

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by striking out all of section 1 and inserting the following:

**Sec. 1. 35-A MRSA §708, sub-§2, ¶A,** as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

A. Unless exempted by rule or order of the commission, ~~no~~ a reorganization may not take place without the approval of the commission. ~~No~~ a reorganization may not be approved by the commission unless it is established by the applicant for approval that the reorganization is consistent with the interests of the utility's ratepayers and investors and, when a public utility that is a party to the proposed reorganization has gross annual Maine revenues exceeding \$50,000,000 and the proposed reorganization would result in a change of ownership and control of that public utility, unless it is established by the applicant for approval that the reorganization will advance the economic development and information access goals of the State as set forth in section 7101, subsections 2 and 4 to the extent applicable to the type of utility involved and will result in net benefits to ratepayers. The commission shall rule upon all requests for approval of a reorganization within 60 days of the filing of the request for approval. If it determines that the necessary investigation cannot be concluded within 60 days, the commission may extend the period for a further period of no more than 120 days. In granting its approval, the commission shall impose such terms, conditions or requirements as, in its judgment, are necessary to protect the interests of ratepayers. These conditions ~~shall~~must include provisions ~~which assure the following that ensure:~~

- (1) That the commission has reasonable access to books, records, documents and other information relating to the utility or any of its affiliates, except that the Public Utilities Commission may not have access to trade secrets unless it is essential to the protection of the interests of ratepayers or investors. The commission shall afford trade secrets and other information such protection from public disclosure as is provided in the Maine Rules of Civil Procedure;
- (2) That the commission has all reasonable powers to detect, identify, review and approve or disapprove all transactions between affiliated interests;
- (3) That the utility's ability to attract capital on reasonable terms, including the maintenance of a reasonable capital structure, is not impaired;
- (4) That the ability of the utility to provide safe, reasonable and adequate service is not impaired;
- (5) That the utility continues to be subject to applicable laws, principles and rules governing the regulation of public utilities;

(6) That the utility's credit is not impaired or adversely affected;

(7) That reasonable limitations be imposed upon the total level of investment in nonutility business, except that the commission may not approve or disapprove of the nature of the nonutility business;

(8) That the commission has reasonable remedial power including, but not limited to, the power, after notice to the utility and all affiliated entities of the issues to be determined and the opportunity for an adjudicatory proceeding, to order divestiture of or by the utility in the event that divestiture is necessary to protect the interest of the utility, ratepayers or investors. A divestiture order ~~shall~~must provide a reasonable period within which the divestiture ~~shall~~must be completed; ~~and~~

(9) That neither ratepayers nor investors are adversely affected by the reorganization-; and  
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(10) When a public utility that is a party to the proposed reorganization has gross annual Maine revenues exceeding \$50,000,000 and the proposed reorganization would result in a change of ownership and control of that public utility, that the reorganization will:

(a) Advance the economic development and information access goals of the State as set forth in section 7101, subsections 2 and 4 to the extent applicable to the type of utility involved;

(b) Result in net benefits to ratepayers; and

(c) Be consistent with the interests of the utility's investors.

Amend the bill in section 2 in subsection 4 in the 5th line (page 2, line 20 in L.D.) by striking out the following: "any utility subject to subsection 2, paragraph A, subparagraph (1)," and inserting the following: 'an applicant that has gross annual Maine revenues exceeding \$50,000,000'

Amend the bill in section 3 in subsection 1-A in the 4th line (page 2, line 33 in L.D.) by inserting after the following "\$50,000,000" the following: 'and the proposed transaction would result in a change of the ownership and control of that public utility'

Amend the bill in section 3 in subsection 1-A by striking out all of paragraph B and inserting the following:

'B. Result in net benefits to ratepayers; and'

Amend the bill in section 4 in the 2nd line (page 2, line 41 in L.D.) by striking out the following: "repeal and replace" and inserting the following: 'amend'

### **SUMMARY**

This amendment is the majority report of the committee. The amendment changes several provisions of the bill relating to the additional criteria for approval required for a merger, consolidation, reorganization or sale involving a Maine public utility with annual revenues greater than \$50,000,000. Specifically, the amendment:

1. Limits the application of these additional criteria for approval to transactions that would result in a change of ownership and control of the public utility;
2. Changes the criteria for approval relating to benefits to ratepayers from a standard of "short-term and long-term economic benefits" to a standard of "net benefits"; and
3. Adds a provision authorizing the Public Utilities Commission to impose conditions on a reorganization that is subject to the additional standards to ensure that the transaction will satisfy those standards.

### **FISCAL NOTE REQUIRED**

**(See attached)**