

# MAINE STATE LEGISLATURE

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# 131st MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2023

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Legislative Document

No. 1654

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S.P. 659

In Senate, April 13, 2023

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### **An Act to Extend the Time for Certain Public Utilities Commission Proceedings**

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Submitted by the Public Utilities Commission pursuant to Joint Rule 204.  
Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator LAWRENCE of York.

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

2 **Sec. 1. 35-A MRSA §307**, as amended by PL 1999, c. 398, Pt. A, §13 and affected  
3 by §§104 and 105, is repealed and the following enacted in its place:

4 **§307. Changes in schedules; notice; suspension; rate increase limit**

5 **1. Definitions.** As used in this section, unless the context otherwise indicates, the  
6 following terms have the following meanings.

7 A. "Final determination of the public utility's revenue requirement" means a decision  
8 by the commission on the merits of a public utility's request after consideration of at  
9 least the public utility's direct case in support of its request.

10 B. "General increase in rates" means a change in a rate, toll or charge of a public utility,  
11 the effect of which is to increase the annual operating revenue of the public utility by  
12 more than 1%. "General increase in rates" does not include a rate change made for the  
13 sole purpose of implementing a gas cost adjustment rate pursuant to section 4703 or a  
14 rate change made for the sole purpose of implementing an energy conservation  
15 adjustment rate pursuant to section 3154.

16 **2. Notice requirements.** A public utility may not change a schedule, including a  
17 schedule of joint rates, unless the public utility provides notice to the commission 30 days  
18 prior to the time the changes are to take effect. The public utility must indicate all proposed  
19 changes on the schedule in effect at the time notice is provided. For good cause shown, the  
20 commission may allow changes after less than the notice specified in this subsection or  
21 modify the requirements of this section and section 308 with respect to publishing, posting  
22 and filing of a schedule, either in a particular instance or by rule applicable to a special  
23 circumstance or condition.

24 At the commission's discretion, the commission may require the information relating to  
25 changes described in this subsection to be filed in a general increase in rates at the same  
26 time as the schedules are filed. The commission may require a public utility whose gross  
27 revenues exceed \$5,000,000 annually to notify the commission not more than 2 months in  
28 advance of filing a general increase in rates under this section that a filing is planned and  
29 to disclose the approximate amount of the increase and the approximate rate of return and  
30 include a general statement of the major issues that might be presented and the approximate  
31 rate of return the utility would be seeking.

32 **3. Suspension pending investigation.** Pending an investigation and order pursuant  
33 to section 310, subsection 1, at any time within the period preceding the effective date of  
34 the schedule the commission may suspend the operation of the schedule or any part of the  
35 schedule by filing with the schedule and delivering to the public utility affected a statement  
36 of its reasons for the suspension. The suspension may not be for a period longer than 12  
37 months from the effective date of the order of suspension unless:

38 A. All parties agree to extend the suspension beyond 12 months; or

39 B. The commission determines that the party seeking the extension would be  
40 unreasonably disadvantaged because of circumstances beyond that party's control  
41 unless the extension were granted, as long as the party prior to the request for extension  
42 had prosecuted its case in good faith and with due diligence.

1           **4. General rate increase case limitation.** A public utility may not file a schedule for  
2 a general increase in rates pursuant to this section within one year of a prior filing for a  
3 general increase in rates pursuant to this section, unless the proceeding initiated by a prior  
4 filing was terminated without a final determination of the public utility's revenue  
5 requirement or with approval of the commission. The limitation of this subsection does not  
6 prevent a public utility, at any time, from notifying the commission in advance, either  
7 voluntarily or in accordance with a commission requirement under this section, of plans by  
8 the public utility to file a general increase in rates.

9 Nothing in this subsection may be construed to limit a public utility's right, at any time, to  
10 petition pursuant to section 1322 for temporary rate relief.

11           **Sec. 2. 35-A MRSA §310**, as amended by PL 2009, c. 237, §1, is further amended  
12 by amending the section headnote to read:

13           **§310. Investigation of proposed changes in rates of public utilities; ~~suspension~~**  
14 **~~pending investigation~~**

15           **Sec. 3. 35-A MRSA §310, sub-§2**, as enacted by PL 1987, c. 141, Pt. A, §6, is  
16 repealed.

17           **Sec. 4. 35-A MRSA §310, sub-§3**, as amended by PL 2009, c. 237, §1, is further  
18 amended to read:

19           **3. Exception: Municipal and quasi-municipal water utilities and consumer-**  
20 **owned transmission and distribution utilities.** This section and section 307, subsection  
21 3 does not apply to:

22           A. Municipal or quasi-municipal corporations that are water utilities within the  
23 definition of section 102, any provisions in any charter notwithstanding, and that elect  
24 to proceed pursuant to the terms of section 6104 or 6104-A, unless by the express terms  
25 of section 6104 or 6104-A the provisions of this section are made applicable to those  
26 corporations;

27           A-1. Municipal or quasi-municipal corporations that are water utilities within the  
28 definition of section 102, any provisions in any charter notwithstanding, and that file a  
29 change in a schedule pursuant to section 307 that changes rates, tolls or charges for  
30 service other than the provision of water, only if the cumulative revenue impact of all  
31 such changes that become effective within any consecutive 12-month period does not  
32 exceed 1% of the utility's total annual revenue; or

33           B. Consumer-owned transmission and distribution utilities organized in accordance  
34 with chapter 35, unless by the express terms of chapter 35 the provisions of this section  
35 are made applicable to those districts.

36           **Sec. 5. 35-A MRSA §707, sub-§3, ¶A**, as enacted by PL 1987, c. 141, Pt. A, §6,  
37 is amended to read:

38           A. Unless the commission disapproves it within 60 days of filing, a contract or  
39 arrangement filed with the commission under this section is deemed approved. The  
40 commission may, however, suspend the effective date of the contract or arrangement  
41 for an additional 60 days if necessary to enable the commission to complete its review  
42 of the contract or arrangement or for a longer period by agreement of all the parties or  
43 by the commission if the commission determines that the party seeking the extension

1 would be unreasonably disadvantaged because of circumstances beyond that party's  
2 control unless the extension were granted, as long as the party prior to the request for  
3 extension had prosecuted its case in good faith and with due diligence.

4 **Sec. 6. 35-A MRSA §708, sub-§2, ¶A**, as amended by PL 2019, c. 353, §2, is  
5 further amended to read:

6 A. Unless exempted by rule or order of the commission, a reorganization may not take  
7 place without the approval of the commission. A reorganization may not be approved  
8 by the commission unless it is established by the applicant for approval that the  
9 reorganization is consistent with the interests of the utility's ratepayers and investors.  
10 If a reorganization would result in the transfer of ownership and control of a public  
11 utility or the parent company of a public utility, a reorganization may not be approved  
12 by the commission unless it is established by the applicant for approval that the  
13 reorganization provides net benefits to the utility's ratepayers. The commission shall  
14 rule upon all requests for approval of a reorganization within 60 days of the filing of  
15 the request for approval. If it determines that the necessary investigation cannot be  
16 concluded within 60 days, the commission may extend the period for a further period  
17 of no more than 120 days, unless this period is extended either by agreement of all the  
18 parties or by the commission upon its determination that the party seeking the extension  
19 would be unreasonably disadvantaged because of circumstances beyond that party's  
20 control unless the extension were granted, as long as the party prior to the request for  
21 the extension had prosecuted its case in good faith and with due diligence. In granting  
22 its approval, the commission shall impose such terms, conditions or requirements as,  
23 in its judgment, are necessary to protect the interests of ratepayers. These conditions  
24 must include provisions that ensure the following:

- 25 (1) That the commission has reasonable access to books, records, documents and  
26 other information relating to the utility or any of its affiliates, except that the Public  
27 Utilities Commission may not have access to trade secrets unless it is essential to  
28 the protection of the interests of ratepayers or investors. The commission shall  
29 afford trade secrets and other information such protection from public disclosure  
30 as is provided in the Maine Rules of Civil Procedure;
- 31 (2) That the commission has all reasonable powers to detect, identify, review and  
32 approve or disapprove all transactions between affiliated interests;
- 33 (3) That the utility's ability to attract capital on reasonable terms, including the  
34 maintenance of a reasonable capital structure, is not impaired;
- 35 (4) That the ability of the utility to provide safe, reasonable and adequate service  
36 is not impaired;
- 37 (5) That the utility continues to be subject to applicable laws, principles and rules  
38 governing the regulation of public utilities;
- 39 (6) That the utility's credit is not impaired or adversely affected;
- 40 (7) That reasonable limitations be imposed upon the total level of investment in  
41 nonutility business, except that the commission may not approve or disapprove of  
42 the nature of the nonutility business;
- 43 (8) That the commission has reasonable remedial power including, but not limited  
44 to, the power, after notice to the utility and all affiliated entities of the issues to be

1 determined and the opportunity for an adjudicatory proceeding, to order divestiture  
2 of or by the utility in the event that divestiture is necessary to protect the interest  
3 of the utility, ratepayers or investors. A divestiture order must provide a reasonable  
4 period within which the divestiture must be completed; and

5 (9) That neither ratepayers nor investors are adversely affected by the  
6 reorganization, and if the reorganization would result in the transfer of ownership  
7 and control of a public utility or the parent company of a public utility, that the  
8 reorganization provides net benefits to the utility's ratepayers.

9 **Sec. 7. 35-A MRSA §3132, sub-§2**, as amended by PL 2017, c. 201, §1, is further  
10 amended to read:

11 **2. Construction of transmission line.** Except as otherwise provided in subsection  
12 3-A, whenever any person proposes to erect within this State a transmission line capable  
13 of operating at 69 kilovolts or more, that person shall file a petition for the approval of the  
14 proposed line in accordance with subsection 2-C. The petition for approval must be set  
15 down for public hearing. The commission shall issue its order within ~~9~~ 12 months after the  
16 petition is filed unless this period is extended either by agreement of all the parties or by  
17 the commission upon its determination that the party seeking the extension would, because  
18 of circumstances beyond that party's control, be unreasonably disadvantaged unless the  
19 extension were granted, as long as the party to that time had prosecuted its case in good  
20 faith and with due diligence.

21 At the time of filing of a petition for approval of a proposed line under this section, the  
22 person filing the petition shall send a copy of the petition by certified mail to the municipal  
23 officers of the municipality or municipalities in which the line is to be located.

## 24 SUMMARY

25 This bill extends the time period during which the Public Utilities Commission may  
26 make determinations on rate increases, affiliate transactions, reorganizations and  
27 certificates of public convenience and necessity. It allows for an extension of a period of  
28 suspension of the operation of a schedule of a public utility under certain circumstances. It  
29 extends the period of approval for a petition for a proposed transmission line from 9 to 12  
30 months.