**65-407 PUBLIC UTILITIES COMMISSION**

**Chapter 850: REGULATORY PROCEEDING EXPENSES**

**SUMMARY**: This rule: 1) defines regulatory proceeding expenses; 2) sets forth reporting requirements for these expenses; and 3) establishes criteria to be used in determining the reasonableness of those expenses.

**1. Definitions**

1. **Regulatory Proceeding Expenses**. Regulatory Proceeding Expenses shall include any expense, fee or charge paid directly or indirectly by any public utility to any person, firm, corporation, or association other than its own employees, for legal, accounting, financial or other expert or specialized services in association with any proceeding before the Maine Public Utilities Commission or in any proceeding before the Maine Supreme Judicial Court arising out of a Commission proceeding. For purposes of this rule, regulatory proceeding expenses shall not include copying, telephone, mail, courier, or other such incidental costs; such incidental expenses shall be recoverable through normalization in a Company's test-year revenue requirement.

B. **Rate Case Expenses**. Rate Case Expenses are those Regulatory Proceeding Expenses incurred in connection with a general increase in rates as defined in 35-A M.R.S §307.

**2. Records Required**

 A. **Contents**. Every public utility seeking recovery of Regulatory Proceeding Expenses shall maintain records containing a detailed description and accounting of all Regulatory Proceeding Expenses of which it seeks recovery. Such records shall identify, by proceeding, the hours spent and fees charged by all persons whose salaries, fees or charges constitute Regulatory Proceeding Expenses.

 B. **Filing**

 1. **Timing**. In accordance with, Chapter 120, §5(C), every public utility seeking recovery of Rate Case Expenses shall file the applicable records required by §2(A) of this rule in every filing for a general increase in rates as defined in 35-A M.R.S. §307. Whenever a utility seeks to adjust the Rate Case Expenses incurred during the test period, it must file the records required by §2(A) of this chapter of all actual and estimated expenses which are relied on for purposes of making an adjustment to the test year. This filing shall be made in accordance with the filing requirements set forth in Chapter 120, §5(C) of the Commission's Rules.

 2. **Capitalized Expenses**. If Regulatory Proceeding Expenses are capitalized, the utility must maintain records which identify the Regulatory Proceeding Expenses, subject to the requirements of 2(A). That record must be filed at the time the utility seeks recovery of expenses of those proceedings.

**3. Ratemaking Treatment**

 A. **Policy**

 No public utility shall recover from its ratepayers any Regulatory Proceeding Expense unless such expense has been found by the Commission to have been reasonable and prudently incurred. The Commission will set regulatory proceeding expenses on a normalized test year basis.

 B. **Criteria for Determining Reasonableness**

 In determining whether a Regulatory Proceeding Expense is reasonable, the Commission may use the following criteria: 1) the customary fee for similar services, including the fees rendered in the relevant market to companies of similar size in matters of similar importance to the client; 2) the amount of money at issue; 3) the extent to which the attorney's or expert's services contributed to the presentation of the case; 4) whether the utility used a negotiations or bidding process, or otherwise considered information concerning the availability, experience, quality and cost of outside attorney and expert services when hiring outside attorneys and experts; and 5) the experience and ability of the attorney or expert. Other factors may be considered if relevant to a particular proceeding.

 C. **Methodology for Ratemaking Treatment**

Utilities may recover reasonable Regulatory Proceeding Expenses in accordance with the following formula, which shall include an adjustment for inflation.

RR-RPE = (ARPE – RCE) ÷ 5 + NRCE

Where

RR-RPE = Revenue Requirement Regulatory Proceeding Expenses

ARPE = Annual Regulatory Proceeding Expenses for the previous 5 years

RCE = Rate Case Expenses for the previous 5 years

NRCE = Normalized Rate Case Expenses

For the purposes of this section, the normalization period for Rate Case Expenses shall be ten years.

**4. WAIVER**

Upon the request of any person subject to the provisions of this Chapter or upon its own motion, the Commission may, for good cause, waive any of the requirements of this Chapter that are not required by statute. The waiver may not be inconsistent with the purpose of this Chapter or Title 35-A. The Commission, the Administrative Director, the Director of Electric and Natural Gas Industries, and the Director of Telephone and Water Industries, or the Presiding Officer assigned to a proceeding related to this Chapter may grant the waiver.

STATUTORY AUTHORITY:

 35-A M.R.S.A. §111

EFFECTIVE DATE:

 This rule was approved by the Secretary of State on September 17, 1986 and became effective on September 22, 1986. This rule applies to all proceedings initiated after its effective date. The transition statement is set forth in the Order Adopting Rule and Statement of Factual and Policy Basis, dated August 27, 1986.

EFFECTIVE DATE (ELECTRONIC CONVERSION):

 May 4, 1996

NON-SUBSTANTIVE CHANGES:

 March 24, 1999 - converted to MS Word

AMENDED: This routine technical rule adoption was approved as to form and legality by the Attorney General on August 22, 2022, and became effective on August 27, 2022 (filing 2022-159).