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Date: (Filing No. H-)

ENERGY, UTILITIES AND TECHNOLOGY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1347, L.D. 1881, Bill, “An Act Regarding Utility-related Fees”

Amend the bill by striking out the title and substituting the following:

'An Act Regarding Public Utility Assessments, Fees and Penalties'

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 35-A MRSA §116, sub-§1, as amended by PL 2013, c. 600, §1, is further amended to read:

1. Entities subject to assessments. Every transmission and distribution, gas, telephone and water utility and ferry subject to regulation by the commission and every qualified telecommunications provider is subject to an assessment on its intrastate gross operating revenues to produce sufficient revenue for expenditures allocated by the Legislature for the Public Utilities Commission Regulatory Fund established pursuant to this section. The budget for the Public Utilities Commission Regulatory Fund is subject to legislative review and approval in accordance with subsection 2. The portion of the total assessment applicable to each category of public utility or qualified telecommunications provider is based on an accounting by the commission of the portion of the commission's resources devoted to matters related to each category. The commission shall develop a reasonable and practicable method of accounting for resources devoted by the commission to matters related to each category of public utility or qualified telecommunications provider. Assessments on each public utility or qualified telecommunications provider within each category must be based on the utility's or qualified telecommunications provider's gross intrastate operating revenues. Within each category of public utility, the assessment must be apportioned and applied separately to investor-owned utilities and consumer-owned utilities. The portion of the assessment applicable to investor-owned utilities and consumer-owned utilities within each category must be determined based on an accounting by the commission of the portion of the commission's resources devoted to matters related to investor-owned utilities and the portion devoted to matters related to consumer-owned utilities. The commission shall

COMMITTEE AMENDMENT

1 determine the assessments annually prior to May 1st and assess each utility or qualified
2 telecommunications provider for its pro rata share for expenditure during the fiscal year
3 beginning July 1st. Each utility or qualified telecommunications provider shall pay the
4 assessment charged to the utility or qualified telecommunications provider on or before
5 July 1st of each year. Any increase in the assessment that becomes effective subsequent
6 to May 1st may be billed on the effective date of the act authorizing the increase.

7 A. The assessments charged to utilities and qualified telecommunications providers
8 under this section are just and reasonable operating costs for rate-making purposes.

9 B. For the purposes of this section, "intrastate gross operating revenues" means:

10 (1) In the case of all utilities except telephone utilities, revenues derived from
11 filed rates except revenues derived from sales for resale;

12 (2) In the case of a telephone utility, all intrastate revenues, except revenues
13 derived from sales for resale, whether or not the rates from which those revenues
14 are derived are required to be filed pursuant to this Title; and

15 (3) In the case of a qualified telecommunications provider, all intrastate revenues
16 except revenues derived from sales for resale.

17 C. Gas utilities subject to the jurisdiction of the commission solely with respect to
18 safety are not subject to any assessment.

19 D. The commission may correct any errors in the assessments by means of a credit or
20 debit to the following year's assessment rather than reassessing all utilities or
21 qualified telecommunications providers in the current year.

22 E. The commission may exempt utilities or qualified telecommunications providers
23 with annual intrastate gross operating revenues under \$50,000 from assessments
24 under this section.

25 For purposes of this section, "qualified telecommunications provider" means a provider
26 of interconnected voice over Internet protocol service that paid any assessment under this
27 subsection, whether voluntarily, by agreement with the commission or otherwise, prior to
28 March 1, 2012.

29 **Sec. 2. 35-A MRSA §116, sub-§8**, as amended by PL 2019, c. 226, §1, is further
30 amended to read:

31 **8. Public Advocate assessment.** Every utility or qualified telecommunications
32 provider subject to assessment under this section is subject to an additional annual
33 assessment on its intrastate gross operating revenues to produce sufficient revenue for
34 expenditures allocated by the Legislature for operating the Office of the Public Advocate.
35 The portion of this assessment applicable to each category of public utility or qualified
36 telecommunications provider is based on an accounting by the Public Advocate of
37 resources devoted to matters related to each category. The Public Advocate shall develop
38 a reasonable and practicable method of accounting for resources devoted by the Public
39 Advocate to matters related to each category of public utility or qualified
40 telecommunications provider. Assessments on each public utility or qualified
41 telecommunications provider within each category must be based on the utility's or
42 qualified telecommunications provider's gross intrastate operating revenues. Within each

1 category of public utility, the assessment must be apportioned and applied separately to
2 investor-owned utilities and consumer-owned utilities. The portion of the assessment
3 applicable to investor-owned utilities and to consumer-owned utilities within each
4 category must be determined based on an accounting by the Public Advocate of the
5 portion of the resources of the Office of the Public Advocate devoted to matters related to
6 investor-owned utilities and the portion devoted to matters related to consumer-owned
7 utilities. The revenues produced from this assessment are transferred to the Public
8 Advocate Regulatory Fund and may ~~only~~ be used only to fulfill the duties specified in
9 chapter 17. The assessments charged to utilities and qualified telecommunications
10 providers under this subsection are considered just and reasonable operating costs for
11 rate-making purposes. The Public Advocate shall develop a method of accounting for
12 staff time within the Office of the Public Advocate. All professional and support staff
13 shall account for their time in such a way as to identify the percentage of time devoted to
14 public utility and qualified telecommunications provider regulation and the percentage of
15 time devoted to other duties that may be required by law.

16 A. The Public Advocate shall submit its budget recommendations, using a zero-
17 based budgeting process or other process or method directed by the State Budget
18 Officer, as part of the unified current services budget legislation in accordance with
19 Title 5, sections 1663 to 1666. The assessments and expenditures provided in this
20 section are subject to legislative approval. The Public Advocate shall make an annual
21 report of its planned expenditures for the year and on its use of funds in the previous
22 year. The Public Advocate may also receive other funds as appropriated by the
23 Legislature.

24 B. The Public Advocate may use the revenues provided in accordance with this
25 section to fund the Public Advocate and 10 employees and to defray the costs
26 incurred by the Public Advocate pursuant to this Title, including administrative
27 expenses, general expenses, consulting fees and all other reasonable costs incurred to
28 administer this Title.

29 C-1. Funds that are not expended at the end of a fiscal year do not lapse but must be
30 carried forward to be expended for the purposes specified in this section in
31 succeeding fiscal years.

32 **Sec. 3. 35-A MRSA §120, sub-§2-A** is enacted to read:

33 **2-A. Filing fees and penalties; legislation.** Any filing fees or penalties collected in
34 the previous year under this Title that have not been adjusted in the previous 5 years. For
35 filing fees or penalties reported pursuant to this subsection, the commission shall submit,
36 along with the annual report, draft legislation to adjust the dollar value of the filing fee or
37 penalty based on the actuarially compounded Consumer Price Index since the fee or
38 penalty was last adjusted. After receiving the annual report, the committee may report
39 out a bill based on the draft legislation submitted pursuant to this subsection;

40 **Sec. 4. 35-A MRSA §120, sub-§2-B** is enacted to read:

41 **2-B. Commission expenses; investor-owned and consumer-owned utilities.**
42 Beginning in 2021, for each category of public utility listed in section 116, subsection 1:

1 A. The portion of commission resources devoted to matters related to investor-
2 owned utilities and the portion of commission resources devoted to matters related to
3 consumer-owned utilities; and

4 B. The commission's expenses per dollar of intrastate gross operating revenue for
5 investor-owned utilities and for consumer-owned utilities;

6 **Sec. 5. 35-A MRSA §708, sub-§4,** as enacted by PL 1987, c. 141, Pt. A, §6, is
7 amended to read:

8 **4. Filing fee.** Within 30 days after the application for approval of a reorganization is
9 filed pursuant to subsection 2, the commission may order the applicant to pay a filing fee
10 not to exceed \$50,000, .05% of the estimated total value of the corporation or entity
11 resulting from the proposed reorganization if the commission determines that the
12 application may involve issues which will that would necessitate significant additional
13 costs to the commission, except that if a reorganization would result in the transfer of
14 ownership and control of a public utility or the parent company of a public utility, the
15 commission shall order the applicant to pay to the commission a filing fee in an amount
16 equal to .05% of the estimated total value of the corporation or entity resulting from the
17 proposed reorganization. The applicant may request the commission to waive all or a
18 portion of the filing fee. The commission shall rule on the request for waiver within 30
19 days. Notwithstanding any other provision of law, filing fees paid as required in this
20 subsection shall must be segregated, apportioned and expended by the commission for the
21 purposes of processing the application. Any portion of the filing fee that is received from
22 an applicant and is not expended by the commission to process the application shall must
23 be returned to the applicant.

24 **Sec. 6. 35-A MRSA §1702, sub-§6, ¶A** is enacted to read:

25 A. Beginning in 2021, the annual report must include, for each category of public
26 utility listed in section 116, subsection 1, an accounting of:

27 (1) The portion of the Public Advocate's resources devoted to matters related to
28 investor-owned utilities and the portion of resources devoted to matters related to
29 consumer-owned utilities; and

30 (2) The Public Advocate's expenses per dollar of intrastate gross operating
31 revenue for investor-owned utilities and for consumer-owned utilities.

32 **Sec. 7. Fee and penalty revision.** The Public Utilities Commission shall submit
33 legislation to the First Regular Session of the 130th Legislature to adjust the dollar value
34 of filing fees and penalties required under the Maine Revised Statutes, Title 35-A based
35 on the actuarially compounded Consumer Price Index for each filing fee or penalty since
36 it was enacted or established, rounding to the nearest multiple of \$100 if the filing fee or
37 penalty is below \$10,000 and to the nearest multiple of \$1,000 if the filing fee or penalty
38 is \$10,000 or greater.'

39 **SUMMARY**

40 This amendment replaces the bill. The amendment does the following:

1 1. It requires the Public Utilities Commission and the Public Advocate, respectively,
2 in calculating assessments charged to public utilities to apportion the assessment within
3 each category of public utility, that is, transmission and distribution, gas, telephone and
4 water, between investor-owned utilities and consumer-owned utilities based on an
5 accounting of the portion of the commission's resources and the Public Advocate's
6 resources, respectively, devoted to matters related to investor-owned utilities and the
7 portion devoted to matters related to consumer-owned utilities.

8 2. It requires the commission, in its annual report, to report on any filing fees or
9 penalties collected from public utilities in the previous year that have not been adjusted in
10 the previous 5 years and to provide draft legislation to adjust the dollar value of filing
11 fees and penalties based on the actuarially compounded Consumer Price Index for each
12 fee and penalty since the last adjustment.

13 3. It requires the commission and the Public Advocate to report annually, beginning
14 in 2021, on the portion of resources devoted to matters related to investor-owned utilities
15 and the portion of resources devoted to matters related to consumer-owned utilities and
16 on commission and Public Advocate expenses, respectively, per dollar of intrastate gross
17 operating revenue for investor-owned utilities and consumer-owned utilities.

18 4. It amends the law governing filing fees for reorganizations of utilities to authorize
19 the commission to order a filing fee of up to .05% of the estimated total value of the
20 reorganization and to require the commission to order payment of a filing fee equal to
21 .05% of the estimated total value of the reorganization if a reorganization would result in
22 the transfer of ownership and control of a public utility or the parent company of a public
23 utility. Under current law the commission may charge a filing fee of up to \$50,000 to an
24 applicant seeking approval for a reorganization.

25 5. It requires the commission to submit legislation to the First Regular Session of the
26 130th Legislature to adjust all fees and penalties paid by public utilities based on the
27 actuarially compounded Consumer Price Index for each fee or penalty since enactment.