Maine Public Utilities Commission

2008 Annual Report on Electric Restructuring

Presented to the
Utilities and Energy Committee
December 31, 2008

TABLE OF CONTENTS

I. INTRODUCTION…….. 3

II. REGIONAL WHOLESALE AND RETAIL INDUSTRY TRENDS….. 5

III. STANDARD OFFER SERVICE …… 8

IV. DELIVERY SERVICES AND PRICES …… 10

V. MAJOR ADJUDICATORY PROCEEDINGS…… 14

VI. KEY PUBLIC UTILITIES COMMISSION INVESTIGATIONS AND RULEMAKINGS …… . 17

VII. REGIONAL MATTERS AND FEDERAL ENERGY REGULATORY COMMISSION PROCEEDINGS ……... 21

VIII. THE REGIONAL GREENHOUSE GAS INITIATIVE ……...22

IX. SUPPLY RESOURCES IN MAINE ……... 24

X. AFFILIATED COMPETITVE PROVIDERS AND COMPLAINCE COSTS ……27

APPENDIX A …… 29

APPENDIX B …… 31

I. INTRODUCTION

A. The Electric Industry in Maine

Electricity in Maine is comprised of two components: delivery and supply. Delivery includes transmission, distribution and customer-related functions such as metering and billing, and supply includes the production and provision of electric energy and capacity. Delivery is fully regulated; supply is procured through competitive markets. Maine electricity consumers receive delivery service from a transmission and distribution (T&D) utility and supply service from a Maine-licensed competitive electricity provider (CEP). The Public Utilities Commission (Commission) fully regulates the operations and rates of the T&D utilities, except for transmission rates, which are regulated by the Federal Energy Regulatory Commission (FERC). With respect to supply, the Commission licenses CEPs, oversees the retail market, and administers the competitive procurement processes for standard offer service which provides electricity supply for customers that do not participate in the retail market. The Commission also monitors the regional wholesale markets and related activities of the New England Independent System Operator (ISO-NE)[1], and advocates for Maine consumers in regional forums and before the FERC.

There are thirteen T&D utilities in Maine: three investor-owed utilities (IOUs) and ten consumer-owned utilities (COUs). The IOUs, Central Maine Power Company (CMP), Bangor Hydro-Electric Company (BHE) and Maine Public Service Company (MPS), serve about 95% of the total state load. There are currently 115 Maine-licensed CEPs, and during 2008 seven different CEPs provided standard offer service. More detail about the T&Ds and CEPs is provided below. In addition to the T&D utilities and CEPs that provide service directly to retail consumers, there are also several electricity generation facilities located in Maine. Summary information about these facilities is provided in Appendix A.

Electricity use by Maine consumers is currently about 12 million MWh per year, with a peak demand of about 2,200 MW. Maine is currently a net electricity exporter, with total generation capacity from in-state plants in the range of 3,500 MW.

B. Key Events, Issues and Industry Trends

- The Commission submitted its Final Report to the Legislature regarding continued participation by Maine utilities in the New England Regional Transmission Organization (NERTO) in January of 2008. The Final Report outlined concerns with the *status quo,* described necessary changes and presented three alternatives. A

[1] The terms New England Independent System Operator (ISO-NE) and the New England Regional Transmission Organization (NERTO) are often used interchangeably.

Commission proceeding was initiated in May to determine whether, and under what terms, Maine utilities should continue as parties to the regional Transmission Owners' Agreement.

- Major transmission line projects were proposed by CMP and MPS involving capital investments in excess of $2 billion. CMP proposed to build approximately 350 miles of transmission lines and associated infrastructure throughout central and southern Maine to address reliability issues. CMP and MPS jointly proposed to build approximately 200 miles of transmission lines and associated infrastructure in northern Maine to provide a direct interconnection between northern Maine and New England and enable the development of wind generation in northern Maine.
- The Commission approved a stipulation that authorized the acquisition of CMP's corporate parent, Energy East Corporation, by Iberdrola, S.A., a corporation organized under the laws of the Kingdom of Spain. The stipulation included numerous terms and conditions to protect CMP's customers and was broadly supported by parties to the proceeding.
- The Commission approved a new Alternative Rate Plan for CMP that resulted in a distribution rate decrease of $20.3 million on July 1 and a set of inflation-based indices by which distribution rates would be determined through the year 2013. A proposal by CMP to invest system-wide in Advanced Metering Infrastructure (AMI) remains under consideration by the Commission.
- Wholesale market prices for electricity were volatile in 2008, increasing significantly in the first half of the year before falling during the latter half of the year to below 2007 levels.
- Standard offer service was procured through several competitive bid processes the Commission conducted throughout the year. Standard offer prices for the year averaged 9.8 cents/kWh for residential and small commercial consumers.
- Transmission rates, as set by the FERC, for most Maine consumers increased significantly in 2008. For residential consumers, these increases were offset by decreases in distribution and stranded cost rates.
- Retail competition remained robust for medium and large commercial and industrial (C&I) customers of CMP and BHE. As of late 2008, 70% percent of this load was served by several different retail

suppliers with the remaining 30% receiving standard offer service. Northern Maine continued to be served by only one retail supplier.

- Maine's participation in the Regional Greenhouse Gas Initiative (RGGI) got underway with the first regional auction for CO_2 allowances. In addition, the Maine Energy Conservation Board (ECB) and the Energy and Carbon Savings Trust (Trust) were formed and began undertaking the activities to reduce carbon emissions envisioned by the RGGI statute.

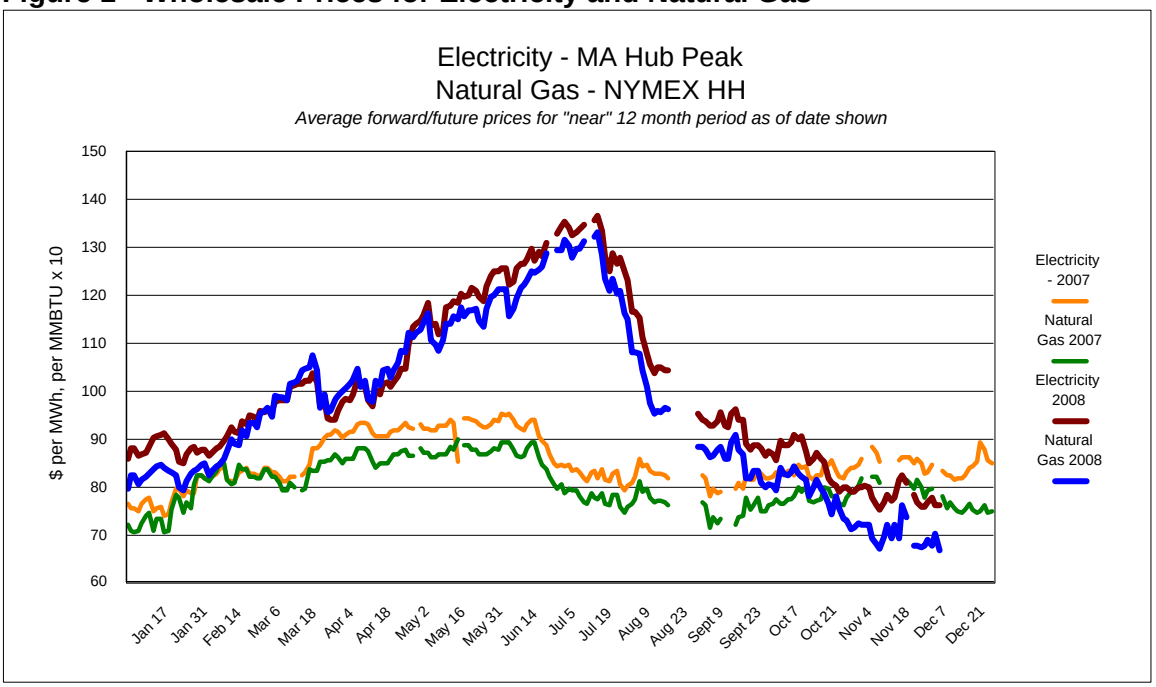
- At the direction of the Legislature, the Commission developed a Resource Adequacy Plan and a Request for Proposals (RFP) for Long Term Contracts for Capacity and Associated Energy. The RFP was issued in December 2008.

II. REGIONAL WHOLESALE AND RETAIL INDUSTRY TRENDS

A. Wholesale Supply Market

Electricity supply prices in Maine are determined by wholesale prices in the ISO-NE markets, most notably the market for energy and, to a lesser extent, capacity. During the twelve-month period ending October 2008, energy prices in the ISO-NE spot market averaged 7.8 cents/kWh. Compared to prices for calendar 2007 this reflects an increase of 21%. Forward market energy prices were also higher compared to last year, and substantially more volatile, following similar trends in natural gas prices. Figure 1 provides an illustration of electric energy and natural gas prices during the most recent two years.

Figure 1 - Wholesale Prices for Electricity and Natural Gas



Capacity prices were 13% higher in 2008 than in 2007 as a result of scheduled increases in capacity "transition payments" to New England generators pursuant to a FERC-approved settlement. Transition payments on average for the year were $3.46 per kW-month, or about nine tenths of a cent per kWh for a typical residential consumer.

B. Retail Supply Market

Since the enactment of Maine's Electric Restructuring Act (Restructuring Act)[2] consumers in Maine have had the right to shop for electricity products and suppliers in the market. As described below, the retail market in Maine is robust for some, but not all, sectors.

The Commission licensed twelve new CEPs during 2008 (CEP's include direct suppliers, as well as brokers and aggregators). There are 115 CEPs currently licensed to operate in Maine, although many of them are not active in the market. A complete list of licensed CEPs is available at: http://www.maine.gov/mpuc/industries/electricity/ElectricSupplier/ceplist.htm

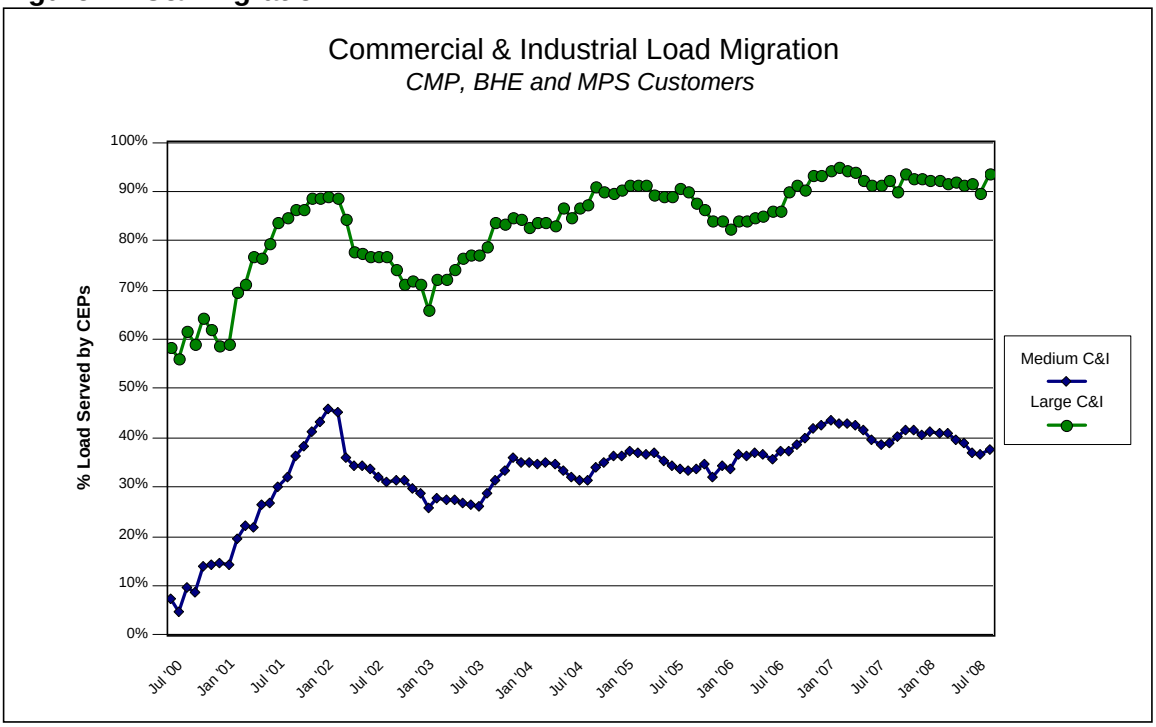
The retail market in most areas of Maine continued to reflect a reasonable level of competitive activity in the medium and large C&I customer sectors. Most of the load of these customers is served by supply arrangements C&I customers acquire directly in the retail market. Terms of service and prices

[2] P.L. 1997, ch. 306.

are negotiated between these customers and suppliers, or, in some cases, with the assistance of aggregators or brokers. Depending upon customer preference and supplier product offerings, prices may be fixed for multi-year terms, or, at the other end of the spectrum, prices may change hourly in accordance with real-time or near real-time wholesale markets.

Although migration to and from the competitive market is influenced to some extent by the relationship between standard offer and non-standard offer prices, the prevailing trend is for customers to remain in the market once they have left the standard offer. Figure 2 below shows migration among medium and large customers, and reflects the overall trend from standard offer service to the retail market. Currently, about 40% percent of the load of Maine's medium C&I customers and more that 90% of the load of the large C&I customers is served through individual retail arrangements.

Figure 2 - C&I Migration



Although in previous years, a large share of the retail market had been served by a set of affiliated suppliers, the market share of these companies dropped significantly in 2007 and continued to decline during 2008 resulting in an improved and more balanced market share profile.

During 2008, there continued to be little retail market activity in the residential and small commercial sectors in Maine or other states. However, because Maine's standard offer providers are chosen through bidding processes, residential and small commercial customers are receiving competitively-procured

supply, albeit at the bulk level. In addition, during 2008, "clean" products, featuring hydroelectric, biomass, wind, low-impact hydro generation, and Renewable Energy Certificates (RECs) continued to be available through residential and public sector aggregation groups, and the Carbon Free Homes Program, which was launched by the Commission in 2007, continued to offer residential consumers an opportunity to learn about their home energy use, identify energy efficiency options, and sign up for clean energy products.

Finally, retail competition in northern Maine continued to be weak during 2008 due largely to the structural and wholesale market deficiencies that characterize the region. These deficiencies have hindered market development since retail access began in 2000.

III. STANDARD OFFER SERVICE

Standard offer service provides electricity supply for customers that do not participate in the retail market. Pursuant to statute, the Commission must ensure that standard offer service is available to all customers that do not have another retail supplier. The Commission procures standard offer service through periodic competitive bid processes. The Commission's procurement processes are designed to minimize volatility for residential and small commercial customers. For larger C&I customers, for whom there is active retail competition, the standard offer process is designed to track wholesale market prices.

During 2008, the portion of Maine's electric load receiving standard offer service remained steady at about 60%. By customer class, standard offer service supplied about 60% of the load of medium C&I customers and less than 10% of the load of large C&I customers in Maine. Standard offer service continued to supply virtually all residential and small commercial customers, as has been the case since retail access began.

The Commission conducted several competitive bid processes during 2008, procuring supply for the classes and terms listed in Figure 3 below:

Figure 3 - Summary of Standard Offer Bid Processes, 2008

Class	Term
CMP Residential/Small Commercial	March 2008-February 2009
BHE Residential/Small Commercial	March 2008-February 2009
CMP Medium C&I	March 2008-August 2008
CMP Large C&I	March 2008-August 2008
BHE Medium C&I	March 2008-August 2008
BHE Large C&I	March 2008-August 2008
CMP Medium C&I	September 2008-February 2009
CMP Large C&I	September 2008-February 2009
BHE Medium C&I	September 2008-February 2009
BHE Large C&I	September 2008-February 2009

Additional detail about these bid processes is available at:
http://www.maine.gov/mpuc/industries/electricity/index.html

Figure 4 provides a summary of standard offer suppliers and prices during 2008.

Figure 4 - Summary of Standard Offer Prices and Suppliers, 2008

Customer Class	Average Price (cents/kWh)	Suppliers
CMP Residential/Small Commercial	9.8	CECG; FPL; Independence
CMP Medium C&I	10.6	FPL; TransCanada
CMP Large C&I	10.8	FPL; CECG
BHE Residential/Small Commercial	9.9	CECG; FPL; Integrys
BHE Medium C&I	10.7	Dominion; Indeck; Integrys;TransCanada
BHE Large C&I	11.7	CECG
MPS Residential	8.5	Integrys
MP Medium C&I	9.2	Integrys
MPS Large C&I	9.2	Integrys

IV. DELIVERY SERVICES AND PRICES

T&D service includes electricity delivery and customer-related services such as metering and billing. Delivery encompasses high-voltage transmission and lower-voltage distribution systems, including the construction, operation and maintenance of the necessary facilities. T&D is fully regulated for service adequacy, quality and rates. The Commission oversees most aspects of T&D service except, most notably, for transmission rates which are jurisdictional to the FERC.

There are thirteen T&D utilities in Maine – three IOUs and ten COUs. The three IOUs serve most of Maine, and among them CMP is the largest, serving about 80% of all Maine load. BHE and MPS serve most of the remaining load, with the COUs serving, in the aggregate, a few percent.

Figure 5 below shows the geographic areas each utility serves:

Figure 5

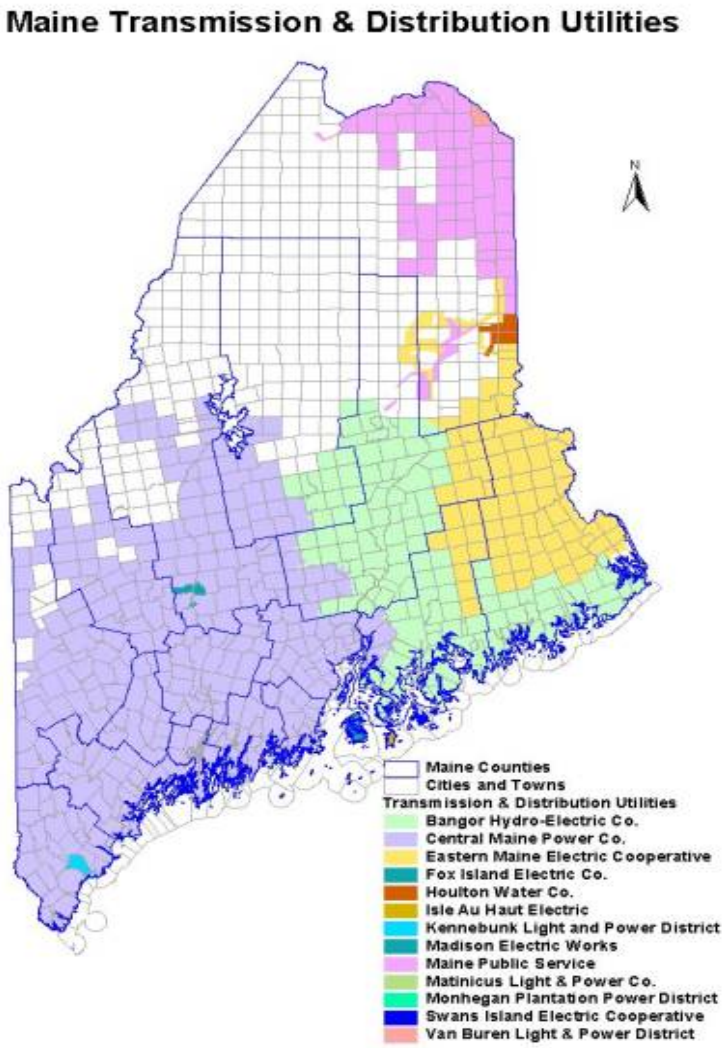

Maine Transmission & Distribution Utilities
N
Maine Counties
Cities and Towns
Transmission & Distribution Utilities
Bangor Hydro-Electric Co.
Central Maine Power Co.
Eastern Maine Electric Cooperative
Fox Island Electric Co.
Houlton Water Co.
Isle Au Haut Electric
Kennebunk Light and Power District
Madison Electric Works
Maine Public Service
Matinicus Light & Power Co.
Monhegan Plantation Power District
Swans Island Electric Cooperative
Van Buren Light & Power District

Figure 6 below provides a summary of residential electricity sales and rates by each T&D utility.

Figure 6

Residential Electricity Sales and Rates *

	Sales		Rates (cents/kWh)		
	kWh	% of Total	T&D	Standard Offer	Total
IOUs					
CMP	3,468,253,000	78.7%	6.76	9.97	**16.73**
BHE	595,090,000	13.5%	8.33	10.05	**18.38**
MPS	179,864,000	4.1%	8.51	8.54	**17.05**
COUs					
EMEC	55,223,332	1.3%	8.26	9.15	**17.41**
Houlton	28,551,043	0.6%	3.25	8.60	**11.85**
Van Buren	7,265,452	0.2%	2.96	8.25	**11.21**
Kennebunk	46,714,783	1.1%	1.64	11.00	**12.64**
Madison	17,527,949	0.4%	4.80	4.57	**9.37**
Matinicus	334,000	0.0%	*Exempt from Standard Offer requirements*		**47.00**
Monhegan	295,000	0.0%	*Exempt from Standard Offer requirements*		**62.38**
Fox Island	6,296,766	0.1%	16.80	12.50	**29.30**
Isle au Haut	247,565	0.0%	35.62	12.14	**47.76**
Swans Island	2,168,730	0.0%	19.16	12.14	**31.30**
Total State	4,407,831,620		6.99	9.90	**16.88**

** - T&D rates based on 2007 annual reports. Standard offer rates reflect average rates as of 12/08.*

T&D rates are comprised of three components - transmission, distribution, and stranded costs. Transmission rates cover the cost of constructing and operating the transmission system in Maine, as well as costs allocated to Maine for regional pool transmission facilities (PTF). As noted above, transmission rates are regulated by the FERC. Distribution rates cover costs incurred by the T&D utility to construct and operate the local distribution system, as well as costs for customer-related activities such as metering and billing. Stranded cost rates reflect the net, above-market costs for generation obligations that utilities incurred prior to industry restructuring. Distribution and stranded costs rates are regulated by the Commission.

Figures 7, 8 and 9 provide an illustration of current average T&D rates for various customer classes of CMP, BHE and MPS. The variation across classes reflects differences in the underlying costs to serve customers of different sizes and service voltage.

Figure 7 - CMP T&D Rates

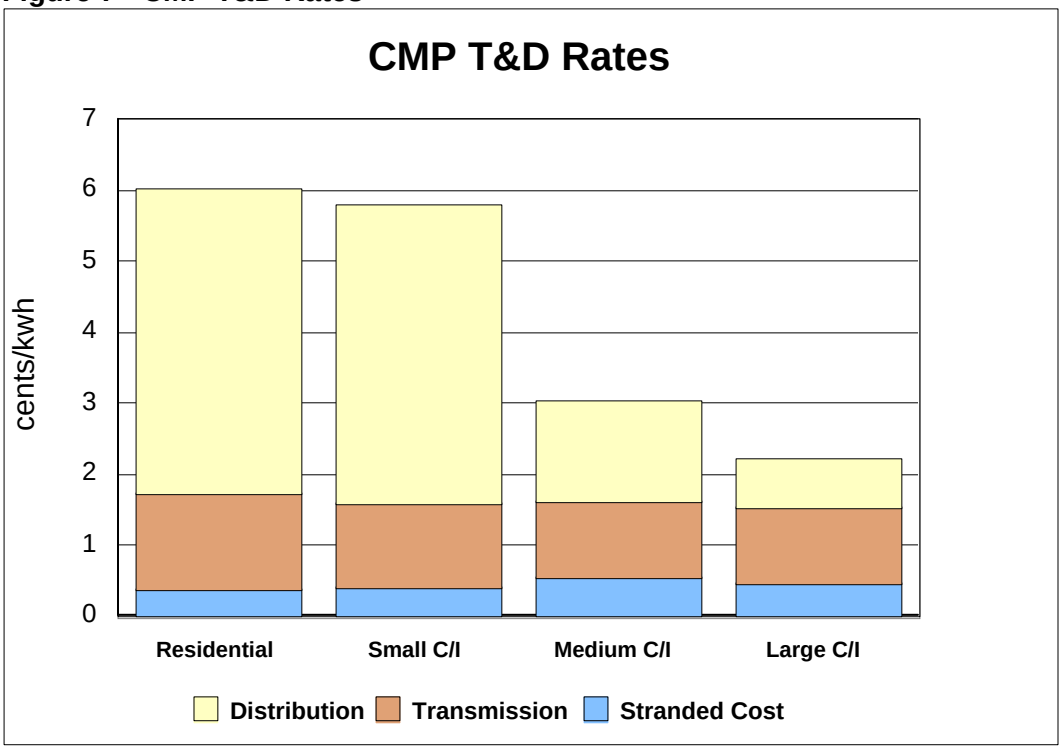


Figure 8 - BHE T&D Rates

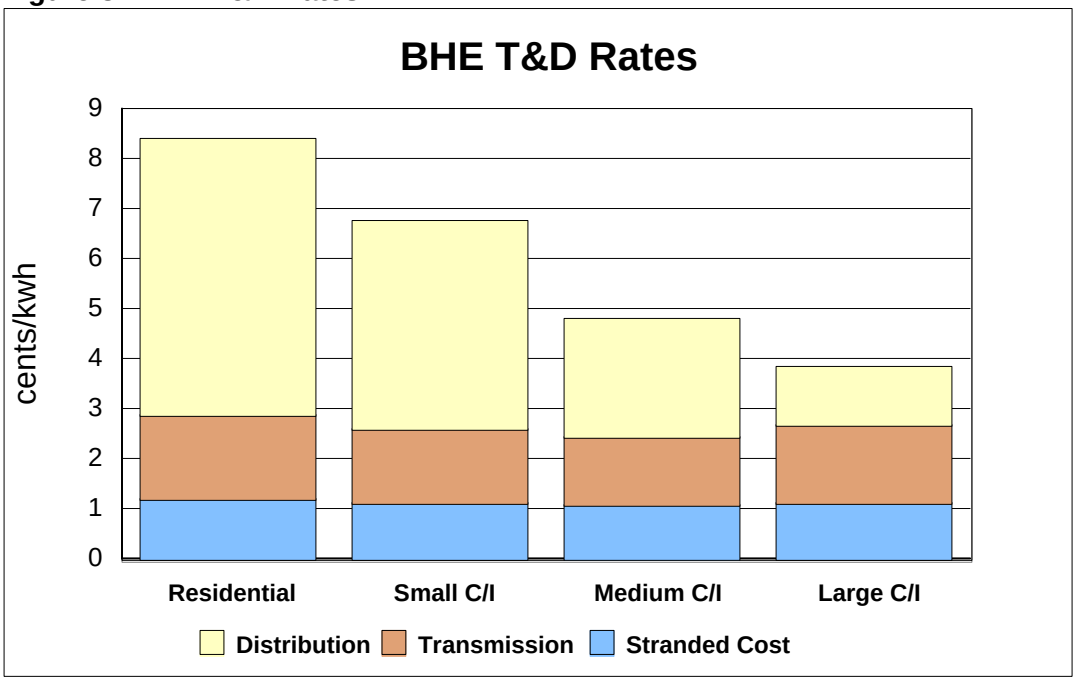
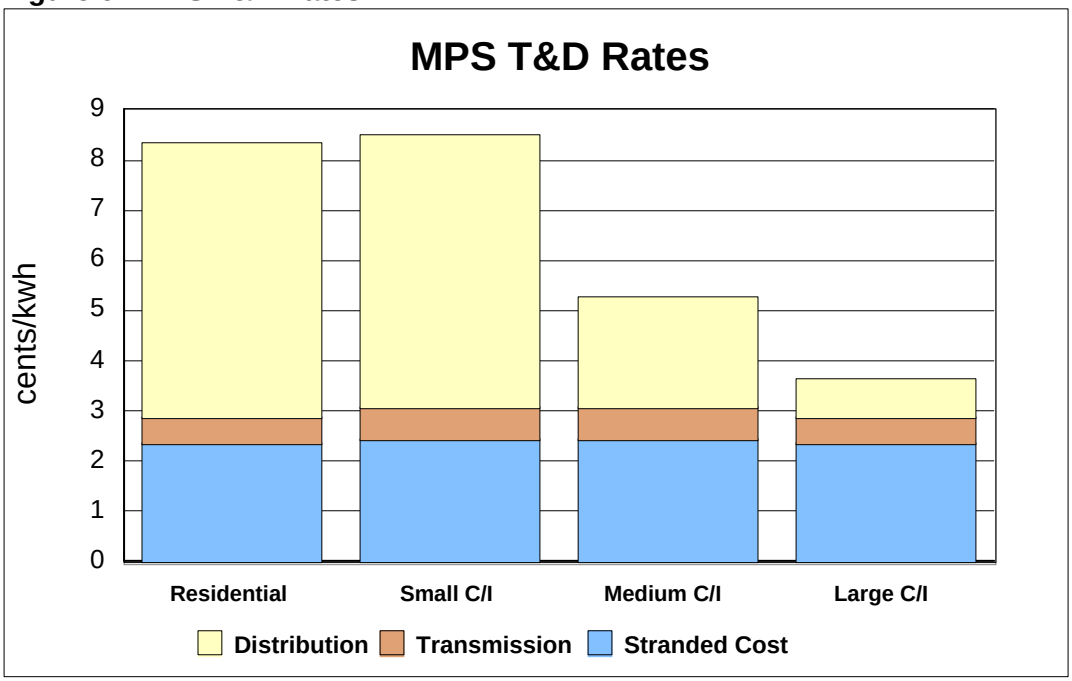


Figure 9 - MPS T&D Rates



V. MAJOR AJUDICATORY PROCEEDINGS

A. ISO Participation Investigation

During its 2006 session, the Legislature enacted Resolve, To Direct the Public Utilities Commission to Examine Continued Participation by Transmission and Distribution Utilities in this State in the New England Regional Transmission Organization.[3] The Resolve directed the Commission to undertake an inquiry in order to:

- determine the legal options for directing Maine T&D utilities that are currently part of NERTO to withdraw from NERTO;
- determine the costs and benefits of directing these utilities to withdraw from NERTO; and
- examine the other reasonable options for providing the services currently provided by NERTO, including any options involving Canadian governments, agencies or other authorities as well as options involving other state governments or agencies within the United States.

[3] Resolve 2005, ch. 187.

The Commission issued its Final Report on the above matters to the Legislature in January 2008. In the Final Report, the Commission concluded that the NERTO and wholesale market in their current forms expose Maine consumers to high, and in some cases, inequitable costs and a resource mix dominated by natural gas and other fossil fuels. The Commission presented the following three options to the Legislature to address these problems: market reforms within ISO-NE, an independent Maine transmission company, and a newly formed Maine/Canadian system. The Commission stated that any of the three options would result in a better outcome for Maine consumers than the *status quo*.

As part of the stipulation in the Energy East/Iberdrola merger proceeding (described below), CMP agreed to a proceeding to determine whether it would remain a member of ISO-NE. In April 2008, the Commission issued a Notice of Investigation to initiate that proceeding.[4] Since the issues to be addressed in the investigation are of statewide interest and would affect BHE and MPS customers as well, all three utilities were included in the proceeding.

During its 2008 session, the Legislature enacted Resolve, Regarding ISO-NE.[5] The Resolve directed the Commission to report to the Utilities and Energy Committee by January 15, 2009 on its findings in the ISO proceeding (Docket No. 2008-156), including the Commission's determination of whether it is in the interest of consumers for Maine's T&D utilities to provide timely notice of nonrenewal of the Transmission Owners Agreement.

Technical conferences in the proceeding occurred throughout the year and hearings were held during October. The parties to the investigation submitted their briefs on November 13, 2008. The Commission anticipates issuing its final Order to the Legislature by January 15, 2009, as required by the Resolve.

B. Transmission Lines

1. Maine Power Reliability Program

On July 1, 2008, CMP filed for approval to build the Maine Power Reliability Program (MPRP). CMP asserts that the MPRP is needed for it to maintain adequate reliability of its transmission network, and is required by newly enforceable, federally-mandated standards. CMP proposes to build seven new sections of 345 kilovolt (kV) transmission lines (the largest lines CMP owns)

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[4] *Investigation of Maine Utilities Continued Participation in ISO-NE, Notice of Investigation*, Docket No. Docket 2008-156 (April, 8, 2008).

[5] P.L. 2007, ch. 193.

and eight new sections of 115 kV lines and to rebuild twenty sections of 115 kV lines and two sections of 345 kV lines. Virtually all the new lines would be built in existing transmission corridors, although CMP has or would seek to expand the width of many of the existing corridors. CMP estimates that the MPRP would cost more than $1.5 billion but that Maine ratepayers would pay only 8% of that because the cost of the project would be socialized among ratepayers in all New England states.

The Commission's task is to determine whether it agrees with CMP that a need exists to improve the reliability of CMP's transmission network, and if there is a need, whether CMP's proposed solution is a reasonable and least-cost solution. (Other solutions might include non-transmission alternatives, like conservation or distributed generation.) CMP seeks a Commission decision by June 2009.

In terms of the number of parties, the Commission's MPRP proceeding is one of the largest ever. Over 150 persons or organizations have been granted intervenor status, including more than 125 persons who own property that abuts one of the transmission corridors where CMP would construct new lines. In October and November, fourteen days of technical conferences were held on CMP's filing, including two days for property abutter-parties to ask CMP specific questions about the transmission corridors next to which they live or work. The Commission also held two public witness hearings during November, one in Waterville and one in Lewiston, in which property abutters and other citizens could testify and present their views on CMP's proposal. The Commission expects to hold more public witness hearings during 2009.

2. Maine Power Connection

On July 1, 2008, MPS and CMP sought Commission approval to construct a 345 kilovolt (kV) electric transmission line from Limestone, Maine in MPS's service territory to a CMP interconnection near Detroit, Maine. The Petitioners call the project the Maine Power Connection, or MPC. If approved, the MPC would provide the first direct electrical connection between northern Maine and the southern Maine/New England bulk power grid, at a cost estimated to be $625 million. MPS and CMP state that the MPC would also enable Aroostook Wind Energy, an 800 MW wind generation project, to be developed in Aroostook County.

MPS and CMP have requested that ISO-NE determine that the MPC is eligible for regional (or socialized) cost treatment. If the MPC is granted socialized rate treatment, MPS would join the ISO-NE regional transmission organization. Because its transmission rates would increase significantly if the MPC is not socialized, MPS states that the MPC will not be built if socialized treatment is denied. It is not known when ISO-NE will decide the issue.

About thirty intervenors have been granted party status, including generators, ratepayers, environmental groups, other T&D utilities and property abutters. Shortly after the case was filed, some parties moved to dismiss on the grounds that the petition was premature because ISO-NE has not decided the socialization issue and was not expected to do so soon. The Commission denied the motion to dismiss because it has discretion to proceed to process the case in light of important public policy issues raised by the proceeding. A procedural schedule is now being established that will process the case over the course of 2009.

C. Transmission Rates

Transmission rates changed on July 1, 2008 for all three IOUs. For CMP, transmission rates increased by 27%, due primarily to the cost of new projects in other states in the region that flow through CMP's regional transmission rates. For BHE, transmission rates increased by 47%, due primarily to its recently-constructed Northeast Reliability Interconnect coming into rates. Finally, MPS's transmission rates decreased by 25%, due to higher wheeling-out service revenues from generators within its system.

VI. KEY COMMISSION INVESTIGATIONS AND RULEMAKINGS

A. Resource Adequacy Plan and Long-Term Contracting

During its 2006 session, the Legislature enacted an Act to Enhance Maine's Energy Independence and Security.[6] One section of the Act addresses capacity resource adequacy by directing the Commission to establish an electric resource adequacy plan and authorizing the Commission to direct investor-owned T&D utilities to enter into long-term contracts for capacity resources and associated energy. As required by the Act, the Commission provisionally adopted rules (Chapter 316) to implement the resource plan and long-term contracting provisions of the Act and the Legislature subsequently authorized the final adoption of the rules without change.[7]

The Commission retained London Economics International to assist with the preparation of the resource adequacy plan and the solicitation and procurement of long-term contracts for capacity and energy resources. As provided for in the Commission rules, the Commission submitted to the Legislature an electric resource adequacy report during the 2008 session.

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[6] P.L. 2005, ch. 677.

[7] Resolve 2007, ch. 35.

As also required by Chapter 316, the Commission issued a draft RFP and draft standard form contracts for public comment.[8] In December, the Commission issued a RFP .[9] As specified in the RFP, the goal of the solicitation is to obtain long-term contracts that will provide electricity cost benefits for Maine consumers in one or more of the following forms:

- lower electricity supply costs for Maine consumers;
- hedge against market prices of electricity;
- offset costs resulting from new transmission; or
- provide a lower cost alternative to new transmission investment.

Initial proposals are required by the RFP to be submitted to the Commission by April 7, 2009**.**

B. Promotion of Green Supply Products

During its 2007 session, the Legislature enacted an Act To Stimulate Demand for Renewable Energy.[10] Section 8 of the Act allows for information regarding the availability of green power products (electricity supply and RECs) that are certified by the Commission to be presented through inserts in customer utility bills, with consent and cooperation by the T&D utilities. To implement the Act, during 2008 the Commission initiated an Inquiry and subsequently convened a working group consisting of Commission Staff, the investor-owned T&D utilities and suppliers.[11]

The working group is looking at a program that has the following elements:

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[8] *Inquiry into Resource Planning and Long-term Contracting, Request for Comment,* Docket No. 2008-104 (October 3, 2008).

[9] *Inquiry into Resource Planning and Long-term Contracting, Order Adopting Request for Proposal,* Docket No. 2008-104 (December 3, 2008).

[10] P.L. 2007, ch. 403.

[11] *Inquiry into the Use of Utility Bill Inserts to Promote Green Power Products, Notice of Inquiry,* Docket No. 2008-178 (April 23, 2008).

- agreed upon standard contract and terms and conditions under which T&D utilities will include green product information as inserts in customer bills;

- Commission certification of green supply products consisting of renewable resources as defined in Maine statutes[12] and RECs certified by the Green-e Renewable Energy Certification Program; and

- inclusion on the supplier page of customer standard offer bills of a notice of a website that contains information on green supply products available in Maine.

C. Energy Infrastructure Corridors

During its 2008 session, the Legislature enacted an Act to Protect Maine's Energy Sovereignty through the Designation of Energy Infrastructure Corridors and Energy Plan Development.[13] Part A of the Act authorizes the Commission to designate "energy infrastructure corridors" and to issue certificates for the development of energy infrastructure within the designated corridors. The Act directed the Commission to conduct two rulemaking proceedings:

- rules to adopt standards and procedures for the designation of energy infrastructure corridors and the development of infrastructure within those corridors; and

- rules to adopt procedures to govern requests by utilities and developers for exemptions from municipal ordinances or Land Use Regulation Commission regulations.

The Commission completed the required rulemaking procedures during 2008.[14]

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[12] 35-A M.R.S.A. § 3210.

[13] P.L. 2007, ch. 656.

[14] *Energy Infrastructure Corridors (Chapter 886), Order Adopting Rule and Statement of Factual and Policy Basis,* Docket No. 2008-331 (November 12, 2008); *Land Use Regulation Exemptions (Chapter 885), Adopting Rule and Statement of Factual and Policy Basis,* Docket No. 2008-226 (August 19, 2008).

D. Net Energy Billing Shared Ownership

The Legislature also enacted Resolve, To Encourage Renewable Energy and Energy Conservation in Maine[15] during its 2008 session. Section 3 of the Resolve directs the Commission to adopt rules to allow for net energy billing under shared ownership. The Resolve specifies that these rules are major substantive rules and, accordingly, in 2008, the Commission initiated a rulemaking proceeding to adopt provisional rules that would allow net energy billing for customers who share in the ownership of an eligible renewable facility.[16] The provisional rules would eliminate the requirement that the customer account be in the vicinity of the generating facility, allow for customers that have a legal interest in a renewable facility to net bill against up to 10 accounts within a T&D utility service territory, and increase the generation capacity limit from 100 kW to 500 kW.

E. COU Load Aggregation

Finally, during its 2008 session, the Legislature enacted an Act To Authorize Load Aggregation for Consumer-owned Electric Utilities.[17] The legislation provides for the Commission to authorize COUs to aggregate the loads of customers within their service territories for the purpose of providing generation service, and requires the Commission to adopt implementing rules. Consistent with the goals of the COUs, the Commission has interpreted the Act to allow the COUs to aggregate load to obtain or provide standard offer service at lower costs by restricting customer migration. Accordingly, in 2008 the Commission reopened its standard offer rule to incorporate provisions governing COU load aggregation.[18]

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[15] Resolves 2007, ch. 183.

[16] *Shared Ownership Net Energy Billing (Chapter 313), Notice of Rulemaking*, Docket No. 2008-410 (October 20, 2008).

[17] P.L. 2007, ch. 481.

[18] *Consumer-owned Utilities Load Aggregation, Amendments to Standard Offer Rule (Chapter 301), Notice of Rulemaking,* Docket No. 2008-463 (December 2, 2008).

VII. REGIONAL MATTERS AND FERC PROCEEDINGS

A. ROE Incentive Adder Cases

The Commission has been a party and, in some cases a lead party, in protesting requests by New England transmission owners, including CMP and BHE, for higher rates of return for investment in new transmission projects. The first of these cases, in which FERC granted a higher rate of return for all transmission projects approved by ISO-NE that are completed by December 31, 2008, has been appealed to federal court by the Commission, the Connecticut Department of Public Utility Control and the New England Conference of Public Utilities Commissioners (NECPUC). In addition, the Commission has been a lead protestor in numerous cases in which transmission owners have sought a higher rate of return for specific projects, including the MPRP and the MPC and several projects in southern New England. The Commission and other regulatory agencies have argued that the higher rates are not justified because transmission owners are already contractually obligated to undertake these projects. In spite of the fact that the requested higher returns will cost ratepayers hundreds of millions of additional dollars over the lives these projects, FERC has routinely approved higher rates. Rehearing requests of these decisions have been filed and are pending at FERC.

B. Jurisdiction over Resource Adequacy

Another case in which the Commission has been an active participant during 2008 involves the issue of whether states or the FERC have the authority to determine how much capacity is needed to ensure a sufficient level of reliability. Several states, including Maine, have argued that the states have this authority. FERC and ISO-NE argue that FERC has this authority. An appeal of the FERC decision in which it asserted authority over this matter is pending in federal court.

C. ICAP Litigation

The Commission, as well as the attorneys general from Connecticut and Massachusetts appealed FERC's approval of a settlement agreement involving charges for installed capacity. The settlement is commonly known as the Forward Capacity Market (FCM) settlement because it established an auction to acquire generation capacity. The FCM settlement also provided for transitional payments to generators through May 2010. The transition payments were the focus of the appeal, which was denied by the federal appeals court.

The Commission has now focused its efforts on ensuring that the capacity auctions provided for under the settlement agreement work as intended and recognize both the significant participation of demand response in the

auction and the locational differences between Maine and the rest of New England. Recent decisions by FERC appear generally supportive of the Commission's position on these matters.

D. Other FERC Cases

The Commission has been involved in numerous other cases involving wholesale electric rates charged either directly to consumers through the transmission tariff or indirectly through prices charged by standard offer providers and other retail suppliers. For example, the Commission led an effort to reduce and/or reallocate charges assessed to Maine consumers when generators run out of merit to provide voltage support, which occurs primarily in southern New England. As a result of a complaint filed by the Commission, ISO-NE changed the cost allocation for one category of these payments and also changed its operations to limit the circumstances in which generation will be required to run out of merit for voltage support. Since these changes were implemented, the charges have been significantly lower than in previous years. Currently pending is a related issue in which the Commission has asked FERC to direct ISO-NE to reduce or eliminate the capacity charges paid to generators that the Commission and NECPUC believes are duplicative of capacity payments paid to generators under the FCM settlement.

E. NECPUC Working Group on Cost Containment

NECPUC has recently formed a working group on cost containment to address the recent significant increases in transmission rates and major cost overruns that have occurred for virtually all New England transmission projects in the last few years. Although transmission rates are governed by FERC, this group is working with the New England transmission owners and ISO-NE to develop both changes in the processes of proposing and undertaking transmission projects and in developing measures for more rigorous oversight of these projects by the states and ISO-NE. Measures that may provide better incentives for cost containment will also be considered.

VIII. RGGI

In June 2007, the Maine Legislature enacted an Act to Establish the Regional Greenhouse Gas Initiative Act of 2007[19] by which Maine joined other eastern states in a regional program to limit greenhouse gas emissions. Maine's RGGI statute established a cap-and-trade program for CO_2 emissions from in-state power plants. Effective in 2009, emissions are capped at 5.9 million tons per year until 2015, at which time emissions must ratchet down by 10% by the year 2018. Maine's RGGI statute directed the Maine Department of

[19] P.L. 2007, ch. 317.

Environmental Protection (DEP) to promulgate rules to govern the program, including how the emissions allowances are assigned and sold, and required proceeds from allowance auctions to be administered by an Energy and Carbon Savings Trust (Trust) and used for certain specified purposes. The statute also required formation of the Energy Conservation Board (ECB) to assist in the development, coordination and integration of Maine's efficiency program planning and implementation.

In September 2008, the first RGGI auction for CO_2 allowances was held. The auction was conducted on a regional basis by RGGI, Inc., which is a non-profit corporation created to support development and implementation of the participating states' CO_2 Budget Trading Programs. Six of the ten RGGI states, including Maine, participated in the auction. Allowances in the September auction were sold at a clearing price of $3.07 per ton, which reflected proceeds of $2.7 million for Maine's share of the allowances. The market monitor overseeing the auction on behalf of RGGI Inc., Potomac Economics, found no material concerns regarding the auction process or its results, and the participating states considered the auction a success. The second auction occurred in December 2008, and all ten states were prepared to participate. Again, all allowances sold but this time the clearing price was slightly higher at $3.38. The next auction will occur in March 2009.

During 2008, the Commission appointed the three-member Trust. As noted above, proceeds from the sale of Maine's CO_2 allowances must be administered by the Trust and used for specified types of public benefit programs, primarily electric energy efficiency. The Trustees are developing an emergency rule to disburse the first round of funding to residential fossil fuel conservation programs targeted to the low income residential sector and a major substantive rule that will be submitted to the Legislature in January of 2009.

The ECB was also formed during 2008. It will assist the Commission and the Trustees in the development, coordination and integration of Maine's energy conservation efforts and provide advice and counsel to the Commission and the Trust on energy conservation and CO_2 reduction matters. The ECB is composed of seven voting members representing various public and private sectors.

Additional information about the ECB and the Trust is available at: http://www.maine.gov/mpuc/staying_informed/legislative/Maine%20Energy%20Council/EnergyConservationBoard.html.

Finally, during 2008 the Commission hired a staff coordinator for RGGI-related activities to assist its work with participating regional and in-state entities.

IX. SUPPLY RESOURCES IN MAINE

A. Resources Serving Maine Customers

The Restructuring Act originally established a 30% resource portfolio standard (RPS), requiring electricity suppliers (including standard offer suppliers) to supply 30% of their Maine load from "eligible resources." The Act defined eligible resources to be generating units whose capacity do not exceed 100 megawatts and that produce electricity from tidal, fuel cells, solar, wind, geothermal, hydroelectric, biomass, or municipal solid waste in conjunction with recycling; that qualify as small power producers under federal regulations; or that are efficient cogeneration units. In 2007, the Legislature expanded the RPS to also require that an additional amount of electricity come from "new" renewable resources, which are generally renewable facilities that have an in-service date after September 1, 2005. New renewable resources include fuel cells, tidal power, solar arrays and installations, geothermal installations, wind generators, hydroelectric generators that meet all state and federal fish passage requirements, and biomass generators including generators fueled by landfill gas. The "new" requirement (also referred to as "Class 1") starts at one percent of load in 2008 and increases by one percent per year to ten percent in 2017, unless the Commission suspends the requirement pursuant to the provisions of the Restructuring Act.

Any generation facility used toward a supplier's Class 1 RPS must be certified by the Commission. During 2008 the Commission certified twelve generators as Class 1 compliant, and seven additional applications are pending, for a total capacity of 280 MW. Summary information about the Class 1 facilities is shown in Figure 10 below:

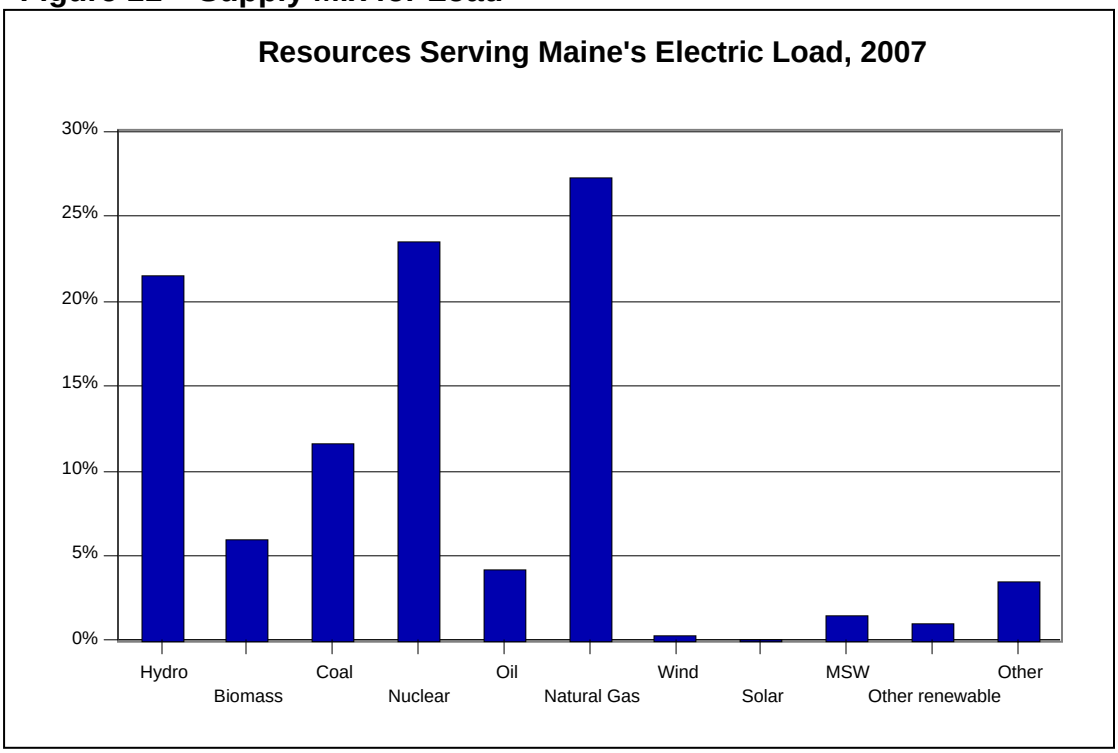
Figure10 - RPS Class 1 Resources

RPS Class 1 Eligible Resources				
Facility	**Location**	**Size (MW)**	**Resource Type**	**Notes**
Greenville Steam Co.	Greenville, ME	19.0	Biomass	
PPL EnergyPlus	Orono, ME	4.8	Hydro	
Town of Kittery	Kittery, ME	0.5	Wind	
Loring Bioenergy	Limestone, ME	55.0	Biofuel	*Under review*
Lincoln Pulp and Paper	Lincoln, ME	13.5	Wood &process waste	*Under review*
Evergreen WInd Power	Mars Hill, ME	42.0	Wind	
Seneca Energy II, LLC	Seneca Falls, NY	6.4	Landfill Gas	*Under review*
Modern Innovative Energy, LLC	Youngstown, NY	6.4	Landfill Gas	
Innovative Energy Syst, Inc.; DANC	Rodman, NY	4.8	Landfill Gas	
Innovative Energy Syst, Inc.; Colonie	Cohoes, NY	4.8	Landfill Gas	
Indeck Energy-Alexandria, LLC	Alexandria, NH	16.0	Biomass	
Pine Tree Landfill	Hampden, ME	3.0	Landfill Gas	
Hyland Innovative Energy Syst.	Angelica, NY	4.8	Landfill Gas	
University of New Hampshire	Durham, NH	4.0	Landfill Gas	
Evergreen Wind Power V, LLC	Washington Cty, ME	57.0	Wind	
Wm Renewable Energy, LLC High Acres	Fairport, NY	6.4	Landfill Gas	*Under review*
Madison Power Industries	Madison, ME	3.0	Hydro	*Under review*
Wm Renewable Energy, LLC Chaffee	Chaffee, NY	4.8	Landfill Gas	*Under review*
Lempster Wind, LLC	Lempter, NH	24.0	Wind	*Under review*
TOTAL		**280.2**		

Suppliers can meet their Maine RPS obligations from plants located in Maine, or in neighboring states or regions. Compliance is tracked by the New England Generator Information System (GIS), which is a regional platform for resource attribute trading and accounting.

Figure 11 below shows the mix of resources used by suppliers to serve Maine customers in 2007. Resource mix data for calendar year 2008 will be submitted by suppliers in July 2009 and provided in next year's report.

Figure 11 – Supply Mix for Load

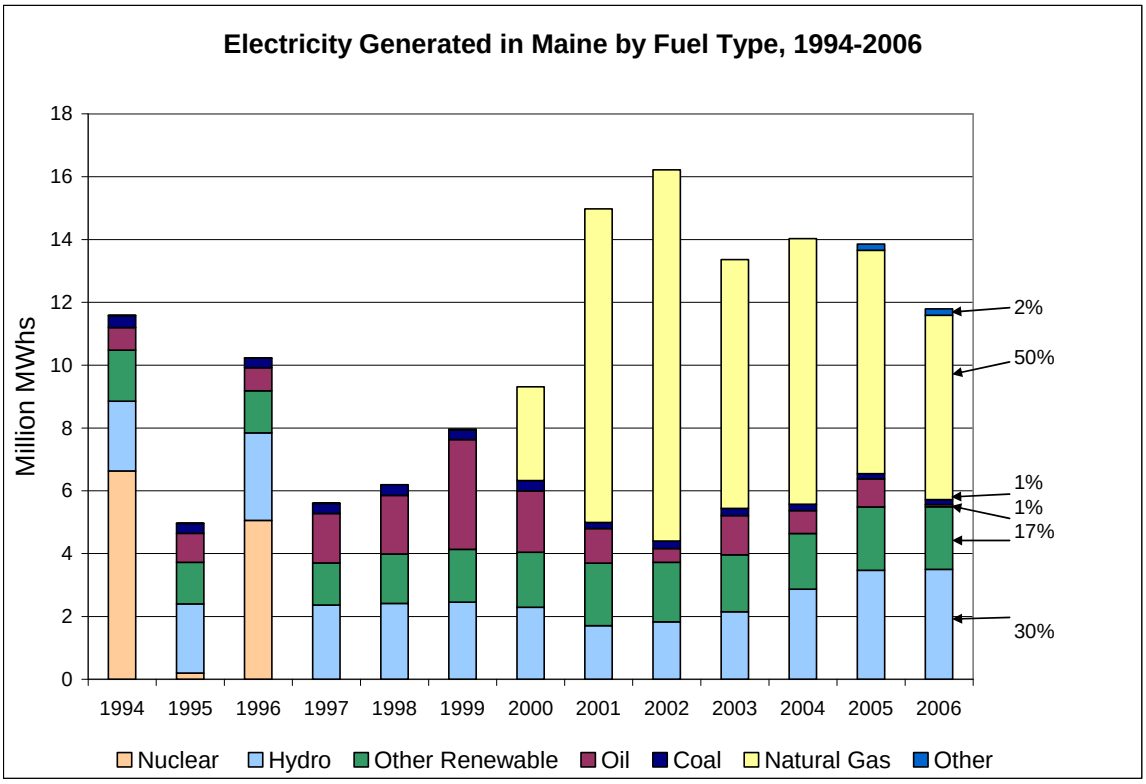


B. Electricity Generated in Maine

About 50% of the electricity produced by Maine plants is fueled by natural gas, with hydro-electricity being the next largest source. Appendix A provides a list of Maine plants, including the capacity and fuel type of each plant. Figure 12 below shows Maine's generation levels and fuel mix over time, illustrating the trend toward greater in-state production overall, as well as greater reliance on natural gas.[20]

[20] Data is obtained from the U.S. Department of Energy's Energy Information Administration, which has not yet published more current information.

Figure 12 – Maine Generation by Fuel Type



C. Uniform Disclosure Labels

Comparative information regarding electricity supply is provided to customers in "uniform disclosure labels" that contain a supplier's resource mix and emissions information. Residential and small commercial customer suppliers must provide a disclosure label to their customers quarterly, and suppliers to larger customers must provide the label upon request. Labels for standard offer service may be found on the Commission's web page at: http://www.maine.gov/mpuc/industries/electricity/standard_offer/disclosure_labels history.html

X. AFFILIATED COMPETITIVE PROVIDERS AND COMPLIANCE COSTS

T&D utilities and any of their supply marketing affiliates are required by statute to comply with standards of conduct and market share limitations intended to prevent undue competitive advantage in the supply market. The Commission is required to determine and report on actual and estimated future costs of implementing these requirements.

These affiliated competitive provider provisions have not been implicated in recent years, including at any point during 2008. CMP does not have a marketing affiliate. BHE formed a marketing affiliate several years ago, Emera

Energy Services, Inc. (EES), but EES has not been active in Maine. MPS also formed a marketing affiliate several years ago, Energy Atlantic, but Energy Atlantic is no longer active.

Appendix A – Generation Facilities in Maine

INFORMATION FROM ISO-NE 2008 CELT REPORT

GEN NAME	SUMMER CLAIMED CAPABILITY	GEN TYPE DESC	CUSTOMER NAME
YARMOUTH 4	603.488	OIL STEAM	FPL Energy Power Marketing, Inc.
WESTBROOK	516.063	GAS COMBINED CYCLE	Calpine Energy Services, LP
MAINE INDEPENDENCE STATION	488.275	GAS COMBINED CYCLE	Dynegy Power Marketing, Inc.
WESTBROOK ENERGY CENTER G1	255.030	GAS COMBINED CYCLE	
WESTBROOK ENERGY CENTER G2	255.030	GAS COMBINED CYCLE	
RUMFORD POWER	244.940	GAS COMBINED CYCLE	Consolidated Edison Energy, Inc
BUCKSPORT ENERGY 4	156.805	GAS/OIL COMBINED CYCLE	H.Q. Energy Services (US) Inc.
ANDROSCOGGIN ENERGY CENTER	127.386	GAS COMBUSTION (GAS) TURBINE	Energy New England LLC
YARMOUTH 3	115.508	OIL STEAM	FPL Energy Power Marketing, Inc.
GREAT LAKES - MILLINOCKET	89.817	HYDRO (WEEKLY CYCLE)	Brookfield Energy Marketing Inc.
YARMOUTH 1	51.760	OIL STEAM	FPL Energy Power Marketing, Inc.
YARMOUTH 2	51.131	OIL STEAM	FPL Energy Power Marketing, Inc.
VERSO COGEN 1	45.042	GAS COMBUSTION (GAS) TURBINE	
BORALEX STRATTON ENERGY	45.024	BIO/REFUSE	Boralex Stratton Energy LP
VERSO COGEN 2	43.852	GAS COMBUSTION (GAS) TURBINE	
VERSO COGEN 3	43.027	GAS COMBUSTION (GAS) TURBINE	
S.D. WARREN-WESTBROOK	42.590	BIO/REFUSE	Constellation New Energy, Inc.
HARRIS 2	34.948	HYDRO (WEEKLY CYCLE)	FPL Energy Maine Hydro LLC
AEI LIVERMORE	34.695	BIO/REFUSE	Boralex Stratton Energy LP
HARRIS 3	34.210	HYDRO (WEEKLY CYCLE)	FPL Energy Maine Hydro LLC
GULF ISLAND COMPOSITE	32.970	HYDRO (WEEKLY CYCLE)	FPL Energy Maine Hydro LLC
CHAMPION	32.700	BIO/REFUSE	FPL Energy Power Marketing, Inc.
RUMFORD FALLS	31.686	HYDRO (WEEKLY CYCLE)	Brookfield Energy Marketing Inc.
WYMAN HYDRO 2	29.866	HYDRO (WEEKLY CYCLE)	FPL Energy Maine Hydro LLC
MONTY	28.000	HYDRO (DAILY CYCLE - PONDAGE)	FPL Energy Maine Hydro LLC
WYMAN HYDRO 1	27.362	HYDRO (WEEKLY CYCLE)	FPL Energy Maine Hydro LLC
WYMAN HYDRO 3	25.728	HYDRO (WEEKLY CYCLE)	FPL Energy Maine Hydro LLC
INDECK WEST ENFIELD	23.206	BIO/REFUSE	Indeck Maine Energy LLC
INDECK JONESBORO	23.117	BIO/REFUSE	Indeck Maine Energy LLC
MERC	22.301	BIO/REFUSE	FPL Energy Power Marketing, Inc.
PENOBSCOT RIVER HYDRO	21.937	HYDRO (DAILY CYCLE - RUN OF RIVER)	PPL EnergyPlus, LLC
PERC-ORRINGTON 1	20.851	BIO/REFUSE	Constellation Energy Commodities
SKELTON	19.704	HYDRO (WEEKLY CYCLE)	FPL Energy Maine Hydro LLC
WORCESTER ENERGY	17.959	BIO/REFUSE	Constellation New Energy, Inc.
BONNY EAGLE/W. BUXTON	17.500	HYDRO (DAILY CYCLE - PONDAGE)	FPL Energy Maine Hydro LLC
HARRIS 1	16.790	HYDRO (WEEKLY CYCLE)	FPL Energy Maine Hydro LLC
MADISON COMPOSITE	16.446	HYDRO (DAILY CYCLE - RUN OF RIVER)	Hess Corporation
CAPE GT 5	16.027	OIL COMBUSTION (GAS) TURBINE	FPL Energy Power Marketing, Inc.
CAPE GT 4	15.981	OIL COMBUSTION (GAS) TURBINE	FPL Energy Power Marketing, Inc.
GREENVILLE	15.605	BIO/REFUSE	Constellation New Energy, Inc.
WILLIAMS	14.900	HYDRO (DAILY CYCLE - PONDAGE)	FPL Energy Maine Hydro LLC
UNITED AMERICAN HYDRO-NEW	14.142	HYDRO (DAILY CYCLE - RUN OF RIVER)	Constellation Energy Commodities
WESTON	13.200	HYDRO (DAILY CYCLE - RUN OF RIVER)	FPL Energy Maine Hydro LLC
BRUNSWICK	11.618	HYDRO (DAILY CYCLE - RUN OF RIVER)	FPL Energy Maine Hydro LLC
HIRAM	11.600	HYDRO (DAILY CYCLE - RUN OF RIVER)	FPL Energy Maine Hydro LLC
ECO MAINE	10.877	BIO/REFUSE	Constellation New Energy, Inc.
PPL GREAT WORKS - RED SHIELD	10.471	BIO/REFUSE	PPL EnergyPlus, LLC
SHAWMUT	9.500	HYDRO (DAILY CYCLE - RUN OF RIVER)	FPL Energy Maine Hydro LLC
MILLER HYDRO	9.140	HYDRO (DAILY CYCLE - RUN OF RIVER)	Constellation New Energy, Inc.
ELLSWORTH HYDRO	9.130	HYDRO (WEEKLY CYCLE)	PPL EnergyPlus, LLC
PEJEPSCOT	8.896	HYDRO (DAILY CYCLE - RUN OF RIVER)	Constellation Energy Commodities
CATARACT EAST	8.000	HYDRO (DAILY CYCLE - RUN OF RIVER)	FPL Energy Maine Hydro LLC
WEST ENFIELD	7.472	HYDRO (DAILY CYCLE - RUN OF RIVER)	FPL Energy Power Marketing, Inc.
LOCKWOOD	6.945	HYDRO (DAILY CYCLE - RUN OF RIVER)	FPL Energy Power Marketing, Inc.
AZISCOHOS HYDRO	6.810	HYDRO (DAILY CYCLE - RUN OF RIVER)	FPL Energy Power Marketing, Inc.
MEDWAY DIESELS 1-4	6.200	OIL INTERNAL COMBUSTION	Constellation Energy Commodities
MESSALONSKEE COMPOSITE	4.400	HYDRO (DAILY CYCLE - RUN OF RIVER)	FPL Energy Power Marketing, Inc.
BRASSUA HYDRO	4.203	HYDRO (DAILY CYCLE - RUN OF RIVER)	Constellation Energy Commodities
BAR HARBOR DIESELS 1-4	4.150	OIL INTERNAL COMBUSTION	Constellation Energy Commodities
SOMERSET	4.012	BIO/REFUSE	Constellation Energy Commodities
BENTON FALLS HYDRO	3.776	HYDRO (DAILY CYCLE - RUN OF RIVER)	Harvard Dedicated Energy Limited
Pine Tree LFGTE	2.870	BIO/REFUSE	FPL Energy Power Marketing, Inc.
BAR MILLS	2.675	HYDRO (DAILY CYCLE - RUN OF RIVER)	FPL Energy Maine Hydro LLC

EASTPORT DIESELS 1-3	2.600	OIL INTERNAL COMBUSTION	Constellation Energy Commodities
MMWAC	2.556	BIO/REFUSE	Constellation Energy Commodities
NORTH GORHAM	1.866	HYDRO (DAILY CYCLE - RUN OF RIVER)	FPL Energy Maine Hydro LLC
FT HALIFAX	1.800	HYDRO (DAILY CYCLE - RUN OF RIVER)	FPL Energy Maine Hydro LLC
BHE SMALL HYDRO COMPOSITE	1.724	HYDRO (DAILY CYCLE - RUN OF RIVER)	FPL Energy Power Marketing, Inc.
HARRIS 4	1.436	HYDRO (WEEKLY CYCLE)	FPL Energy Maine Hydro LLC
YORK HYDRO	0.878	HYDRO (DAILY CYCLE - RUN OF RIVER)	Constellation Energy Commodities
PITTSFIELD HYDRO	0.877	HYDRO (DAILY CYCLE - RUN OF RIVER)	Constellation Energy Commodities
KENNEBAGO HYDRO	0.686	HYDRO (DAILY CYCLE - RUN OF RIVER)	Constellation Energy Commodities
LEWISTON U5	0.640	HYDRO (DAILY CYCLE - RUN OF RIVER)	PPL Maine, LLC
KEZAR LEDGEMERE COMPOSITE	0.633	HYDRO (DAILY CYCLE - RUN OF RIVER)	FPL Energy Power Marketing, Inc.
GARDINER HYDRO	0.613	HYDRO (DAILY CYCLE - RUN OF RIVER)	Constellation Energy Commodities
J & L ELECTRIC - BIOMASS II	0.490	BIO/REFUSE	Constellation Energy Commodities
SWANS FALLS	0.410	HYDRO (DAILY CYCLE - RUN OF RIVER)	Public Service Company of NH
BARKER LOWER HYDRO	0.390	HYDRO (DAILY CYCLE - RUN OF RIVER)	Constellation Energy Commodities
KENNEBEC WATER U5	0.387	HYDRO (DAILY CYCLE - RUN OF RIVER)	PPL Maine, LLC
WAVERLY AVENUE HYDRO	0.295	HYDRO (DAILY CYCLE - RUN OF RIVER)	Constellation Energy Commodities
BROWNS MILL HYDRO	0.222	HYDRO (DAILY CYCLE - RUN OF RIVER)	Constellation Energy Commodities
BARKER UPPER HYDRO	0.219	HYDRO (DAILY CYCLE - RUN OF RIVER)	Ridgewood Maine Hydro Partners, L.P.
PIONEER DAM HYDRO	0.198	HYDRO (DAILY CYCLE - RUN OF RIVER)	Constellation Energy Commodities
ROCKY GORGE U5	0.182	HYDRO (DAILY CYCLE - RUN OF RIVER)	PPL Maine, LLC
EUSTIS HYDRO	0.135	HYDRO (DAILY CYCLE - RUN OF RIVER)	Constellation Energy Commodities
J & L ELECTRIC - BIOMASS I	0.110	BIO/REFUSE	Constellation Energy Commodities
CORRIVEAU HYDROELECTRIC LLC	0.073	HYDRO (DAILY CYCLE - PONDAGE)	PPL Maine, LLC
GREENVILLE HYDRO	0.044	HYDRO (DAILY CYCLE - RUN OF RIVER)	Constellation Energy Commodities
SYSKO WIGHT BROOK	0.025	HYDRO (DAILY CYCLE - RUN OF RIVER)	PPL Maine, LLC
SYSKO GARDNER BROOK U5	0.014	HYDRO (DAILY CYCLE - RUN OF RIVER)	PPL Maine, LLC
SYSKO STONY BROOK	0.012	HYDRO (DAILY CYCLE - RUN OF RIVER)	PPL Maine, LLC
DAMARISCOTTA HYDRO	0.005	HYDRO (DAILY CYCLE - RUN OF RIVER)	Constellation Energy Commodities
TCPMCMPAGF GEN1 U5	0.000	BIO/REFUSE	TransCanada Power Marketing, Ltd.
LEWISTON CANAL COMPOSITE	0.000	HYDRO (DAILY CYCLE - RUN OF RIVER)	FPL Energy Maine Hydro LLC
MARSH POWER	0.000	HYDRO (DAILY CYCLE - RUN OF RIVER)	Constellation New Energy, Inc.
MEAD	0.000	COAL STEAM	Constellation New Energy, Inc.
HACKETT MILLS HYDRO	0.000	HYDRO (DAILY CYCLE - RUN OF RIVER)	Constellation Energy Commodities
MECHANIC FALLS HYDRO	0.000	HYDRO (DAILY CYCLE - RUN OF RIVER)	Constellation Energy Commodities
GREAT WORKS COMPOSITE	0.000	HYDRO (DAILY CYCLE - RUN OF RIVER)	Constellation Energy Commodities
SPARHAWK	0.000	HYDRO (DAILY CYCLE - RUN OF RIVER)	PPL Maine, LLC
FIEC DIESEL	0.000	OIL INTERNAL COMBUSTION	Vermont Public Power Supply Authority
NORWAY HYDRO	0.000	HYDRO (DAILY CYCLE - RUN OF RIVER)	Constellation Energy Commodities

Note - in addition to the above, the following generators are located in northern Maine and are not part of ISO-NE

Facility	Owner	Fuel Type	Capacity (MW)
Boralex Ashland	Boralex	Biomass	38
Boralex Ft Fairfield	Boralex	Biomass	32
Tinker	Integrys	Hydro	35
Caribou Steam	Integrys	Oil	23
Diesel Units, various locations	Integrys	Diesel	17
Mars Hill	UPC Wind	Wind	42

Appendix B – Summary of Activity in Other States

A. Background and Summary of 2008 Activity

The Restructuring Act directs the Commission to report on activities in other states associated with changes in the regulation of electric utilities. By way of background, during the mid-to-late 1990s, several states, including Maine, restructured their electric utilities to varying degrees. Recently, however, some states have reversed or modified these changes and others considering similar changes have decided to delay. As of September 2008, seven states (Oregon, California, Nevada, Arizona, New Mexico, Montana, and Arkansas) had suspended restructuring.[21] Ohio and Pennsylvania were moving towards a competitive market, but in 2008 continued to have rate stabilization orders in place.[22] In late 2008, the Virginia State Corporation Commission issued an order to lift generation rate caps and provide for competition beginning in 2009 in accordance with recent statutory changes.[23]

Regarding states that have maintained their restructured electricity markets (Connecticut, the District of Columbia, Delaware, Illinois, Massachusetts, Maryland, Maine, Michigan, New Hampshire, New Jersey, New York, Rhode Island, and Texas), in some there has been little to no change to the original

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[21] Energy Information Administration "Status of Electricity Restructuring by State" available at:
http://www.eia.doe.gov/cneaf/electricity/page/restructuring/restructure_elect.html

[22] Ohio PUC Electric Rate Stabilization Plans: Ensuring Rate Certainty in Ohio available at:
http://www.puco.ohio.gov/PUCO/Consumer/Information.cfm?id=6102; In the Matter of Adoption of Rules for Standard Service Offer, Corporate Separation, Reasonable Arrangements, and Transmission Riders for Electric Utilities Pursuant to Sections 4928.14, 4928.17 and 4905.31, Revised Code as amended by Amended Substitute Senate Bill No. 221, Case No. 08-777-EL-ORD available at: http://www.puco.ohio.gov/emplibrary/files/legal/rules/08-777/Entry.doc; and Energy Information Administration, Pennsylvania Restructuring available at:
http://www.eia.doe.gov/cneaf/electricity/page/restructuring/pennsylvania.html

[23] Virginia State Corporations Commission Order, *Ex Parte: In the Matter of Revising the Rules of the State Corporation Commission Governing Retail Access to Competitive Energy Services*, Docket No. 2008-00061, Order Revising Regulations (Nov. 26, 2008)
available on the Virginia State Corporations Commission's website at:
http://www.scc.virginia.gov

restructuring laws, although in others there have been considerable changes. Changes include: return to modified cost-of-service regulations, reconstitution of vertically integrated generation and distribution companies, and institution of long-term contract requirements.

Examples of specific changes during 2008 are provided below:

- New York legislation enacted in January 2008 allowed electric T&D utilities to construct, own, and operate generation facilities. Lawmakers noted that, although deregulation was intended to reduce costs, prices had risen 40% since restructuring began in 1996.[24]
- Michigan legislation enacted in October 2008 revised the Public Act 141 of 2000, which had originally implemented the competitive electricity market. The revision put in place a 10% cap on migration from large utility providers.[25]
- In response to concerns raised by the Maryland Public Service Commission (MD PSC) about capacity shortages and other matters, in January 2008, Senator Pipkin of Maryland introduced the following legislation:
    - B278 - Maryland Energy Independence Act of 2008;
    - SB448 - Constellation Energy Group, Inc. and Baltimore Gas and Electric Company - Return of Transition Costs;
    - SB450 - Public Service Commission - Electric and Gas Consumers.

SB278, effective July 2008, required that 100% of the electricity used in Maryland be generated within the state by 2018. SB448, effective June 2008, required Constellation to return $975 million in stranded costs to ratepayers. SB450, effective October 2008,

[24] New York State Assembly Bill A09611A, available at http://assembly.state.ny.us/leg/?bn=A09611

[25] Zack Colman, "Legislation Could Re-regulate Mich. Electric Utilities Industry". The State News, http://www.statenews.com/index.php/article/2008/09/legislation_could_reregulate_mich_electric_utilities_industry.

required that the MD PSC consider achieving the lowest price as the top priority.[26]

- In May 2008, Ohio's Governor signed into law an amendment that required electric utilities to provide a standard service offer (SSO) consisting of a market-rate offer or an electric security plan. Beginning January 1, 2009, electric utilities in Ohio must provide an SSO for consumers, including a firm supply of generation service.[27]

- In August 2008, the Pennsylvania Public Utilities Commission approved a rate stabilization plan for PPL Electric Utilities Corporation to allow customers to prepay in anticipation of large price increases for supply service expected to occur when PPL's rate caps expire at the end of 2009. The plan is available to residential, small commercial, small industrial and certain street lighting customers.[28]

B. Summary of Other Activity

1. ISO-NE Region:

- RHODE ISLAND: In 2006, the Rhode Island Legislature responded to less-than-robust development of a competitive supply market by delaying the end of standard offer service from 2009 until 2020. The Legislature also established a requirement for utilities to file annual plans that provide for "least-cost" procurement, whether from energy efficiency, cogeneration, renewable energy, or conventional energy sources.

- MASSACHUSETTS: Recent statistics reported by the state Department of Public Utilities indicate that more than half of the state's load is provided by competitive suppliers, with the largest proportion of that in the industrial sector. In addition, with more than 10% of its residential load supplied in the retail competitive market as of December 2007, Massachusetts has

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[26] Brad Olson, "Pipkin Makes the First Move," available at http://weblogs.baltimoresun.com/news/politics/assembly/2008/01/pipkin_makes_the_first_move.html

[27] Public Utilities Commission of Ohio Case No. 08-777-EL-ORD available at http://www.puco.ohio.gov/emplibrary/files/legal/rules/08-777/Entry.pdf

[28] Pennsylvania Public Utilities Commission, "PUC Approves PPL's Rate Stabilization Plan to Mitigate Projected Rate Increases," available at http://www.puc.state.pa.us/General/press_releases/Press_Releases.aspx?ShowPR=2029

been described as "one of three states showing the most significant residential activity in the year (TX, MA, NY)."[29]

- NEW HAMPSHIRE: The state does not track migration statistics needed to assess the level of participation in the competitive market. However, with respect to prices, there have been analyses suggesting that New Hampshire electricity prices have declined post-restructuring, some indicating savings of nearly $1 billion compared to what would have occurred without restructuring.

- CONNECTICUT: In June 2007, the Governor signed HB 7432, a new law that allowed utilities to compete to build peaking generation with cost-based recovery of their investment. Merchant generators could also compete, and if chosen, could charge cost-of-service rates. The law also required the Connecticut Department of Public Utility Control (DPUC) to "decouple" utilities' revenue from sales, provided funding for renewables, efficiency and distributed generation, and required utilities to offer time-of-use rates. Utilities must submit integrated resources plans annually, and resource needs must first be met through all cost-effective energy efficiency and demand reduction resources. Finally, pursuant to the new law the state's renewable portfolio standard was increased and the Connecticut Municipal Electric Energy Cooperative was required to develop standards for promoting renewable resources for municipally-owned utilities.[30]

2. PJM Region:

- DISTRICT OF COLUMBIA: Since January 1, 2001, residential and commercial electricity consumers in the District of Columbia have been able to choose their suppliers. As of January 2008, three alternative suppliers were serving the District's residential sector and thirteen alternative suppliers were serving the non-residential sector. Alternative

[29] MA Office of Energy and Environmental Affairs, "Summary of Competitive Market 2007," available at http://www.mass.gov/?pageID=eoeeaterminal&L=3&L0=Home&L1=Energy%2C+Utilities+%26+Clean+Technologies&L2=Electric+Power&sid=Eoeea&b=terminalcontent&f=doer_pub_info_summary_competitive_market_2007&csid=Eoeea

[30] APPA, "Public Power and State Restructuring: Connecticut," available at http://www.appanet.org/aboutpublic/staterestructuringdetail.cfm?State=71&sn.ItemNumber=2102

suppliers were serving 1.0% of residential demand and 75% percent of non-residential demand. [31]

- DELAWARE: Only one competitive electric supplier was actively promoting services to residential customers and, as of mid-2008, about 2.7% of residential customers had switched.

- NEW JERSEY: New Jersey statute requires the Board of Public Utilities (NJ BPU) to periodically submit an Energy Master Plan. In October 2008, the NJ BPU issued the most current Energy Master Plan projecting the state's energy needs through 2020. The report indicated increasing prices for both supply and transmission. [32]

3. NYISO Region:

- NEW YORK: According to the state's Public Service Commission, as of August 2008 residential migration was at 15.6%, an increase of 32.5% since August 2007. [33]

4. Other:

- TEXAS: Although Texas has been described as having the strongest competitive market of all the deregulated states, with 63.4% of the total electric load coming from competitive suppliers in 2007, the state has had one of the steepest price increases of all U.S. states. Residential electric prices rose by 64.37% between 1999 and 2007, with only Nevada, Florida, and Hawaii as states where prices are higher. Suggestions to curb this trend include allowing cities to re-regulate based on citizen requests for stable rates, and giving regulators more governance over wholesale and retail markets.[34]

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[31] District of Columbia Public Service Commission, "Retail Electric Restructuring in DC," available at http://www.dcpsc.org/customerchoice/whatis/electric/elec_restruc.shtm#Top

[32] New Jersey Energy Master Plan, available at http://www.nj.gov/emp/

[33] New York State Public Service Commission, "Electric Retail Access Migration Report," available at http://www.dps.state.ny.us/images/pdficonsmall.gif

[34] Cities Aggregation Power Project, Inc., "Unplugged: High Prices Under Texas Electric Deregulation," available at http://capptx.com/files/CAPPReport.pdf

5. Bibliography of Information on Other State Activity

American Public Power Association, "Consumers in Peril: Why RTO-Run Electricity Markets Fail to Produce Just and Reasonable Electric Rates," available at http://appanet.org/files/PDFs/ConsumersinPeril.pdf

American Public Power Association, "Public Power and State Restructuring: Connecticut," available at http://www.appanet.org/aboutpublic/staterestructuringdetail.cfm?State=71&sn.ItemNumber=2102

American Public Power Association, "Retail Electric Rates in Deregulated and Regulated States: A Ten Year Comparison" available at http://www.appanet.org/files/PDFs/10year.pdf

Cities Aggregation Power Project, Inc., "Unplugged: High Prices Under Texas Electric Deregulation," available at http://capptx.com/files/CAPPReport.pdf

Zack Colman, "Legislation Could Re-regulate Mich. Electric Utilities Industry". The State News, http://www.statenews.com/index.php/article/2008/09/legislation_could_reregulate_mich_electric_utilities_industry 16 Sep 2008.

Peter Cramton and Steven Stoft, "Uniform Price Auctions in Electricity Market," available at http://www.cramton.umd.edu/papers2005-2009/cramton-stoft-clearing-price-markets.pdf

District of Columbia Public Service Commission, "Retail Electric Restructuring in DC," available at http://www.dcpsc.org/customerchoice/whatis/electric/elec_restruc.shtm#Top

Energy Information Administration, "Status of Electric Restructuring by State," available at http://www.eia.doe.gov/cneaf/electricity/page/restructuring/restructure_elect.html

FERC Docket Nos: RM07-19 -000 and AD07-7-000

FERC Fact Sheet, "FERC Addresses Maryland PSC Complaint Against PJM," available at http://www.ferc.gov/news/media-alerts/2008/2008-2/05-15-08-factsheet.pdf

Good Energy, "Deregulation: The Basics," available at http://www.goodenergy.com/electricity_deregulation/deregulation.aspx

ISO-NE, "2007 Annual Markets Report," available at http://www.iso-ne.com/markets/mkt_anlys_rpts/annl_mkt_rpts/2007/amr07_final_20080606.pdf

ISO-NE, "Progress of New England's Restructured Electric Industry and Competitive Markets," available at http://www.iso-ne.com/pubs/whtpprs/rto_paper.pdf

LIHEAP Clearinghouse, "Overview of Low-Income Restructuring Legislation and Implementation," available at http://www.liheap.ncat.org/dereg/states/delaware.htm

MA Office of Energy and Environmental Affairs, "Summary of Competitive Market 2007," available at http://www.mass.gov/?pageID=eoeeaterminal&L=3&L0=Home&L1=Energy%2C+Utilities+%26+Clean+Technologies&L2=Electric+Power&sid=Eoeea&b=terminalcontent&f=doer_pub_info_summary_competitive_market_2007&csid=Eoeea

New York State Assembly Bill A09611A, available at http://assembly.state.ny.us/leg/?bn=A09611

New York State Public Service Commission, "Electric Retail Access Migration Report," available at http://www.dps.state.ny.us/images/pdficonsmall.gif

Brad Olson, "Pipkin Makes the First Move," available at http://weblogs.baltimoresun.com/news/politics/assembly/2008/01/pipkin_makes_the_first_move.html

Pennsylvania Public Utilities Commission, "PUC Approves PPL's Rate Stabilization Plan to Mitigate Projected Rate Increases," available at http://www.puc.state.pa.us/General/press_releases/Press_Releases.aspx?ShowPR=2029

Public Utilities Commission of Ohio Case No. 08-777-EL-ORD available at http://www.puco.ohio.gov/emplibrary/files/legal/rules/08-777/Entry.pdf

Marilyn Showalter, "Price Trends for Industrial Electricity, Deregulated vs. Regulated States," available at http://www.pulp.tc/PPI-rp-INDjul07data-nov07.pdf

Susan F. Tierney Ph.D., "ERCOT Texas's Competitive Power Experience: A View from the Outside Looking In," available at http://www.analysisgroup.com/analysisgroup/uploadedFiles/News_and_Events/News/AnalysisGroup_Tierney_ERCOT_2008-11-17.pdf

Ohio PUC Electric Rate Stabilization Plans: Ensuring Rate Certainty in Ohio available at:
http://www.puco.ohio.gov/PUCO/Consumer/Information.cfm?id=6102

In the Matter of Adoption of Rules for Standard Service Offer, Corporate Separation, Reasonable Arrangements, and Transmission Riders for Electric Utilities Pursuant to Sections 4928.14, 4928.17 and 4905.31, Revised Code as amended by Amended Substitute Senate Bill No. 221, Case No. 08-777-EL-ORD available at: http://www.puco.ohio.gov/emplibrary/files/legal/rules/08-777/Entry.doc

Energy Information Administration, Pennsylvania Restructuring available at:
http://www.eia.doe.gov/cneaf/electricity/page/restructuring/pennsylvania.html

Virginia State Corporations Commission Order, *Ex Parte: In the Matter of Revising the Rules of the State Corporation Commission Governing Retail Access to Competitive Energy Services*, Docket No. 2008-00061, Order Revising Regulations (Nov. 26, 2008)
available on the Virginia State Corporations Commission's website at:
http://www.scc.virginia.gov