

HB 535-FN - AS INTRODUCED

2025 SESSION

25-0873

09/08

HOUSE BILL ***535-FN***

AN ACT relative to defining the role of the public utilities commission.

SPONSORS: Rep. Cormen, Graf. 15; Sen. Watters, Dist 4

COMMITTEE: Science, Technology and Energy

ANALYSIS

This bill clarifies and eliminates certain grants of authority to the public utilities commission, and requires, in any contested case before the commission to which the department of energy and the office of the consumer advocate are parties, the commission to approve by order any settlement agreement to which all parties are a signatory, unless the commission determines after hearing that any settlement provision is contrary to law.

This bill is at the request of the office of the consumer advocate.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT relative to defining the role of the public utilities commission.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Findings. The general court finds that:

2 I. Pursuant to RSA 363:17-a, the public utilities commission plays a critical role in the
3 regulation of the state's electric, natural gas, and water service by serving as the neutral arbiter
4 between the interests of utility customers and utility shareholders, and discharging that role
5 effectively requires the commission to conduct its proceedings in a manner similar to that employed
6 by a civil court.

7 II. When the general court established the department of energy via chapter 91 of the 2021
8 New Hampshire Laws, the general court transferred policymaking and investigative functions to the
9 department so as to allow the public utilities commission to discharge its adjudicative
10 responsibilities fully and fairly without being encumbered by duties that might conflict with or
11 undermine the commission's neutrality.

12 III. In light of ambiguities in the 2021 legislation, there has been confusion and uncertainty
13 about the respective roles of the department of energy and the public utilities commission, which has
14 increased the cost and complexity of utility regulation in a manner that does not serve the public
15 interest.

16 IV. With respect to contested proceedings before the public utilities commission, when there
17 is agreement among any participating utilities, the consumer advocate responsible for representing
18 the interests of residential ratepayers pursuant to RSA 363:28, the department in its capacity as the
19 state's energy policymaker, and other parties, it is in the public interest for such proceedings to be
20 resolved in a timely manner that reflects such consensus.

21 V. Therefore, to assure the continued provision of utility service to homes and businesses in
22 the state at rates that are just and reasonable and on terms that promote reliability and
23 affordability, it is necessary to clarify the role of the public utilities commission so as to eliminate
24 authority that overlaps with that of the department of energy, and to encourage the swift resolution
25 of contested proceedings before the commission by settlement.

26 2 The Public Utilities Commission; Commission; Term. Amend RSA 363:1 to read as follows:

27 363:1 Commission; Term.

28 I. There shall be a public utilities commission, which shall be an independent agency
29 administratively attached to the department of energy pursuant to RSA 21-G:10. The chair of the
30 commission shall have the powers and duties set forth in RSA 21-G:9. The commission shall be
31 composed of 3 commissioners who shall be full-time employees and who shall engage in no other

1 gainful employment during their terms as members. Their term of office shall be for 6 years. Of the
2 3 commissioners, one shall be an attorney and a member of the New Hampshire Bar and one shall
3 have either background or experience or both in one or more of the following: engineering, economics,
4 accounting or finance.

5 ***II. The authority of the commission shall consist of conducting contested***
6 ***adjudicative proceedings within the meaning of RSA 541-A:31 on matters concerning the***
7 ***rates, charges, tariffs, and services provided by public utilities as defined in RSA 362:2 and***
8 ***others as specifically authorized under this title, and to adopt administrative rules***
9 ***consistent with its authority as provided in this title.***

10 3 Complaints to the Department of Energy and Proceedings Before the Commission; Inspection.
11 Amend RSA 365:6 to read as follows:

12 365:6 Inspection. ~~[Both the commission and]~~ The department of energy may at any time
13 personally, or by its experts or agents, inspect the property, works, system, plant, devices, appliances
14 and methods used by any public utility, or its books, papers and records.

15 4 Complaints to the Department of Energy and Proceedings Before the Commission; Authority
16 to Inspect. Amend RSA 365:7 to read as follows:

17 365:7 Authority to Inspect. Any expert or agent of the department of energy ~~[or the~~
18 ~~commission]~~, who shall make a demand on behalf of the commission or the department to be allowed
19 to inspect as provided in RSA 365:6, shall produce written authority to make such inspection signed
20 by ~~[the chairperson of the commission or]~~ the commissioner of the department of energy.

21 5 New Section; Proceedings Before the Commission; Settlement of Contested Cases. Amend
22 RSA 365 by inserting after section 20 the following new section:

23 365:20-a Settlements. In any contested case before the commission to which the department of
24 energy and the office of the consumer advocate are parties, the commission, in a timely manner,
25 shall approve by order any settlement agreement to which all parties are a signatory, unless the
26 commission determines after hearing that any settlement provision is contrary to law.

27 6 Supervisory Power of Department of Energy and Public Utilities Commission; Extent of
28 Power. Amend RSA 374:3 to read as follows:

29 374:3 Extent of Power. The ~~[public utilities commission and]~~ department of energy shall have
30 the general supervision of all public utilities and the plants owned, operated or controlled by the
31 same so far as necessary to carry into effect the provisions of this title.

32 7 Supervisory Power of Department of Energy and Public Utilities Commission; Duty to Keep
33 Informed. Amend RSA 374:4 to read as follows:

34 374:4 Duty to Keep Informed. The ~~[commission and the]~~ department of energy shall have
35 power, and it shall be ~~[their]~~ **its** duty, to keep informed as to all public utilities in the state, their
36 capitalization, franchises and the manner in which the lines and property controlled or operated by
37 them are managed and operated, not only with respect to the safety, adequacy and accommodation

1 offered by their service, but also with respect to their compliance with all provisions of law, orders of
 2 the commission and charter requirements. *It shall further be the duty of the department of*
 3 *energy to petition the commission for appropriate relief through the means of RSA 365:41-*
 4 *44, RSA 374:41, or other appropriate action when the department reasonably believes that*
 5 *a public utility is failing to discharge its obligations pursuant to this title.*

6 **8 Supervisory Power of Department of Energy and Public Utilities Commission;**
 7 **Additions and Improvements.** Amend RSA 374:5 to read as follows:

8 374:5 Additions and Improvements. For the purpose of enabling ~~[the commission and]~~ the
 9 department of energy to perform ~~[their]~~ **its** duty to keep informed as provided in RSA 374:4, every
 10 public utility, before making any addition, extension, or capital improvement to its fixed property in
 11 this state, except under emergency conditions, shall report to ~~[the commission and]~~ the department
 12 of energy the probable cost of such addition, extension, or capital improvement whenever the
 13 probable cost thereof exceeds a reasonable amount to be prescribed by general or special order of the
 14 commission. For this purpose, the commission may classify public utilities according to the amount
 15 of their respective fixed capital accounts, and prescribe a reasonable limitation for each such
 16 classification. In no case shall the minimum amount prescribed be less than 1/4 of one percent of
 17 such fixed capital account as of December 31 of the preceding year, or \$10,000, whichever is the
 18 smaller amount. Reports shall be filed in writing within such reasonable time as may be prescribed
 19 by the ~~[commission]~~ **department** before starting actual construction on any addition, extension, or
 20 improvement. *Upon petition by the department,* the commission shall ~~[have discretion to]~~
 21 exclude the cost of any such addition, extension, or capital improvement from the rate base of said
 22 utility ~~[where]~~ **upon a finding that** such written report thereof shall not have been filed in advance
 23 as herein provided.

24 **9 Supervisory Power of Department of Energy and Public Utilities Commission; Investigation of**
 25 **Other Utilities; Orders.** Amend RSA 374:7 to read as follows:

26 374:7 Investigation of Other Utilities; Orders. The ~~[commission and the]~~ department of energy
 27 shall have power to investigate and ascertain, from time to time, the quality of gas supplied by
 28 public utilities and the methods employed by public utilities in manufacturing, transmitting or
 29 supplying gas or electricity for light, heat or power, or in transmitting telephone and telegraph
 30 messages, or supplying water, and, after notice and hearing thereon, **and upon petition of the**
 31 **department,** the commission shall have power to order all reasonable and just improvements and
 32 extensions in service or methods.

33 **10 Public Utilities; Production of Books, Etc.** Amend RSA 374:18 to read as follows:

34 374:18 Production of Books, Etc. The ~~[commission, by order, or the]~~ department of energy^[5]
 35 may require any public utility to produce within the state, at such time and place as it may
 36 designate, any accounts, records, memoranda, books, or papers kept in any office or place without

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1 the state, or verified copies thereof, in order that an examination thereof may be made by or under
2 the direction of ~~[the commission or]~~ the department of energy.

3 11 Repeal. RSA 365:19, relative to investigations by the commission, is repealed.

4 12 Effective Date. This act shall take effect 60 days after its passage.

HB 535-FN- FISCAL NOTE
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AN ACT relative to defining the role of the public utilities commission.

FISCAL IMPACT: This bill does not provide funding, nor does it authorize new positions.

Estimated State Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
Revenue	\$0	\$0	\$0	\$0
<i>Revenue Fund(s)</i>	None			
Expenditures*	\$0	\$434,000	\$440,000	\$440,000
<i>Funding Source(s)</i>	Utility Assessment (Federal Funds)			
Appropriations*	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			

*Expenditure = Cost of bill

*Appropriation = Authorized funding to cover cost of bill

METHODOLOGY:

This bill limits the Public Utilities Commission’s role to adjudicative proceedings and rulemaking, though the extent of this restriction is unclear under RSA 363:I, II. The Commission would no longer conduct inspections, investigations, or utility supervision, nor receive reports on capital improvements—responsibilities that would shift entirely to the Department of Energy. Additionally, the Commission would lose authority to review the fairness of settlements made by the Department and the Office of the Consumer Advocate. The Department would also be required to petition the Commission for appropriate relief if it determines a utility is not meeting its obligations under state statutes contained in Title 34.

The Department of Energy currently performs many of the tasks outlined in the bill, as it primarily reduces the Public Utilities Commission’s (PUC) authority. While some additional responsibilities can be absorbed by existing staff, the bill introduces new duties that would require additional resources.

A key change is the requirement for the Department to formally petition the PUC for corrective action in cases where it currently works informally with utilities to resolve issues, such as missed meter inspections or billing errors. This shift would necessitate litigation, increasing workload and resource demands.

Additionally, the bill mandates that the Department formally prosecute Dig Safe and pipeline safety violations before the PUC. Currently, the Department handles these matters internally, with only disputed cases escalating to the PUC. The new process would require approximately 70 additional Dig Safe cases and more pipeline safety prosecutions annually.

To manage these increased responsibilities, the Department estimates the need for three new positions: two attorneys and one underground damage prevention specialist for an estimated increase in expenditures of \$434,000 in FY 2026, \$440,000 in FY 2027 and \$440,000 in FY 2028. The detail for these positions is as follows:

ESTIMATED FISCAL IMPACT (ROUNDED)			
	FY 2026	FY 2027	FY 2028
Administrative Law Judges (2 positions)	\$282,000	\$286,000	\$286,000
Compliance Officer (1 position)	\$152,000	\$154,000	\$154,000
Total Estimated Cost	\$434,000	\$440,000	\$440,000

The Public Utilities Commission states the fiscal impact is indeterminable.

The Office of the Consumer Advocate does not anticipate this bill will have fiscal impact on the Office.

AGENCIES CONTACTED:

Department of Energy, Public Utilities Commission and the Office of the Consumer Advocate