

## 65-407 PUBLIC UTILITIES COMMISSION

Chapter 830: POLITICAL ACTIVITIES, CHARITABLE CONTRIBUTIONS,  
EDUCATIONAL EXPENDITURES, INSTITUTIONAL ADVERTISING,  
PROMOTIONAL ADVERTISING, AND PROMOTIONAL ALLOWANCES  
BY PUBLIC UTILITIES

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Summary: This rule requires all electric, gas, and water public utilities to file annual reports describing their political activities, charitable contributions, educational expenditures, institutional advertising, promotional advertising, and promotional allowances; requires detailed and separate accounting for expenses associated with these activities; prohibits any electric utility from providing promotional allowances without prior Commission approval; and establishes ratemaking treatment for expenses associated with these activities.

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## 1. Definitions.

- A. Advertising. The term "Advertising" means the use of any media, including radio, television, periodicals, newspapers, billboards, car cards, exhibits, bill inserts, handbills, brochures, and other printed matter, the Internet or social media in order to communicate a message to the general public, to a portion of the general public, or to a public utility's customers.
- B. Affiliated Interest. The term "Affiliated Interest" has the same meaning as in 35-A M.R.S. § 707(1)(A).
- C. Consumer-owned Transmission and Distribution Utility. The term "Consumer-owned Transmission and Distribution Utility" has the same meaning as in 35-A M.R.S. § 3201(6).
- D. Consumer-owned Water Utility. The term "Consumer-owned Water Utility" has the same meaning as in 35-A M.R.S. § 6101(1-A).
- E. Educational Expenditures that Serve a Public Interest. The term "Educational Expenditures that Serve a Public Interest" and thereby may be recoverable in rates means expenditures related to utility communications with customers that:
  - 1. Inform customers how they can conserve energy, reduce peak demand for a utility's service, or otherwise reduce consumption of the utility's service;
  - 2. Inform customers about energy-efficient appliances, equipment, or services, or about practices which reduce the cost of utility service;
  - 3. Is required by federal or state law or regulation or are required or permitted by Commission order;

4. Concern connection, disconnection, conditions of service, billing procedures, service interruptions, safety measures, or emergency conditions;
5. Concern employment opportunities with the public utility;
6. Explain existing rate schedules or provides notification of proposed rate schedules and of hearings and proceedings concerning the public utility.

Educational expenditures include expenditures relating to information delivered to the public or to public utility customers by radio, television, the Internet, print and other media or through sponsorships, paid endorsements and public relations campaigns.

- F. Grassroots Lobbying. The term “Grassroot Lobbying” has the same meaning as in 3 M.R.S. § 312-A(7-B).
- G. Lobbying. The term “Lobbying” has the same meaning as in 3 M.R.S. § 312-A(9).
- H. Major Political Activities. The term “Major Political Activities” means political activities expenditures aggregating in excess of \$100,000.
- I. Membership Organization. The term “Membership Organization” means an organization in which a public utility either pays membership dues or has some other significant financial attachment to the organization or has a significant organizational attachment to the organization that includes direct participatory rights in the governance of the organization, such as the right to vote on the organization’s board, budget, or policies. The membership organization’s purpose may include, but is not limited to, connecting people together around a particular activity, industry, mission or profession and the membership organization may be not for profit or for profit.
- J. Political Activities. Political activities by utilities are acts, expenditures, advertising conducted by the utility or affiliated interest or by a trade association or membership organization of which the utility is a member for the purpose of influencing federal, state, or local ordinances, legislation or legislative resolutions, campaigns for political office, referenda, initiatives, constitutional amendments or state and municipal bond issues. Without limitation, and by way of example only, political activities shall include: 1) activities before executive or administrative agencies or officials, or the general public, for the purpose of advocating a specific position with respect to a campaign as defined in 21-A M.R.S. §1052(1); 2) activities before or communications with legislative or executive officials for the purpose of influencing legislative actions or political appointments, or for the purpose of advocating initiation of legislative actions, including activities which must be reported in the Secretary of State's lobbyist disclosure report under 3 M.R.S. §317; 3) contributions, gifts, or non-monetary

donations to political candidates, political parties, political or legislative committees or to any committees or organizations working to influence referendum petitions or elections; contributions to a trade association, chamber of commerce, or public charity; expenditures for lobbying or grassroots lobbying; and educational expenditures unless those expenditures serve a public interest as defined in Section 1, paragraph E. Without limitations, and by way of example only, the following do not constitute political activities: 1) proceedings before local, state, or federal executive or administrative agencies to secure licenses, permits, easements, variances, or similar authority; 2) rulemaking proceedings before state or federal agencies, unless the utility advocates a position with respect to a campaign; 3) services rendered by utility employees on behalf of government agencies, boards, commissions, or ad hoc committees created by public bodies to examine particular issues, or; 4) responding to informational requests from legislators or legislative committees where the utility is not involved in attempting to influence legislative action.

- K Public Charity. The term "Public Charity" has the same meaning as in 5 M.R.S. § 194(1).
- L Institutional Advertising. The term "Institutional Advertising" means any advertising conducted for the purpose of promoting the corporate image or goodwill of a public utility or the utility industry.
- M. Promotional Advertising. The term "Promotional Advertising" means any advertising conducted for the purpose of encouraging any person to select or use the service or increase usage of the service of a public utility, to select, purchase, install, or use any appliance or equipment designed to use such utility's service, or to use any other particular service of the utility.
- N. Promotional Allowance. The term "Promotional Allowance" means any reduction in rates or charges or any rebate or credit granted by a public utility to a customer for the purpose of encouraging any person to select or use the service or increase usage of the service of a utility, to select, purchase, install, or use any appliance or equipment designed to use such utility's service, or to use any other particular service of such utility.
- O. Trade Association. The term "Trade Association" means a group of for-profit corporations collaborating to fund joint advocacy.

## 2. Limitation on Rates

The following expenses, whether paid directly or indirectly, through reimbursement or otherwise, incurred by a public utility or an affiliated interest may not be included or incorporated in operating expenses to be recovered in rates:

- A. Contributions or gifts to political candidates, political parties, political or

legislative committees or any committee or organization working to influence referendum petitions or elections. Nothing in this paragraph prohibits a consumer-owned water utility, a consumer-owned transmission and distribution utility or the Casco Bay Island Transit District from undertaking expenditures related to notifying the public of or conducting trustee elections or local referendum elections directly related to or legally required for the operation of these utilities or district.

- B. Contributions to a trade association, chamber of commerce or public charity, including, but not limited to, a charity managed by the public utility or affiliated interest. This paragraph does not apply to consumer-owned water utility.
  - C. Expenditures for lobbying or grassroots lobbying. This paragraph does not apply to a consumer-owned water utility, a consumer-owned transmission and distribution utility or the Casco Bay Island Transit District; and
  - D. Educational expenditures unless those expenditures serve a public interest as defined in Section 1, paragraph E. This paragraph does not apply to a consumer-owned transmission and distribution utility or a consumer-owned water utility.
3. Reports and Public Inspection.
- A. Annual Reports for Advertising, Political, Charitable, Educational, Institutional or Promotional Advertising, and Promotional Allowances Expenses.

Each public utility shall file a report annually with the Commission containing a written itemized description of any expenses that may not be included or incorporated in the public utility's operating expenses pursuant to Section 2. The report must also include a written itemized description of the expenses that may not be included or incorporated in the utility's operating expenses under Section 2 that are relevant to the business interests of the utility paid by a membership organization of which the utility is a member. For each expense, the report must include the date, the payee, the amount and a description of the purpose of the expense.

Each public utility shall also include in the report a written itemized description of any expenses that may not be included or incorporated in the utility's operating expenses for institutional advertising, promotional advertising, and promotional allowances. The report shall be included with the utility's annual report to the Commission. The Commission may review and require alteration of any reporting or accounting methods and procedures to ensure that the policies of this rule are implemented uniformly. In addition, each public utility shall keep copies of all its institutional and promotional advertising on file for inspection by the Commission.

B. Major Political Activities Quarterly Reports.

In addition to the annual report, if a public utility or an affiliated interest engages in major political activities as defined in Section 1, paragraph H, the utility shall file a quarterly report containing a written description of those major political activities and the expenditures associated with those activities. For each expenditure, the report must include the date, the payee, the amount and a description of the purpose of the expenditure.

The Commission may review and require alteration of any reporting or accounting methods and procedures to ensure that the policies of this rule are implemented uniformly. In addition, each public utility shall keep copies of all its institutional and promotional advertising on file for inspection by the Commission.

C. Public Inspection.

Each public utility shall make available for public inspection all materials filed with the Commission in accordance with Sections 3(A) and 3(B). Notice of the availability of the annual reports will be prominently displayed on the Commission's website and the annual reports will be accessible on the website.

4. Accounting.

Each public utility shall keep a record of all expenditures, contributions, expenses and costs directly or indirectly associated with, or incurred entirely or in part with respect to, political activities, charitable contributions, educational expenditures, institutional advertising, promotional advertising, and promotional allowances. Such records shall identify, to the extent reasonably possible in accordance with applicable standards of accounting practice, all contributions, dues, fees, and other amounts paid directly or indirectly, or through license, service, or management contracts or arrangements or otherwise, to another corporation, organization, association, or individual, to the extent used to conduct such activities on the utility's behalf.

All direct and indirect expenditures associated with these activities by utilities shall be accounted for by recording the same in the appropriate non-operating account in accordance with the Uniform System of Accounts as outlined in the Commission's rules.

5. Prior Approval Required for Promotional Allowance.

No electric utility shall provide any promotional allowance or engage in a promotional allowance program without the prior express written approval of the Commission, upon a finding that such allowance or program is just, reasonable, and in accord with applicable statutes, rules, and regulations.

6. Institutional Advertising, Promotional Advertising, and Promotional Allowances

No public utility shall recover from any person other than its shareholders or other owners any expenditures, contributions, expenses, or costs incurred by the utility with respect to institutional advertising, promotional advertising, or promotional allowances. This subsection applies to all direct or indirect expenditures, contributions, expenses, or costs incurred by a public utility with respect to institutional advertising, promotional advertising, or promotional allowances, or through a trade association or membership organization association of which the public utility is a member.

Each public utility which files with the Commission for a change in rates shall account separately for all expenditures, contributions, expenses, and costs associated with institutional advertising, promotional advertising, and promotional allowances, in accordance with the provisions of section 4 of this rule, and shall not include such expenditures, contributions, expenses, and costs as an operating expense for ratemaking purposes.

7. Other Expenses.

The inclusion or exclusion of any provision in this rule shall not restrict or limit, nor be construed to restrict or limit, the Commission's power in any rate case involving any public utility to disallow, in whole or in part, any expense which the Commission finds to be unjust, unreasonable, excessive, or unwarranted.

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STATUTORY AUTHORITY: 35-A M.R.S.A. §§104, 111, 112, 302 and 302-A

EFFECTIVE DATE: This rule was approved as to form and legality by the Attorney General on \_\_\_\_\_, 2024. It was filed with the Secretary of State on \_\_\_\_\_, 2024 (filing 2024-00XXX) and became effective on \_\_\_\_\_, 2024.