STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2001-194

March 12, 2002

BANGOR HYDRO-ELECTRIC COMPANY
Petition for Approval of Pricing Flexibility Program

ORDER APPROVING STIPULATION

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY OF DECISION

By this Order, the Commission approves, on a temporary basis, a Stipulation entered into between Bangor Hydro-Electric Company (BHE or the Company) and the Office of the Public Advocate (OPA) that establishes a pricing flexibility program for BHE.

II. BACKGROUND

In early 2001, it appeared that an Alternative Rate Plan (ARP) would likely be implemented for BHE in the near future. In light of this and to address the Company's desire to have clearer guidance regarding flexible pricing in the interim, the Company and Commission Staff began informal discussions regarding a possible flexible pricing program for BHE. As a result of those initial discussions, on March 15, 2001, BHE filed a Petition for Approval of Pricing Flexibility Program.

Over the following 10 months, several meetings and phone calls took place among Commission Staff, BHE, the OPA and a representative from the Industrial Energy Consumers Group (IECG) regarding the provisions of such a program. On January 8, 2002, BHE filed a Stipulation between the OPA and the Company incorporating the results of those discussions.

III. DISCUSSION AND DECISION

BHE's proposed flexible pricing program is based on Central Maine Power Company's (CMP's) program with a few notable exceptions. Under both programs, targeted rates schedules and special contracts that meet certain criteria go into effect automatically 30 days after being filed with the Commission.[1] Included in these criteria are requirements that:

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[1] This automatic approval, while allowing the contract to go into effect, does not imply any finding of reasonableness.

a) contracts not be anti-competitive or unduly discriminatory;
b) annual revenue from the special rate exceed the Company's marginal cost floors;
c) annual usage-sensitive revenues exceed the Company's usage-sensitive marginal cost floors, and
d) over the contract term, revenue from the special rate exceed the marginal costs floors plus an adder.

Both programs also include similar filing requirements and competitor notice provisions. However, in CMP's flexible pricing program, there is no upper limit on a customer's size for automatic approval of a special contract. In BHE's program, there is a maximum size of 5 MW. Further, CMP's program allows contracts with terms that extend as long as "one year beyond the term of the ARP" (which expires December 31, 2007). BHE's program limits the maximum contract term to three years.

As we have stated on numerous occasions, to approve a Stipulation the Commission must find that:

1. the parties joining the Stipulation represent a sufficiently broad spectrum of interests that the Commission can be sure that there is no appearance or reality of disenfranchisement;

2. the process that led to the Stipulation was fair to all parties; and

3. the stipulated result is reasonable and not contrary to legislative mandate.

See Central Maine Power Company, Proposed Increase in Rates, Docket No. 92-345(II), Detailed Opinion and Subsidiary Findings (Me. P.U.C. Jan. 10, 1995), and *Maine Public Service Company, Proposed Increase in Rates (Rate Design),* Docket No. 95-052, Order (Me. P.U.C. June 26, 1996).

We have also recognized that we have an obligation to ensure that the overall stipulated result is in the public interest. *See Northern Utilities, Inc., Proposed Environmental Response Cost Recovery,* Docket No. 96-678, Order Approving Stipulation (Me. P.U.C. April 28, 1997). We find that the proposed Stipulation in this case meets all of the above criteria.

In this case, the Stipulation was entered into by the Company and the OPA. The IECG filed a letter indicating that while it did not sign the Stipulation, it would not oppose it. We find that the stipulating parties represent a sufficiently broad spectrum of interests to ensure that there was no appearance or reality of disenfranchisement.

Further, we have reviewed the Stipulation and find that the proposed flexible pricing program and the marginal cost floors are reasonable and consistent with the public interest, at least on a temporary basis. It is our understanding that the final conditions of

BHE's flexible pricing program will be considered as part of any overall resolution of any ARP proceeding and that all aspects of the current proposal are open to being reconsidered as part of that process. With this understanding, we approve this flexible pricing program and the marginal cost floors on an interim basis until the final provisions are adopted as part of an overall ARP for BHE. If, ultimately, it appears that no such ARP will be approved, we will re-open this docket to consider the appropriateness of continuing this flexible pricing program.

Dated at Augusta, Maine, this 12th day of March, 2002.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: WELCH
NUGENT
DIAMOND

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.

2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.

3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.