

MAINE STATE LEGISLATURE

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PRELIMINARY REPORT TO
THE JOINT SELECT COMMITTEE ON PROPERTY TAXATION
OF PUBLIC UTILITIES

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INTRODUCTION

Findings.

1. With the exception of electric utilities, property taxation of public utilities in Maine is not substantially different from that of other states. Unlike most states, however, Maine empowers municipalities to value and tax electric utilities including personal property, equipment, distribution and transmission systems. In 43 states, either the State values and taxes electric utilities or electric utilities pay an excise tax or gross receipts tax in lieu of property taxes levied on personal property, equipment, and transmission-distribution systems.

A. In Maine, telephone companies, unlike electric companies, pay a gross receipts tax in lieu of a property tax on personal property, equipment, distribution, and transmission systems. The purpose of exempting personal property, distribution, and transmission systems from the property tax is that this type of property provides an essential service to the public and constitutes an equal value to all users. Since generating stations cannot be located in just any municipality, municipalities which contain these facilities are allowed to tax the land and buildings but not equipment or personal property.

2. Utility property tax revenues are derived principally from electric utilities. In 1977 electric, gas, telephone, and water utilities paid \$17,110,854.87 in property taxes or 6.4 percent of total property taxes collected by Maine municipalities. Electric companies provided 88 percent of total utility property taxes collected followed by telephone companies which provided 4.8 percent, water companies which paid 4.4 percent, and gas utilities which paid 2.8 percent of total utility property taxes.

3. In Maine, many municipalities "over-value" electric generating facilities and distribution and transmission systems. The purpose of this policy is to provide tax relief to residential property owners. With respect to electric utility generating systems 50 municipalities and plantations value and tax these facilities. Of these 50 municipalities, 8 or 16 percent derive most of the "excessive" tax revenues.

4. A valuation analysis of electric utility generation systems conducted by the Bureau of Taxation indicates that a number of municipalities are establishing excessive valuations for these generation systems. Compared to the valuation proposed by the State, municipal valuations are generating roughly \$2,500,000 in additional property taxes at current tax rates that would not be generated by the proposed state valuation of electric generating systems. The \$2,500,000 of "excess" property taxes represents roughly a \$5.50 by every residential electric customer in the State.

5. Of the additional \$2,500,000 of property taxes generated by "excessive" municipal valuation, 34 percent was generated by Wiscasset and Yarmouth valuations. An additional 31 percent of the total was generated by valuations of Auburn, Buxton, Emden, Lewiston, Moscow, and South Portland.

6. Of the nearly 500 municipalities and plantations in the State, very few benefit from electric utility property taxes. In 6 municipalities and plantations, electric utility property tax revenues comprised more than 50 percent of total property tax revenues collected in 1977. In 5 municipalities, electric utility property taxes comprised more than 25 percent but less than 50 percent of total property tax revenues.

7. Municipalities and plantations often determine electric utility tax burdens by maintaining the utility's historic proportion of total municipal property taxes. Although electric utilities have protested municipal property tax valuations of generating systems and have appealed to the courts to require municipalities to use the original cost plus depreciation approach to utility valuation, the courts have ruled that any method of valuation must reflect the several approaches (income, cost, and market) to valuation. The original cost plus depreciation approach reflects only one approach to electric utility valuation.

8. If municipalities tend to overvalue existing electric generating plants which represent 30 percent of total electric utility investment, any excess valuation of transmission and distribution systems, which represent roughly 70 percent of total electric utility investment, will also have a very significant impact upon ratepayers.

9. Alternatives to the present system of taxing electric utility property include:

A. Maintaining the same approach, but empower the Bureau of Taxation to establish values for utility property.

B. Institute the same tax approach that applies to telephone companies in Maine. Allow municipalities to tax land and buildings, but exempt personal property, equipment, distribution, and transmission systems from municipal property taxes. A gross receipts or excise tax would replace the exempted property tax.

C. Exempt utilities from all taxes. The theory behind this approach is that taxes are an ordinary business expense that are passed on to rate payers. The loss in revenues could be recovered by an increase in the personal income tax which is a more progressive tax than property taxes.

D. Exempt utilities from property taxes completely.

and subject them to a gross receipts or excise tax. Excise tax revenues or revenues from a gross receipts tax would be distributed among the municipalities and plantations according to a formula which includes the number of electric utility customers, the investment of electric utilities, and the amount of electricity produced in each municipality and plantation.

10. If an alternative to taxing electric utility property does not include a means of distributing revenues to municipalities and plantations, there will be no incentive for municipalities and plantations to accept electric generating facilities.

The issue before the Joint Select Committee therefore, is whether utility rate payers, via user rates, should provide municipalities, in which utility facilities are located, with property tax revenues. For example, utility property taxes in Wiscasset constitute 95.3 percent of total property taxes collected in the municipality. Utility customers throughout the State pay these taxes which are incorporated in the Utility's rates.

Electric companies, private water companies, and private gas companies are subject to property taxes levied upon land, buildings, equipment, personal property, and the distribution-transmission system. Each municipality levies a different tax rate and establishes different values for utility property.

Maine is one of 7 states in which the property of electric utilities and gas companies is valued and taxed by municipalities. In 43 states, the property of electric utilities is either exempt from taxation or the property is valued and taxed by the State. Electric utilities exempted from property taxation pay an excise or gross receipts tax in lieu of a property tax.

Taxation of telephone companies in Maine is very similar to that of other states. Municipalities may value and tax land and buildings of telephone companies, but the personal property, distribution, and transmission systems of these firms are not subject to a property tax. Instead, a gross receipts or excise tax is levied on these companies.

The principle behind the taxation of telephone and telegraph companies is that a municipality is entitled to property tax revenues for land and structures (building shells) owned by these firms in a municipality, but personal property, equipment, and the distribution-transmission system do not create additional costs to or constitute a value exclusive to a particular municipality. Since personal property, equipment, and the distribution-transmission system are necessary to provide an essential public service, they are not subjected to local controls. In addition, these items which provide a service to the entire public are of equal value to all users, and therefore, are not subject to different valuations and tax rates of roughly 500 municipalities.

The other side of the argument as it relates to the electric utilities is that utility facilities are not unlike any other industrial or commercial facility such as a paper company with respect to the value that the facility reflects and the value that the facility derives from its location in a municipality. Paper companies in East Millinocket, Bucksport, Woodland, Hinckley, and Jay constitute the major property tax payers in each of these municipalities.

Although the benefits of the paper companies such as employment, increased purchasing power for local goods, spin-off enterprises, etc., are not limited exclusively to the municipalities in which they are located, nevertheless, the municipalities levy property taxes on these facilities which are based within their jurisdiction. The property tax is also passed on to paper

company customers, and the retail price of paper and paper goods include property taxes. Property tax revenues levied on paper companies and other industrial enterprises help reduce costs of municipal services to these firms.

The major difference between utilities and other industrial facilities is that the utility is a monopoly that provides an essential public service. This service is purchased almost exclusively by residents within the geographical jurisdiction of the utility. Utility customers do not have access to another source for the service.

Industrial enterprises, on the other hand, compete to sell a product that is not necessarily essential. In addition, these facilities do not have distribution and transmission systems in every municipality within their jurisdiction that is subject to local property taxes.

Another aspect of the issue before the Joint Select Committee concerns municipal valuation of electric utility facilities, especially generating stations. This is particularly important because 88 percent of all utility property tax revenues (\$17,110,854.87) are derived from electric utilities. Telephone, water, and gas utilities produce 4.8 percent, 4.4 percent, and 2.8 percent respectively of total utility property tax revenues. The method of valuation of utilities therefore, has the greatest impact on electric utilities and users of electricity who pay the property taxes of electric utilities.

The Bureau of Taxation has recently appraised roughly 50 electrical generation plants in Maine. A comparison of the State valuation of electric utilities at full value with municipal valuation of these facilities at full value shows that municipal valuations exceed the state valuation by as much as 250 percent. Consequently, utility users are paying property taxes for generating plants that may be significantly "over-valued." In addition, some municipalities have valued and taxed the distribution and transmission systems of electric utilities that greatly exceeds the adjusted value proposed by the Bureau of Taxation.

Another indication of the problems of municipal utility facility valuation is the method of valuation used by the Public Utilities Commission (PUC). The PUC uses the book value of the utility which includes land, buildings, equipment, transmission systems, etc., in the rate base. The total book value of three of Maine's largest electric utilities is roughly \$500,000,000. According to municipal valuations of all electrical generating plants (30% of total utility investment) in Maine, these facilities have a value that exceeds \$1,000,000,000 at 100 percent valuation.

Municipal valuation of private water companies in Maine is very difficult to evaluate. In general, water companies are

much less capital intensive than electric utilities, and the glaring inequities of property taxation associated with electric utilities is not as evident with water companies. Furthermore, electric utility generating and transmission systems can be valued more easily than a lake or reservoir owned by a private water company. For example, a lake and its surrounding undeveloped shoreland owned by a private water company may have a market value of several million dollars, but the inability to develop the lake area as well as the necessity for a water supply may establish a much lower value for the lake and surrounding land.

The problem with respect to valuation of utility property stems, in part, from the various measures used to compute utility property values. In a number of cases before the Maine Supreme Judicial Court, the court ruled that several measures exist to value utility property, but no one measure should be the exclusive measure. In the opinion of the court:

If it is impossible to determine true worth of real estate by reference to price which such property will bring in market, resort may be made to other factors; and consideration may be given (1) to original cost of construction less depreciation, (2) to reproduction cost with allowance for depreciation, (3) to purchase price, if not sold under stress or unusual conditions, and (4) to capacity of property to earn money for its owner; and while none of these elements is controlling, each has its place in estimating value for purposes of taxation.

In general, there are three measures to determine property values as described below:

Income Measure

Value = $\frac{\text{Net Operating Income}}{\text{capitalization rate}}$ (return on investment and return of investment)

Cost Measures

- A. Value = Replacement cost minus depreciation or
- B. Value = Original cost minus depreciation or
- C. Value = Reproduction cost minus depreciation.

Market Measure

Value is assets = liability and equity.

The court has ruled that the income, cost, and market measures should be considered in determining value of utility property and that no one measure should be used exclusively. The court, however, did not propose the weight that should be attributed to each measure in determining utility property values.

Nearly all of Maine's municipalities have adopted the cost measure approach and do not consider the other two measures in determining utility property values. In a great many cases, municipalities have adopted original cost plus inflation to establish the property value of electric utilities. The trend has been for municipalities to maintain the proportion of municipality property taxes borne by electric utilities despite the increase in value of other types of property in the municipalities and municipal growth.

The electric utilities have attempted to negotiate property valuations and taxes with municipal officers to more accurately reflect the value of utility property. In a few cases, a municipality has agreed to a more realistic valuation. In most cases, however, there has been no or little change.

When negotiations have failed, the utilities have appealed to the Court a few of the municipal valuations that represent extreme over-valuation of utility property. In many other cases, the utilities have accepted municipal valuations.

In cases in which the electric utilities have appealed to the Court to review municipal valuation of utility property, the utilities have based their appeal on the original cost minus depreciation approach to valuation. Both the municipalities and electric utilities therefore, have adopted only one measure of property valuation which the court has rejected as the proper approach. The Court has pointed out that the income, cost, and market measures must be taken into consideration in developing property tax values for utilities. The Court's decision has not had any effect upon municipal valuation of utility property. One reason is that the court did not specify the formula, and municipalities are in quandry about the proper measure.

The Bureau of Taxation has adopted the valuation procedure prescribed by the Court for the determination of utility property. The results of the State valuation indicates that municipalities are over-valuing electric generating stations by roughly 250 percent.

A comparison of municipal and state valuation of electric utility generating systems indicates that municipal valuations produce roughly \$2,500,000 in additional tax revenues that would not be generated by proposed state valuations of these facilities at current municipal tax rates. Of the total additional tax revenues generated, 65 percent is produced by 8 towns. According to the data, 34 percent of the total "excess" revenues is generated in Wiscasset and Yarmouth, and an additional 31 percent is generated in Auburn, Buxton, Embden, Lewiston, Moscow, and South Portland. The proposed state valuation of electric generating facilities shows that electric utility customers in 497 municipalities and plantations each pay an additional \$5.50 producing roughly \$2,500,000, and 11 towns receive 75 percent of the total.

Electric utility generating facilities are substantial property tax sources in a very small number of municipalities and plantations. In 6 municipalities and plantations (Emden, Moscow, Pleasant Ridge Pl., Veazie, Wiscasset, and Yarmouth), property tax revenues derived from electric utility generating plants comprise more than 50 percent of total municipal property tax revenues. In 5 municipalities (Buxton, Hollis, Howland, Medway and Solon) property tax revenues from electric utility generating facilities comprised 25 percent but less than 50 percent of total municipal property tax revenues.

If municipal property taxes levied on personal property, equipment, distribution systems and transmission systems of electric utilities could be calculated for each municipality, the effect of electric utility property taxes on Maine's municipalities could be more dramatic. Transmission and distribution systems comprise 70 percent of current electric utility investment.

Alternatives

There are several alternatives to the present method of taxing utility property. Any alternative that does not include an incentive for municipalities to accept generating stations, however, could discourage or prevent the expansion of utilities in the future. A few of the alternatives are:

- A. Empower municipalities to tax all utility property, but the Bureau of Taxation would establish the value of all utility property.
- B. Extend the current method of taxing the property of telephone companies to all utilities in Maine. In lieu of property taxes on distribution systems, transmission systems, personal property, and equipment, utilities would be subject to an excise or gross receipts tax could be distributed to the municipalities or retained by the State. Municipalities would be empowered to tax land and buildings associated with generating plants located within their jurisdiction.
- C. Exempt utilities from all taxes. Since taxes are legitimate business expenses which are passed on to rate payers, utilities could be made exempt from all taxes. The price of an essential public service would thereby be reduced. The loss of utility tax revenues could be offset by increases in income tax rates which is a more progressive form of taxation. A portion of the income tax revenues could be distributed among the municipalities.
 1. This alternative may not fit within the scope, however. The study order addresses the issue of utility taxes and not other utility taxes.

D. Exempt utilities from all property taxes and implement a gross receipts or excise tax. Revenues derived from a gross receipts or excise tax could be distributed among Maine's municipalities according to a formula including the number of utility customers, utility investment, and the amount of electricity generated in each municipality.

TABLE 1
PROPERTY TAXATION OF POWER GENERATING
STATIONS

MUNICIPALITY	MUNICIPAL ASSESSMENT NOT 100% VALUE	MUNICIPAL TAX RATE	MUNICIPAL TAX	STATE APPRAISAL 100% VALUE	FULL VALUE TAX RATE	PROPOSED TAX	TAX REVENUE BETWEEN MUNICIPAL & STATE
Central Maine Power							
Auburn	\$1,592,800 1,802,120	\$40.40 40.40	64,349 72,805	\$825,240 1,128,900	\$22.43 22.43	\$18,510 25,321	45,839 47,484
Baldwin	461,520	29.00	13,384	444,000	12.88	5,719	7,665
Benton	1,011,840	11.50	11,636	313,580	12.66	3,970	7,666
Biddeford	117,600	23.00	2,704	332,175	19.14	6,358	(3654-loss)
Brunswick	1,232,460	30.70	37,836	313,790	19.10	5,993	31,843
Buxton	127,000 2,006,960 4,354,120	27.00 27.00 27.00	3,429 54,187 117,561	152,650 559,690 2,392,765	14.79 14.79 14.79	2,258 8,278 35,389	1171 45,909 82,172
Dayton	1,258,600	29.00	36,499	2,919,820	17.08	49,870	(13,371-loss)
Enden	803,000	196.00	157,388	1,934,210	14.31	27,678	129,710
Fairfield	1,598,480	19.05	30,451	740,220	18.19	13,464	16,987
Farmingdale	475,570	20.50	9,749	278,060	14.78	4,110	5,639
Gorham	467,060	36.80	17,188	268,250	16.85	4,520	12,668
Hiram	434,400	57.00	24,766	182,900	12.14	2,220	22,546
Hollis	1,208,810 1,663,810 621,930	33.50 33.50 33.50	40,495 55,738 20,837	448,330 1,178,480 364,475	17.09 17.09 17.09	7,662 20,140 6,229	32,833 35,598 14,608
Ilesboro	30,030	13.75	413.00	25,825	11.06	285.00	\$128
Lewiston	312,950 639,350 4,507,400 444,400	38.30 38.30 38.30 38.30	11,986 24,487 172,633 17,020	152,200 86,470 2,395,440 726,900	21.91 21.91 21.91 21.91	3,334 1,895 52,484 15,926	8,652 22,592 120,149 1,094
Moscow	20,280,000	14.80	300,144	4,707,530	38.54	186,135	114,009
Oakland	466,000 363,900	48.00 48.00	22,368 17,467	636,200 418,260	14.74 14.74	9,377 6,165	12,991 11,302
Peaks Island	135,590	33.70	4,569	219,920	27.35	6,014	(1445-loss)

MUNICIPALITY	MUNICIPAL ASSESSMENT NOT 100% VALUE	MUNICIPAL TAX RATE	MUNICIPAL TAX	STATE APPRAISAL 100% VALUE	FULL VALUE TAX RATE	PROPOSED TAX	TAX REVENUE BETWEEN MUNICIPAL & STATE
Central Maine Power							
Pleasant Ridge	15,575,000	22.50	350,437	5,661,680	51.66	292,482	57,955
Rockland	315,275	24.50	7,724	162,690	23.59	3,837	3887
Saco	1,739,290	40.30	70,093	839,520	18.40	15,447	54,646
Skowhegan	3,907,950	19.00	74,251	2,190,260	7.11	15,572	58,679
Solon	700,200	72.00	50,414	902,020	14.62	13,187	37,227
South Portland	3,735,800	31.30	116,930	1,090,940	22.47	24,513	92,417
	2,023,000	31.30	63,320	2,211,065	22.47	49,682	13,638
Standish	2,721,385	17.00	46,263	634,420	12.12	7,689	38,574
Topsham	403,650	19.55	7,891	242,320	15.01	3,637	4254
Waterville	565,130	18.50	10,455	184,680	17.91	3,307	7,148
	299,940	18.50	5,549	140,220	17.91	2,511	3,038
Windham	393,400	14.18	5,578	97,970	14.66	1436	4142
Winslow	812,960	14.80	12,031	285,540	14.67	4,188	7843
Wiscasset (Maine Yankee)	7,140,140	37.50	267,755	13,067,070	16.54	216,129	51,626
	115,185,520		4,319,457	237,536,400		3,928,852	390,605
Yarmouth	66,086,400	29.58	1,954,835	93,663,655	16.84	1,577,295	377,540
TOTAL			8,705,072			6,689,068	2,016,004
Bangor Hydro							
Bar Harbor	673,410	27.20	18,317	385,100	19.36	7,455	10,862
East Machias	265,000	31.00	8,215	117,225	13.08	1,533	6,682
Eastport	580,295	22.00	12,767	319,960	19.69	6,300	6467
Eddington	166,000	56.00	9,296	377,770	13.10	4,949	4347
Ellsworth	1,453,600	13.75	19,987	480,570	15.71	7,550	12,437
Enfield	1,128,280	22.00	24,822	820,000	11.88	9,742	15,080
Howland	1,929,000	23.00	44,367	884,140	15.19	13,430	30,937
Medway	4,598,180	17.60	80,928	1,320,760	25.31	33,428	47,500

MUNICIPALITY	MUNICIPAL ASSESSMENT NOT 100% VALUE	MUNICIPAL TAX RATE	MUNICIPAL TAX	STATE APPRAISAL 100% VALUE	FULL VALUE TAX RATE	PROPOSED TAX	TAX REVENUE BETWEEN MUNICIPAL & STATE
Bangor Hydro Milford	1,584,800	52.00	82,410	1,658,320	17.58	29,153	53,257
Orono	392,360	30.00	11,771	611,980	17.73	10,850	921
Stillwater	1,453,600	23.20	33,724	480,570	15.96	7,670	26,054
Veazie	1,748,950 10,475,260	18.60 18.60	32,530 194,840	1,451,090 5,590,520	20.96 20.96	30,414 117,177	2,116 77,663
TOTAL			573,974			279,651	294,323
Maine Public Service Caribou	3,836,860	34.00	130,453	2,929,270	18.67	54,689	75,764
Houlton	202,300	35.50	7,222	86,730	25.60	2,220	5,002
Masardis	289,210	14.20	4,107	243,300	13.40	3,260	847
Presque Isle	351,150	37.00	12,993	215,400	20.61	4,439	8554
TOTAL			154,775			64,608	90,167
Eastern Maine Electric Co. Calais	247,700	28.50	7,060	114,090	18.96	2,163	4,897
Public Service Co. of New Hamp. Fryburg	61,250	12.76	782.00	95,185	14.04	1,336	(554-loss)
GRAND TOTAL			9,441,663			7,026,826	2,404,837

TABLE II
PROPERTY TAXES AND UTILITY PROPERTY
TAX BURDEN

<u>Cities</u>	<u>% of total Property Tax Assessment borne by all utilities</u>	<u>Selected Towns</u>	<u>% of total Propert y Tax Assessment borne by utiliti</u>
Auburn	4.4%	Ashland	4.7%
Augusta	7.0%	Baldwin	14.77%
Bangor	1.5%	Bar Harbor	2.3%
Bath	0.97%	Buxton	27.3%
Belfast	14.0%	East Machias	8.25%
Biddeford	3.3%	Eddington	6.26%
Brewer	0.85%	Embden	62.4%
Calias	0.68%	Enfield	17.67%
Caribou	8.0%	Fairfield	5.5%
Eastport	4.7%	Gorham	5.1%
Ellsworth	1.4%	Hiram	17.5%
Gardiner	1.8%	Hollis	32.1%
Hallowell	1.8%	Howland	29.9%
Lewiston	5.5%	Lincoln	0.88%
Old Town	1.8%	Masardis	5.6%
Portland	2.7%	Medway	30.6%
Presque Isle	4.0%	Milford	22.6%
Rockland	4.9%	Millinocket	0.27%
Saco	7.3%	Milo	2.4%
South Portland	23.1%	Moscow	87.7%
Waterville	2.2%	Orono	2.8%
Westbrook	6.6%	Pleasant Ridge Pl.	96.7%
		Standish	5.0%
		Solon	34.4%
		Topsham	6.1%
		Windham	2.3%
		Wiscasset	95.2%
		Veazie	50.7%
		Yarmouth	60.4%