

Financing Capital Improvements

Existing Regulatory Requirements and Discussion of Changes per
LD 1820, Public Law Chapter 602 125th Maine State Legislature –
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Current Funding Methods – After Project Completion

- Recovery of debt financing for specific projects; Consumer Owned Water Utilities can include debt repayment in its revenue requirements; Investor-Owned includes debt in calculation of weighted cost of capital for return purposes
- Depreciation – depreciation expense is included in revenue requirements to recover the original costs of assets paid for by the utility (not through grants, principal forgiveness, or CIAC) over the life of the asset. Depreciation rates are pursuant to Chapter 68 of Commission rules.
- Both require rate filings to reflect changes in costs

Current Funding Methods Prior to Project Completion

- Reserves – amounts allowed in rates to accumulate funds to complete specific project
 - Stand pipe painting – utility estimates cost of stand pipe painting and frequency to determine an amount to add to revenue requirements to recover the costs over a set period
 - Filters for Membrane Treatment facilities that have to be replaced over a certain period of time
- Commission could require that a separate account be maintained and funded to ensure monies are available for project but generally has not
- Contingency – COWU's are allowed to include a contingency in revenue requirements which can be used to fund either infrastructure projects or operating costs

LD 909 - Background

- P.L. 2011, ch. 106 - An Act to Provide Additional Flexibility for the Funding of Infrastructure Improvements by Consumer-Owned Water Utilities made amendments to 35-A M.R.S.A. §6104-A regarding alternative rate making provisions for consumer-owned water utilities (proposed by LD 909)
- Law also directed the Commission to convene a work group that included representatives of small COWUs and the Office of Public Advocate (OPA) to examine ways of ensuring the capital requirements of these water utilities were provided for in an adequate and appropriate manner and required a report be submitted to the Committee by January 15, 2012
- The initial parties determined that it was appropriate to include investor-owned water utilities as well as the larger COWUs to ensure representation for all groups that could be affected by any proposed changes and to get their input as well
- Work group met four times to propose and discuss alternative mechanisms to fund replacement of water system infrastructure

LD 909 -Proposals

- Surcharge for Capital Improvements:
 - would recover capital improvement costs through a periodic surcharge filing without a general rate case
 - projects would have to be completed and in service prior to costs being included in surcharge
 - Surcharge would recover the increase in revenue requirements resulting from the addition of the project (depreciation, etc) and recovery would be over the same time period as in a general rate case
 - Proposal reduces regulatory lag that is incurred between general rate cases
 - Surcharge would be additional line item on customer bill
 - Costs would be rolled into base rates at next rate case reducing the surcharge back to zero

LD 909 Proposals - continued

- Capital Reserve Accounts
 - Utility could add a set amount to its revenue requirements to allow it to accumulate a capital reserve account to use for future capital improvements
 - Separate account on the books would need to be created to track monies collected and spent for the reserve
 - Possible that a separate bank account may be necessary to maintain the funds
 - Reserve account would only be for capital projects and funds could not be used for day-to-day operating costs

LD 909 Proposals continued

- Both proposals would:
 - Require that qualifying capital improvements be defined
 - An assessment of the utilities future needs for capital improvements
 - Tracking of costs recovered through the mechanism(s)
 - Reporting to the Commission

LD 909 Report

- On January 31, 2011 the Commission staff presented the report to the Energy, Utilities, and Technology Committee. The report is available on MPUC web site at: <http://www.maine.gov/mpuc/legislative/reports.shtml>
- On that date, proposed legislation was filed by Maine Water Utilities Association (surcharge), Maine Rural Water Utilities Association (capital reserve account) and, in response, the PUC
- The PUC drafted enabling legislation for these mechanisms that would allow both mechanisms but would create a rule to work out the details such as what projects qualify and whether any limitations need to be set out (such as percentage increases in rates or total amounts included in revenue requirements)
- The Committee decided to use PUC's draft legislation as a starting point and was returned in statutory form for the Committee to work as LD 1820.
- A public hearing was held on February 28 and the Committee work session was held on March 5 and the Committee voted Ought to Pass as Amended then.

LD 1820

- Adds 35-A MRSA §6105, sub -§4 ¶G:
 - To provide for recovery of the amounts necessary to fund the replacement of water system infrastructure. These funds must be deposited in a capital reserve account and used in accordance with section 6107-A
- Adds 35-A §6107-A – Funding for infrastructure improvements for water utilities;
 - Notwithstanding chapter 3, a water utility may fund future infrastructure improvements through recovery in rates and fund completed infrastructure replacement or repairs through the establishment of a surcharge in accordance with this section and rules adopted by the commission. Nothing in this section may be construed to exempt any expenditure by a water utility from review by the commission in accordance with this Title.

LD 1820, continued

- §§1 and 2: Allow water utilities to recover an amount in rates for future replacement of infrastructure; the funds must be deposited in a capital reserve account. The utility must provide an annual reporting to the Commission of revenues and expenditures of the capital reserve account
- §4 Limits collections from §1 to infrastructure improvements
- §3 – Infrastructure replacement surcharge – allows a temporary surcharge to allow recovery of the costs of completed replacement or repairs of water system infrastructure which may continue until the water utility's next rate case

LD 1820, Continued

- §5 - Requires that the Commission adopt rules governing the maximum amount of the funds that may be recovered through rates or surcharges under §6107-A, the authorized uses of those funds and reporting requirements and procedures to ensure that this section is being implemented in a manner that is consistent with just and reasonable rate-making principles, including a requirement that utilities submit an infrastructure needs assessment plan when establishing and using a capital reserve account. Notice of rulemaking would be issued and comments would be allowed
- Rule made major substantive which means Commission would need to complete rulemaking before the end of Fall and return a provisionally adopted rule to the legislature for review in the next legislative session
- LD 1820 effective 90 days following adjournment of the 125th Legislature, Second Regular Session

Potential Content of Commission Rule

- Commission staff to draft rule, which will include requirements for:
 - System Infrastructure Assessment (SIA) – what qualifies for capital reserve or surcharge recovery and the detail required
 - Detail may be based upon size of water utility
 - How frequently SIA's should be updated
 - Capital reserve
 - Possible limitations on the level included in revenue requirements based upon % of total revenue requirements or impact on total rate increase
 - Requirements regarding whether separate bank accounts would be necessary
 - Accounting requirements for maintaining and tracking reserve

Potential Content of Commission Rule

- Surcharge:
 - Requirement for period between last rate case and surcharge implementation
 - What costs included to calculate surcharge
 - Time period for sales
 - Billing criteria – separate line item or included in overall rate
 - What details need to be included in the annual filing
 - Limitations of surcharged based upon % increase in annual rates and cumulative increases over time
- Annual Report Requirements
 - Included in annual PUC report: Amounts collected (for both reserve and surcharge), amounts spent (for reserve), estimated collections (surcharge)
 - Outside of Annual Report: System Infrastructure Assessment – updates to reflect plan changes as well as changes in estimated costs

Rulemaking Process

- Once the proposed rule is drafted, the Commission will deliberate it and then issue the rule for comment.
- The Commission will review filed comments and consider them in its preparation of the provisional rule.
- The rule is major substantive so the Commission will first deliberate the provisional rule which will then be submitted to the legislature next session. The legislature will review and make changes; the final rule will then go back to the Commission for final deliberations before it is adopted.
- The Commission expects to provisionally adopt the rule in November or December.

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