

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST REGULAR SESSION
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IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4

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Augusta, Maine
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~~not waived by the court, such~~ Such evidence ~~shall~~ must include, but is not necessarily ~~be~~ limited to, the social study ~~and written report, if ordered prepared under section 3311, subsection 3, and other reports as provided in section 3311, subsection 1.~~ Any person who would be entitled to address the court pursuant to Title 17-A, section 1257 if the conduct for which the juvenile has been adjudicated had been committed by an adult, as provided in that section, must be accorded notice of the dispositional hearing and the right to address the court. The Maine Rules of Evidence ~~shall~~ do not apply in dispositional hearings.

Sec. 4. 15 MRSA §3314, sub-§6 is enacted to read:

6. Forfeiture of firearms. As part of every disposition in every proceeding under this code, every firearm that constitutes the basis for an adjudication for a juvenile crime that, if committed by an adult, would constitute a violation of section 393 or Title 17-A, section 1105, subsection 1, paragraph C and every firearm used by the juvenile or any accomplice during the course of conduct for which the juvenile has been adjudicated to have committed a juvenile crime that would have been forfeited pursuant to Title 17-A, section 1158 if the criminal conduct had been committed by an adult must be forfeited to the State and the juvenile court shall so order unless another person satisfies the court prior to the dispositional hearing and by a preponderance of the evidence that the other person had a right to possess the firearm, to the exclusion of the juvenile, at the time of the conduct that constitutes the juvenile crime. Rules adopted by the Attorney General that govern the disposition of firearms forfeited pursuant to Title 17-A, section 1158 govern forfeitures under this subsection.

See title page for effective date.

CHAPTER 254

H.P. 1040 - L.D. 1459

An Act to Make Changes to the Public Utilities Laws

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

Sec. 1. 35-A MRSA §307, first ¶, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

No change may be made in any schedule, including schedules of joint rates, except upon 30 days' notice to the commission, and all such changes must be plainly indicated upon existing schedules by filing new schedules in lieu of them 30 days prior to the time they are to take effect. The commission may,

for good cause shown, allow changes upon less than the notice specified or modify the requirements of this section and section 308 in respect to publishing, posting and filing of ~~tariffs~~ schedules, either in particular instances or by a ~~general order rule~~ applicable to special or peculiar circumstances or conditions.

Sec. 2. 35-A MRSA §703, sub-§3, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

3. Existing contracts. The furnishing by a public utility of a product or service at the rates and upon terms and conditions provided for in a contract in existence January 1, 1913, may not be construed as constituting a discrimination or undue or unreasonable preference or advantage within the meaning specified. When any such contract or contracts are or become terminable by notice of a utility, the commission may order that the contract or contracts be terminated by the utility as and when directed by the order. ~~It shall be lawful for a public utility to make a contract for a definite term subject to the commission's approval for its product or service, but the published rates shall not be changed during the term of the contract without the commission's consent.~~

Sec. 3. 35-A MRSA §703, sub-§3-A is enacted to read:

3-A. Special contracts. It is lawful for a public utility to make a contract for a definite term subject to the commission's approval for its product or service, but the published rates may not be changed during the term of the contract without the commission's consent.

Sec. 4. 35-A MRSA §1309, sub-§9, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

9. Utility refusal or neglect to make refund; court action. If the utility refuses or neglects to make the refund within 30 days, the party aggrieved may maintain an action in the courts of the State to recover the amount. In the trial the findings of the commission ~~shall be~~ are prima facie evidence of the truth of the facts found by it, and no utility may avail itself of the defense of the action that the service involved was in fact made on the published ~~tariff~~ schedule rate in force at the time it was rendered.

Sec. 5. 35-A MRSA §2503, sub-§20, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

20. Exclusive method. Compliance with this section by any person is the exclusive method of obtaining the rights and privileges conferred in this section and no person or cooperative may be required, with respect to the location of its facilities, to comply

with or be subject to any other law, including, but not limited to, Title ~~30~~ 30-A, chapter ~~240-A~~ 165.

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

~~No~~ An electric utility may not construct any generating facility or transmission line covered by ~~subsections~~ subsection 1, 1-A or 2 or rebuild or relocate any transmission line as investigated by the commission under subsection 3 unless the commission has issued a certificate of public convenience and necessity approving construction.

Sec. 7. 35-A MRSA §3903, sub-§3, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

3. Election. After a determination by the municipal officers, or upon petition in accordance with subsection 2, the municipal officers shall, at the next regular election or town meeting, or at a special election or town meeting called and held by them, submit the following question to the legal voters in accordance with their charter or Title ~~30~~ 30-A, section ~~2064~~ 2528:

"Shall the (name of municipality) Power District be created and incorporated under the Maine Revised Statutes, Title 35-A, chapter 39?"

Sec. 8. 35-A MRSA §3904, sub-§3, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

3. Election. After a determination by the municipal officers or upon petition of the legal voters of each municipality wishing to form a district, the municipal officers shall, at the next regular election or town meeting, or at a special election or town meeting if the petition so requests, submit the following question to the legal voters of their respective municipalities in accordance with their charter or Title ~~30~~ 30-A, section ~~2064~~ 2528:

"Shall the (name of municipalities) Power District be created and incorporated under the Maine Revised Statutes, Title 35-A, chapter 39?"

Sec. 9. 35-A MRSA §3906, sub-§1, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

1. Trustee. Upon formation of a district under section 3903, all the affairs of the district ~~shall~~ must be managed by a board of 3 trustees who must be residents of the district. They ~~shall~~ hold office as provided in subsection 2 and until their respective successors are elected and qualified. When any trustee ceases to be a resident of the district, ~~his office~~

~~as trustee that trustee's position~~ becomes vacant. Trustees are subject to Title ~~30~~ 30-A, section ~~2254~~ 2605, concerning conflict of interest.

Sec. 10. 35-A MRSA §3907, sub-§1, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

1. Trustees. Upon formation of a district under section 3904, all the affairs of the district ~~shall~~ must be managed by a board of trustees comprised of 2 trustees from each municipality. Trustees ~~shall~~ must be residents of their respective municipalities. They ~~shall~~ hold office as provided in subsection 2 and until their respective successors are elected and qualified. When any trustee ceases to be a resident of ~~his~~ the trustee's municipality, ~~his office as trustee that trustee's position~~ becomes vacant. Trustees are subject to Title ~~30~~ 30-A, section ~~2254~~ 2605, concerning conflict of interest.

Sec. 11. 35-A MRSA §3915, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

§3915. Existing service areas

~~No~~ A municipal power district may not serve as a public utility, as defined in section 102, without consent from the commission in accordance with section ~~2404~~ 2102.

Sec. 12. 35-A MRSA §4131, sub-§3, ¶C, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

C. The Director of the ~~Office of Energy Resources~~ State Planning Office, or another employee of the ~~Office of Energy Resources~~ State Planning Office, as the director may from time to time designate in writing filed with the clerk of the agency, shall serve as a member of the board of directors.

Sec. 13. 35-A MRSA §4134, sub-§2, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

2. Restrictions. The agency shall exercise the power of eminent domain in the manner provided in Title ~~30~~ 30-A, section ~~4807~~ 5108. References in Title ~~30~~ 30-A, section ~~4807~~ 5108, to an urban renewal project and a renewal project area and the like are inapplicable. Notwithstanding Title ~~30~~ 30-A, section ~~4807, subsection 2~~ 5108:

A. No facility for the generation, transmission or distribution of electricity owned by any person may be taken, except for the purpose of acquiring property or rights in it in order to permit the crossing of existing transmission or distribution facilities. In the event of a taking, the respective

rights and obligations of the agency and the property owner shall, upon petition of either party, be determined by the commission.

B. No site for a project for which any utility or person had filed an application for preliminary permit, a license or application for exemption from the Federal Energy Regulatory Commission on or before November 1, 1977, may be taken until the time, if ever, that the application is denied, and no further renewals or appeals are available to the utility or person, or the utility or person abandons its application, permit or license; and

C. No property may be taken, except as may be necessary for the proper location of transmission or distribution lines and necessary appurtenances to them, unless the property is located within the territory in which a municipality or cooperative provides service or within one mile of the territory.

See title page for effective date.

CHAPTER 255

S.P. 522 - L.D. 1420

An Act to Permit Consumer-owned Utilities to Seek Rate Reductions

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

Sec. 1. 35-A MRSA §3502, sub-§1, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

1. Public hearing. ~~No~~ A consumer-owned electric utility ~~which that~~ elects to set rates under this section may ~~file with the commission or not~~ increase or decrease any rate, toll or charge without first holding a public hearing at which the Public Advocate and any customer of the consumer-owned electric utility may present testimony and may question the officials present regarding the proposed increase rate change.

Sec. 2. 35-A MRSA §3502, sub-§2, as amended by PL 1989, c. 159, §4, is further amended to read:

2. Notification. The consumer-owned electric utility shall, at least 30 days prior to the hearing, publish a notice of the amount of the proposed rate increase change, the percent of increase change for each customer class and the hearing, including the date, time, place and purpose of the hearing in a newspaper of general circulation in the area encom-

passed by the consumer-owned electric utility. In addition, 60 days prior to the hearing, the consumer-owned electric utility shall notify the commission and the Public Advocate of its intent to increase change rates, tolls or charges.

Sec. 3. 35-A MRSA §3502, sub-§3, as amended by PL 1993, c. 589, §§3 to 5, is further amended to read:

3. Ratepayer notification. Each consumer-owned electric utility shall give, at least 30 days prior to the public hearing, one notice to each of its ratepayers of:

A. The amount of the proposed rate increase change;

B. The percent of increase change for each customer class;

C. The customer's right to request information relating to the present and proposed rates;

D. The customer's right to an open and fair hearing and ~~his right~~ to further hearings before the commission;

E. The availability of assistance from the Public Advocate;

F. The date, time, place and purpose of the hearing; and

G. The customer's right to petition the commission to investigate the proposed rate increase change, the requirement that signatures on petitions filed pursuant to subsection 8 are invalid unless accompanied by the printed names and addresses of the signers and the fact that the utility will, upon request, provide customers with petition forms that include space for signatures and the printed names and addresses of the signers.

Sec. 4. 35-A MRSA §3502, sub-§4, as amended by PL 1993, c. 589, §6, is further amended to read:

4. Customer rights. At the commencement of each hearing held pursuant to this section, the consumer-owned electric utility shall inform those present of customer rights as specified in subsection 3, that the rate increase change may be investigated by the commission in accordance with subsection 8 and that petitions filed pursuant to subsection 8 must bear the signature, printed name and address of the signer. Upon request, the utility shall provide customers with petition forms that include a place for signatures and the printed names and addresses of the signers.