

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

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

AS PASSED BY THE  
ONE HUNDRED AND THIRTEENTH LEGISLATURE  
FIRST REGULAR SESSION

December 3, 1986 to June 30, 1987

Chapters 1-542

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

---

Twin City Printery  
Lewiston, Maine  
1987

---

---

**PUBLIC LAWS**

OF THE

**STATE OF MAINE**

AS PASSED AT THE  
FIRST REGULAR SESSION  
of the  
ONE HUNDRED AND THIRTEENTH LEGISLATURE  
1987

---

---

reason to believe that any person is liable to punishment under this section, it may certify the facts to the Attorney General who may, in his discretion, cause appropriate proceedings to be brought.

§12278. Single act evidence of practice

In any action brought under section 12273 or 12277, evidence from the commission of a single act prohibited by this chapter shall be sufficient to justify a penalty, injunction, restraining order or conviction, respectively, without evidence of a general course of conduct.

§12279. Confidential communications

Except by permission of the client engaging a licensee under this chapter, or the heirs, successors or personal representatives of that client, a licensee or any partner, officer, shareholder or employee of a licensee shall not voluntarily disclose information communicated to him by the client relating to, and in connection with, services rendered to the client by the licensee in the practice of public accountancy. That information shall be considered confidential, provided that nothing may be construed as prohibiting the disclosure of information required to be disclosed by the standards of the public accounting profession in reporting on the examination of financial statements or as prohibiting disclosures in court proceedings, investigations or proceedings under section 12273, in ethical investigations conducted by private professional organizations or in the course of quality reviews.

§12280. Licensee's working papers; client's records

1. Records; property of licensee. All statements, records, schedules, working papers and memoranda made by a licensee or a partner, shareholder, officer, director or employee of a licensee, incident to, or in the course of, rendering services to a client in the practice of public accountancy, except the reports submitted by the licensee to the client and except for records that are part of the client's records, shall be and remain the property of the licensee in the absence of an express agreement between the licensee and the client to the contrary. No statement, record, schedule, working paper or memorandum may be sold, transferred or bequeathed, without the consent of the client or his personal representative or assignee, to anyone other than one or more surviving partners or stockholders or new partners or stockholders of the licensee or any combined or merged firm or successor in interest to the licensee.

2. Licensee to furnish items to client. A licensee shall furnish to his client or former client upon request and reasonable notice:

A. A copy of the licensee's working papers, to the extent that the working papers include records that would ordinarily constitute part of the client's records and are not otherwise available to the client; and

B. Any accounting or other records belonging to, or obtained from or on behalf of, the client that the licensee removed from the client's premises or received for the client's account. The licensee may make and retain copies of those documents of the client when they form the basis for work done by him.

**Sec. 3. Allocation.** The following funds are allocated from the Board of Accountancy Fund to carry out the purposes of this Act.

	1987-88	1988-89
<u>PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF</u>		
Board of Accountancy		
Personal Services	(1)	(1)
All Other	\$19,000	\$20,000
<p>To provide funding for a Clerk Typist III position to act as clerk to the board to carry out the day-to-day operation of the board.</p>		

Effective September 29, 1987.

## CHAPTER 490

H.P. 1361 — L.D. 1863

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

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

#### PART A

**Sec. 1.** 35-A MRSA §501, sub-§1, as enacted by PL 1987, c. 141, Pt. A, §6, is repealed and the following enacted in its place:

1. Other systems prohibited. Nothing in this Title requires any public utility engaged in interstate commerce to act contrary to the requirements of any federal law relating to public utilities engaged in interstate commerce.

**Sec. 2.** 35-A MRSA §703, sub-§4, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

4. Forfeiture. A person who violates this section by knowingly soliciting, accepting or receiving an unlawful preference from a utility commits a civil violation for which a forfeiture not to exceed \$1,000 shall be adjudged for each offense. A public utility that offers or grants an unlawful preference commits a civil violation for which a forfeiture not to exceed \$1,000 may be adjudged for each offense.

**Sec. 3.** 35-A MRSA §1306, sub-§5, ¶B, as enacted by PL 1987, c. 141, Pt. A, §6, is repealed and the follow-

ing enacted in its place:

B. When signed by the administrative director or within such other time as may be prescribed by the commission.

Sec. 4. 35-A MRSA §3102, sub-§5, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

5. Canceled plant recovery filing fee. Any utility requesting recovery in rates of its investment in a canceled or abandoned electric generating facility shall pay to the commission a filing fee of \$150,000 for each facility. The utility may request the commission to waive all or a portion of the filing fee. The commission shall rule on the request for waiver within 30 days. Filing fees paid as required in this section shall be segregated, apportioned and expended by the commission for the purposes of this section. Any portion of the filing fee that is received from any utility and is not expended by the commission for the purposes of this section shall be returned to the utility.

Sec. 5. 35-A MRSA §3132, sub-§9, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

9. Filing fee; waiver of fee. When a petition is filed under this section, the electric utility or utilities involved shall pay to the commission an amount equal to 2/100 of 1% of the estimated cost to erect, rebuild or relocate the facility. The utility 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~~ 30 days.

Filing fees paid as required under this subsection shall be segregated, apportioned and expended by the commission for the purposes of this section. Any portion of the filing fee that is received from any utility and is not expended by the commission to process the petition for a ~~certification~~ certificate of public convenience and necessity shall be returned to the utility.

Sec. 6. 35-A MRSA §3133, sub-§8, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

8. Filing fee. When the petition is filed, the utility or utilities involved shall pay to the commission an amount equal to 2/100 of 1% of the estimated cost of the purchase or conversion. 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~~ a request for waiver within ~~60~~ 30 days.

Filing fees paid as required by this subsection shall be segregated, apportioned and expended by the 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~~ certificate of public convenience

and necessity shall be returned to the utility or utilities.

Sec. 7. 35-A MRSA §3306, sub-§6, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

6. Filing fee. The petitioner or petitioners requesting commission intercession shall pay to the commission an amount equal to \$1,000 per megawatt of capacity of the facility in issue. The petitioner or petitioners may request the commission to waive all or part of the filing fee. The commission shall rule on the request for waiver within 30 days. Notwithstanding any other provision of law, filing fees paid as required in this ~~paragraph~~ subsection shall be segregated, apportioned and expended by the commission for the purposes of this section. Any portion of the filing fee that is received from any petitioner or petitioners and is not expended by the commission to process the request for intercession shall be returned to the petitioner or petitioners.

Sec. 8. 37-B MRSA §1055, as enacted by PL 1983, c. 460, §3, is amended to read:

#### §1055. Exemptions

Dams and projects licensed by or subject to the jurisdiction of the Federal ~~Power Energy Regulatory Commission and dams and projects of public utilities that have been certified to be in a safe condition by the Public Utilities Commission,~~ after inspection at least once in every 5 years, are exempt from this chapter.

### PART B

Sec. 1. 35-A MRSA §1101, sub-§1, ¶A, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

A. Sell, lease, assign, mortgage or otherwise dispose of or encumber the whole or part of its property that is necessary or useful in the performance of its duties to the public, or any part of its property under construction for the performance of its duties to the public, or its franchises, permits or rights under them;

Sec. 2. 35-A MRSA §1101, sub-§3, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

3. Utilities exclusively outside the State. Nothing in this section applies to property, franchises, permits or rights of a utility owned and operated exclusively outside the State, unless the property, franchise, permits or rights are owned, operated or under construction with respect to the performance of the utility's duties to the public inside this State.

Sec. 3. 35-A MRSA §1103, sub-§3 is enacted to read:

3. Acquiring additional stock. Nothing in this section may be construed to prevent the holding of stock lawfully acquired prior to the effective date of Public Law 1913, chapter 129, section 38, as approved March 27, 1913, or to prevent the acquiring of additional stock by a pub-

lic utility which owned on that date a majority of the stock of such other utility.

Sec. 4. 35-A MRSA §3133, sub-§9 is enacted to read:

9. Imported power. In its review of any petition filed on or after January 1, 1987, for approval of the purchase of generating capacity or energy from outside the State, the commission may consider the comparative economic impact on the State of production of additional power within the State, investments in energy conservation and the purchase of the power from outside the State.

Sec. 5. 35-A MRSA §3134-A is enacted to read:

§3134-A. New England Electric Power Pool Agreement

1. Utility review of the New England Electric Power Pool Agreement. The Public Utilities Commission shall require, by rule, that each Maine utility which is a member of the New England Electric Power Pool Agreement review that agreement at least every 3 years. The utilities may conduct that review jointly. That review shall address the following factors and concerns and any others which the commission finds relevant to participation in the New England Electric Power Pool Agreement:

- A. Capacity and reserve requirement;
- B. Energy requirements including reserve requirements;
- C. Reliability;
- D. Transmission and wheeling;
- E. Pooled purchases from outside the State;
- F. Treatment of cogeneration contracts;
- G. Allocation of interruptible credit;
- H. Whether the agreement and practices encourage efficient and economic decisions with respect to future electric supply options;
- I. Planning of generation, power purchases and transmission; and
- J. Operation and dispatch of supply.

The review shall evaluate whether participation in the New England Electric Power Pool Agreement is the best option for the particular Maine utility. It shall also investigate whether the allocation of costs and benefits and responsibility for planning decisions within the New England Electric Power Pool Agreement is reasonable.

2. Review by nonmembers. The Public Utilities Commission may require any Maine electric utility serv-

ing more than 20,000 customers, which is not a member of the New England Electric Power Pool Agreement, to conduct reviews of the possibility of joining the New England Electric Power Pool Agreement, similar to the review of subsection 1, at intervals of at least 3 years.

3. Public Utilities Commission review of the New England Electric Power Pool Agreement. The utility shall submit to the commission a report of any review undertaken in accordance with this section together with supporting data and additional information as required for review by the commission. If the Public Utilities Commission finds, after consideration of a utility's submission under subsection 1 or 2, that further investigation by the commission is warranted, then the commission shall proceed under section 1303. This shall not preclude the commission from conducting a review of a utility's participation or nonparticipation in the New England Electric Power Pool Agreement at any time on its own motion in accordance with section 1303, even if the utility has filed no submission on the issue.

Sec. 6. 35-A MRSA §3153, sub-§5, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

5. Utility financing of energy conservation. Electric utility financing or subsidization of capital improvements undertaken by ratepayers to conserve electricity used by the ratepayers in the future. The commission may approve and allow cost recovery for proposals that result in savings in fuel other than electricity. This subsection shall apply to future programs for utility financing of energy conservation or load management and to such programs that the commission has already approved prior to the effective date of this Act.

Sec. 7. 35-A MRSA c. 31, sub-c. V, §3180 is enacted to read:

§3180. Definitions

As used in this subchapter, unless the context indicates otherwise, the following terms have the following meanings.

1. Affiliate. "Affiliate" means any person who, as determined by the commission:

- A. Directly controls, is controlled by or is under common control with an electric generation enterprise; or
- B. Substantially owns, is substantially owned by or is substantially under common ownership with, an electric generation enterprise.

Sec. 8. 35-A MRSA §3182, sub-§1, as enacted by PL 1987, c. 141, Pt. A, §6, is repealed and the following enacted in its place:

1. Affiliates. Upon the request of an industrial enterprise located in the State to transmit or wheel electricity to an affiliate in the State, the electric utility shall

enter into an agreement of not more than 30 years' duration to provide transmission or wheeling services subject to reasonable conditions and subject to the conditions of subsection 2.

Sec. 9. 35-A MRS §3182, sub-§5 is enacted to read:

5. Reporting. Any electric utility which provides transmission or wheeling services for electricity generated outside its service area, or for electricity generated within its service area by any other generator of electricity for delivery outside of the utility's service area, shall inform the commission of the identity of the generator and the terms and conditions for the transmission or wheeling. The report shall be filed within 30 days after any contract or agreement is signed.

Sec. 10. 35-A MRS §6101, sub-§1, as enacted by PL 1987, c. 141, Pt. A, §6, is repealed.

Sec. 11. 35-A MRS §6101, sub-§§1-A and 1-B are enacted to read:

1-A. Consumer-owned water utility. "Consumer-owned water utility" means any water utility which is wholly owned by its consumers, including, but not limited to, any municipal or quasi-municipal water district or corporation, municipal water department or the water portion of any utility wholly owned by a municipality or district.

1-B. Governing body. "Governing body" means the governing body of a consumer-owned water utility.

Sec. 12. 35-A MRS §6104, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

§6104. Municipal and quasi-municipal water utilities subject to suspension, investigation, hearing and rate substitution

1. Application of this section. Notwithstanding section 310, municipal and quasi-municipal corporations which are consumer-owned water utilities are subject to the suspension, investigation, hearing and rate substitution provisions of section 310 under the conditions specified in this section.

2. Utilities which elect to set rates under this section. Municipal and quasi-municipal Consumer-owned water utilities which elect to set rates under this section may not file with the commission or increase any rate, toll or charge without first holding a public hearing at which any customer may testify and may question the officials present regarding the proposed increase.

3. Notice of proposed rate increase and hearing. The municipal or quasi-municipal consumer-owned water utility 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, in a newspaper of general circulation in the

area encompassed by the ~~municipal or quasi-municipal~~ consumer-owned water utility and give one notice of the proposed rate increase and the date, time and place of the hearing to each of its customers. 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.

4. Notice that rate increase may be investigated by commission. At the commencement of each hearing held pursuant to this section, the ~~municipal or quasi-municipal~~ consumer-owned water utility shall inform those present that the rate increase may be investigated by the commission in accordance with this section.

5. Filing changed rates. 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.

6. Effective date established for rate change. Subject to the notice and waiver requirements of section 307, water utilities electing to set rates under this section may establish an effective date for a rate change of at least one month, but not more than 9 months, from the date the rates are filed with the commission.

7. Authority to investigate rate changes. If, within 30 days of the public hearing, 15% of the customers of the ~~municipal or quasi-municipal~~ consumer-owned water utility or 1,000 customers, whichever is less, file with the treasurer of the utility and with the commission petitions demanding a review of the rate changes by the commission, the rate change may be suspended, investigated, reviewed and changed in accordance with section 310, except that no suspension order issued by the commission pursuant to section 310 may be effective for a period greater than 9 months from the date the rate changes were filed.

8. Procedure for suspension of rate change. If the number of signatures on the petitions is 1,000 or if the number of signatures on the petitions equals or exceeds 15% of the customers indicated on the water utility's most recent annual report on file with the commission, the commission may suspend the rate change pursuant to section 310. The commission shall notify the water utility of the suspension.

9. Water utility may challenge petitions. The water utility has 10 days from receipt of notice to notify the commission whether it intends to contest any aspect of the validity of the petitions, after which it shall lose that right. If the water utility notifies the commission in a timely fashion that it wishes to contest the validity of the petitions, the commission shall schedule a hearing. It shall hold the hearing and issue its decision on the validity of the petitions within 30 days of notification by the water utility that it intends to contest the validity of the petitions. If the commission finds the petitions to be invalid, it shall lift its order of suspension.

10. Review of rates under section 310. Nothing in this section prohibits a ~~municipal or quasi-municipal~~ consumer-owned water utility from petitioning the commission for review pursuant to section 310 in the first instance.

11. Correction of errors. Upon review of a rate filing made pursuant to this section, the commission may order the municipal or quasi-municipal water utility to correct mathematical or clerical errors.

**Sec. 13.** 35-A MRSA §6105, sub-§1, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

1. Scope of section. Notwithstanding any other provision of this Title or any charter to the contrary and in addition to any charter or private and special laws creating or affecting a ~~municipal or quasi-municipal~~ consumer-owned water utility, the rate, toll or charge made, exacted, demanded or collected by a ~~municipal water or quasi-municipal~~ consumer-owned water utility is governed by this section.

**Sec. 14.** 35-A MRSA §6105, sub-§4, ¶E, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

E. To provide for a contingency reserve fund allowance by providing rates to reflect up to a 5% addition to yearly revenues over what is required to operate the water ~~company~~ utility.

If this allowance results in an excessive surplus, rates may be set which use the excess to offset future revenue requirements. The commission shall adopt rules which define excessive surplus resulting from the allowance, set forth uses of funds in that portion of the surplus which is not excessive, including the retirement of debt where economic, and provide that funds in the surplus which are excessive be returned to customers in the form of temporary rate adjustments, credits or reduction in rates.

**Sec. 15.** 35-A MRSA §6106, sub-§1, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

1. Investment. The governing body of a ~~municipal or quasi-municipal~~ consumer-owned water utility may choose to make no investment in a water main extension or service line and may require persons requesting a water main extension or service line to advance to the utility the full cost of construction, including associated appurtenances required solely as a result of the construction of the water main extension or service line and used solely for the operation of the main extension or service line. Apportionment of the costs among customers shall be determined by the commission by rule.

**Sec. 16.** 35-A MRSA §6107, sub-§§1 to 5, as enacted by PL 1987, c. 141, Pt. A, §6, are amended to read:

1. System development charge authorized. In addition to section 6105, the governing body of a ~~municipal~~

~~water or quasi-municipal~~ consumer-owned water utility may establish and file, pursuant to section 310 or 6104, a system development charge which is just and reasonable to provide funds to finance capital outlays for water system expansion caused by an increase in demand for service.

2. Commission review. If a ~~municipal or quasi-municipal~~ consumer-owned water utility elects to institute a system development charge, it shall file the proposed charge and a description of the basis of the charge with the commission not less than 90 days before the effective date of the charge. The commission shall investigate the system development charge under section 1303 to determine whether it is just and reasonable.

3. Use of funds. The funds generated by the system development charge shall be deposited into a special account of the ~~municipal or quasi-municipal~~ consumer-owned water utility dedicated to finance capital outlays for water system expansion caused by an increase in demand for service. The funds from the special account shall be used only for the purpose of financing the expansion of the system and shall not be used for the repair or replacement of existing facilities unless the replacement is required as a result of increased demand for service. The system development charge shall not be treated as income of the ~~municipal or quasi-municipal~~ consumer-owned water utility nor shall it be considered part of the rates established and filed pursuant to section 6105.

4. Assessment of charge. The system development charge may be assessed upon all customers of the ~~municipal or quasi-municipal~~ consumer-owned water utility that require new connections to the water system, excluding fire service, as of or after the effective date of that charge and upon all existing customers who substantially expand their demand for water service as of or after the effective date of that charge.

5. Water conservation programs. Before a system development charge may be instituted, the ~~municipal or quasi-municipal~~ consumer-owned water utility must report to the commission its efforts in implementing water conservation programs. The utility shall state what combination of system development charges and new conservation programs will allow the utility to meet growing demand in the least costly manner.

**Sec. 17.** 35-A MRSA c. 67, as enacted by PL 1987, c. 141, Pt. A, §6, is repealed and the following enacted in its place:

#### CHAPTER 67

#### CONDEMNATION BY WATER UTILITIES

##### §6701. Necessity of taking determined

The owner of property which is subject to appropriation for public purposes by a water utility, upon hear-



ing, may have the commission determine the necessity of the appropriation.

§6702. Petition by owner

The owner of the property, within 30 days after the beginning of condemnation proceedings, may file with the commission a petition for a decision as to the necessity of the appropriation. A copy of the petition and order of notice, attested by the administrative director, shall be served on the defendant.

§6703. Proceedings before commissioners

1. Hearing. The commissioners shall fix a time for a hearing, inside the county where the property is situated, and give written notice of the hearing to the owner and to the water utility seeking to acquire the property. At the hearing, all parties in interest shall be heard either in person or by attorney, and witnesses may be summoned by either party and attendance compelled as before other judicial tribunals.

2. Burden of proof. The burden of proof to show the necessity of the particular taking rests on the party seeking to acquire the property.

3. Commission's decision. The decision of a majority of the commissioners is final as to questions of fact.

§6704. Condemnation proceedings by water utility

Upon the commencement of condemnation proceedings, the utility seeking to acquire property, unless otherwise provided by law, may file a petition asking that the necessity of the taking be determined. After the petition is filed, the proceedings shall be the same as in the case of a petition by the landowner.

§6705. Validation of proceedings

All plans and descriptions of land and all descriptions of other property taken by a water utility for its purposes and uses, filed in the office of the county commissioners of the county where the land or other property is situated, prior to March 9, 1889, are valid and legal for all purposes of taking.

§6706. Water utility line crossing railroad right-of-way

Wherever a line or main of a water utility is located and about to be constructed across the right-of-way of a railroad, unless the officers of the water utility agree with the corporation operating the railroad as to the time, place, manner and conditions of the crossing, the commission upon petition of either party, after notice and hearing, shall determine the time, place, manner and conditions of the crossing. All the work within the limits of the railroad shall be done under the supervision of the officers of the corporation operating the railroad and to the satisfaction of the commission. The water utility shall bear the expense of the work. The commission shall

report its decision in the same manner as in the case of highways located across railroads and subject to the same right of appeal.

Sec. 18. PL 1987, c. 36 is repealed.

Sec. 19. PL 1987, c. 65 is repealed.

Sec. 20. PL 1987, c. 97 is repealed.

Sec. 21. PL 1987, c. 120 is repealed.

Sec. 22. PL 1987, c. 224 is repealed.

PART C

Sec. 1. 33 MRSA cc. 33 and 35 are enacted to read:

CHAPTER 33

UNCLAIMED BAGGAGE AND MERCHANDISE

§1701. Merchandise unclaimed for 6 months, sold to pay charges

Whenever baggage, goods, merchandise, packages or parcels transported by any railroad, steamboat, express company or stage company existing by virtue of the laws of this State remain unclaimed for 6 months after its arrival at the point to which it shall have been directed, the same may be sold at auction in the city or town where the railroad, steamboat, express company or stage company has its general or principal office or any freight house. Whenever baggage, goods, merchandise, packages or parcels transported by any railroad, steamboat, express company or stage company not existing by virtue of the laws of this State and having no office or president, treasurer, clerk or general superintendent within this State, but doing business in this State, remain unclaimed for 6 months after its arrival at the point to which it shall have been directed, the same may be sold at auction to pay the charges thereon and the expense of advertising and selling.

§1702. Notice of sale; disposal of proceeds

Any company existing by virtue of the laws of this State holding any such articles or merchandise shall give, before selling the same, 30 days' notice of the time and place of sale in 4 public newspapers, one published at Portland, in the County of Cumberland; one published at Augusta, in the County of Kennebec; one published at Lewiston, in the County of Androscoggin; and one published at Bangor, in the County of Penobscot. The notices shall contain a brief description and list of all such property and shall describe such marks thereon as may serve to identify them, together with the name of the consignee and the place to which the articles were billed. Any company not existing by virtue of the laws of this State and having no office or president, treasurer, clerk or general superintendent within this State, before selling any such articles or merchandise, shall give 30 days'

notice of the time and place of sale, by publishing notice in some public newspaper, printed in the county where such merchandise is so held, 3 weeks successively, the last publication to be at least 7 days before the day appointed for the sale. If no newspaper is published in the county where such articles or merchandise are so held, such notice shall be published in some newspaper in an adjoining county. Such articles or merchandise shall be sold at the place where held. The proceeds of all goods so sold, after deducting the costs of transportation, storage, advertising and sale, shall be placed to the credit of the owner in the books of the company making the sale and shall be paid to him on demand. The company shall not be liable to the owner of the property for any greater sum than so received from the sale.

§1703. Common carriers may sell perishable goods which owner neglects or refuses to receive

When a common carrier has transported property of a perishable nature, which cannot be kept without great deterioration or substantial destruction, to its place of destination and has notified the owner or consignee of the arrival of the same, and the owner or consignee, after such notice, has refused or omitted to receive and take away the same and pay the freight and proper charges thereon, the carrier, in the exercise of a reasonable discretion, may sell the same at public or private sale without advertising. The proceeds, after deducting the amount of the freight and charges and expenses of sale, shall be held for the persons entitled thereto. If the owner or consignee cannot be found on reasonable inquiry, the sale may be made without such notice.

§1704. Sale of livestock; proceedings when owner or consignee missing; notice of sale

When a common carrier has transported livestock, which can be kept only at continual expense, to its place of destination and has notified the owner or consignee of the arrival of the same, and the owner or consignee after such notice has refused or omitted to receive and take away the same and pay the freight and proper charges thereon, the carrier may cause the same to be sold at auction to pay the freight and charges thereon, including the cost of keeping, and the expenses of advertising and selling. If the owner or consignee cannot be found on reasonable inquiry, the carrier may cause the same to be advertised and sold without such notice. Before selling any such livestock, the common carrier holding the same shall give 2 weeks' notice of the time and place of sale in a newspaper published in the place where the livestock is held, if any; otherwise in a newspaper published at a place nearest thereto. The notice shall reasonably describe the livestock. The proceeds of sale, after deducting the amount of freight and charges, including the cost of keeping and the expenses of advertising and sale, shall be held for the persons entitled thereto.

§1705. All sales recorded

All sales under this chapter shall be recorded in a suitable book, open to the inspection of claimants, in which the articles sold shall be correctly described, and the charges and expenses thereon and the price at which they were sold shall be entered.

## CHAPTER 35

### TRANSPORTATION OF PROPERTY IN DISPUTE

§1751. Transportation of property, when title is in dispute

1. Responsibility of carrier. When property is delivered to a common carrier for transportation, and any person other than the consignor or consignee shall claim the title to such property and shall forbid its transportation, he shall forthwith give written notice to the carrier forbidding its transportation, and thereupon the carrier shall be authorized to delay the transportation for the space of 5 days, and unless within such 5 days such claimant shall replevy such property or if he shall fail to give such written notice, the carrier is authorized to proceed with the transportation of such property and shall not be liable for so transporting.

2. Definition. For purposes of this chapter, transportation of property means every service in connection with or incidental to the transportation of property, including in particular its receipt, delivery, elevation, transfer, switching, carriage, ventilation, refrigeration, icing, dunnage, storage and handling, and the transmission of credit by express or telegraph companies.

Sec. 2. 35-A MRSA §102, sub-§22, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

22. Water utility. "Water utility" includes every person, its lessees, trustees, receivers or trustees appointed by any court, owning, controlling, operating or managing any water works for compensation within this State, including any aqueduct organized under former Title 35, chapter 261 and any of its predecessors.

Sec. 3. 35-A MRSA §701, sub-§3, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

3. Furnishing appliances. Nothing in this section requires a public utility to furnish any part of the appliances which are situated in or upon the premises of any customer or user, except telephone station equipments a telephone interface upon the subscribers' premises, and unless otherwise ordered by the commission, meters and appliances for the measurement of any product or service.

Sec. 4. 35-A MRSA §1305, sub-§2, as enacted by PL 1987, c. 141, Pt. A, §6, is repealed and the following enacted in its place:

2. Examiners. The commission may appoint examiners who have authority to:

A. Administer oaths;

B. Examine witnesses;

C. Issue subpoenas;

D. Require the production of books, accounts, papers, documents and testimony; and

E. Receive evidence in any matter under the commission's jurisdiction.

The examiners also shall perform such other duties as may be assigned to them.

Sec. 5. 35-A MRSA §1312, sub-§2, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

2. Fees. The State shall audit and pay the fees in the same manner as other state expenses are audited and paid upon the presentation of proper vouchers approved by the commission. ~~There shall be deducted from the mileage allowed witnesses under this section who travel, or may travel, to and from the place of hearing on a pass or other form of free transportation, a sum equal to the fare to and from the place of hearing at the lowest published rates for single or return trip tickets.~~

Sec. 6. 35-A MRSA §1710, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

§1710. Restriction

Unless otherwise provided by law, the duties of the Public Advocate are restricted to those relating to matters within the jurisdiction of the commission. ~~In the event that the selection of the commission is required by law to be accomplished by any other method than appointment by the Governor, with confirmation by the Legislature, this chapter is repealed, and the staff and any balance in the budget of the Public Advocate shall be transferred to the commission for the remainder of the fiscal year, effective on the date when a quorum of the commission selected by the other method is qualified for office.~~

Sec. 7. 35-A MRSA §2101, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

§2101. Organization of certain public utility corporations

Corporations for the operation of telegraphs or telephones and for the purpose of making, generating, selling, distributing and supplying gas or electricity or for the operation of water utilities, ferries or public heating utilities in any municipality, or 2 or more adjoining municipalities, within the State, may be organized under ~~Title 13-A~~ the general corporate law of the State.

Sec. 8. 35-A MRSA §2521, as enacted by PL 1987, c. 141, Pt. A, §6, is repealed.

Sec. 9. 35-A MRSA §3501, sub-§1, ¶¶C and D, as enacted by PL 1987, c. 141, §6, are amended to read:

C. Any municipal, ~~plantation~~ or quasi-municipal electric utility;

D. The electric portion of any municipal, ~~plantation~~ or quasi-municipal entity providing electric and other services; and

Sec. 10. 35-A MRSA §4331, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

§4331. Purpose

The Legislature finds that nuclear power plants routinely release radioactive materials to the environment. These radioactive materials are generally released in a controlled manner and within the limits established by the United States Nuclear Regulatory Commission. Some of these releases have been unplanned, unscheduled and inadvertent. On occasion, they exceed technical specification limits. ~~No firm evidence exists that these radioactive emissions do or do not present a genetic or long-term health risk.~~ Most authorities agree that it should be assumed that radiation at any dose level has a finite risk. The Legislature finds, therefore, that the public welfare will be better protected if the public is fully informed on any release of radioactive materials to the environment.

Sec. 11. 35-A MRSA §4507, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

§4507. Franchise area; restricted sale

A natural gas pipeline utility may not supply or sell natural gas to any person within the franchise area of another utility, which is authorized by the State to transmit or sell gas within the franchise area, except to that other utility, unless the other utility consents to the sale and the commission approves or the commission permits the sale, after notice and hearing.

Sec. 12. 35-A MRSA §6304, sub-§1, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

1. Notice to general public and rate payers. In the event that the trustees vote to authorize bonds or notes, the estimated cost of which, singly or in the aggregate included in any one financing, is \$150,000 or more adjusted, relative to 1981 as the base year according to the annual Consumer Price Index, as defined in Title 5, section 17001, subsection 9, the trustees shall provide notice to the general public of the proposed bond or note issue and the purposes for which the debt is being issued. The notice shall be published at least once in a newspaper having general circulation in the district. The trustees shall give notice to each ratepayer by mail. Notice of a rate change under section 6104, which contains the notice required by this section satisfies the notice requirements of this section.

Effective September 29, 1987.

No debt may be incurred under the vote of the trustees until the expiration of 7 full days following the date on which the notice was first published and mailed. Prior to the expiration of the period, the trustees shall call a special district meeting for the purpose of permitting the collection of testimony from the public concerning the amount of debt so authorized.

Sec. 13. 35-A MRSA §6307, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

§6307. Legislative amendment of charter

~~Each year, on or before April 15th, the joint standing committee of the Legislature having jurisdiction over public utilities shall report out legislation entitled "AN ACT to Amend the Charters of Various Water Districts Organized under the Private and Special Laws." Amendments to water district charters shall generally be included in that Act. Prior to acting upon any proposed water district charter amendment, the joint standing committee of the Legislature having jurisdiction over public utilities shall obtain written comments from the municipalities that lie in whole or in part within the district.~~

Sec. 14. 35-A MRSA c. 69, as enacted by PL 1987, c. 141, Pt. A, §6, is repealed.

Sec. 15. 35-A MRSA §7102, sub-§1, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

1. Emergency. "Emergency" means a situation in which property or human or animal life is in jeopardy and the prompt summoning of aid is essential.

Sec. 16. 35-A MRSA §8101, sub-§2, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

~~2. Penalty for falsifying contents of dispatch. An operator or agent who intentionally falsifies a dispatch commits a civil violation for which a forfeiture of not less than \$20 nor more than \$100 may be adjudged. In case of his avoidance or inability to pay the judgment, his employer must pay the sum is guilty of falsifying a dispatch. Falsifying a dispatch is a Class E crime.~~

Sec. 17. 38 MRSA §1253, sub-§3, as enacted by PL 1981, c. 466, §13, is amended to read:

~~3. Legislative amendment of charters. Each year, on or before April 15th, the legislative committee having jurisdiction over public utilities shall report out legislation entitled "AN ACT to Amend the Charters of Various Sewer Districts Organized Under the Private and Special Laws." Amendments to sewer district charters shall generally be included in that Act. Prior to acting upon any proposed sewer district charter amendment the legislative committee shall obtain written comments from the municipalities that lie in whole or in part within the district.~~

## CHAPTER 491

H.P. 618 — L.D. 836

### AN ACT to Provide Comprehensive Protection for Ground Water.

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

Sec. 1. 23 MRSA §3659 is enacted to read:

#### §3659. Protection of private water supplies

In the event a land owner believes that a private water supply on his land has been destroyed or rendered unfit for human consumption by a political subdivision constructing, reconstructing or maintaining a public highway under its jurisdiction, the owner may apply in writing to the political subdivision for a determination of the alleged cause and assessment of damages.

1. Application presented within 2 years. If the claim is founded on construction or reconstruction, the owner shall present the application within 2 years after completion of the work as that date appears in the records of the political subdivision. The application shall set forth:

- A. The name and address of the owner;
- B. The name and address of any lien holder;
- C. The owner's source of title;
- D. The location of the property;
- E. A description of the damage; and
- F. The cause to which the damage is attributed.

2. Written response. Within 90 days upon receipt of the owner's application, the political subdivision shall forward a written response to the owner.

3. Offer of settlement. If the political subdivision determines that any damage to the privately owned water supply was caused by the political subdivision constructing, reconstructing or maintaining the public highway, the political subdivision shall set forth in its response an offer of settlement. The political subdivision in its response shall consider the necessity for the installation or replacement of piping, tanks, pumps, heating systems or other related fixtures. In its offer of settlement, a political subdivision may consider the following remedies:

- A. Replacing the water supply;
- B. Repairing the damage to the water supply;