

# MAINE STATE LEGISLATURE

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**LAWS**

OF THE

**STATE OF MAINE**

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

**SECOND REGULAR SESSION**  
January 8, 1986 to April 16, 1986

**SECOND SPECIAL SESSION**  
May 28, 1986 to May 30, 1986

AND AT THE

**THIRD SPECIAL SESSION**  
October 17, 1986

PUBLISHED BY THE DIRECTOR OF REVISOR OF STATUTES IN  
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,  
TITLE 3, SECTION 163-A, SUBSECTION 4.

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J.S. McCarthy Co., Inc.  
Augusta, Maine

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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED AT THE  
SECOND REGULAR SESSION  
of the  
ONE HUNDRED AND TWELFTH LEGISLATURE  
1985

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J. Staff attorney, financial analyst and, chief utility accountant and utility accountant III positions at the Public Utilities Commission.

Sec. 2. 35 MRSA §1, 2nd ¶, as amended by PL 1985, c. 481, Pt. A, §65, is further amended to read:

The salaries of the other subordinate officials and employees of that commission, other than those of the general counsel, the Administrative Director, the director of finance and, the director of technical analysis, and the staff attorney, financial analyst and, chief utility accountant and utility accountant III positions, shall be subject to the Personnel Law. The general counsel, the Administrative Director, the Director of Finance and the Director of Technical Analysis shall serve at the pleasure of the commission and their salaries shall be set by the commission within the range established by Title 2, section 6-A. After successful completion of a probationary period, the employees occupying the staff attorney, financial analyst and, chief utility accountant and utility accountant III positions may be dismissed, suspended or otherwise disciplined only for cause. The compensation of the staff attorney, financial analyst and, chief utility accountant and utility accountant III positions shall be fixed by the commission with the approval of the Governor, but the compensations shall not in the aggregate exceed the total amount appropriated or allocated in the commission's budget. The commissioners and all employees shall receive actual expenses when traveling on official business.

Effective July 16, 1986.

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## CHAPTER 629

S.P. 669 - L.D. 1723

### AN ACT to Make Changes in the Laws Governing Public Utilities.

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

Sec. 1. 35 MRSA §13-A, as amended by PL 1983, c. 237, is further amended by adding after the 2nd paragraph a new paragraph to read:

Beginning on January 1, 1987, each electric company shall file annually with the commission a schedule of transmission line rebuilding or relocation projects which it intends to carry out during the next 5 years concerning transmission lines that will become, or will remain at, voltages of 100 kilovolts or more. The schedule shall describe each project, showing the length, location and estimated cost. If the commission determines that an investigation of any transmission reconstruction project is warranted, it shall notify the electric company within 60 days of the annual filing, and the electric company shall then be required to comply with the provisions of this section with respect to that project. The absence of a commission notification to file shall not preclude such notification in subsequent years.

Sec. 2. 35 MRSA §13-A, 7th ¶, as enacted by PL 1983, c. 237, is amended to read:

When the petition is filed, the electric company or companies involved shall pay to the Public Utilities Commission an amount equal to  $\frac{2}{100}$ th of 1% of the estimated cost ~~of the purchase or conversion to erect, rebuild or relocate the facility as may be applicable.~~ The utility or utilities may, at the time of the filing of notice of its intent to file the petition, request the commission to waive all or a portion of the filing fee. The commission shall rule on the request for waiver within 60 days. Notwithstanding any other provision of law, filing fees paid as required under this paragraph shall be segregated, apportioned and expended by the Public Utilities Commission for the purposes of this section. Any portion of the filing fee that is received from any utility or utilities and is not expended by the commission to process the petition for a certification of public convenience and necessity shall be returned to the utility or utilities.

Sec. 3. 35 MRSA §19, first ¶, as repealed and replaced by PL 1985, c. 506, Pt. A, §72, is amended to read:

All money collected by the Public Utilities Commission in the form of filing fees ~~or~~, expense reimbursements ordered by the commission or payments for services, such as reproduction and distribution of copies of commission decisions and photocopying or for the use of facilities, shall be deposited with the Treasurer of State in an account to be known as the Public Utilities Commission Reimbursement Fund,

which shall be a continuous carrying account, with appropriate subaccounts, for reimbursement of commission expenses incurred in processing the associated matters or providing the associated services or facilities which generated the filing fee ~~or~~, expense reimbursement or payment and so much thereof as may be required is appropriated allocated for these purposes and for refund of the unexpended portion of the filing fee. All such payments shall be made to the commission after approval of the State Controller and in no event may the payments exceed the amounts received by the Treasurer of State from the Public Utilities Commission.

Sec. 4. 35 MRS §72, 2nd ¶, as amended by PL 1983, c. 214, §1, is further amended to read:

Municipal and quasi-municipal water corporations which elect to set rates under this section shall not file with the commission or increase any rate, toll or charge without first holding a public hearing at which any person, firm or corporation which pays those rates, tolls or charges to the municipal or quasi-municipal water corporations may testify and may question the officials present regarding such proposed increase. The municipal or quasi-municipal water corporation as described in this section shall, at least 14 days prior to the hearing, publish a notice of the proposed rate increase and the hearing including the date, time, place and purpose of the hearing ~~at least twice~~ in a newspaper of general circulation in the area encompassed by the municipal or quasi-municipal water corporation. In addition, each municipal or quasi-municipal water corporation shall give one notice of the proposed rate increase and the date, time and place of the hearing to each of its ratepayers. The published and individual notices shall include a statement describing the amount of the increase and the percentage increase for each customer class and copies shall be sent to the commission at least 14 days prior to the hearings. At the commencement of each hearing held pursuant to this section, the municipal or quasi-municipal water corporation shall inform those present that the rate increase may be investigated by the Public Utilities Commission in accordance with this section. The water utility shall file its changed rates with the commission within 30 days of the public hearing, but not sooner than 10 days following the public hearing.

Sec. 5. 35 MRS §104, sub-§3, as amended by PL 1985, c. 481, Pt. C, §10, is further amended to read:

3. Consent by commission. No public utility may extend or receive credit or make or receive a loan to or from an affiliated interest or make any contract or arrangement for the furnishing of management, supervision of construction, engineering, accounting, legal, financial or similar services, or for the furnishing of any service other than those enumerated with any affiliated interest unless and until such contract or arrangement shall have been found by the commission not to be adverse to the public interest and shall have received its written approval.

Any such contract or arrangement filed with the commission hereunder shall be deemed approved unless the commission disapproves such within 60 days of filing. The commission may, however, suspend the effective date of the contract or arrangement for an additional 60 days if necessary to enable the commission to complete its review of the contract or arrangement.

The commission may approve a contract or arrangement undertaken subsequent to the effective date of this Act, subject to such terms and conditions and requirements as it deems necessary to safeguard the public interest. If such contracts or arrangements are not consented to or approved by the commission as provided in this section, the commission may disallow, for rate-making purposes, payments or such part of any such payments thereunder as the commission finds not to be in the public interest, and the commission may, after notice to the affected parties and opportunity for hearing, declare that contract or arrangement prospectively void. Unless otherwise invalid, that contract or arrangement shall remain in full force and effect until declared prospectively void and of no further effect by an effective final order of the commission issued under this section no later than 90 days from the date of service of the notice.

The commission shall, in the case of any utility or groups of utilities, have the power to exempt herefrom, from time to time, such classes of transactions as it may specify by rule or ~~regulation~~ order in advance and which in its judgment will not be adverse to the public interest.

Sec. 6. 35 MRSa §175 is enacted to read:

§175. Approval of capital leases

No capital lease, entered into by a public utility for a term of more than 3 years, of property having a fair value the greater of \$50,000 or 1% of the

public utility's total long-term debt is valid without the written approval of the commission. The commission's procedure and standards governing approval shall be similar to those which apply to applications under section 171.

Sec. 7. 35 MRSA §292, as amended by PL 1983, c. 141, §2, is repealed and the following enacted in its place:

§292. Notice of complaint

The commission, immediately upon the filing of a complaint, shall notify in writing the public utility complained of that a complaint has been made and of the nature of the complaint. The utility shall file its response to the complaint within 10 days of the date the notice of complaint is issued. After receipt of the response, if the commission is satisfied that the utility has taken adequate steps to remove the cause of the complaint or that the complaint is without merit, the complaint may be dismissed. If the complaint is not dismissed, the commission shall promptly set a date for a public hearing. The commission may allow for all parties to attempt to resolve the complaint to their mutual satisfaction. If a mutually satisfactory resolution does not appear to be forthcoming, the hearing shall be held on the complaint pursuant to section 293. In the absence of an informal disposition pursuant to Title 5, section 9053, the commission shall render a decision upon the complaint no later than 9 months after its filing.

Sec. 8. 35 MRSA §355, as amended by PL 1985, c. 481, Pt. C, §24, is further amended to read:

§355. Illegal issue of stocks, bonds or notes; misappropriation of proceeds

Any director or officer of any public utility who shall knowingly directly or indirectly issue or cause to be issued any stocks, bonds, notes or other evidences of indebtedness contrary to this Title, or who shall knowingly apply the proceeds from the sale thereof to any other purpose than that specified in the order of the commission shall, upon conviction thereof, be punished by a fine of not less than \$500 nor more than \$10,000 or by imprisonment for not less than one year nor more than 10 years, or by both.

Sec. 9. 35 MRSA §2326, as amended by PL 1983, c. 822, §3, is further amended to read:



§2326. Transactions

The rate paid by the public utility for the purchase of electricity as described in this section shall be determined by the small power producer or cogenerator and the public utility electric company or cooperative. In the event that the small power producer or cogenerator and the public utility electric company or cooperative are unable to agree to a contract for electricity, or to a price for the electricity purchased by the public utility, or to an equitable apportionment of existing transmission and distribution line improvement costs, the commission shall require the utility to purchase the power at such rates and under such terms as the commission shall establish by rule or order. In the event competing petitions are filed by small power producers or cogenerators which are otherwise equivalent with respect to the standards set forth in section 2327, and implementing rules promulgated by the commission, the commission may give preference to any such facility that is fueled primarily by municipal solid waste. The equitable apportionment of existing transmission and distribution line improvement costs by the commission shall be based upon the benefits to the small power producer or cogenerator and the public utility electric company or cooperative. The commission shall render a decision within 90 days 6 months from receipt of a petition signed by a small power producer, cogenerator, public utility electric company or electric cooperative for commission intercession.

Sec. 10. 35 MRSA §2361, as amended by PL 1983, c. 531, §§1 and 2, is further amended to read:

§2361. Telecommunication services for the deaf, hearing impaired and speech impaired

1. Toll call rates. The commission shall establish, ~~within 30 days after the effective date of this Act,~~ a 70% rate reduction for intrastate toll calls from deaf and hearing impaired and speech impaired persons who must rely on teletypewriters for residential telephone communications. To qualify for the reduction, a customer must file an affidavit, on a form approved by the Public Utilities Commission Division of Deafness, with the telephone company, stating that, due to deafness or hearing impairment or speech impairment, he or a member of the household must rely on a teletypewriter for telephone communications, and that such equipment is connected or acoustically coupled to his telephone.

2. Moneys for telecommunication typewriters. The Bureau of Rehabilitation within the Department of Human Services, pursuant to any appropriation of moneys to the bureau for telecommunication typewriters for the deaf, hearing impaired and speech impaired, shall, upon request, provide up to 50% of the cost of telecommunication typewriters to any organization or municipality that makes available the remaining funds for this equipment in a manner satisfactory to the Director of the Bureau of Rehabilitation.

3. Telecommunications Equipment Fund. A Telecommunications Equipment Fund is established. The ~~Office~~ Division of Deafness in the Bureau of Rehabilitation may accept any gifts or grants for the purposes of this section. These, and any authorized appropriations shall be deposited in the fund, and disbursed in accordance with this section. The fund may be used for purchase, lease, upgrading, installation, maintenance and repair of special telecommunications equipment for the deaf, hearing impaired or speech impaired. The ~~Office~~ Division of Deafness under the Bureau of Rehabilitation may draw on the fund in accordance with the Telecommunications Equipment Plan required under subsection 4. ~~The commission shall include a progress report on this program in its annual report under section 17, subsection 2.~~

4. Telecommunications Equipment Plan. The ~~Office~~ Division of Deafness shall develop a plan to make special telecommunications equipment available to deaf, hearing impaired and speech impaired persons, and to distribute moneys from the Telecommunications Equipment Fund. The plan shall be developed by the ~~Office~~ Division of Deafness ~~and approved by the commission~~ annually, not later than January 1st, after appropriate notice and hearing in accordance with the rule-making procedures in Title 5, chapter 375. The plan shall provide for the expenditure of moneys from the fund for the benefit of deaf, hearing impaired and speech impaired persons for the purchase, lease, upgrading, installation, maintenance and repair of special telecommunications equipment capable of serving their needs. Persons who are profoundly deaf or speech impaired so that they cannot use the telephone for expressive or receptive communications, as verified by a written report from an otologist, audiologist or physician are eligible for the assistance from the fund. The plan shall include specific criteria that will govern the priorities assigned to various persons who need this equipment. The criteria shall take into account household income, degree of impairment, need for emergency com-

munications, living arrangements and other factors deemed relevant by the ~~Office~~ Division of Deafness.

Sec. 11. 35 MRSA §3358, as enacted by PL 1981, c. 688, is amended to read:

§3358. Cost of review

The licensee shall submit to the commission, with the initial filing or upon a subsequent formal review of a decommissioning financing plan under this subchapter, a filing fee as determined by the commission, but not to exceed ~~\$35,000~~ \$50,000, in order to assist in covering the cost of review by the commission. Within one year after establishment of a decommissioning fund under this subchapter, the licensee may recover the licensing fee from the fund. Notwithstanding any other provision of law, money received from the filing fee shall be segregated, apportioned and expended by the Public Utilities Commission for the purposes stated in this section, with a report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs. Any unexpended funds from the filing fee shall be transferred to the decommissioning trust fund after approval of the plan.

Effective July 16, 1986.

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## CHAPTER 630

S.P. 701 - L.D. 1786

### AN ACT Concerning Mental Examination of Incarcerated Persons Accused of Crime.

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

Sec. 1. 15 MRSA §101, first ¶, as amended by PL 1983, c. 580, §2, is further amended to read:

The District Court or the Superior Court having jurisdiction in any criminal case for cause shown may order the defendant examined to determine his mental condition with reference to the issues of criminal responsibility and competence to stand trial. The examination may be conducted at the Augusta Mental Health Institute, Bangor Mental Health Institute, Pineland Center or at a mental health clinic of, or