

MAINE STATE LEGISLATURE

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L.D. 2132

Date: 3/21/24 Minority

(Filing No. H-847)

ENERGY, UTILITIES AND TECHNOLOGY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
131ST LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1356, L.D. 2132, "An Act to Clarify the Right to Appeal Certain Public Utilities Commission Decisions"

Amend the bill by striking out the title and substituting the following:

'An Act to Clarify the Right to Appeal Certain Public Utilities Commission Decisions and to Address Alternative Dispute Resolution Requirements'

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 35-A MRSA §1303, sub-§3 is enacted to read:

3. Informal consumer complaint resolution process; Superior Court alternative dispute resolution conference. After participating in a nonadjudicatory, informal consumer complaint resolution process conducted by the consumer assistance and safety division of the commission to resolve a billing dispute between a customer and a public utility, the customer or the public utility may request a certification from the commission that the parties participated in such an informal consumer complaint resolution process. Notwithstanding any court rule or requirement regarding alternative dispute resolution to the contrary, a customer or public utility that receives a commission certification in accordance with this subsection may not be required to participate in an alternative dispute resolution conference in connection with a claim for that billing dispute if it is filed with the Superior Court or filed with the District Court and removed to the Superior Court.

Sec. 2. 35-A MRSA §1303, sub-§4 is enacted to read:

4. Commission investigation of consumer complaints for billing disputes; de novo proceeding. After participating in a nonadjudicatory, informal consumer complaint resolution process conducted by the consumer assistance and safety division of the commission to resolve a billing dispute between a customer and a public utility, the customer or public utility may petition the commission for a de novo adjudicatory proceeding to investigate the billing dispute. Except as provided in paragraph B, the commission shall conduct the adjudicatory proceeding and make a final decision on the

COMMITTEE AMENDMENT

1 merits of the billing dispute and the final decision of the commission is subject to review
 2 by the Law Court under the provisions of section 1320.

3 A. Notwithstanding any provisions of this Title to the contrary, the commission may
 4 adopt rules governing the conduct of a de novo adjudicatory proceeding pursuant to
 5 this subsection that:

- 6 (1) Limit any prehearing discovery;
- 7 (2) Establish rules of evidence consistent with the Maine Administrative Procedure
 8 Act;
- 9 (3) Allow the evidentiary record to be limited to written testimony; and
- 10 (4) Limit any post-hearing opportunities for filing written briefs.

11 Rules adopted pursuant to this subsection are routine technical rules as defined in Title
 12 5, chapter 375, subchapter 2-A.

13 B. The commission may not conduct a de novo adjudicatory proceeding pursuant to
 14 this subsection if the customer has filed a claim in court pursuant to section 1501
 15 against the utility for the same billing dispute for which relief is sought under this
 16 subsection except when the court has dismissed the claim on procedural or
 17 jurisdictional grounds and has not issued a decision on the merits.

18 C. If a customer has filed a petition for a de novo adjudicatory proceeding in
 19 accordance with this subsection, the customer may not recover civil damages pursuant
 20 to section 1501 if the customer's claim seeks relief for the same billing dispute for
 21 which relief is sought under this subsection except when the commission has dismissed
 22 the billing dispute on procedural or jurisdictional grounds and has not issued a decision
 23 on the merits.

24 **Sec. 3. 35-A MRSA §1501, first ¶,** as enacted by PL 1987, c. 141, Pt. A, §6, is
 25 amended to read:

26 If Except as provided in section 1303, subsection 4, paragraph C, if a public utility
 27 violates this Title, causes or permits a violation of this Title or omits to do anything that
 28 this Title requires it to do, it may be liable in damages to the person injured as a result.
 29 Recovery under this section does not affect a recovery by the State of the penalty prescribed
 30 for the violation.

31 **Sec. 4. Appropriations and allocations.** The following appropriations and
 32 allocations are made.

33 **PUBLIC UTILITIES COMMISSION**

34 **Public Utilities - Administrative Division 0184**

35 Initiative: Provides funding for 2 Utility Analyst positions and 2 Staff Attorney positions
 36 and associated All Other costs.

OTHER SPECIAL REVENUE FUNDS	2023-24	2024-25
38 POSITIONS - LEGISLATIVE COUNT	0.000	2.000
39 Personal Services	\$0	\$478,621
40 All Other	\$0	\$61,616
41	_____	_____

1 OTHER SPECIAL REVENUE FUNDS TOTAL \$0 \$540,237

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3 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
4 number to read consecutively.

5 SUMMARY

6 This amendment replaces the bill and changes the title. The amendment does the
7 following.

8 1. It provides that after participating in a nonadjudicatory, informal consumer
9 complaint resolution process conducted by the consumer assistance and safety division of
10 the Public Utilities Commission to resolve a billing dispute between a customer and a
11 public utility, the customer or the public utility may request a certification from the
12 commission that the parties participated in the informal consumer complaint resolution
13 process. The customer or public utility that receives a commission certification may not be
14 required to participate in an alternative dispute resolution conference in connection with a
15 claim for that billing dispute if a claim for that billing dispute is filed with the Superior
16 Court or filed with the District Court and removed to the Superior Court.

17 2. It allows a customer or a public utility to petition the commission for a de novo
18 adjudicatory proceeding to investigate a billing dispute after participating in a
19 nonadjudicatory, informal consumer complaint resolution process conducted by the
20 consumer assistance and safety division of the commission to resolve a billing dispute. The
21 commission must conduct the de novo adjudicatory proceeding and make a final decision
22 on the merits of the billing dispute and the final decision of the commission is subject to
23 review by the Law Court. The commission may adopt routine technical rules governing the
24 conduct of a de novo adjudicatory proceeding.

25 3. It prohibits the commission from conducting a de novo adjudicatory proceeding if
26 the customer has filed a claim in court against the utility for the same billing dispute except
27 when the court has dismissed the claim on procedural or jurisdictional grounds and has not
28 issued a decision on the merits.

29 4. It provides that, if a customer of a public utility has filed a petition for a de novo
30 adjudicatory proceeding, the customer may not recover civil damages against the utility if
31 the customer's claim seeks relief for the same billing dispute for which relief is sought
32 through the commission except when the commission has dismissed the billing dispute on
33 procedural or jurisdictional grounds and has not issued a decision on the merits.

34 FISCAL NOTE REQUIRED

35 (See attached)



131st MAINE LEGISLATURE

LD 2132

LR 2895(02)

An Act to Clarify the Right to Appeal Certain Public Utilities Commission Decisions

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-847)
Committee: Energy, Utilities and Technology

Fiscal Note Required: Yes

Fiscal Note

	FY 2023-24	FY 2024-25	Projections FY 2025-26	Projections FY 2026-27
Appropriations/Allocations				
Other Special Revenue Funds	\$0	\$540,237	\$557,326	\$582,103
Revenue				
Other Special Revenue Funds	\$0	\$540,237	\$557,326	\$582,103

Correctional and Judicial Impact Statements

This bill may increase the number of appeals to the Law Court. The additional workload does not require additional funding at this time.

The collection of additional filing fees will increase General Fund revenue by minor amounts.

Fiscal Detail and Notes

The Public Utilities Commission has indicated that the additional adjudicatory proceedings due to this bill will require additional staff and resources to implement. This bill includes ongoing allocations of \$540,237 to the PUC starting in fiscal year 2024-25 for two Staff Attorney positions and two Utility Analyst positions and associated costs. Since the PUC is funded by assessments on impacted utilities set to produce sufficient revenue for the expenditures needed to operate it, the increased allocations in this bill require a corresponding increase in revenue from those assessments.