# 65-407 PUBLIC UTILITIES COMMISSION

Chapter 83: POLITICAL ACTIVITIES, INSTITUTIONAL ADVERTISING, PROMOTIONAL ADVERTISING, AND PROMOTIONAL ALLOWANCES BY PUBLIC UTILITIES

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

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, 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. Political Activities. Political activities by utilities are acts, expenditures and advertising conducted by the utility or by an 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.A. §1032(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.A. §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, pursuant to 35 M.R.S.A. §51-A. 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.

C. 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.

D. 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.

E. 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.

F. Exceptions. For purposes of sections 3 and 5 of this rule, the terms "Political Activities," "Institutional Advertising," "Promotional Advertising," and "Promotional Allowance" do not include acts, practices, expenditures, or advertising which:

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. Are 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 provide notification of proposed rate schedules and of hearings and proceedings concerning the public utility.

2. Reports Required.

A. Annual Reports for Advertising, Political Activities, Institutional or Promotional Advertising, or Promotional Allowances.

Each public utility engaging in any advertising, political activities, institutional advertising, promotional advertising, or the making or promotional allowances shall file a report annually with the Commission containing a written description of such activities, advertising, and allowances, whether conducted by the utility itself or by another corporation, organization, association, or individual on the utility's behalf. The report shall be included with the utility's annual report to the Commission and shall include the expanses associated with such activities, advertising or allowances, as well as total expenditures on all such activities, advertising methods used by the utility to collect and account for such information and the methods used to inform its employees and agents of the requirements of this rule and how to report such information to the utility for inclusion in the report required by this section and the accounts required by section 3 of this rule. 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.

Furthermore, with respect to political activities, the report shall include: 1) the number and titles of each utility employee involved; 2) the hours spent by these employees each quarter; 3) the expenditures, salary, and associated overheads of each employee while engaged in political activities. Political activities expenditures on major issues shall be separated and reported by specific issue or activity whenever aggregate spending for a particular issue or activity exceeds $50,000 or 10% of the total of all political activities expenditures over the most recent twelve-month period or are estimated to exceed 10% of the political expenditures for that calendar year.

B. Quarterly Summary Reports for Utilities Engaged in Political Activities.

Each utility engaged in political activities shall file a quarterly summary report listing the major political activities and associated expenditures, as defined above. In addition, this summary report shall include the total expenditures on political activities, separated by expenditures incurred internally and externally.

3. 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, 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 political activities by all utilities and associated with institutional advertising, promotional advertising, and promotional allowances by electric and gas utilities shall be accounted for by recording the same in separate subdivisions of the appropriate non-operating account listed below entitled "Miscellaneous Deductions from Income" and shall reflect the total of such expenditures as a footnote to the income statement in the annual report to the Commission.

Electric Utilities Account No. 449

Water Utilities Account No. 448

Telephone Utilities

Small Independents Account No. 423

NET&T and Class A

Independents Account No. 323

Gas Utilities Account No. 426

4. Prior Approval Required for Promotional Allowance.

No electric or gas 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.

5. Ratemaking Treatment.

A. Political Activities. It is the policy of the Commission and it adopts the standard that no pubic utility shall recover from any person other than its shareholders or other owners for any expenditures, contributions, expenses, or costs of such utility incurred with respect to political activities. This subsection applies to all direct or indirect expenditures, contributions, expenses, and costs incurred by a public utility with respect to political activities, or through another corporation, organization, association, or individual which engages in political activities on behalf of the utility.

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 political activities, in accordance with the provisions of section 3 of this rule, and shall not include such expenditures, contributions, expenses, and costs as an operating expense for ratemaking purposes. Any request for allowance of such expenditures, contributions, expenses, or costs as an operating expense for ratemaking purposes shall be made in the form of an adjustment to test period operating expenses, which adjustment must be supported by adequate evidence and documentation. The Commission may allow or disallow the adjustment, or any part thereof, on the basis of the policy expressed in this rule and the justness and reasonableness of the expenditure, contribution, expense, or cost in the particular case.

B. Political Contributions under 35 M.R.S.A. §51-A. Notwithstanding any other provision of this rule, pursuant to 35 M.R.S.A. §51-A (1978), contributions or gifts to political candidates, political parties, political or legislative committees, or to any committees or organizations working to influence referendum petitions or elections, whether paid directly or indirectly, through reimbursement or otherwise, incurred by a public utility, shall not be included or incorporated in operating expenses.

C. Institutional Advertising, Promotional Advertising, and Promotional Allowances by Electric and Gas Utilities. It is the policy of the Commission and it adopts the standard that no electric or gas utility shall recover from any person other than its shareholders or other owners for any expenditures, contributions, expenses, or costs of such utility incurred 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 another corporation, organization, association, or individual which engages in institutional advertising, promotional advertising, or promotional allowances, or through another corporation, organization, association, or individual which engages in institutional advertising, promotional advertising, or promotional allowances on behalf of the utility.

Each electric or gas 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 3 of this rule, and shall not include such expenditures, contributions, expenses, and costs as an operating expense for ratemaking purposes. Any request for allowance of such expenditures, contributions, expenses, or costs as an operating expense for ratemaking purposes shall be made in the form of an adjustment to test period operating expenses, which adjustment must be supported by adequate evidence and documentation. The Commission may allow or disallow the adjustment, or any part thereof, on the basis of the policy expressed in this rule and the justness and reasonableness of the expenditure, contribution, expense, or cost in the particular case.

D. 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.

STATUTORY AUTHORITY: 35 M.R.S.A. §§3, 4, 5, 6, 7, 296 and 313

EFFECTIVE DATE:

August 1, 1979

AMENDED:

November 19, 1986, or such subsequent date as the Secretary of State approves. This Rule was approved by the Secretary of State on November 19, 1986 and will be effective on November 24, 1986.

EFFECTIVE DATE (ELECTRONIC CONVERSION):

May 4, 1996

NON-SUBSTANTIVE CORRECTIONS:

March 26, 1999 - converted to MS Word.

APAO WORD VERSION CONVERSION (IF NEEDED) AND ACCESSIBILITY CHECK: July 18, 2025