

CHAPTER 136
SB 324 – FINAL VERSION

03/27/14 1096s
23Apr2014... 1354h
05/08/14 1807EBA

2014 SESSION

14-2757
06/03

SENATE BILL **324**

AN ACT relative to the assessment of public utilities and other entities to fund the expenses of the public utilities commission.

SPONSORS: Sen. Odell, Dist 8; Sen. Bradley, Dist 3; Sen. Fuller Clark, Dist 21; Sen. Forrester, Dist 2; Sen. D'Allesandro, Dist 20; Rep. Townsend, Graf 11; Rep. Kaen, Straf 5; Rep. Barry, Hills 21

COMMITTEE: Energy and Natural Resources

ANALYSIS

This bill:

I. Lowers the public utilities commission assessment percentage for certain telephone utilities and IP telephone service providers.

II. Includes competitive electricity suppliers, competitive natural gas suppliers, electric load aggregators, and aggregators of natural gas customers in the assessments of the public utilities commission.

III. Imposes a specified minimum assessment amount on certain entities subject to the regulatory and enforcement authority of the public utilities commission.

This bill is a request of the public utilities commission.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fourteen

AN ACT relative to the assessment of public utilities and other entities to fund the expenses of the public utilities commission.

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

1 136:1 Expenses of Public Utilities Commission Against Certain Utilities; Ascertainment of
2 Expenses. Amend RSA 363-A:1 to read as follows:

3 363-A:1 Ascertainment of Expenses. The public utilities commission shall annually, after the
4 close of the fiscal year, ascertain the total of its expenses during such year incurred in the
5 performance of its duties relating to public utilities as defined in RSA ~~[362:2]~~ **362 and other**
6 **entities subject to its regulatory and enforcement authority** and relating to the office of the
7 consumer advocate ~~[and the allowable expenses for the council on energy]~~. In the determination of
8 such expenses there shall be excluded the expenses which have been or may be charged and
9 recovered under the provisions of RSA 365:37 ~~[and]~~, RSA 365:38, **and RSA 374-F:7, I.**

10 136:2 Assessment. RSA 363-A:2 is repealed and reenacted to read as follows:

11 363-A:2 Assessment.

12 I. The expenses thus ascertained shall be assessed against the public utilities and other
13 entities described in this section in the manner provided in this chapter. The assessment shall be
14 calculated by using the following revenue percentages:

15 (a) 100 percent of the gross utility revenue of all public utilities, except as otherwise
16 provided in this section;

17 (b) 33 percent of the gross utility revenue of rural electric cooperatives for which a
18 certificate of deregulation is on file with the commission;

19 (c) 33 percent of the gross utility revenue of all excepted local exchange carriers as
20 defined in RSA 362:7, I(c), and 33 percent of the gross revenue of any affiliate of such a carrier
21 received from New Hampshire retail customers for a VoIP service as defined in RSA 362:7,1(d) or an
22 IP-enabled service as defined in RSA 362:7, I(e) that provides the voice capabilities described in RSA
23 362:7, I(d)(1) and (3), other than a cellular mobile radio communications service provider;

24 (d) 33 percent of all providers' gross revenue received from New Hampshire retail
25 customers for a VoIP service as defined in RSA 362:7, I(d) or an IP-enabled service as defined in RSA
26 362:7, I(e) that provides the voice capabilities described in RSA 362:7, I(d)(1) and (3), other than a

CHAPTER 136
SB 324 – FINAL VERSION
- Page 2 -

1 cellular mobile radio communications service provider or any entity to which subparagraph (c)
2 applies; and

3 (e) 100 percent of the gross revenue of all competitive electric power suppliers and all
4 competitive natural gas suppliers received from New Hampshire retail customers, except for any
5 such revenue received from the members of an electric cooperative for which a certificate of
6 deregulation is on file with the commission, with respect to which the applicable revenue percentage
7 shall be 33 percent.

8 II. To facilitate the revenue calculations required under this chapter, entities described in
9 subparagraph I(d) or their registered telecommunications carrier affiliates shall file with the
10 commission confidential annual reports of the retail telephone service revenue of such entities, and
11 entities described in subparagraph I(e) shall file with the commission confidential annual reports of
12 sales volume and revenues, by customer class, and separately identifying the total revenues received
13 from the distribution customers of each electric or natural gas distribution utility or the members of
14 each rural electric cooperative for which a certificate of deregulation is on file with the commission.
15 All other utilities and other assessed entities shall file information in accordance with applicable
16 commission rules.

17 III. Each entity described in subparagraph I(e) shall be assessed the sum of \$10,000 on an
18 annual basis and shall pay such assessed sum to the commission. Each electric load aggregator, and
19 each aggregator of natural gas customers shall be assessed the sum of \$2,000 on an annual basis and
20 shall pay such assessed sum to the commission. Each telecommunications carrier voluntarily
21 registered with the commission shall be assessed the sum of \$1,000 on an annual basis and shall pay
22 such sum to the commission.

23 IV. The expenses of the commission, less the total of the assessed sums paid to the
24 commission pursuant to paragraph III, shall be allocated to each utility and other assessed entity in
25 direct proportion as the revenue calculation for such utility or other assessed entity relates to the
26 total of all such revenue calculations as a whole, except as otherwise provided in paragraph V. Each
27 such expense allocation shall be assessed against each public utility and other assessed entity in an
28 amount equal to its proportionate share as determined under this section, except that the expense
29 allocation attributed to each entity described in subparagraph I(e) shall be imputed to and included
30 in the expense allocation to each electric or natural gas distribution utility or rural electric
31 cooperative for which a certificate of deregulation is on file with the commission, in correspondence
32 to the revenue portion reported pursuant to paragraph II as having been received from the
33 distribution customers of such distribution utility or the members of such rural electric cooperative
34 for which a certificate of deregulation is on file with the commission.

35 V. The expenses relating to the office of the consumer advocate shall be allocated to each
36 utility or other assessed entity in direct proportion as its revenue calculation described in paragraph

CHAPTER 136
SB 324 – FINAL VERSION
- Page 3 -

1 I bears to the total of all such revenue calculations as a whole. Each such expense allocation shall be
2 assessed against each public utility and other assessed entity in an amount equal to its
3 proportionate share as determined under this section, except that the expense allocation attributed
4 to each entity described in subparagraph I(e) shall be imputed to and included in the expense
5 allocation to each electric or natural gas distribution utility or rural electric cooperative for which a
6 certificate of deregulation is on file with the commission, in correspondence to the revenue portion
7 reported pursuant to paragraph II as having been received from the distribution customers of such
8 distribution utility or the members of such rural electric cooperative for which a certificate of
9 deregulation is on file with the commission. This paragraph shall not apply to any entity to which
10 subparagraph I(c) or (d) applies or to any revenue of that entity.

11 VI. A minimum amount shall be assessed to utilities and other assessed entities described in
12 paragraph I having minimal revenues in such proportion as the public utilities commission shall
13 determine to be fair and equitable, provided that the minimum amount assessed to any entity to
14 which subparagraphs I(c) or (d) applies shall not be less than \$1,000.

15 VII. Nothing in this chapter shall be construed to apply to any cellular mobile radio
16 communications service or to any “information service” as defined in 47 U.S.C. section 153.

17 136:3 Certification of Assessment. Amend RSA 363-A:3 to read as follows:

18 363-A:3 Certification of Assessment. It shall be the duty of the public utilities commission to
19 calculate the amount to be assessed against each such public utility **and each other entity subject**
20 **to assessment** in accordance with RSA 363-A:1 and RSA 363-A:2. At the beginning of each fiscal
21 year, the public utilities commission shall estimate its total expenses for the fiscal year, and then,
22 based on such estimate, shall calculate the amount to be assessed quarterly on August 10, October
23 15, January 15, and April 15 of that fiscal year, against each such public utility **and other assessed**
24 **entity** in accordance with RSA 363-A:1 and RSA 363-A:2. The public utilities commission shall then
25 make a list showing the amount due on August 10, October 15, January 15, and April 15 of that
26 fiscal year from each of the several public utilities **and other entities** assessed under the provisions
27 hereof, and, together with a statement of the full name and mailing address of each such public
28 utility **and other assessed entity**, shall certify the same. After the close of each fiscal year, the
29 public utilities commission shall ascertain its actual total expenses in accordance with RSA 363-A:1
30 and RSA 363-A:2, and then shall adjust the assessment for the first quarterly payment of the new
31 fiscal year for each such public utility **or other assessed entity** for any underpayment or
32 overpayment by each such public utility **or other assessed entity** for the prior fiscal year.

33 136:4 Collection. Amend RSA 363-A:4 to read as follows:

34 363-A:4 Collection. ~~Forthwith~~ Upon the completion of each such list, on or before August 10,
35 October 10, January 10, and April 10 of each fiscal year, the public utilities commission shall bill
36 each public utility **and each other entity subject to assessment** for the quarterly amount assessed

CHAPTER 136
SB 324 – FINAL VERSION
- Page 4 -

1 against it within 10 working days. Such bill shall be sent registered mail, and shall constitute notice
2 of assessment and demand for payment. Payment shall be made to the public utilities commission
3 within 30 days after the receipt of the bill. After the expiration of 30 days from the receipt of an
4 original bill, the public utilities commission may add to the assessment a late penalty fee and may
5 commence an action at law for the recovery of the assessment. Within 30 days of the assessment for
6 the first quarterly payment, each public utility *or other assessed entity* which has any objection to
7 the amount assessed against it for the prior fiscal year shall file with the commission its objection in
8 writing, setting out in detail the grounds upon which it is claimed that said assessment is excessive,
9 erroneous, unlawful, or invalid. If such objections are filed, the commission, after reasonable notice
10 to the objecting public utility *or other assessed entity*, shall hold a hearing on such objections, and
11 if the commission finds that said assessment or any part thereof is excessive, erroneous, unlawful, or
12 invalid, the commission shall reassess the amount to be paid by such public utility *or other*
13 *assessed entity*, and shall order that an amended bill be sent to such public utility *or other*
14 *assessed entity* in accordance with such reassessment. The public utilities commission shall not
15 commence an action at law for recovery of any assessment for the first quarterly payment until any
16 such objection has been resolved.

17 136:5 Exemption from Assessment. Amend RSA 363-A:5 to read as follows:

18 363-A:5 Exemption From Assessment. Any *public utility or other assessed entity* that *is not*
19 *an entity to which RSA 363-A:2, I(c) or (d) applies, and that* earned less than \$10,000 in gross
20 revenue during the preceding fiscal year shall not be liable for any assessment *pursuant to this*
21 *chapter*.

22 136:6 New Section; Public Utility Recovery of Assessment Costs. Amend RSA 363-A by
23 inserting after section 5 the following new section:

24 363-A:6 Public Utility Recovery of Assessment Costs.

25 I. Assessment amounts determined with reference to the revenues of competitive electric
26 power suppliers and all assessments against regulated electric distribution utilities and electric
27 cooperatives for which a certificate of deregulation is on file with the commission shall be collected
28 from electric customers through the distribution rates of the respective electric distribution utility or
29 rural electric cooperative for which a certificate of deregulation is on file with the commission;
30 provided that an amount equal to the amount assessed directly to a competitive electric power
31 supplier under RSA 363-A:2, III shall be collected from the energy service or default service
32 customers of each electric distribution utility or rural electric cooperative for which a certificate of
33 deregulation is on file with the commission.

34 II. Assessment amounts determined with reference to the revenues of competitive natural
35 gas suppliers and all assessments against regulated natural gas distribution utilities shall be

CHAPTER 136
SB 324 – FINAL VERSION
- Page 5 -

1 collected from natural gas customers through the distribution rates of the respective natural gas
2 distribution utility.

3 III. The commission shall by order establish rate recovery mechanisms for any public utility
4 that is not either an excepted local exchange carrier, as defined in RSA 362:7, I(c), or a rural electric
5 cooperative for which a certificate of deregulation is on file with the commission. Such rate recovery
6 mechanisms shall adjust annually to recover any change in a utility's annual assessment.

7 136:7 Effective Date. This act shall take effect July 1, 2014.

8 Approved: June 16, 2014

9 Effective Date: July 1, 2014