

SUMMARY: This rule establishes standards and conditions for the extension of water utility services.

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65-407 PUBLIC UTILITIES COMMISSION

Chapter 65: WATER MAIN EXTENSION AND SERVICE LINE RULE

SUMMARY: This rule establishes standards and conditions for the extension of water utility services.

1. DEFINITIONS

- A. Customer. A person taking or proposing to take water service at an establishment.
- B. Customer Contribution. The amount which a new customer on a water main extension must contribute to a water main extension. The amount of the customer contribution shall be the customer's share of the length of the extension up to the point of service minus the investment amount. The customer's share shall be: (1) the length of the main extension, if any, which serves that customer exclusively plus, (2) for each segment of extension serving 2 or more customers, the length of that segment divided by the number of customers served by it. In calculating the customer contributions the utility shall use the average cost per foot of the entire water main extension, including the fire protection allocation described in sections 3(A) and 4(A). The total contribution shall also include the net federal and state income tax liability resulting from the contribution, as calculated pursuant to section 3(C) and 4(C). The cost allocated among customers shall not include the cost of service lines.

EXAMPLE

Customer A is located at 200 feet on an extension.
Customer B is located at 120 feet.

Investment amount (\$ amount to be invested by utility per customer) = \$600

Cost of extension = \$6000

Average cost of extension per foot = \$30

1. Customer A pays for all of extension beyond 120 feet, *i.e.*, $200 - 120 = 80$ feet, and pays for half of first 120 feet, *i.e.*, $120/2 = 60$ feet. Customer A pays for 140 feet ($80 + 60$) of the 200 feet (70%).
2. Customer B pays for half of first 120 feet (30%) of the extension = 60 feet.

3. Customer A's share is 140 feet x \$30 per foot = \$4200 (70%). After deduction of utility's investment amount of \$600, Customer A pays \$3600.
4. Customer B's share is 60 feet x \$30 per foot = \$1800 (30%). After deduction of utility's investment amount of \$600, Customer B pays \$1,200.

If, after deduction of the investment amount for any customer, the contribution required from that customer is a negative amount, the customer shall make no contribution, but the utility shall make an investment on behalf of that customer equal only to that customer's share calculated as described above.

- C. **Alternative Calculation of Customer Contribution.** As an alternative to the allocation of the customer contribution described in subsection B, where an extension is to serve an area which has lots of approximately equal size, the utility may require customers served by the extension to provide a customer contribution in equal shares of the total construction cost, after deduction of the utility's investment amount for each customer. The utility shall divide the total required customer contributions, after deduction of the total investment, equally among all customers each time a new customer is added.
- D. **Development.** A water main extension shall be considered as serving a development, for purposes of section 4 of this rule, if a single person or business entity or a single association of persons or entities applying for a main extension to serve property owned or under the control of the single person, entity or association has offered two or more parcels for sale or it is reasonable to expect that two or more parcels will be offered for sale.
- E. **Establishment.** A location at which water service is desired or is being rendered.
- F. **Investment Amount.** The amount which a utility must invest in a water main extension for each customer. The investment amount is 75% of the amount of utility investment that will be supported by revenues from a new customer which are associated with fixed investment, provided that the utility shall invest no more than 50% of the cost of a line extension. The investment amount (LA) is established by multiplying the investment factor (IF) by the average annual customer revenue for the applicable customer classes, adjusted for public fire protection, as of the time the first customer was connected. For industrial, commercial and multi-unit residential customers, the average customer revenue shall be that of customers in the same class and same meter size subclass. The investment factor is determined (1) by dividing fixed costs by total operating revenues and other income in order to establish the percentage of costs related to embedded investment; and (2) then dividing this result by the sum of the applicable cost of capital plus capital recovery costs (.013 depreciation) based on a 75-year write-off (expressed decimally as .013) plus, for a non-investor owned utility, the principal payment percentage per year. The entire calculation is multiplied by .75.

In the formulas stated below the account numbers listed are from the Uniform System of Accounts for water utilities, contained in Chapter 61 of these rules (65-407 C.M.R. 61).

The basic formula for determining the investment amount (IA) is:

$$IA = IF \times ACR$$

The formula for determining the investment fact (IF) for a non-investor owned utility is:

$$IF = .75 \frac{D + A + I \times 1}{R + T} \frac{1}{C + P + .013}$$

The formula for determining the investment factor (IF) for an investor owned utility is:

$$IF = .75 \frac{D + A + I}{R + T} \times \frac{1}{CD + \frac{CE}{1 - (FIT - (FIT \times SIT) + SIT)}}$$

.013

Where

ACR = Average Annual Customer Revenue per customer for the applicable class or meter size subclass, divided by the difference of 1 minus the percentage determined in the most recent rate case, expressed decimally, of the utility's revenue requirement paid for fire protection by the municipality in which the main extension is located. If a utility is not able to determine average revenue for a particular class or meter size subclass because of insufficient experience, it shall use an estimated average revenue, based on average usage amounts from other water utilities and approved by the Director Technical Analysis of the Commission.

D = Depreciation Expense from Account 403.

A = Amortization Expense from Account 407.

I = For non-investor-owned utilities, total Income Deductions from Accounts 427, 428, 429 and contractual appropriations of income included in Account 436. For investor-owned utilities, the weighted cost of debt times

the rate base allowed in the utility's last rate case, unless a different amount is approved or set by the Commission or the Director of Finance.

- R = Operating Revenues from Accounts 460 to 474 inclusive.
- T= Total Non-operating Income from Accounts 415 to 421 inclusive and Account 426.
- C = Overall cost of capital for non-investor owned utilities, expressed as a decimal. Unless otherwise approved or set by the Director of Finance or the Commission, the cost of capital shall be the average interest rate for the first 15 years of the most recent issues of the Maine Bond Bank for a serial bond, assuming equal annual principal payments.
- CD = Cost of debt for an investor-owned utility, weighted by the debt ratio, expressed as a decimal. Unless otherwise approved or set by the Director of Finance or the Commission, the cost of debt and the debt ratio shall be those approved in the utility's most recent rate case.
- CE = Cost of equity, weighted by the equity ratio, expressed as a decimal. Unless otherwise approved or set by the Director of Finance or the Commission, the cost of equity and the equity ratio shall be those approved in the utility's most recent rate case.
- FIT = The utility's marginal federal income tax rate allowed in its most recent rate case, expressed as a decimal, unless a different tax rate is approved or set by the Director of Finance or the Commission.
- P = Principal payment percentage annually, expressed as a decimal. Unless a different amount is approved or set by the Director of Finance or the Commission, the amount shall be .067 (15 years).
- SIT = The utility's marginal state income tax rate allowed in its most recent rate case, expressed as a decimal, unless a different tax rate is approved or set by the Director of Finance or the Commission.

The investment amount shall be calculated each year on or before July 1. With the approval of the Commission, a utility may apply an adjustment to both the numerator and denominator of the fraction which determines the ratio of investment costs to total income in order to correct for past overinvestment in line extensions under the former investment factor contained in this chapter prior to its amendments effective May 7, 1986.

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- G. **Limited Service Contract.** A written agreement approved by the Commission pursuant to chapter 62, under which the company agrees to provide and the customer agrees to accept a level of pressure estimated in the contract. This agreement must be made on a form supplied by the utility.
- H. **Main and Main Extension.** A main is a waste line in a public way owned by the utility to serve one or more customer, multi-unit dwelling complex, or commercial or industrial development; or a water line owned by the utility on private property to serve more than one customer, multi-unit dwelling complex, or commercial or industrial development or to serve a single customer, multi-unit dwelling complex or commercial or industrial development if another person or entity has an easement or other right of access for water line purposes. A new main shall be a main extension for the 10 years following connection of the first customer. Pursuant to a decision by a utility under section 2(C), a new water line on private property to serve a single customer, multi-unit dwelling complex development shall be a main extension.
- I. **Person.** An individual, partnership, company, public or private corporation, political subdivision or agency of the State, department, agency or instrumentality of the United States, or any other legal entity.
- J. **Public Way.** A street or public right-of-way which has been accepted and is owned or controlled by a town, city, county, state or the federal government.
- K. **Private Line.** (1) A water line constructed prior to May 7, 1986 across private property to serve one or more customers and not considered by the utility to be a main; (2) except as provided under section 2(C), a water line constructed after May 7, 1986 across private property to serve a single customer, a single multi-unit dwelling complex or a single commercial or industrial development upon which no other person has an easement or other right of access for water line purposes. All other water lines shall be considered mains.

- L. **Service Line.** A water line installed at the customer's expense extending from a main to serve a single customer, a single multi-unit dwelling building or complex of a single commercial or industrial development. The service drop portion of the service line shall be owned by the utility and shall extend from the main to the curb stop (shut-off valve). The curb stop shall ordinarily be at the edge of the right of way.
- M. **Temporary Establishment.** An establishment that the utility reasonably believes to be of a temporary nature after giving due consideration to the location, setting, structures and use of the structures and/or establishment. The absence of a cellar or a permanent foundation shall not be the sole criterion used by the utility in determining that an establishment is of a temporary nature.

2. **GENERAL PROVISIONS**

- A. **Utility Ownership and Responsibility.** All water main extensions, appurtenances and service drops constructed pursuant to this rule shall be owned, maintained and, except as provided below, replaced by the utility. The actual construction shall be done by the utility or by an agency acceptable to it under the utility's supervision. If replacement is required because of an increase in demand by a new or existing customer or customers and not because the main should be or must be retired, the customers presenting the increased demand shall pay for a reasonable portion of the replacement pursuant to section 3 as if the replacement were a new main extension or service drop, but the utility shall invest an additional amount based on the difference in average customer revenues for the old and new meter sizes. A reasonable portion of the replacement facilities shall be determined in the same manner as provided in section 2(G).
- B. **Temporary Establishment.** The utility shall have no obligation to make an investment to extend its water service to a temporary establishment. If, however, service is installed at the customer's expense and water service is taken for a period of five consecutive years, or if the factors causing the utility to believe the establishment is of a temporary nature are removed, the establishment shall be considered as permanent and the utility shall make investments as provided in these rules, providing that no investments shall be made after 10 years following connection of the first customer.

- C. Main extensions and private lines. A private line shall be installed, owned and maintained by and at the expense of the customer which it serves. Main extensions, wherever located, are subject to the provisions of this chapter. Upon application for service through a water provisions of this chapter. Upon application for service through a waste line to be constructed after May 7, 1986, which is otherwise defined by section 1(K) as a private line, the utility may require a main extension if it decides that the private line will be detrimental to the proper development of the water system.

If, after May 7, 1986, a customer served by a private line permits another customer, premises or person to be served from the private line, the line shall be subject to the water main provisions of this rule. If the utility determines that this line must be modified or replaced in order to meet its specifications or to provide adequate capacity for reasonably anticipated future growth, the utility shall invest in the line, unless it has chosen to make no investments pursuant to 35 M.R.S.A. §72-A, and the customers served by the line shall provide a contribution as required by section 3 or 4. Any private line which will continue to be used as a main shall be conveyed to the utility without charge. All mains shall be owned and maintained and replaced by the utility as provided in section 2(A) and the utility shall be provided all necessary easements. Refusal or failure to comply with the requirements stated herein or failure of the unauthorized connecting person to voluntarily disconnect shall be grounds for disconnection pursuant to chapter 81, §2(A)(3), provided that the utility shall give 60 days notice prior to the proposed disconnection and payment of contributions shall be subject to payment arrangements under section 5 of Chapter 81, not to exceed one year in length. A person who disagrees with the utility about the proper size of any main or the need to modify or replace a private line may refer the matter to the Commission staff and Commission pursuant to Section 6(D).

If a utility under this rule, before or after its amendments effective May 7, 1986, has allowed a private line to be constructed when it prudently should have required a main extension, or, if after May 7, 1986, it has authorized connection of a second or subsequent customer to a private line constructed at any time, and if a main extension is built subsequently, customers connecting to the main extension shall be required to make customer contributions only in the amount that would be required if the customers served by the private line were required to connect and contribute to the extension. The utility shall pay the customer contribution of and investment amount for the customers who continue to be served by the private line unless those customers connect to the main extension.

- D. **Public and Private Ways.** Extensions shall normally be made in the municipally accepted public way. The utility may make extensions across private property provided that adequate easements are obtained. It shall be the responsibility of the applicant for a water main extension to provide the utility with such easements as the utility deems necessary.

If a utility reasonably believes that the lines and grades of a private street may not be approved by a municipality or other public authority it may refuse to invest in the water main extensions in the private streets until lines and grades have been established by the public authority and the street has met those standards, as determined by the utility or the public authority. Upon compliance with those standards, as well as the utility's construction standards, the utility shall make investments for each customer previously connected for a period of ten years following connection of the first customer.

- E. **Public Authority.** Where an extension must comply with an ordinance, regulation or specification or a public authority, the estimated and final cost of said extension shall be based upon the costs to comply therewith.

- F. **Fire Service.** Extensions made solely for either public or private fire protection service shall not be subject to these rules.

- G. **Utility Specifications; Related Distribution Capacity Additions.** The utility shall specify the size and type of pipe to be installed, and it shall be the responsibility of the utility to provide mains of adequate size to allow for normal domestic and fire protection growth. In the event that the utility desires to install pipes for its future benefit which are larger than required in the extension area, appropriate adjustments will be made.

If the demand for water expected from the customers to be served by the extension requires existing mains leading to the extension to be replaced or supplemented by parallel mains, or requires booster pumps or other appurtenances in order to satisfy the demand or to maintain adequate pressure along the extension or along the main leading to the extension, a reasonable portion of these costs shall be included in the price of the water main extension. In determining a reasonable portion the utility shall consider whether the need for new replacement or parallel facilities is caused entirely by the customers to be served by the main extension; the age of existing facilities and the need for replacement for other reasons; the marginal cost of providing the additional capacity if existing facilities need present replacement or replacement in the near future; any increases in the quality of service to other customers by the addition or replacement facilities; and, in the case of a review pursuant to section 6(D), the prudence of the utility in determining the amount of existing capacity.

- H. Length of Extension. In arriving at the length of a water main extension necessary to render service at any point, the distance from such point to the nearest existing water main normally shall be traced along the line which, according to established trade standards and utility practice, marks the proper construction of the extension in the street, road or right-of-way on which the building or lot fronts. The point at which the extension ends and the service line commences shall normally be at the intersection of this line and another line, perpendicular thereto, which passes through the center of the building to be served.
- I. Low Pressure Areas. The utility shall not extend its mains or render service to new customers in areas where substantially uniform system pressure at the connection of the water service to the main may be expected to fall below 20 p.s.i.g., except for periods of fire flow or system maintenance, unless a limited service contract is executed between the utility and the customer and approved by the Commission. The utility shall insure that the limited service contract is recorded in the Registry of Deeds. The limited service contract shall specify the materials and minimum size for the customer's portion of the service pipe. The execution of a limited service contract shall not prevent the Commission from requiring better service when, upon investigation, the Commission concludes that service should be improved.
- J. Inspection and Testing. The utility shall insure that any and all facilities, installed or accepted under an agreement, comply with the utility's standards for materials and installation and are adequate and safe for the purpose of the utility. The utility shall not be required to accept a main extension, pipeline or related appurtenances until after they have been inspected and tested and meet the utility's standards. Any inspections or test shall be at the expense of the person requesting service or acceptance.

3. **EXTENSIONS TO SERVE INDIVIDUALS**

- A. Cost Estimate, Advances and Deposits. Upon request of a potential customer or customers for a main extension, the utility shall prepare, without charge, a preliminary sketch, general specifications such as size and type of pipe, an estimate of the cost of the proposed water main extension and separate estimates of the cost of service lines to serve the customers requesting the main extension. If a water utility provides public fire protection the estimate and final cost for each foot of the extension shall include the average current per foot cost for the utility of providing hydrants. Averages shall be determined by dividing current installation costs by the spacing in feet between hydrants for areas of the same density and character.

The main extension estimate shall serve as a basis for determination of any required customer contribution. The costs of the main extension and the service lines shall be kept separate in order to allow reallocation among customers of the

cost of the main extension alone pursuant to subsection D. For the purposes of these rules, actual costs shall be reasonable and shall not exceed costs recorded in conformity with accepted water utility accounting practice as defined in the Uniform System of Accounts for Water Utilities prescribed by this Commission.

- B. **Utility Requirement.** Unless a non-investor owned utility has chosen to make no investment in main extensions pursuant to 35 M.R.S.A. §72-A(1), the utility shall invest in the extension of its water mains the investment amount multiplied by the number of customers served by the main extension. Each time a permanent customer is connected to the line extension during the 10 years following connection of the first customer, the utility shall invest an additional investment amount, except that it shall not invest in more than one-half of the original cost of construction. The investment amount shall be the amount calculated as of the time the first customer was connected.
- C. **Customer Contribution to Maine Extension and Other Requirements; Cost of Service lines; Advances and Deposits; Contracts.** Applicants either for a new water main extension, or for service from an existing water main extension, during the period of 10 years following connection of the first customer (on extensions to which the first customer was connected after May 7, 1986), shall, subject section 2(G), be responsible for customer contributions of all costs of construction of the main extension including the fire protection allocation, less the amount which the utility must invest. All applicants for service from a main, whenever constructed, shall be responsible for the cost of both portions of the service line that will serve each customer. Applicants for either a main extension or the utility's portion of the service line from an investor-owned utility shall also be responsible for the net federal and state income tax liability resulting from the contribution in aid of construction. The total amount which the applicant must pay shall be determined by (1) determining the amount of contribution before taxes (construction cost allocated pursuant to section 3(D) minus investment amount); (2) determining the amount of depreciation for tax purposes for each year over the tax depreciable life of the asset; (3) determining the amount of tax reduction resulting from tax depreciation over each year of the tax depreciable life of the asset, using the utility's expected marginal federal and state tax rates; (4) determining the present value of the amounts established by step 3, using as a discount rate the weighted cost of debt plus the pre-tax weighted cost of equity as determined in the investment factor formula; (5) deducting the total amount established by step 4 from the amount of the contribution established by step 1; (6) grossing up the amount established by step 5 for federal and state taxes pursuant to the following formula:

$$TC = \frac{C}{1 - [FIT - (FIT \times SIT) = SIT]}$$

Where

TC = Total contribution including taxes

C = Contribution after deduction of present value of tax reductions resulting from tax depreciation (step 5)

FIT = Federal Income Tax marginal rate

SIT = State Income Tax marginal rate

The applicant(s) shall be required to advance the customer contribution, if applicable, and the cost of the service drop to the utility no more than two weeks prior to the start of construction, of a utility no more than two weeks prior to the start of construction, of a new main or connection to an existing main extension or main. The utility may require a deposit of the cost of materials and supplies and detailed engineering design, or some portion thereof, two months prior to the commencement of construction of a main extension. Any portion of the deposit actually spent for detailed engineering design or for materials and supplies which cannot readily be used for other projects by the utility shall not be refundable. Within 60 days following receipt by the utility of the final bills for the extension, adjustment shall be made for any differences between the estimates and actual costs of the extension and service line or lines.

No construction of a main extension or service drop shall be commenced until the utility and the customer have executed a written contract. The contract shall incorporate this rule by reference, shall state that in the case of a conflict between the contract and the rule, the rule shall govern, and shall state that the provisions of the contract are subject to alteration by Public Utilities Commission decision or rule.

When new customers are added to an extension, customer contributions to the line extension for existing and new customers shall be recalculated as provided in Paragraph D.

- D. Distribution of additional Investment Amounts and Reallocation of Customer Contributions. When additional customers are connected to an extension within the ten years following connection of the first customer, the utility shall make payments without interest to the existing customers of (1) the additional amount, if any, which the utility must invest in the main extension; and (2) the additional customer contribution to the main extension. The amounts to be paid to customers shall be determined by recomputation of the contribution by each customer (after deduction of the new total utility investment amount) pursuant to section 1(B) or 1(C), as applicable, as if all customers had been connected simultaneously. If the utility has ceased investing because it has invested an amount equal to one-half of the original cost of the extension, customer contributions and reallocations among customers shall nevertheless continue until the expiration of the 10-year period.
- E. Further Extension to Serve New Customer. All further extensions to serve other customers shall be separate and customers served by further extensions shall not be required to contribute to any prior extension.

4. EXTENSIONS TO SERVE DEVELOPMENTS

- A. Developer Requirements. Upon request, an applicant for a main extension to serve a development shall furnish all reasonable information concerning the development, including an approved recorded plan which will show the line and grade of any roadways and an easement giving the utility prior rights in the public right-of-way. The utility shall prepare the cost estimate. If a water utility includes public fire protection the estimate and the final cost for each foot of the extension shall include the average current per foot cost of providing hydrants. Averages shall be determined by dividing current installation cost by the spacing in feet between hydrants for areas of the same density and character.
- B. Utility Investment. Unless a non-investor owned utility has chosen to make no investment in water main extensions pursuant to 35 M.R.S.A. §72-A(1), during the period of 10 years following connection of the first customer, the utility shall make an investment in a water main extension in the form of a payment to the developer each time a permanent customer is connected to the extension. The amount of the investment per customer shall be determined pursuant to section 1(F) at the time the first customer was connected shall remain unchanged over the 10 year period. The total amount of investment shall equal the investment amount multiplied by the number of additional customers served by the main extension, but shall not exceed one-half of the original cost of the extension. Additional service drops constructed at any time after the construction of the main extension shall be paid for in advance of construction by the developer or customer to be served.

- C. Developer Contribution; Cost of Service Lines; Advances and Deposits; Contracts. The developer shall advance to the utility, no more than two weeks prior to the commencement of construction, the total estimated cost of the line extension including the fire protection allocation and, subject to section 2(G), and the total estimated cost of service drops to all lots or locations where future service may reasonably be anticipated. Developers shall also be responsible for the net federal and state income tax liability of an investor-owned utility resulting from the contribution in aid of construction. The total amount which the applicant must pay shall be determined by (1) determining the amount of contribution before taxes (construction cost minus investment amount); (2) determining the amount of depreciation for tax purposes for each year over the tax depreciable life of the asset; (3) determining the amount of tax reduction resulting from tax depreciation over each year of the tax depreciation life of the asset, using the utility's expected marginal federal and state tax rates; (4) determining the present value of the amounts established by step 3, using as a discount rate the weighted cost of debt plus the weighted pre-tax cost of equity as determined in the investment amount formula; (5) deducting the total amount established by step 4 from the amount of the contributions established by step 1; (6) grossing up the amount established by step 5 for federal and state taxes pursuant to the following formula:

$$TC = \frac{C}{1 - [FIT - (FIT \times SIT) = SIT]}$$

Where

TC = Total contribution including taxes

C = Contribution after deduction of present value of tax reductions resulting from tax depreciation (step 5)

FIT = Federal Income Tax marginal rate

SIT = State Income Tax marginal rate

The utility may require a deposit of the cost of materials and supplies or detailed engineering design, or some portion thereof, two months prior to the commencement of construction. Any portion of the deposit actually spent for detailed engineering design or for materials and supplies which cannot readily be used for other projects by the utility shall not be refundable.

No construction of a main extension or service drop shall be commenced until the utility and the developer have executed a written contract. The contract shall incorporate this rule by reference, shall state that in the case of a conflict between the contract and the rule, the rule shall govern, and shall state that the provisions

of the contract are subject to alteration by Public Utilities Commission decision or rule.

Within 60 days following receipt by the utility of the final bills for the extension, the charge to the developer shall be adjusted to make up for any difference between the estimated and actual costs of the lines. For the purposes of these rules, actual cost shall be reasonable and shall not exceed costs recorded in conformity with accepted water utility accounting practice as defined in the Uniform System of Accounts for Water Utilities prescribed by the Commission.

- D. **Customer Contributions by Customers Outside Development.** If a main extension must cross property other than that within the development prior to reaching the development, and customers located on the property outside the development are connected to the main extension within ten years following connection of the first customer at any location on contribution. The total cost of the main extension shall be allocated between the development and the area outside the development on the basis of the number of feet within the development and the number of feet outside the development. After determining the total cost of the portion of the main extension outside the development on the basis of this allocation, customers outside the development should be required to make a contribution, less an investment amount per customer if applicable, as provided pursuant to section 1(B) or 1(C). For the purpose of determining the contribution or reallocating contributions when subsequent customers outside the development are connected, the developer shall be considered the equivalent of the number of customers within the development or the number of services constructed pursuant to subsection C of this section, whichever is greater, as if all those customers or services were located at the termination of the portion of the extension located outside the development. If a development is master-metered, the number of customers within the development, for purposes of this subsection, shall be considered as the number of residential, commercial or industrial units or establishments.

**5. INVESTMENT REDUCED OR NOT REQUIRED FOR HIGH-COST UTILITY;
INCREASED FOR LOW-COST UTILITY**

- A. **High-Cost Utility; Election by Utility.** A water utility may, with the approval of the Commission, be exempted from investing in a water main extension or may invest less than the amount otherwise required by Sections 3 or 4 if it is a high-cost utility, as defined in this subsection. A utility has high costs if the additional annual investment and operating revenue required to serve additional customers exceeds the amount of revenue which those customers will supply. If a utility has received approval to eliminate or reduce its investments pursuant to this section, individuals or developers requesting the construction of a water main extension, or service from an existing water main extension during the 10 years following connection of the first customer shall be responsible for the entire construction cost of the water main extension or all amounts in excess of any reduced investment amount through developer or customer contributions. The original customer contribution(s) and recalculation of customer contributions when additional customers are connected shall be in accordance with section 1(B) or 1(C), as applicable, but only the required investment amount shall be deducted.
- B. **Low-Cost Utility; Election by Utility.** If a water utility is a low-cost utility as defined in this subsection, it may choose to invest in the utility's portion of service lines, whether from a main extension or not; and, with the approval of the Commission, it may invest a greater amount in main extensions than the amount set by section 1(F). A water utility has low costs if additional revenue which new customers provide exceeds the additional annual investment and operating costs to serve those customers. A utility is presumed to meet this test if it has excess capacity in the commonly used facilities of the water system, including reservoirs, standpipes, treatment systems, pumping facilities and transmission mains and low customer growth.
- C. **Prima Facie Evidence of High-Cost Utility.** There shall be a presumption that a utility is a high-growth utility if it has undertaken reasonable conservation and load-management efforts and:
1. It has experienced:
 - (a) an increase in service installations in excess of an average of 1.5% compounded for the previous three years (4.57% for the three-year period); and
 - (b) Because of that growth in service installations, it is necessary to undertake a construction program of commonly used facilities of the water system, including reservoirs, standpipes, treatment systems, pumping facilities and transmission mains; and the program requires additional investment-related revenue of 15% or

more. The percentage of investment-related revenue shall be determined pursuant to the first fraction of the investment factor formula state in section 1(F), *i.e.*, $(D + A + I)/(R + T)$.

- D. **Definition of Service Installation and Equivalent Service.** For purposes of subsection C(1) and (2) of this section, each residential dwelling, including apartment units, shall be considered one service installation unit; each motel or hotel unit shall be considered a half unit. The number of equivalent units for all other commercial and industrial service connections shall be based on the equivalent cross-section area of the service as follows:

Size of Service	Equivalent number of units
3/4"	1.0
1"	1.8
1 1/4"	2.8
1 1/2"	4.0
2"	7.1
3"	16.0
4"	28.4
6"	64.0
8"	113.8
10"	177.8
12"	256.0
16"	455.1

- E. **Continued Investment Requirement for Utility with System Development Charge.** If a utility is permitted to impose a system development charge for the purpose of financing future capacity in commonly-used facilities required as a result of customer growth, the utility shall not be permitted to eliminate or reduce its investment in a water main extension pursuant to this section.

6. MISCELLANEOUS PROVISIONS

- A. **Contribution in Aid of Construction.** Nothing herein contained shall prevent a utility from accepting non-refundable donations or contributions for extensions either in cash or construction participation.

- B. Utility Investment in Deep Extensions to Serve Areas Previously Served by Surface Mains. The Utility shall invest in a "deep" main extension replacing a surface main in the manner provided by this rule. However, the utility's depreciated investment in the surface main shall be deducted from the investment in the "deep" main otherwise required.
- C. Surface Mains. A utility shall not be required to make an investment to further extend a surface main.
- D. Resolution of Disputes and Commission Review. In the case of any disagreement or dispute regarding the application of any provision of this rules, any person may refer the matter to the Commission for resolution. The matter will be treated as an informal complaint submitted for staff resolution under section 8(B) of Chapter 11 of the Commission's Rules, Rules of Practice and Procedure, 65-407 C.M.R. 11, §8(B). If a party is not satisfied with the staff's resolution, it must file a written request for Commission review within 5 business days following the issuance of the resolution by the staff. Failure to file a timely request for review of the Staff's resolution shall constitute acceptance of the resolution and waiver of further opportunity to be heard with respect to the matter.

A receipt of a request for review shall be treated as a request for investigation pursuant to 35 M.R.S.A. §296. A summary investigation shall be conducted, after which the Commission shall determine whether a formal investigation is warranted. If it decides to commence a formal investigation, the Commission shall determine the mater *de novo* and may affirm, reverse or modify the staff decision. If the Commission decides not to commence a formal investigation, failure to act in accordance with the staff resolution shall constitute grounds to commence a formal investigation pursuant to §296 and the initiation of a proceeding to issue a temporary order pursuant to 35 M.R.S.A. §293.

- E. Exemptions. A utility or any person affected by this rule may apply to the Commission for exemption from any provision of this chapter for good cause. The request shall contain a complete explanation and justification for the exemption.
- F. Application of Old Investment Amount to Existing Main Extensions for Two-Year Period; Application of New Investment Amount Thereafter; Exception. The investment amount as calculated pursuant to this rule, as amended May 7, 1986 or as further amended January 8, 1987, shall apply (1) to all investments made in those line extensions for which a main extension contract was executed on or after May 7, 1986; and (2), except as provided below, to all investments which the utility incurs the obligation to make on or after May 7, 1988 in all main extensions, including main extensions for which a main extension contract was incorporating the former rule to the contrary. The obligation to make an investment is incurred at the time a permanent customer is connected.

If, on a line extension for which a main extension contract was executed prior to May 7, 1986, an individual or developer sold a piece of property or contracted to sell a piece of property prior to that date and a customer is connected subsequently, the rebate (investment) amount shall be calculated as provided in this rule prior to the May 7, 1986 amendments.

No investments or rebates made or owed prior to the amendments effective May 7, 1986 shall be adjusted.

- G. Notice to Commission by Utility Choosing Not to Invest. If, pursuant to 35 M.R.S.A. §72-A(1), a non-investor owned utility has chosen to make no investment in water main extensions, it shall notify the Commission in writing of the date of that decision and shall include the minutes or other record thereof, including any endorsement required by 35 M.R.S.A. §72-A(4).
- H. Form Contracts. The forms for contracts between water utilities and individuals and water utilities and developers for water main extensions and service lines, attached to this rule as Forms A and B, may be used for contracts required by this chapter and may be adapted for other circumstances arising under this chapter. A utility may use contracts with wording different from that provided herein, provided that the wording complies with the specific requirements for contracts required by this rule and is otherwise consistent with the rule.

(APA Office Note: please contact the Public Utilities Commissions for applicable forms.

STATUTORY AUTHORITY: 35 M.R.S.A. §3

EFFECTIVE DATE:

February 2, 1987, or such subsequent date as the Secretary of State approves.

AMENDED:

This rule was approved by the Secretary of State **January 27, 1987** and will be effective on **February 1, 1987**.

EFFECTIVE DATE (ELECTRONIC CONVERSION):

May 4, 1996

CONVERTED TO MS WORD:

May 17, 2005