shall develop a reasonable
16 and practicable method of accounting for resources devoted by the commission to matters
17 related to each category of public utility. Assessments on each public utility and
18 communications service provider within each category must be based on the utility's and
19 communications service provider's gross intrastate operating revenues. The commission
20 shall determine the assessments annually prior to May 1st and assess each utility and
21 communications service provider for its pro rata share for expenditure during the fiscal
22 year beginning July 1st. Each utility and communications service provider shall pay the
23 assessment charged to the utility and communications service provider on or before July
24 1st of each year. Any increase in the assessment that becomes effective subsequent to
25 May 1st may be billed on the effective date of the act authorizing the increase.

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

28 B. For the purposes of this section, "intrastate gross operating revenues" means
29 intrastate revenues derived from ~~filed~~ rates and rates that are exempt from filing
30 requirements pursuant to rules adopted by the commission under section 307-A,
31 except revenues derived from sales for resale.

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

34 D. The commission may correct any errors in the assessments by means of a credit
35 or debit to the following year's assessment rather than reassessing all utilities and
36 communications service providers in the current year.

37 E. The commission may exempt utilities and communications service providers
38 with annual intrastate gross operating revenues under \$50,000 from assessments
39 under this section.

40 **Sec. 2. 35-A MRSA §116, sub-§3**, as enacted by PL 1987, c. 141, Pt. A, §6, is
41 amended to read:

1 **3. Deposit of funds.** All revenues derived from assessments levied against utilities
2 and communications service providers described in this section shall must be deposited
3 with the Treasurer of State in a separate account to be known as the Public Utilities
4 Commission Regulatory Fund.

5 **Sec. 3. 35-A MRSA §116, sub-§8,** as amended by PL 2007, c. 539, Pt. KK, §13,
6 is further amended to read:

7 **8. Public Advocate assessment.** Every utility and communications service provider
8 subject to assessment under this section is subject to an additional annual assessment on
9 its intrastate gross operating revenues to produce sufficient revenue for expenditures
10 allocated by the Legislature for operating the Office of Public Advocate. The portion of
11 this assessment applicable to each category of public utility and communications service
12 provider is based on an accounting by the Public Advocate of resources devoted to
13 matters related to each category. The Public Advocate shall develop a reasonable and
14 practicable method of accounting for resources devoted by the Public Advocate to matters
15 related to each category of public utility and communications service provider.
16 Assessments on each public utility and communications service provider within each
17 category must be based on the utility's and communications service provider's gross
18 intrastate operating revenues. The revenues produced from this assessment are
19 transferred to the Public Advocate Regulatory Fund and may only be used to fulfill the
20 duties specified in chapter 17. The assessments charged to utilities under this subsection
21 are considered just and reasonable operating costs for rate-making purposes. The Public
22 Advocate shall develop a method of accounting for staff time within the Office of Public
23 Advocate. All professional and support staff shall account for their time in such a way as
24 to identify the percentage of time devoted to public utility regulation and the percentage
25 of time devoted to other duties that may be required by law.

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

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

37 C-1. Funds that are not expended at the end of a fiscal year do not lapse but must be
38 carried forward to be expended for the purposes specified in this section in
39 succeeding fiscal years.

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SUMMARY

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Under current law, the Public Utilities Commission and the Office of Public Advocate assess utilities to fund the legislatively approved budgets for these agencies. This bill directs that the assessment be applied to communications service providers, which will broaden the pool of entities sharing the cost.