

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**  
**ONE HUNDRED AND SEVENTEENTH LEGISLATURE**

**SECOND SPECIAL SESSION**  
**September 5, 1996 to September 7, 1996**

**ONE HUNDRED AND EIGHTEENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 4, 1996 to March 27, 1997**

**FIRST SPECIAL SESSION**  
**March 27, 1997 to June 20, 1997**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 26, 1997**

**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 19, 1997**

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

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1997**

B. The State Geologist or the State Geologist's designee;

C. The Commissioner of Agriculture, Food and Rural Resources or the commissioner's designee;

D. The Commissioner of Environmental Protection or the commissioner's designee;

E. The Commissioner of Inland Fisheries and Wildlife or the commissioner's designee;

F. The Commissioner of Marine Resources or the commissioner's designee;

G. The Director of the State Planning Office or the director's designee;

H. The Commissioner of Transportation or the commissioner's designee;

I. The District Chief of the United States Geological Survey Water Resources Division Maine District Office;

J. The Meteorologist-in-Charge of the National Weather Service Forecast Office in this State or the designee of the Meteorologist-in-Charge;

K. Representatives from the major hydroelectric power generators, as determined by the cochairs of the commission; and

L. A representative of the public, appointed by the Governor.

**3. Chair.** The District Chief of the United States Geological Survey Water Resources Division Maine District Office and the Commissioner of Defense and Veterans' Services or the commissioner's designee shall act as cochairs of the commission.

**4. Terms of office.** The term of office of the public member is 5 years. The public member may be removed from office for cause by the Governor. Members from State Government or Federal Government shall serve a term coincident with their governmental position. The term of a representative from the major hydroelectric power generators is 5 years.

**5. Voting.** A quorum of at least 7 members must be present for voting.

**6. Administrative provision.** The Maine Emergency Management Agency shall administer the affairs and activities of the commission.

**7. Records.** The commission shall keep accurate records of its proceedings and shall file them with the Maine Emergency Management Agency.

**8. Compensation.** Members of the commission are not entitled to receive compensation.

**9. Meetings.** The commission shall meet at least once per calendar year at the call of either of the cochairs to review hydrologic conditions prior to the spring snowmelt and runoff for the purpose of issuing an advisory statement on the potential for major river flooding. Either of the cochairs may call additional meetings as needed.

**10. Powers and duties.** The commission has the power and duty only to:

A. Advise the Department of Defense and Veterans' Services and the Governor on issues of flow within the State's rivers and streams;

B. Assist in communication of river flow data between dam operators, river basin managers, state agencies and federal agencies; and

C. Administer the State's cooperative hydrologic monitoring program in cooperation with the United States Geological Survey.

See title page for effective date.

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## CHAPTER 237

S.P. 173 - L.D. 502

### An Act to Require Fair Compensation for Ratepayer Assets Used by a Subsidiary or an Affiliate of a Utility

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

**Sec. 1. 35-A MRSA §707, sub-§3, ¶G** is enacted to read:

G. For any contract or arrangement expected to involve the use by an affiliated interest of utility facilities, services or intangibles, including good will or use of a brand name, the commission shall determine the value of those facilities, services or intangibles. When its facilities, services or intangibles are used by the affiliated interest, the utility's costs must be charged to and received from the affiliated interest based upon this value. The commission shall also determine the proper allocation of costs for shared facilities, services or intangibles. If the commission is unable to make the value determinations required by this paragraph within the time limits imposed by paragraph A, the commission may approve the contract or arrangement without making the determinations, except that the commission shall make the determinations within 60 days of approving the contract or arrangement.

**Sec. 2. 35-A MRSA §§713 to 715** are enacted to read:

**§713. Unregulated business ventures of utilities**

A utility may not charge its ratepayers for costs attributable to unregulated business ventures undertaken by the utility or an affiliated interest. The commission shall allocate, between a utility's shareholders and ratepayers, costs for facilities, services or intangibles, including good will or use of a brand name, that are shared between regulated and unregulated business activities. The commission shall also attempt to ensure that the utility or the affiliated interest does not have an undue advantage in any competitive market as a result of its regulated status or its affiliation with a regulated utility.

Complaints by entities competing with a utility or an affiliated interest in an unregulated market, alleging that the utility or affiliated interest has an undue competitive advantage as a result of any relationship with the parent or affiliated regulated utility must be adjudicated by the commission. The commission shall render a decision on any complaint filed under this section within 9 months of the date of the filing. The commission may dismiss without hearing any complaint that it concludes is clearly intended to harass or delay, is frivolous or is clearly without merit.

A complaint filed under this section must specify, to the extent possible, the nature and extent of the alleged competitive advantage and the basis for the belief that a competitive advantage exists. The utility shall respond to the complaint within 10 days of receiving notice from the commission of the complaint. Within 10 days of receiving the utility's response, the commission shall determine whether the complaint is clearly intended to harass or delay, is frivolous or is clearly without merit.

For the purposes of this section, the term "affiliated interest" has the same meaning as in section 707, subsection 1, paragraph A.

**§714. Notice to commission**

Within 30 days of the commencement of operations by a utility of any business activity not regulated by the commission, the utility shall notify the commission of the existence of those operations.

**§715. Rulemaking**

The commission shall adopt rules that prescribe the allocation of costs for facilities, services or intangibles that are shared between regulated and unregulated activities of a utility or an affiliated interest as defined in section 707, subsection 1, paragraph A. Rules adopted pursuant to this section

are major substantive rules as defined in Title 5, chapter 375, subchapter II-A.

See title page for effective date.

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**CHAPTER 238**

**H.P. 602 - L.D. 827**

**An Act to Authorize Corporate Officers to Represent Their Corporation in Certain Civil Actions in District Court**

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

**Sec. 1. 4 MRSA §807, sub-§3, ¶J**, as enacted by PL 1995, c. 599, §3, is amended to read:

J. For the purposes of defending a civil action filed against a corporation, an officer of the corporation if the corporation is organized in this State and has 2 5 or fewer shareholders.

See title page for effective date.

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**CHAPTER 239**

**S.P. 257 - L.D. 826**

**An Act to Amend the Adoption Laws Relating to Consent and Forms for Surrender and Release**

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

**Sec. 1. 18-A MRSA §9-104, sub-§(b)**, as enacted by PL 1995, c. 694, Pt. C, §7 and affected by Pt. E, §2, is amended to read:

(b) If the adoptee is not placed by a licensed child-placing agency or the department, the petition for adoption must be filed in the county where the adoptee resides; or where the petitioners reside ~~or where the consent has been filed.~~

**Sec. 2. 18-A MRSA §9-202, sub-§(a)**, as enacted by PL 1995, c. 694, Pt. C, §7 and affected by Pt. E, §2, is amended to read:

(a) With the approval of the judge of probate of any county within the State and after a determination by the judge that a surrender and release or a consent is in the best interest of the child, the parents or surviving parent of a child may at any time after the child's birth: