# 65-407 PUBLIC UTILITIES COMMISSION

**Chapter 675: INFRASTRUCTURE SURCHARGE AND CAPITAL RESERVE ACCOUNTS**

**SUMMARY:** This Rule establishes procedures for water utilities to implement water infrastructure surcharges and capital reserve accounts.

1. **STATEMENT OF PURPOSE**

The purpose of this chapter is to establish guidelines and procedures for the implementation of infrastructure replacement surcharges and the funding of capital reserve accounts by water utilities and corresponding reporting requirements.

1. **DEFINITIONS**

The following terms have the following meanings:

* 1. **Capital Reserve Accounts**. “Capital reserve accounts” means revenue collected and maintained in a fund to pay for future replacement and repair of qualifying infrastructure projects.
	2. **Consumer-Owned Water Utility.** ”Consumer-owned water utility” has the same meaning here as in 35-A M.R.S.§6101
	3. **Infrastructure.** “Infrastructure” means the stationary physical plant assets needed to operate a water system. This definition includes, but is not limited to, water mains, storage tanks, and pumping facilities.
	4. **Temporary Surcharge for Infrastructure Replacement or Repair.** “Temporary Surcharge for Infrastructure Replacement or Repair” means a temporary surcharge to allow recovery of the costs of completed replacement or repairs of water system infrastructure.
	5. **Water Utility.** "Water Utility" has the same meaning here as in 35-A M.R.S. §102(22). For the purpose of this rule, the following terms have the following meanings:
		1. "Large water utility" means a water utility with total annual revenues of at least $750,000 during the most recent fiscal year.
		2. "Medium water utility" means a water utility with total annual revenues of less than $750,000 and at least $250,000 during the most recent fiscal year; and
		3. "Small water utility" means a water utility with total annual revenues of less than $250,000 during the most recent fiscal year.
1. **INFRASTRUCTURE NEEDS ASSESSMENT**

A water utility must a file a System Infrastructure Assessment with the Commission not less than 90 days before implementing a temporary infrastructure replacement surcharge or filing a general rate case in which proposed rates include amounts for the establishment of a capital reserve account. When a water utility must undertake a project that was not foreseen when filing its System Infrastructure Assessment and the water utility wishes to reflect that project in either the calculation of the Surcharge or the use of funds from the Capital Reserve Account, it may file a revision to reflect the new project. However, any revisions must be filed no later than the filing of the Surcharge Request and within 30 days of the use of any funds from an existing Capital Reserve Account.

* 1. **System Infrastructure Assessment**

The System Infrastructure Assessment shall include, for each infrastructure replacement or repair project, the following information:

* + 1. Description of the water utility’s source(s) of supply,
		2. Description of the treatment facilities and year(s) installed,
		3. Miles of transmission mains and general range of age of mains,
		4. Description of the distribution facilities, including storage tanks, booster stations and water mains, including year(s) installed for major facilities and general range of age of mains,
		5. Statement describing the need for the replacement or repair project, the age of the relevant infrastructure, and the identification of any adverse effects on water quality associated with the existing infrastructure,
		6. Estimate of the cost of the project and the identification of any external funding sources for the project, and
		7. Estimate of the year in which the project might be commenced, and the expected time necessary to complete the project once it is commenced.
1. **MAXIMUM FUNDS RECOVERED**
	1. **Temporary Surcharge for Infrastructure Replacement or Repair**
		1. **Large water utilities**. A large water utility shall not implement or modify any Temporary Surcharge for Infrastructure Replacement or Repair that would result in an increase in revenue requirements greater than 3% of current revenue requirements, or if the modification of a surcharge would result in an increase in revenue requirements of greater than 10% over rates in effect after the last general rate increase;
		2. **Medium water utilities**. A medium water utility shall not implement a or modify any Temporary Surcharge for Infrastructure Replacement or Repair that would result in an increase in revenue requirements greater than 5% of current revenue requirements or if the modification of a surcharge would result in an increase in revenue requirements of greater than 15% over rates in effect after the last general rate increase;
		3. **Small water utilities**. A small water utility shall not implement or modify any Temporary Surcharge for Infrastructure Replacement or Repair that would result in an increase in revenue requirements greater than 7.5% of current revenue requirements, or if the modification of a surcharge would result in an increase in revenue requirements of greater than 20% over rates in effect after the last general rate increase.
	2. **Capital Reserve Accounts**
		1. The amount of a water utility's revenue requirement attributed to funding a capital reserve account shall not exceed:
			1. 1% of current gross utility plant if the utility is a large water utility;
			2. 3% of current gross utility plant if the utility is a medium utility ; and
			3. 5% of current gross utility plant if the utility is a small water utility.
		2. The amount of the utility’s revenue requirement attributed to fund a capital reserve account shall not exceed:
			1. 10% if the utility is a large water utility
			2. 15% if the utility is a medium water utility; and
			3. 20% if the utility is a small water utility.
2. **AUTHORIZED USES**
	1. **Temporary Surcharge for Infrastructure Replacement or Repair**
		1. A Temporary Surcharge for Infrastructure Replacement or Repair may be implemented pursuant to this rule to recover the costs of construction of completed projects that are identified in the utility's System Infrastructure Assessment and are necessary to the transmission, distribution, and treatment of water. For the purposes of this chapter, a project is considered completed when it is being used to provide service to the water utility’s customers. No project shall be included in the calculation of the surcharge if the project was completed on or before the enactment of the legislation authorizing the surcharge or August 30, 2012.
		2. Increased operating costs resulting from an infrastructure replacement or repair project may not be recovered through the imposition of a Temporary Surcharge for Infrastructure Replacement or Repair.
	2. **Capital Reserve Accounts**
		1. Revenue to fund a capital reserve account shall be included in a water utility’s revenue requirement and recovered through rates set during a rate proceeding pursuant to 35-A M.R.S.§§ 307, 6104 or 6104-A.
		2. Funds held in a capital reserve account shall be used to pay for the costs of construction associated with the projects identified in the utility's System Infrastructure Assessment and are necessary to the transmission, distribution, and treatment of water.
3. **RATEMAKING TREATMENT**
	1. **Temporary Surcharge for Infrastructure Replacement or Repair**
		1. **Calculation of Surcharge**

A water utility implementing a Temporary Surcharge for Infrastructure Replacement or Repair shall calculate the Surcharge Revenue Requirement necessary to recover the construction costs of completed projects and allocate that Surcharge Revenue Requirement to the customer classes as described below. A water utility that has implemented a Temporary Surcharge for Infrastructure Replacement or Repair may adjust the amount of revenue recovered through the surcharge no more than twice in any 12 month period. A water utility that elects to recalculate its Temporary Surcharge for Infrastructure Replacement or Repair more than once in a 12 month period must adjust its annual revenue requirement to reflect the adopted recovery period for the project. Upon the effective date of new base rates, the surcharge will be rolled back to zero.

* + - 1. **Revenue Requirement**

The calculation of the revenue requirement to be recovered through a Temporary Surcharge for Infrastructure Repair or Replacement shall include:

* + - * 1. Depreciation Expense – calculated pursuant to Chapter 68 of the Commission’s rules
				2. Increases in property taxes where applicable
			1. **Additional Adjustments**
				1. An investor owned water utility shall be allowed a return on its rate base, which shall be the cost of the qualifying individual projects for the period reduced for accumulated deferred income taxes and accumulated depreciation associated with all projects being recovered through the surcharge. The rate of return shall be calculated using the current cost of debt and the return on equity and capital structure adopted in the water utility’s most recent rate proceeding. However, when calculating the rate of return for an investor-owned water utility, the investor-owned water utility, the Public Utilities Commission's advisory staff and the Office of the Public Advocate may agree in advance of the filing of the infrastructure surcharge request on the current cost of debt and return on equity and capital structure to be used.
				2. A consumer owned water utility shall be allowed to recover principal payments and interim and permanent interest and other debt issuance related expense for debt issued for projects included in the surcharge. - A consumer- owned water utility must be able to document that the project was funded by the debt issuance.
		1. **Applicable Customer Classes**
			1. A water utility shall allocate the increase in revenue requirements first to public and private fire protection charges using the percentages and methodology adopted in its last rate case and the remainder to water usage rates.
			2. A water utility shall calculate the surcharge revenue requirements applicable to water usage rates by subtracting from the total increased revenue requirement the amount to be recovered from both public and private fire protection as described above. The surcharge rate shall be calculated by dividing this total by the estimated sales forecast for the period that the surcharge will be effective.
		2. **Filing Requirements**
			1. A water utility shall file the proposed surcharge with a justification for the implementation of the surcharge with the Commission no less than 30 days before the effective date of the surcharge. The Commission may investigate the surcharge in accordance with 35-A M.R.S. §1303 to determine if the surcharge is just and reasonable. If the Commission investigates the surcharge, the Commission shall make its determination within 75 days of the filing and shall approve the surcharge if it is determined to be just and reasonable and deny the surcharge if it is determined not to be just and reasonable.
			2. A water utility shall include in its surcharge filing a cover letter justifying the need for the charge, a surcharge rate change worksheet in an electronic format approved by the Director of Telephone and Water Industries and revised tariff sheet(s) reflecting the surcharge.
		3. **Notice and Billing Requirements**
			1. A water utility must provide notice to its customers for its first filing for a surcharge pursuant to the requirements of Chapter 307. The notice shall include in this notice the planned frequency of future changes in the surcharge. The water utility is not required to file subsequent notices of these changes.
			2. A water utility may, but is not required to, show the surcharge as a separate line item on its bill. If it chooses to separately label the surcharge it must label it an infrastructure replacement surcharge on the bill.
	1. **Capital Reserve Accounts**

Upon the effective date of terms and conditions that includes charges attributable to capital reserve accounts, a water utility must establish a separate account on its books and records for this reserve and must fund the account.

1. **REPORTING REQUIREMENTS**

A water utility shall provide an annual report updating its System Infrastructure Assessment Report, details on expected and actual collections from the Temporary Surcharge and details on its capital reserve account. This reporting shall be made in conjunction with the filing of the annual PUC report due on April 1 of each year.

1. **WAIVERS**

Upon the written request of any utility subject to this Rule or upon its own motion, the Commission may, for good cause, waive any requirement of this Rule that is not required by statute. The waiver may not be inconsistent with the purposes of this Rule or Title 35-A. The Commission, the Director of Telephone and Water Industries, or the Presiding Officer assigned to a proceeding related to this Rule, may grant the waiver.

**STATUTORY AUTHORITY:** 35-A M.R.S.§§ 6105, 6107-A and Resolves 2013, ch. 9

**EFFECTIVE DATE:** This rule was approved as to form and legality by the Attorney General on May 21, 2013. It was filed with the Secretary of State on May 22, 2013, and becomes effective on June 21, 2013.

APAO WORD VERSION CONVERSION (IF NEEDED) AND ACCESSIBILITY CHECK: July 19, 2025