STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2001-701

January 29, 2002

PUBLIC UTILITIES COMMISSION
Construction Standards and Ownership and Cost Allocation Rules for Electric Distribution Line Extensions (Chapter 395)

ORDER ADOPTING PROVISIONAL RULE AND STATEMENT OF POLICY BASIS

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

NOTE: Pursuant to 35-A M.R.S.A. § 314(5), Chapter 395 is a "**major substantive rule**." Under the provisions of 5 M.R S.A. §§ 8071 and 8072, an agency conducting a major substantive rulemaking adopts a "**provisional rule**." The Legislature then reviews and considers the provisional rule, and may approve the rule, approve part of it, approve it with specific amendments, or disapprove it. If there is any Legislative approval, the Commission must approve a final rule within 60 days after the effective date of the legislation containing that approval.

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I. SUMMARY

By this Order, we provisionally adopt Chapter 395 of our rules. Chapter 395 establishes the requirements for persons who construct electric distribution line extensions, including the development and approval of standards, qualifications to perform tasks associated with building line extensions, and dispute resolution procedures. In addition, Chapter 395 governs the ownership of electric distribution line extensions and the procedure for reapportioning construction costs among customers who receive service from them.

II. BACKGROUND

A. Legislative Mandate

During its first session, the 120th Legislature enacted P.L. 2001, Ch. 201, An Act Concerning Private Line Extension, which is codified at 35-A M.R.S.A. § 314. Section 314 addresses several issues related to line extensions constructed by persons who are not employed by transmission and distribution (T&D) utilities, referred to as private line extension contractors in this Order.[1] Section 314 requires the Maine Public Utilities Commission (Commission or PUC) to develop a rule that:

- Establishes standards for line extension construction that are identical for utility employees and private line extension contractors unless there are compelling safety reasons to do otherwise;

- Establishes terms for transferring ownership of a line extension from a private owner to a T&D utility; and[2]

- Establishes methods for apportioning the costs of a line extension among persons who receive service through the line.

In addition, section 314 requires the Commission to examine whether minimum qualifications should be established for private line extension contractors. The law requires the Commission to submit the proposed Rule and its recommendations regarding minimum qualifications to the Utilities and Energy Committee no later than February 1, 2002.

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[1] For the purposes of this Order and the Rule, a person with whom a T&D Utility contracts to build a line extension that will be owned by the T&D utility is *not* a private line extension contractor

[2] For purposes of this Order and the Rule, “private owner” refers to a person who is not a T&D utility and who owns an electric distribution line extension.

B. Inquiry Proceeding

Prior to the initiation of this Rulemaking, we conducted an Inquiry to obtain information to help us develop the proposed Rule. In our Notice of Inquiry issued on July 31, 2001 in Docket No. 2001-461, we solicited written comments on specific issues and questions relating to section 314. In response to the Notice of Inquiry, we received input from a variety of commenters including several persons and entities who also provided valuable comments in the subsequent Rulemaking proceeding.

During the Inquiry, we also worked with the Maine Powerline Construction Association (MPCA) and Central Maine Power Company (CMP) to develop procedures, including designating a single contact person from CMP, for resolving disputes as they arise between private line extension contractors and CMP regarding line extension construction procedures. The resulting procedure has been used effectively in recent months, and we have included a "single contact person" requirement in the provisional Rule. Finally, we conferred with the Maine Office of Licensing and Registration to determine whether licensing private line extension contractors under its auspices is possible or likely.[3]

C. General Principles

In the Notice of Rulemaking (NOR) issued in this docket on October 23, 2001, we identified three general principles that animate the proposed Rule. The three principles, which apply with equal force to the provisional Rule, are as follows. First, competition for line extension construction may benefit customers by lowering costs. Second, each business entity should compete based on its economic merits. Thus, the provisional Rule strives to eliminate barriers to competition and avoid subsidies. It also requires that all entities attain identical levels of safety and reliability. Third, line extensions must be safe, regardless of who constructs or owns them.

D. Participants in Rulemaking

Consistent with the notice provided in the NOR, we held a public hearing on the proposed Rule on November 20, 2001. The following entities and persons testified at the November 20th hearing:

Central Maine Power Company (CMP)
Maine Department of Transportation (DOT)
Bangor Hydro-Electric Company (BHE)
MPCA
Bud Morse

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[3] The Maine Office of Licensing and Registration, within the Department of Professional and Financial Regulation, comprises 35 licensing boards and five regulatory programs, including the Electrician's Examining Board. In addition, six other licensing boards are affiliated with the Department for policy and budgetary purposes, including the Board of Registration for Professional Engineers.

Chris Toto
Lucas Tree Expert Company
Enterprise Electric
S&L Construction Company

The NOR set December 3, 2001 as the deadline for written comments on the proposed Rule. Written comments were filed by the following entitles:

Maine Public Service Company (MPS)
Maine Board of Registration for Professional Engineers (Engineers' Board)[4]
Electrical Design Consultants (EDC)
BHE[5]
CMP[6]
Office of the Public Advocate (OPA)
Maine Community Action Association (MCAA)
Dale Hitchcock
Eastern Maine Electric Cooperative (EMEC)
MPCA
Bud Morse
Maine Department of Professional and Financial Regulation (Department) with appended comments from the Engineers' Board and the Electricians' Examining Board (Electricians' Board)

III. DISCUSSION OF GENERAL COMMENTS AND PROPOSED NEW SECTIONS TO THE RULE

Several commenters in this Rulemaking offered general comments about the proposed Rule, or proposed new sections for the final Rule.[7] These general comments, and our response to these comments, are summarized in this section of the Order.

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[4] Written comments from the Engineers' Board were also attached as "Appendix A" to comments filed by the Department of Professional and Financial Regulation.

[5] BHE filed initial comments dated November 14, 2001 and supplemental comments dated December 10, 2001.

[6] CMP filed initial comments dated November 16, 2001 and supplemental comments dated December 6, 2001.

[7] Throughout this Order, we use the term "proposed Rule" to refer to the draft of the Rule that was attached to the NOR, and the term "provisional Rule" to refer to the Rule that is attached to this Order and that we will submit to the Legislature as required by P.L. 2001, Ch. 201, § 5.

In both its initial and supplemental written comments, CMP advocated that the proposed Rule be amended to provide for a 6-month transition period from the date the Legislature approves the final Rule. CMP asserted that the transition period is needed to allow transmission and distribution (T&D) utilities "to file revised terms and conditions, make adjustments to forms and computer programs if necessary, train personnel on new procedures and to educate the public." No other utility made a similar comment, and CMP did not provide specific information about which terms and conditions or forms must be changed.

We agree that T&D utilities may need some time after the Rule is finalized to implement some changes necessary to comply with the Rule. The most time-consuming activity will be the filing and approval of utility standards under section 3. This process requires a utility to develop the standards (if they do not already exist), to create a list of interested persons, to allow those persons 30 days to provide comment and to consider the comments. CMP has recently distributed copies of its distribution construction standards to contractors and therefore has done a considerable portion of the tasks required by section 3. Nevertheless, in the event that other utilities are not as far along as CMP, section 3(B) provides a 91-day (13-week) period from the effective date of the rule for the initial filing of standards.[8] We strongly encourage utilities, like CMP, that can file their standards sooner to do so.

The Rule is a "major substantive" rule and requires legislative approval. We expect the Legislature to act on the Rule by the end of March 2002. A 6-month transition period would mean that no provisions of the new Rule would take effect until late September.[9] We believe it is important to have both the approved standards and the allocation method required by section 9 in effect as soon as possible, since it was controversies about both of these matters that gave rise to the legislation. We do not expect the Rule to require major operational changes in the field for any utility, particularly CMP, which has already implemented a number of changes in its operations

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[8] Throughout the Rule, we have adopted periods that are multiples of whole weeks, to make calculating future dates easier on a calendar. In doing so, we are following the lead of the Supreme Judicial Court, which implemented this practice in the recent Maine Rules of Appellate Procedure. Where a time period is established by statute (e.g., the 30 day notice requirement of 35-A M.R.S.A. § 307), we have of course used the statutory period.

[9] It is, of course, possible that the legislative process itself will result in a delay of until September or later. 5 M.R.S.A. § 8072(8) states that a major substantive rule must become effective within 60 days following the effective date of the legislation approving the rule. The Legislature has the option to take action on this rule through emergency legislation, which would establish an effective date for the legislation that would be earlier than the date that legislation normally takes effect, 90 days after the end of the legislative session. Depending on whether the Legislature approves a final rule in emergency or regular legislation, we may request the Legislature to modify the time period in section 3(B) of the Rule.

and in its interactions with private contractors. CMP has made some of these changes in anticipation of the Rule.

We see no reason why the allocation system, once implemented, should not apply to all line extensions that are built after the effective date of the rule.[10] Because of possible implementation delays, it may be necessary to delay some allocation calculations (which we understand will be manual rather than computerized) or some payments to prior customers, but that is not a sound reason for delaying the effective date of the method itself.

It is also not obvious that changes to Terms and Conditions or the development of forms should take a great deal of time. CMP, for example, must delete its present allocation system from its Terms and Conditions. It does not necessarily have to replace it; the Rule governs. All utilities must develop a form contract for line extensions that contains the provisions required by section 6(B)(4). Utilities could start preparing those at any time, and we will endeavor to approve them as rapidly as possible. (The private-owner obligations that the contracts will recite are all obligations imposed by the Rule itself. The primary purpose of the contract is to provide notice of these obligations to customers.)

For the foregoing reasons, we will not delay application of provisions of the Rule beyond the effective date that ultimately will be established by the Legislature, by Commission action following legislative action, and by the Secretary of State, except, as discussed above, for the filing date for utility standards. On a case-by-case basis, we will consider reasonable requests for temporary delays in the applicability of specific provisions of the Rule.

In written comments, the OPA recommended that the Rule be amended to require that electric customers be given the option to pay the charges for a line extension over a period of time. The OPA noted that BHE's current terms and conditions provide such an option and asserted that such a provision would enable more people to hook up to the electric grid and increase the number of customers for the utilities. The OPA also suggested that the proposed Rule be amended to require T&D utilities to offer a low-income credit for qualified low and moderate-income customers. The OPA noted that CMP currently provides a $2800 line extension credit to low-income customers. In its written comments, the MCAA supported the OPA's recommendation that a provision be added to the Rule that requires each T&D utility to

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[10] Indeed, we see no reason why CMP should not apply the Rule's allocation method – on a going-forward basis – to line extensions that were built under its present allocation method that has been in effect only since January 1, 2000, and that we found in the Notice of Rulemaking made "almost no attempt to allocate the costs on some basis related to the amount of cost that each customer has caused." CMP stated that it would be willing to apply the alternative allocation method it proposed in its supplemental comments to those line extensions. The Rule does not require any utility to apply the new policy to existing line extensions, however, and a utility would have to file a change to its Terms and Conditions to accomplish this result.

offer a low-income credit to qualified low and moderate-income customers. The MCAA asserted that CMP's current line extension credit has worked well and urged the Commission to incorporate such a credit into the Rule.

CMP opposed the OPA's recommendations regarding payment options and low-income credits. CMP asserted that the OPA's comments are beyond the scope of this Rulemaking. CMP further argued that "[t]he pay-over-time option is not necessary because many financial institutions offer financing which includes line extension costs" and CMP already has such a program in place. BHE opposed the OPA's proposal for a line extension subsidy for income-qualified customers as unnecessary. BHE asserted that it offers "long term line extension financing to customers on terms that the Company believes are reasonable and affordable. The availability of these options obviates the need for a low income subsidy."

At page 4 of the NOR, we identified several additional policy issues that are not covered by 35-A M.R.S.A. section 314 or by the Rulemaking. They included the extent to which a customer may pay for her line extension over time and whether we should require low-income assistance programs relating to line extensions. We noted that these additional policy issues are currently addressed in each T&D utility's terms and conditions and that the way utilities address these issues is not always consistent. We concluded that, "in the future, we may expand the Rule to encompass all line extension policy issues for both electric and telephone utilities. Persons may comment on whether such a Rulemaking would be worthwhile." We agree with CMP that the OPA's proposed amendments for a pay-over-time option and a low-income credit are beyond the scope of this Rulemaking. As indicated in the NOR, we are sensitive to these and other policy issues relating to line extensions and will address the concerns raised by the OPA and MCAA if and when we conduct a Rulemaking during which we consider line extension payment procedures.

The OPA also argued that the Rule should be amended to require, upon completion of each line extension, that the T&D utility provide a true-up of the costs of constructing the line extension. The OPA asserted that this would help ensure that customers only pay the actual costs of construction. CMP argued that this issue is beyond the scope of this Rulemaking, and we agree. CMP also opposed the OPA's proposed true-up amendment on the ground that "[c]ustomers desire certainty to determine the amount of financing and what they can afford for other costs. Truing up the cost can result in higher costs, especially if ledge is unexpectedly encountered."

IV. DISCUSSION OF INDIVIDUAL SECTIONS

In this part of the Order, we discuss the comments we received regarding specific sections of the proposed Rule and our rationale for maintaining or modifying the provisions in the provisional Rule.

A. Section 1: Definitions

Based on comments we received on the proposed Rule, we have modified nine definitions and added three new definitions to this section of the provisional Rule. In its written comments, MPS recommended that "Contribution in Aid of Construction" ("CIAC") at section 1(A) be defined by reference to section 118(b) of the U. S. Tax Code. 26 U.S.C. § 118 does not define "Contribution in Aid of Construction," and we have not found a definition in either Title 26 or the I.R.S. regulations. We have modified section 1(A) to state that a CIAC is a payment "that is taxed as income to the T&D utility." We have made a similar change to section 1(B) (Contribution of Facilities).

MPS also asserted that the definition of "Development" at section 1(C) of the proposed Rule is too broad and should be modified to make it consistent with existing Maine subdivision law. MPS states that the proposed definition is more inclusive than the definition in Maine law for "subdivisions" (30-A M.R.S.A. Chapter 87) and suggests that it may be too inclusive. MPS provides the example of "a mother who sells two pieces of the family property to two of her sons."

The term "development" is used for two major purposes in the Rule. First, section 6 states that line extensions in developments must be owned by the utility except prior to the delivery of power to any structure in the development. The sole exception that the Rule makes to the general requirement of utility ownership is for lines that serve only one customer. We will not permit a line that serves more than one customer to be privately owned because of the easement and maintenance difficulties we explain in our discussion of section 6. Line extensions in developments by definition are likely to serve more than one customer.

The second purpose of this definition is to exclude developments from the allocation method contained in proposed section 9. Here, because of this exclusion, MPS's suggestion that the definition is over-inclusive is actually reversed. We see no reason why we should adopt a definition that would have the effect of making the smallest possible developments subject to the allocation method, while excluding larger developments. Where, as in the case of the example provided by MPS, the development is a "family affair," the participants should be able to work out a fair division of the costs.

We note that the definition of "development" in section1(C) is the same as that in Chapter 65, § 1(D), which governs water main extensions. We see no substantial reason to have different definitions apply to water main and electric line extensions.

In its written comments, MPS further recommended that the words "single-phase or polyphase" be added to the definition of "Electric Distribution Line Extension" at section 1(D) of the proposed Rule. In its written comments, CMP objected to the application of the allocation and reallocation provision of the Rule to polyphase line extensions. We discuss CMP's objection in our discussion of section 9. We do not read CMP's comment as objecting to applying other policies of this Rule to polyphase

extensions. We agree with CMP and believe that the principles of safety, cost causation and flexibility to allow customers to obtain construction service from the open market should apply equally to single-phase and polyphase lines. We have therefore adopted MPS's recommendation and have added language to section 1(D) to clarify that the rule applies to both single-phase and polyphase installations.

CMP further argued that the definition of "Electric Distribution Line Extension" should be amended to explicitly exclude "service cables." CMP asserted that service cables or service drops are not part of line extensions under its current terms and conditions because CMP installs service drops without charging customers except for commercial underground services. CMP further noted that the cost of service drops is not considered in CMP's allocation process because the customer does not pay it. Finally, CMP asserted that excluding services from the definition of a line extension avoids concerns CMP has relating to commercial underground services. We agree with CMP's comments and have excluded "service drops" from the definition of line extensions. We have also added a definition of "service drop."

In its written comments, MPS argued that adding the reference to "single-phase and polyphase" to section 1(D) renders the definition of "Line Extension" at section 1(G) of the proposed Rule redundant. MPS concluded that the definition of "Line Extension" should therefore be deleted. The provisional Rule uses the terms "electric distribution line extension" and "line extension." We believe that some readers of the Rule may find the Rule easier to understand if both terms are defined in the Rule. We have therefore retained the definition of "Line Extension" in the provisional Rule. However, because of the amendment to section 1(D) discussed above, we have dropped the phrase "including both single-phase and polyphase lines" from the definition of "Line Extension" that appears at section 1(I) in the provisional Rule. The definition of "Line Extension" is now simply a cross-reference.

We have added the definition of "Interconnection Point" at section 1(E) of the provisional Rule to clarify the meaning of new language that we added to section 6(B) and (C) of the Rule in connection with allowing customers to own poles or other structures that contain the "interconnection point" between utility and privately-owned facilities. See discussion in section 6.

We have also added the definition of "Licensing Authority" at section 1(F) of the provisional Rule to clarify the meaning of new language we added to sections 6(A)(1)(b) and (2)(b) of the Rule in connection with private ownership of facilities in the public way and the need to satisfy the requirements of the governmental ("licensing") authority with control over the public way. See discussion in section 6.

In written comments, BHE asserted that the customer served by a private line should also be the owner of the private line. BHE recommended that the definition of "Privately-Owned Line Extension" be modified to add the following language: "The customer receiving service from a privately owned line extension must be the owner of the privately owned line extension." In written comments, CMP also asserted that private lines be limited to lines only serving the owner of the line.

We can envision instances in which the customer and the owner of a privately owned line extension need not be one and the same. For instance, the customer could be renting property from the owner of the privately owned line extension. Therefore, we have not incorporated the limiting language recommended by BHE and CMP.

In written comments, MPS asserted that material standards should not be included in the definition of "Standard" and should not be subject to the requirements in section 3 of the proposed Rule. MPS argued that "maintaining an approved schedule of specific components is highly impracticable because vendors frequently change catalog numbers and even entire product lines." MPS recommended that the definition of "Standard" and the requirements of section 3 be modified to create separate requirements for material standards.

The record in this Rulemaking indicates that material standards have been a significant source of conflict in CMP's service territory. We are concerned that failing to include material standards in the requirements in section 3 of the Rule would invite a continuation of the very problems that the section 314 was designed to eliminate. Accordingly, we have modified section 1(U) to make clear that specifications for materials must be part of a utility's standards. We recognize, however, the concerns raised by MPS on this issue. We have added a new section 3(E) that specifically addresses those concerns. See discussion under section 3.

In written comments, BHE recommended that the definition of "Utility Line Construction Standards" be limited to "those standards for facilities that typically apply to distribution line extension construction. Bangor Hydro maintains hundreds of standards that do not relate to facilities typically used in the construction of line extensions. To maintain all standards as required by section 3 would be unnecessary, time consuming and costly." We agree, and have amended the definition of "Utility Line Construction Standards" at section 1(U) of the provisional Rule to clarify that the standards in question relate to electric distribution line extensions.

B. <u>Section 2: Purpose</u>

No commenter proposed any specific amendments to this section of the proposed Rule. However, some of the comments indicated that further clarification of the applicability of the Rule is necessary. In addition, as discussed above in detail, CMP requested that a transition period be built into the Rule, and we have rejected that suggestion except for the filing of standards under section 3(B).

To accommodate these concerns, we have expanded section 2 in the provisional Rule. Section 2 now contains two subsections. Section 2(A) is entitled "Purposes" and is virtually the same as section 2 in the proposed Rule. We have added section 2(B) to the provisional Rule, entitled "Applicability." Section 2(B) of the provisional Rule states explicitly that "[t]he provisions of this Chapter apply to T&D utilities and to private line extension contractors."

C. Section 3: Standards for Construction of Line Extensions

Pursuant to federal and state law, each T&D utility in the State currently builds its line extensions to comply with the National Electric Safety Code (NESC) standards and, in some instances, with the Rural Utilities Service (RUS) standards. In addition, each utility maintains its own internal construction standards (referred to as "utility construction standards" or "utility standards" in this Order). Collectively, the NESC (or RUS) and the utility's own utility construction standards constitute the "standards" addressed by this section of the Rule.

Utility construction standards clarify the methods for implementing the NESC and the RUS and specify facilities or equipment that are compatible with the utility's distribution system. Occasionally, utility standards are more stringent than the NESC and the RUS standards because of geographic and weather conditions in Maine. While Commission staff currently review and comment on utilities' construction standards (when the standards are written), the Commission does not currently approve the standards.

As we noted in the NOR, access to utilities' standards and the cost of that access have been a source of conflict between private contractors and some T&D utilities. We addressed these issues in our Inquiry. Only some T&D utilities maintain their standards in writing, and, in some cases, it apparently has been difficult for members of the public (including private contractors) to obtain them. We have also heard numerous allegations about inconsistent interpretations of utilities' standards by utility employees. Private line extension contractors have claimed that such inconsistency has made it difficult for them to be certain if lines they construct will be acceptable to the T&D utility. Finally, some private line extension contractors have complained that T&D utilities have demanded more stringent and costly standards for contractors than are required of the utility.

Through section 3 of the proposed Rule, we intend to require consistent application of all standards within a T&D utility's territory and to ensure accessibility at a reasonable cost. Many people commented on the requirements of section 3 of the proposed Rule in their oral testimony at the hearing and in written comments. In oral testimony, the MPCA asserted that "[t]here have been phantom rules that have been developed in the field. Rules haven't been written down and it has been a source of a tremendous amount of conflict." The MPCA contended that section 3 of the proposed Rule has "two great virtues." First, it requires T&D utilities to communicate with, and solicit input from, contractors before submitting a standard to the PUC. Second, it requires the PUC to review and approve a standard before it takes effect. Bud Morse, the owner and operator of Winkempaugh Line Construction Company based in Hancock, Maine, testified that standards are necessary, but noted that some standards impose disproportionate costs on private contractors.

In written comments, EMEC argued that section 3 of the proposed Rule may make sense for larger T&D utilities, but that strict compliance with this section would impose significant and unnecessary costs on smaller, consumer-owned T&D

utilities. EMEC requested that section 3 be amended to make clear that the Commission is willing to waive certain requirements of section 3 for consumer-owned T&D utilities. A utility may always ask for a waiver of any provision of the Rule pursuant to the general waiver provision in section 10. We make no commitment at this time concerning whether we would grant such a waiver for EMEC or other consumer-owned utilities (COUs), but we note that the presence or absence of private contractors who build line extensions in a utility's service area might be a relevant consideration in determining whether to grant a waiver of the portions of section 3 that apply to the utility's own standards.

CMP, BHE and MPS argued for substantial modifications to some of the key requirements in section 3 of the proposed Rule. After careful consideration of the comments we received regarding section 3 of the proposed Rule, we have concluded that only minor modifications to the requirements of that section are necessary.

Section 3(A) of the proposed Rules states that all line extensions must be constructed in compliance with the NESC, the RUS if applicable, and the T&D utility's construction standards. The provision is intended to ensure that there is consistency in the requirements for all competitors and to guarantee that all line extensions attain an adequate level of safety. In written comments, the MPCA asserted that the Rule should unambiguously state that both T&D utilities and private contractors must comply with the standards identified in section 3(A) and urged that the initial sentence in section 3(A) be amended to read as follows: "All line extensions, whether constructed by a utility or a private line contractor, shall be constructed in compliance with the following standards." We agree with the MPCA and have added the requested language to section 3(A) of the provisional Rule.

Sections 3(B) and 3(C) of the proposed Rule state the method by which the Commission will review and approve utilities' construction standards. Sections 3(B)(1) and (2) and 3(C)(2) require that initial and revised utility construction standards be filed with the Commission as part of the T&D utility's Terms and Conditions and be approved by the same procedure as for all Terms and Conditions pursuant to 35-A M.R.S.A. § 307.

In written comments, the MPCA supported the requirements of sections 3(B) and (C) and asserted that "[w]hile the utilities take issue with the Commission's approach, the MPCA believes that it strikes the proper balance considering the friction that has occurred between some utilities and private contractors historically."

In written comments, BHE asserted that line extension standards should be filed with the PUC, but not pursuant to section 307. BHE proposed "that standards may be changed on notice from the utility and that such notice be provided to the Commission and interested persons. Parties opposing such proposed changes to the utility's standards may dispute the changes after implementation pursuant to section 5 [Dispute Resolution]. Projects for which the utility has received written notice prior to the change in standards would be grandfathered unless the change is necessitated by a serious safety concern."

CMP argued in both written comments and oral testimony that PUC approval of its line extension standards is both unwise and unnecessary. CMP asserted that section 314 directs the PUC to establish standards for persons other than T&D utilities, but does not require the Commission to establish standards for T&D utilities. CMP asserts that Commission approval of a T&D utility's line extension standards exceeds the Commission's mandate under section 314. It states:

> CMP recommends that the Rule require that private Contractors meet the construction standards established by the T&D utility. A T&D utility, however, should not be required to submit those standards or any revisions to the Commission for its approval. The Commission should merely adopt those standards by reference for private contractors to follow.

In other words, CMP is proposing that it establish the standards and that the Commission "merely" rubber-stamp them. We do not agree that this approach discharges our statutory obligation. 35-A M.R.S.A. § 314(2) states that the Commission "shall *by rule establish standards* for the construction of a line by a person other than a transmission and distribution utility." (emphasis added) For this Commission to simply say that the standards established by the utilities – whatever they may be and without any Commission review whatsoever – hardly satisfies the words or the sprit of the statute. Approving standards proposed by the T&D utilities would appear to minimally satisfy the requirement that the Commission must "establish" standards.

In addition, CMP's proposed alternative would essentially maintain the status quo. Such an outcome is unacceptable. Our familiarity with the genesis of section 314 and the record in this Rulemaking convinces us that the alternative procedures proposed by BHE and CMP are insufficient and Commission review and approval of these standards under section 307 is necessary to comply with the requirements set forth in section 314(2).

CMP also admits that section 314(2)(A) states that "The standards must be the same as the standards that would apply if the transmission and distribution utility in whose territory the line is constructed built the line unless there are compelling public safety reasons for applying different standards." As a practical matter, any standards that the Commission establishes for private contractors must also apply to CMP. It is not clear how the fact that the statute requires identical standards bolsters CMP's argument that the statute does not require the Commission to establish standards.

CMP further argued that the Commission lacks the expertise necessary to review the standards in question, and that a requirement that we review and approve these standards would constitute an unreasonable burden on the Commission. The record in this Rulemaking confirms that T&D utilities and the private line construction industry have extensive knowledge and experience regarding construction standards. In the event of disputes about the standards, we will rely on the expertise of the affected

utilities, contractors and individuals identified in section 4 of the Rule who choose to participate during our section 307 review.

Finally, CMP argued that the requirement that the PUC approve line construction standards would create unreasonable delay, interfere with utility operations and endanger the public. We note that we do not anticipate actively investigating every standard that is filed pursuant to section 3 of the final Rule. We believe that the pre-filing comment period required by section 3(B)(3) will help us identify proposed standards that are controversial and require our scrutiny. Non-controversial proposed standards will likely take effect without challenge. Non-controversial future changes are likely to go into effect at the end of 30-day notice period required by section 307 or immediately if they allow greater flexibility or substitute materials, as provided in section 3(E), discussed below.

If a T&D utility is concerned that an unsafe condition would be created or perpetuated by the 30-day notice requirement of 35-A M.R.S.A. § 307, it may file pursuant to section 3(D) (Emergency Revisions). Section 307 explicitly authorizes the Commission to waive the 30-day requirement "for good cause." We expressly find in this Order that a good faith filing under section 3(D) of the Rule constitutes "good cause" for the purpose of 35-A M.R.S.A. § 307.

As noted above, the statute would permit different standards to apply to utilities and to private contractors if there were "compelling public safety reasons." We were not aware of any reason for different standards when we proposed the rule, and no one has suggested any during the course of the Rulemaking. We therefore have no specific provision in the Rule that recognizes that possibility. Section 3 does not prohibit a utility from establishing separate requirements in its standards filed with the Commission. As we stated in the NOR, however, we are not likely to approve separate requirements in the absence of compelling evidence that the difference is necessary to maintain public safety. We also recognized that some utilities impose standards that are more stringent than those of the NESC or the RUS, and that some private line extension contractors have argued that the less stringent national standards, if applied to privately-built line extensions, would provide adequate safety and be less costly. Again, absent compelling evidence, we are not likely to allow the use of standards that provide a lesser degree of safety than the utility requires for its own construction. If there is a reason that some utility standards should be more stringent than NESC or RUS standards, then that reason is likely to apply to all line extensions. Nothing, of course, prevents a utility or a contractor from applying more stringent requirements than are contained the approved construction standards to its own construction.

Section 3(B)(3) of the proposed Rule states that each T&D utility must obtain input about its initial standards and proposed revisions from interested persons before submitting the standards for Commission review and approval. As we noted in the NOR, we expect this provision to lessen the likelihood of disputes over the validity of the standards and to speed the approval process. We further noted that, pursuant to section 3(B)(3), each T&D utility will contact the private line extension contractors that

commonly operate in its service territory and those registered professional engineers who privately design or inspect private line extensions.

In its written comments, MPS argued that this requirement is "vague and unwieldy." MPS asserted that it does not have a current list of interested persons and does not know how to assemble such a list. MPS proposed that we delete section 3(B)(3) and that the Rule should instead require the T&D utility:

> to appoint a public representative to its Standards committee for the express purpose of reviewing its construction line standards prior to their submission. This representative could be approved by the Commission and have the right to comment on any line construction standard submitted by the T&D utility.

We do not believe the requirements of section 3(B)(3) are complicated or burdensome. To satisfy the requirements of section 3(B)(3), a T&D utility needs only to create a list of the interested persons who request to be on the list. Based on our experience with contractors in the CMP and BHE service areas, knowledge of the existence of this list will spread by word-of-mouth. Utilities should consider keeping track of those contractors who request energization of lines as a resource for developing the list required by this provision. The utility may develop the list, provide notice and consider comments during the three-month (91-day) period between the effective date of the Rule and the date that the utility must submit its standards as required by section 3(B)(2).

In response to the concern that the review and approval process under section 3 may be protracted, we have amended section 3(B)(3) to allow 30 days after a person on the interested persons list receives notice from a utility of its initial proposed standards to provide comments to the utility, and 14 days in the case of proposed revised standards.

Section 3(B)(4) of the proposed Rule stated that any person may suggest revisions to a T&D utility's standards and that the Commission may open an investigation if necessary. In written comments, BHE recommended that the Rule be amended to limit the scope of section 3(B)(4) to people "who meet the requirements of [section] 4…." Section 4 establishes who may certify a line as meeting standards for purposes of connecting the line extension to the utility's system. BHE's proposal would limit the class of persons who could request the Commission to open an investigation to registered professional engineers, persons licensed to perform line certification, and designated T&D utility employees. BHE offered no specific justification for its proposed limitation to the applicability of section 3(B)(4).

We see no reason why a private contractor or a property owner should not be able to request us to investigate the reasonableness of a T&D utility's line construction standards. If there are concerns about such standards, we want to know about them. As a general matter, we always consider a "request" by any person to conduct an investigation. As indicated in section 3(B)(4), we consider such petitions to

be "requests" to commence a formal investigation under 35-A M.R.S.A. §1303. We have full discretion not to open an investigation, and the requestor's interest in the matter (or "standing"), as well as his or her expertise, may be factors in our decision. We therefore reject BHE's proposed limitation to the scope of section 3(B)(4).

Section 3(B)(5) of the proposed Rule states that any person may request the Commission to modify, delete or waive any requirement of the National Electric Safety Code (NESC). In written comments, BHE again proposed that the applicability of this section should be limited to people who meet the requirements of section 4. MPS goes further and proposes that the section be deleted. MPS states that it would not be likely to certify a line that does not comply with the NESC. At a minimum, MPS states that the Commission "provide the T&D utility with notice of the waiver request and an opportunity to comment."

This provision is included in the Rule because of the provisions of 35-A M.R.S.A. § 2305-A(4), which allow the Commission, "after appropriate hearing, [to] modify, delete or waive any requirement of the NESC." Section 2305-A(4) provides that we may do so only if we find that specified criteria are satisfied. We further noted in the NOR that "[w]hile we have referred to this procedure in the Rule because it is included in statute, we would require very substantial evidence that the modification or waiver was necessary and would result in adequate public safety before granting such a request. We believe that we would grant such request only in unusual circumstances."

Nothing in the statute would imply that only a narrow class of experts should be able to suggest to the Commission that it take such action. As in the case of utility standards, we see no reason why others should not also be allowed to ask the Commission to address NESC issues.

The words "after appropriate hearing" imply that we should provide notice to those who might be most interested in whether NESC provisions are modified, deleted or waived. We assure MPS and others that we will provide notice and an opportunity to be heard to affected T&D utilities and other interested persons, if we receive any request made pursuant to section 3(B)(5) and 35-A M.R.S.A. § 2305-A.

As noted in our discussion of the definition of "Standard" in section 1(W) above, MPS argued in its written comments that material standards should not be included in the definition of "Standard" and should not be subject to the requirements in section 3 of the proposed Rule. As also noted there, we have modified section 1(W) to make clear that specifications for materials must be part of a utility's standards. However, we have added a new subsection E to section 3 to address MPS's concern that "maintaining an approved schedule of specific components is highly impracticable because vendors frequently change catalog numbers and even entire product lines." Subsection E provides that when a utility files a change to its standards that "allows less stringent or more flexible construction requirements or procedures, or alternative or substitute materials, the change shall become effective immediately."

Section 3(E) also states that a utility's standards may include a general provision stating that utility personnel may specify or approve reasonably equivalent substitutions. Such a provision will permit a utility to allow substitutions because an item listed in the standards has become unavailable, because the manufacturer has replaced the item or because there is a newer and better (and perhaps less expensive) alternative. Pursuant to this provision of the Rule, a constructor may use the item specified in the standards or the substitute approved by utility personnel. Either a utility or a contractor may initiate the process for using alternative materials. Section 3(E) requires the utility to designate a contact person for this purpose. It may make sense for utilities to designate the same person as the Section 5 dispute resolute contact person required by Section 5(A). If a utility starts to use an alternative pursuant to the general standard Term and Condition permitted by section 3(E), it must also permit contractors to do so, and provide notice of that opportunity to the list it maintains under Section 3(B)(3)(e). If the alternative will be allowed on an ongoing basis, the utility must provide notice to contractors and others as specified in section 3(B)(3)(e), and must include the alternative in its standards as soon as possible.

If a utility changes a standard (including a material standard) so that a prior practice or material would no longer be allowed, it must file for approval under the longer process contained in section 3(C). If the change is necessary for public safety reasons, the utility may of course use the process described in section 3(D).

Section 3(F) of the Rule requires each T&D utility to maintain its standards in writing and make those standards available to the public. We also proposed that Section 3(F) (originally section 3(D)) would require each T&D utility to maintain a copy of its standards, the NESC and the Rural Utilities Service (RUS) standards at its central office and on its web site.

In written comments, MPS, CMP and BHE all argued that the NESC is copyrighted and cannot be posted on websites or copied for free distribution by utilities. BHE suggested that section 3(F) be amended to require the utility to provide a copy of the NESC at actual cost. CMP recommended that contractors obtain the NESC and RUS directly from the authors of those codes. CMP and BHE also indicated that they would be willing to provide a link on their web sites to the Institute of Electrical and Electronics Engineers, Inc. web site, where the NESC can be purchased.

Based on these suggestions, provisional section 3(F)(1) states that a utility must either provide a means by which an interested person may obtain a copy of the NESC or information about how to purchase a copy. We have added similar provision at Section 3(F)(2) concerning the RUS standards, but have also required utilities subject to those standards to maintain a website link to those standards as long as they are available on the internet. The RUS standards are federal agency regulations and are codified at 7 C.F.R. Part 1728. As a publication of the federal government (the Department of Agriculture), they are not copyrighted. RUS presently makes these standards available on the internet at http://www.usda.gov/rus/electric/regs.htm. They are also available at other locations that provide the Code of Federal Regulations.

In written comments and in oral testimony, CMP opposed the requirement in 3(F)(3) that each T&D utility must make its line construction standards available to the public. CMP argued that "access to CMP's standards by unqualified individuals (particularly homeowners) may create safety concerns." CMP further asserted that public access to its standards "could create confusion for people that don't have the expertise to interpret" the standards and would jeopardized system reliability. Chris Toto, who testified at the hearing that he had worked for CMP as a First Class Journeyman Lineman for more than seven years, disagreed with his former employer on this issue. In his testimony, Mr. Toto asserted that anyone should have access to a T&D utility's line construction standards and asked: "Why should it be a big mystery?"

In the NOR, we noted that some utilities had expressed concern in the Inquiry that "making the standards available to the public would encourage inexperienced persons to build a line extension." In response we noted that "[w]e do not share that concern. The ultimate protection is contained in section 8 of the proposed Rule, which prohibits energizing substandard lines. In addition, the risk can be reduced if utility standards and web sites clearly state the provisions that limit line construction to qualified individuals." We still believe that public access to a T&D utility's line construction standards has a variety of benefits and that sufficient protections exist in the provisional Rule to allay the concerns expressed by CMP. Accordingly, section 3(F)(3) of the provisional Rule retains the same requirements as proposed. Section 3(F)(3) requires public dissemination of a T&D utility's construction standards in hard copy (through a written book of standards) and, if the utility has such capability, (e.g., through its web site).

D. Section 4: Line Extension Construction; Constructor Qualifications

Section 4 of the proposed Rule addressed the qualifications that would be required of persons involved in each stage of the line construction process. The proposed Rule delineated three distinct stages – design, construction, and final certification that the line complies with the standards. Subsection 4(A) proposed that only a registered professional engineer (PE), a person licensed by an authorized State agency to perform line extension design or the T&D utility could design a line extension. Subsection 4(B) proposed that a line extension could be constructed only by a T&D utility employee, a person licensed by an authorized State agency to perform construction, or a person acting under the supervision of a licensed person, a T&D utility, or a PE. Subsection 4(C) proposed that only a PE, a licensed person or the T&D utility could certify that a line extension was safe and met the standards established by this Rule.

In the Notice of Rulemaking, we discussed concerns with current practices that, in part, gave rise to this rulemaking. We noted that, in CMP's and BHE's service areas, pursuant to requirements in those companies' Terms and Conditions, a utility employee or a PE must design line extensions. Many private contractors and potential customers wanting to build a line extension have claimed that this requirement has caused delay and unnecessary expense, in part because the number of PEs willing to perform this task is few, and they are costly. They also claim that the skills necessary to

design an individual line extension do not require a PE's knowledge. On the other hand, the Board of Registration for Professional Engineers (BRPE) has stated that the State's statutory definition of "practice of professional engineering" (32 M.R.S.A. § 1102-B) includes line extension design, an assertion that gave rise to the CMP and BHE Term and Condition requirements about a year ago. Still others have raised a concern about the lack of any requirements that govern who may build (as opposed to design) a line extension. Section 4 of the proposed Rule included safeguards that would have allayed any concerns that inadequately skilled persons would perform any of the three functions.

In the Notice, we also commented that the State's Office of Licensing and Registration (OLR) had indicated that it could investigate expanding or clarifying its licensing categories to include any or all of the three functions. OLR had not, however, begun the statutory procedures required to develop such a license. We stated that developing such a license is beyond the Commission's authority, but stated our hope that OLR would continue its investigation and that we could work with OLR in determining whether the license could be developed.

MPCA's comments asserted that Section 4 of the proposed Rule was inconsistent with the Legislature's intent when adopting 35-A M.R.S.A. § 314. They commented that, contrary to the legislative intent to promote fair competition in the private line extension business, the provisions of Section 4 would increase private line contractors' costs, thereby increasing rather than decreasing barriers to competition. They commented that there was no evidence that the public had been at risk during the years in which private contractors built lines in Maine, and that adding the new qualifications required by Section 4 would provide no measurable increase in public safety.

MPCA further asserted that the proposed Rule did not respond to section 2 of P.L. 2001, Ch. 201 because it did not establish minimum qualifications for private line extension contractors and did not provide any process for the establishment of qualifications. Section 2 of Chapter 201 does not require the Commission to determine a mechanism for establishing minimum qualifications within the context of the rulemaking, but rather within the context of a report to the legislature. In our report to the Legislature, we will address potential minimum qualifications and means for developing them, should the Legislature or any other person or group wish to pursue that option. By contrast, 35-A M.R.S.A. § 314(2) allows, but does not require, the Commission to establish minimum standards for private line extension contractors. MPCA did not advocate developing private contractor licensing requirements *per se* It stated, however, that if the Commission believes that regulation of the industry is necessary, and the Commission does not have the skills to do it, the Commission should provide a specific recommendation to the Legislature, pursuant to Section 2, that the current Electrical Examining Board (EEB) be given authority to amend its list of licenses to include a new limited license that would cover all facets of line extension contractors' work. MPCA suggested that the development of such a license would eliminate the need for a PE to stamp the design, and recommended that statutory language be drafted specifically to prohibit the requirement of a PE stamp. MPCA also

commented. However, that the Commission should provide some process for developing qualifications pursuant to its authority to do so under section 314.

MPCA also stated that trifurcating the process into three functions was inconsistent with the reality that a person carrying out construction must revise the design in response to conditions discovered on the site. They commented that involving a PE at each stage of the process would be enormously burdensome and costly, would decrease competition in opposition to the Legislature's intent, and indeed would "drive most private line contractors out of business." In addition, regarding the requirements that a PE design and supervise construction, they commented that T&D utilities would be exempt from similar treatment.

OLR outlined the steps required by statute (5 M.R.S.A. § 12015(3)) if OLR were to develop a new category of license. A sunrise review must be conducted, during which OLR must investigate 13 criteria. An interested person or organization must provide the input that allows OLR to recommend a course of action. Finally, legislation must authorize the new license. OLR concluded that, at this time, it would be inappropriate for it to take a position on any proposal to require licensure.

The EEB stated that Title 32, Chapter 17, could be read as requiring an individual to be licensed as a master electrician before constructing a line extension. The BRPE stated that, in conformance with Maine statute, line extension design should be performed by or under the direction of a PE and that this assertion applies to utilities as well as private contractors. Dale Hitchcock and EDC agree that design is the responsibility of a PE.

During the public hearing, several persons discussed how utility line workers are trained. Speakers discussed local technical college courses, utility training seminars, training given by contracting firms and on-the-job training. CMP and BHE subsequently submitted their training curricula and job classification requirements to aid in determining steps that might lead to certification of private contractors. CMP commented that line extension construction should be done under the supervision of a person who understands how the line should operate when energized. In CMP's view that person should be a PE or other licensed person.

The BRPE commented that certification by a person other than the one who built the line would provide an additional safeguard.

In reaching our decision concerning qualifications for line extension contractors, we kept in mind the overall goal of ensuring safe, reliable electric delivery to the public, regardless of where the line is located or who is the owner. Within this framework, we favor the existence of a healthy market of non-utility contractors as a way of exerting downward pressure on line construction costs.

In the provisional Rule, we have removed the requirement that a PE, a utility employee, or a licensed person create or stamp the design for a line extension. We have also removed the requirement that a PE, a utility employee or a licensed

person perform or supervise the construction of a line extension. We have retained the requirement that a PE, a utility employee or a licensed person certify a line extension before it is energized.

We expect, in the near term, that utilities will certify line extensions in the vast majority of cases. However, the provisional Rule allows a private contracting company to retain the services of a PE for any stage of the construction process, and potentially to benefit from those services. In addition, the provisional Rule does not foreclose the development of a license by OLR, should persons other than the Commission decide to pursue that avenue.

In reaching our decision, we considered the record in the rulemaking and our own experience with regard to the safety of privately-constructed line extensions. In both cases, there was no evidence that the practice of allowing contractors to design and construct individual line extensions has resulted in lines that are unsafe or unreliable. While we have heard claims that some lines that were not built to utility standards or are otherwise questionable, we were not provided with specific examples of lines that harmed or threatened to harm the public. Furthermore, while there were representations that there are lines that are not built to utility standards, contractors do appear to have built lines to NESC standards.

Failure to meet T&D utility standards, as opposed to the NESC, fall into two categories. First, in some cases contractors have been unaware of a utility standard because it was unwritten or unavailable, or the utility inconsistently applied the standard. The provisional Rule addresses this problem by requiring consistent, written standards and establishing a procedure for avoiding disagreements. Second, in some cases, contractors reduced costs by following less stringent NESC standards. The provisional Rule addresses this problem by requiring contractors to comply with utility standards, which must now be approved by the Commission. These new requirements address problems that have occurred in recent years and that drove the need for this rulemaking. They are likely to promote better compliance with utility construction standards. Even without those requirements, there is no evidence that the private construction industry has built unsafe line extensions. We therefore conclude it is not necessary to impose licensing or oversight requirements prior to the certification stage in order to ensure safe and reliable electric lines.

In deciding not to require that a PE or a utility employee design a particular line extension, we considered a number of factors. First, utility standards themselves include generalized designs that are stamped by a PE and that serve as a template for each line extension. Typically, a contractor does not design “from scratch” but rather adapts an existing design to fit the on-site circumstances. At the public hearing, CMP stated that for its own construction of line extensions a utility field planner, who is not a PE, performs the same function. While CMP asserted that a PE “signs off” on the field planner’s design, the PE does not visit the site. Thus, it appears to us that that contractors play a role that is similar to that of utility field planners. Similarly, during construction, unexpected circumstances may arise, and both utility personnel (who are not PEs) and contractors often adapt the initial design to those circumstances. Thus,

we concluded that a private contractor is doing essentially what a utility employee is doing – adapting an existing design to a unique site.

We are concerned about the inconsistency that exists between the provisional Rule and the BRPE's interpretation of 32 M.R.S.A. § 1102(B). We have conducted a diligent search of other states. We are aware that some have statutory definitions of "engineering" that are similar to Maine's, yet none of them appear to consider the private construction of line extensions to be in conflict with their laws. We recognize that the Legislature may need to consider this potential inconsistency when it reviews the provisional Rule. We are also concerned that the EEB views Chapter 17 of Title 32 as requiring that line extension contractors be licensed electricians. This interpretation has never been enforced. As discussed below, we do not believe that a master electrician license establishes qualification for the pole-setting requirements of line extensions.

Our conclusions concerning contractor qualifications and PE involvement with line extension construction are reinforced by our investigation of other states' practices. Only a portion of the states we contacted allow private contractors to build line extensions at all. However, none of those states require that a PE stamp the design (although a few assert that the utility confers with the contractor), and we are aware of only one that has required a line extension license. New Hampshire recently developed a license for line extension contractors, but we are not aware of its reasons for doing so. In general, other states ensure safety through good communication, the existence of utility standards, and utility certification. We conclude, based on the record in this proceeding and our own experience with utility operations and the private line extension contractor industry, that these safeguards should also be sufficient for Maine.

We considered the suggestion that we could designate licensed master electricians as persons qualified to perform line extension design and construction. The ultimate decision concerning any new license rests with agencies other than this Commission. Nevertheless, it appears that an electrician's training provides only a subset of the knowledge required to construct line extensions. Neither the training nor the testing process for electricians includes the setting of poles and guys, for example. Line extension construction requires a combination of engineering, electrician and construction skills. We conclude that no single existing license appropriately describes a line extension constructor.

We considered whether certain categories of line extensions require more highly qualified skills than others. For example, we considered the opinion of the EEB that polyphase line extensions should be designed by a PE while single phase need not be. We could find no evidence that this was an appropriate distinction. Single-phase line extensions can be straightforward, or they can pose complex problems such as ledge and varying terrain. The same is true for polyphase line extensions. We therefore conclude that there is no practical way to differentiate between "difficult" line extensions (that might require more qualified individuals) and "easy" line extensions.

As noted above, 35-A M.R.S.A. § 314(2)(C) states that the Commission "may" establish "minimum qualifications" for a person who is not a T&D utility must meet to construct a line extension. While we have not seen convincing evidence, in this proceeding, of a need for us to develop qualifications for designing and constructing line extensions, we acknowledge that we have no experience in credentialing professionals. Accordingly, our adoption of this rule is in no way intended to preclude or persuade the Department of Professional and Financial Regulation from making an independent analysis of what if any qualifications should be required for designing and constructing line extensions, and, based on that analysis, what if any laws or regulations need be changed. We note that such changes could include clarifying that certain laws or regulations do not apply to this activity, as well as amending laws or regulations to make them applicable.

We are convinced, however, as were virtually all commenters at the public hearing, that completed lines should be inspected by the utility before energization, even after the certification required by section 4. We have included this requirement in section 8. There was no significant opposition to this step. We believe that it is a reasonable, and perhaps essential, safeguard given that there is no license requirement for line extension contractors at this time. While it appears that the private line extension contractor industry has built adequate and safe line extensions until now, the absence of a licensing requirement means that anyone, qualified or unqualified, can hold themselves out as qualified. Thus, Section 4 requires the utility, a PE, or a licensed individual to certify the line as meeting all standards, and section 8 further allows the utility to refuse to energize the line if it believes it is unsafe, notwithstanding the certification. If the utility does refuse to energize a line on safety grounds, it must initiate a dispute resolution process, as required by section 8. Under that process, the Commission is the ultimate decision maker.

We believe this two-step certification and inspection process is consistent with 35-A M.R.S.A. § 314(2)(A), which says: "If these standards and any other reasonable conditions established by the commission are met, a transmission and distribution utility may not refuse to connect the line to the utility's system or to deliver energy over the line." We believe that a utility must have a means to detect and require correction of defects that can affect the safety or reliability of its electrical system.

CMP's comments and witnesses at the public hearing stated that after-the-fact inspection cannot detect certain features that could pose a safety problem. However, no one claimed the inspection commonly fails to discover significant safety defects. The primary example mentioned is of a pole that is sawed off at the base, thereby leaving too little length under ground. What is underground is, of course, invisible. While this kind of activity would be fraudulent and could be dangerous, no one claimed such a practice occurs frequently or even ever. The hypothesis that it could occur is not a sufficient reason to add a layer of oversight and regulation that has not existed in the past. The law is fully equipped already to deal with fraud. CMP and BHE also claimed that it is difficult to inspect underground line extensions once they are completed. Again, however, we were not presented with information indicating either

that underground extensions have been unreliable or dangerous, or that anyone was using substandard materials.

E. Section 5: Dispute Resolution

Our Inquiry revealed that most complaints regarding inappropriate or inconsistent implementation of standards can be resolved when a private line extension contractor and the central management of the T&D utility communicate directly. During the Inquiry stage, such meetings occurred in CMP's territory, and the persons involved resolved many disagreements over standards and their implementation. In the NOR, we noted that we believed this approach would be equally effective in other utilities' territories. The proposed Rule therefore set forth a procedure whereby a consistent group of individuals communicates about the standards and their implementation.

Section 5(A) requires that both private line extension contractors and T&D utilities maintain a single point of contact for resolving disputes regarding the application of standards. In written comments, the MPCA stated that it "supports the provisions of the Rule related to Dispute Resolution.... The Rule, as drafted, provides suitable mechanisms for reference of the dispute to the appropriate regulatory body, or the Commission itself." The MPCA specifically supported the single point of contact requirement in section 5(A). In written comments regarding section 5(A), the OPA asserted: "Because of complaints that we have received in the past, we are particularly supportive of a single point of contact at both the utility and with the private contractors." This will be of great assistance to customers." No commenter proposed any changes to section 5(A) of the proposed Rule and we have made none in the provisional Rule.

Section 5(B) of the proposed Rule allowed either a T&D utility or a private line extension contractor to raise concerns regarding the application of standards and required that the T&D utility and the private line extension contractor attempt to resolve a dispute before involving a State agency. In the NOR, we noted that the requirements of section 5(B) would cover disputes about the applicability of a standard to a given situation as well as an on-site disagreement over actions being taken on an individual line extension.

In written comments, MPS argued that section 5(B) should include a time limit within which the informal resolution must be achieved or be referred to the Commission. We acknowledge that informal dispute resolution under this section could be protracted and may, at some point, require some specific procedural boundaries. However, we anticipate that a wide variety of disputes will need to be addressed under the terms of section 5(B) and are concerned that a "one size fits all" approach to the informal dispute resolution process may prove unworkable. We have therefore chosen not to amend section 5(B) at this time. We invite T&D utilities and contractors to let us know if the provisions of section 5(B) are insufficient in practice.

If the disputants are unable to resolve their disagreement under section 5(B), section 5(C) of the proposed Rule allowed any person to petition the Commission to investigate the dispute. As we noted in the NOR, the Commission would refer the

dispute to the Department of Professional and Financial Regulation, or other appropriate state agency, the Maine Office of Licensing and Registration or would resolve the dispute itself. The Commission would first attempt to resolve the dispute through our well-established Consumer Assistance Division informal dispute process. If this method did not end the matter, we would conduct an investigation under existing procedures.

In written comments, MPS argued that the right to petition the Commission under section 5(C) should be limited to the aggrieved party. We agree and have amended section 5(C) to allow "a person participating in the process who is dissatisfied with the result" to request the Commission to investigate the dispute.

F. Section 6: Ownership

In discussions during the Inquiry, we considered the situations in which the T&D utility must own or maintain a line extension to ensure adequate public safety. Those discussions provided the foundation for section 6 of the proposed Rule. In the NOR, we noted two general principles regarding section 6. First, if the availability or safety of a line affects the public at large, such as when a line runs along a public highway, the owner must be reachable immediately to repair or maintain that line. In the NOR, we proposed that only the T&D utility should be the owner in these situations. Based on comments, we have modified the provisions concerning ownership in the public way and for poles or other structures containing interconnection points. Second, we stated our view that sound public policy should not permit customer (non-utility) ownership of lines when a line serves more than one customer. We noted that safety might be jeopardized if responsibility for maintenance of the line is split, and numerous situations have occurred in which the legal right of subsequent customers to obtain access to such lines has been unclear or inadequate.

It is important to recognize the distinction between who *builds* the line and who *owns* the line. Section 4 of the provisional Rule contains no restrictions on who may build a line extension and does not distinguish between public ways and private property. Section 6 of the Rule addresses who *owns,* not who *builds,* the line. Currently, when a T&D utility builds a line extension, the utility retains ownership of the line extension both while it is being built and after it is built. In the NOR, we saw no reason to change this practice, and received no comments. When a private individual causes a private line extension contractor to build a line, the private individual owns the line while it is being built. However, after the line is energized, it may continue to be owned by the private individual or by the T&D utility depending on the circumstances described in sections 6 and 7 of the provisional Rule.

1. Ownership in the Public Way

Section 6(A) of the provisional Rule states when the T&D utility must own a line extension. In the NOR, we proposed that section 6(A)(1) would require a T&D utility to own any portion of a line extension that is located in a public way (i.e., street or public right-of-way that has been accepted and is owned or controlled by a

town, city, county, state or federal government, as defined in section 1 of the proposed Rule). Section 6(A)(1) of the provisional Rule states that a utility must own line extensions in the public way "except as provided in section 6(B)(1)," which addresses ownership by a non-utility person when the line serves only one customer. In the NOR, we proposed that utilities own all facilities in the public way because public safety requires that lines in a public way be adequately maintained and that the owning entity should be immediately available if the line is damaged and is obstructing public activity. We noted our concern that, despite the maintenance agreement required from private owners by section 6(B), if we permitted customer ownership of facilities in public ways, those owners might be unable or unwilling to perform adequate maintenance, and enforcement of adequate maintenance by customers would be difficult. Finally, we noted that there must be reasonable assurance to the MDOT, the county or the municipality (the "licensing authority") that poles and wires will be moved, if necessary, for road construction projects. We believed that such assurance was possible only if the owning entity were the T&D utility. For reasons stated below, we have decided that it is appropriate to allow customers to own line extensions in the public way, provided there are adequate safeguards that ensure safety.

In testimony at the hearing, DOT argued that "[i]t is our belief that utilities are responsible for everything connected to their facilities in the public way unless otherwise permitted by the Department...." DOT claimed that it is typically not provided with any details about private line extensions in the public way and that the builders of such line extensions often fail to obtain the necessary permits from the licensing authority. The DOT asserted that it wants "a single entity" that it can go to regarding (1) emergencies, (2) road construction or maintenance and (3) facility relocation.

In its initial and supplemental written comments, CMP noted that it also had safety concerns relating to customer-owned line extensions. However, CMP argued that utility ownership of all lines in the public way is not necessary to address safety and maintenance concerns because adequate safeguards already exist. CMP asserted that a private line owner should not be required to convey a private line extension in the public way as long as the line serves only one customer. CMP added:

> [i]t may be useful, however, for the Rule to authorize the Utility to maintain private lines [in the public way] if the owner does not do so within a reasonable time or without notice where notice is not reasonable. Such maintenance should be considered a basic electric service chargeable to the customer served by the private line. But utility ownership of such lines is not needed to ensure that they are adequately maintained.

CMP further added that "[i]t may be useful to give Utilities express authority to disconnect and remove a private line that is not in compliance with governmental requirements as determined by the appropriate governmental entity."

We recognize that DOT has legitimate concerns about needing to contact a single entity for reasons of public safety, road construction, road maintenance,

and facility relocation. We also acknowledge the legitimacy of the utilities' concerns relating to the ownership of facilities in the public way.

In the provisional Rule, we permit private ownership in public ways, subject to five conditions. First, as in the case of lines on private property, a privately-owned line may serve only one customer. Second, the owner must obtain all necessary permits from the licensing authority to build and own the line. Third, as in the case of privately-owned extensions on private property, the owner must maintain the line. Fourth, unlike privately-owned extensions on private property, if the utility determines that the facilities present a danger to the public or to its employees, the utility must maintain or repair the facility, and charge the owner for the repair. Fifth, if the licensing authority requires that facilities be moved or repaired because of highway work or other activities of the licensing authority, the utility must undertake that work, again at the cost of the owner.

Section 314 expressly states that this Rule "may establish a requirement that … lines in certain locations, such as lines located in the public way, must be transferred to the transmission and distribution utility…" Nevertheless, we are reluctant to prohibit all private ownership of electric line extensions in public ways in the absence of a reason related to utility operations or our regulation of utilities. Despite our authority to establish an absolute prohibition, other sections in Title 35-A expressly grant discretion to the various "licensing authorities" -- DOT, municipalities and counties – to allow private ownership, and at least some municipalities (if not DOT) exercise that discretion. See 35-A M.R.S.A. § 2305-B(2) and (4). An absolute prohibition would in effect preempt the discretion granted to those authorities.

However, it is appropriate to prohibit private ownership on a public way when a line serves more than one customer. The same policy applies to lines on private property. The reasons for that policy are directly related to utility operations, and are therefore a direct concern of this Commission. That it applies to public ways and arguably preempts licensing authorities' statutory discretion is essentially incidental to legitimate utility regulatory concerns. It certainly would not make sense to allow private ownership of a line extension that serves more than one customer while prohibiting such ownership on private property.

While we will allow ownership of a line extension in a public way, if it serves only one customer, we believe the safeguards outlined above provide sufficient protection against the risks and potential inconvenience to utilities and governmental licensing authorities. The provisional rule may result in a private owner unexpectedly being required to pay a utility for activities involving the privately owned pole. However, the need to maintain public safety is the pre-eminent concern. The private owner has the option to let the utility own a line extension in the public way, in which case the utility will maintain the line without charging the owner. If a person nevertheless decides to own a line extension in a public way, that ownership necessarily creates greater risks to the public safety and public convenience than would such ownership on private property. Thus, if a private person decides to own a line extension in the public way,

the owner must accept the possibility that circumstances will arise under which the utility must maintain, repair or move the facility and charge the customer.

2. Ownership of Interconnection Point Structures: Section 6(B)(3)

Section 6(B)(3) allows a customer to own structures that contain an interconnection point, provided there are adequate safeguards that ensure safety. In the NOR, we proposed that a T&D utility would have to own the structure (usually a pole) that serves as the interconnection point between a customer-owned line extension and the T&D system, even if the structure is located outside the public way and is on private property. We stated that utility employees must be able to gain access to poles or other facilities that serve as the interface between the T&D system and a privately-owned line. The proposed provision was intended to ensure that poles accessed by utility employees are under the control of those utilities so that they may maintain them at an adequate safety level.

BHE's written comments noted that the provision in the proposed rule would represent a significant change in overhead line extension policy for BHE. BHE asserted that under its current policy, when an overhead private line is completed, the Company assumes responsibility for the wire in the public way. BHE stated:

> The interconnection point is in essence where the wire crosses out of the public way. The proposed rule change would require a Company owned line out at least to the first pole off the public way. The proposed rule would prohibit the construction of one pole private lines from a public way. One pole private lines constitute a significant amount of the private lines constructed each year. Bangor Hydro does not believe that it is the intent of the rule to add this restriction of ownership choice going forward.

BHE requested that section 6(A)(1) be amended to require that a T&D utility "own all portions of an overhead line extension located in the public way and all portions within the boundary of the public way. BHE further requested that proposed section 6(A)(2) be modified to require that a T&D utility "own the pole or other structure that supports the aerial conductors at the beginning of the private line extension."

In CMP's service area, the first pole on a privately-owned line extension (typically on private property, but sometimes on the public way), usually serves as the location of the interconnection point between utility facilities and the privately-owned line extension. BHE and CMP appear to take opposite positions concerning these poles. As discussed above, BHE considers a privately-owned extension that extends from a line on a public road to begin at the point where it leaves the public way right of way -- in other words, usually in the middle of a conductor rather than at a pole. In reality, this point is a "demarcation point" rather than an interconnection point. CMP takes the position that the interconnection point must be on a pole, and that it must own the pole because its line workers need to have access to it,

and CMP wishes to ensure their safety.[11] BHE, as noted above, believes that CMP's policy would effectively eliminate one-pole line extensions, which BHE claims are numerous in its service area.

We do not see a compelling reason for requiring utility ownership of the first pole of a line extension that also serves as the location of the interconnection point (whether it is within the public right of way or on private property), provided that the utility is allowed access to the pole (because it is the interconnection point) and has the right, if the pole is not maintained properly and presents a potential risk to its employees, to correct the dangerous situation and bill the owner. Section 6(C)(3) of the provisional rule so provides.

We also do not fully understand why Bangor Hydro would want the demarcation point between its facilities and the customer to be in the middle of a circuit span. If the span must be replaced, such a demarcation point suggests that the costs would have to be allocated. It seems to make more sense to place the demarcation / interconnection point on a pole or other accessible structure. BHE's concern about eliminating one-pole extensions is resolved by allowing a customer to own the first pole.

3. Ownership in Developments

Sections 6(A)(2) and 6(B)(4) establish the rules for ownership of a line extension in a development where a single owner (the developer) causes an initial line extension to be built throughout the development. Together, these provisions allow a developer to own a line extension until the line serves the first customer. We received no comments opposing this policy, and we adopt it.[12]

4. Ownership by a line Extension Serving One Customer; Transfer of Ownership When Line Serves More Than One Customer

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[11] In the case of an underground line extension that runs from an existing overhead line, section 914 of CMP's Handbook of Standard Requirements for Electric Service and Meter Installations, which is incorporated in its Terms and Conditions, states that the riser conduit running down a pole to the underground service must either be located on a pole owned by the customer or, with CMP's permission, on a pole owned by CMP. In the latter case, CMP charges the customer the cost of attaching the conduit to the pole and also ongoing attachment fees. We understand that many customers who own their own underground extensions want to avoid these charges (as well as the CIAC tax for the CMP-owned pole) and choose to own their own pole to which the riser cable is attached. In those instances, because CMP will not allow its facilities (or the interconnection point) to be located on a customer-owned pole, CMP builds its own pole, often within a few feet of the customer-owned pole. The Rule's requirement that the interconnection point may be located on a customer-owned pole avoids this wasteful solution.

[12] As discussed above, MPS suggested that the definition of "development" was too inclusive. See discussion of section 1(C).

Section 6(B) states when a line extension may be owned by a non-utility. If the line will serve only one customer, section 6(B)(1) permits private ownership in public ways and section 6(B)(2) permits private ownership on private property. Section 6(A)(3) states the converse: that a T&D utility must own a line extension when it serves more than one customer. Greater restrictions concerning maintenance are placed on ownership in the public way, as discussed above.

In its written comments, CMP supported the proposed policy, which is presently contained in its Terms and Conditions. CMP stated: "We suggest that private lines be limited to lines only serving the owner of the line. Otherwise, the owner of the line may not have the interest in maintaining the line." Only MPS opposed the proposed policy concerning ownership on private property. We received considerable comment and testimony about ownership on public ways, as discussed above, but those comments did not specifically address the issue of single versus multiple customers. In written comments, MPS argued that "[t]his section contains the sole substantive exception to utility ownership of line extensions. It should be deleted and *all* privately-built line extensions should be transferred to the T&D utility upon completion (or in the case of a development, upon energizing)." (emphasis in original) We disagree. We have actually expanded on that right in the provisional Rule to allow customer ownership in the public way. Ownership on private property is firmly entrenched in the CMP and BHE service areas. Private ownership has allowed large numbers of customers building line extensions to save substantial amounts of money because they have not needed to reimburse utilities for income taxes that the utility must pay when a customer makes a "contribution in aid of construction" (CIAC) to the utility in the form of a cash payment or transferred facilities. We discuss in detail below CIACs, the taxation of CIACs, and the flow-through of a significant portion of those taxes to customers. Ownership on private property generally has not resulted in significant problems except where two customers have received service from a privately-owned line, which we prohibit.

The requirement of utility ownership, once a line begins to serve more than one customer, is necessary for two reasons. The first is to ensure that person(s) who do not own the line extension will be served by a safe, reliable delivery system. Ownership by the utility, once a line begins to serve a second customer, better ensures that maintenance. If other customers must rely on a private individual (or, even worse, multiple owners) to maintain a line, making sure the maintenance is performed may be difficult, despite the maintenance agreement required by section 6(B)(3) of the proposed Rule.

Ownership by the utility, once a line begins to serve a second customer, also better ensures that future customers will have access, because this Rule and utility enforcement of this Rule will better ensure that all necessary easements have been obtained. The Commission and the Consumer Assistance Division have frequently needed to address problems that have developed when a line owned by one person also serves another customer and the right (through easements or otherwise) of the second person to obtain power from the line is unclear.

For both of these reasons, sections 6(B)(1) and 6(B)(2) permit private ownership only when a line serves only a single customer, and section 7(C) requires that the owner of such a line must transfer ownership to the utility if the line will serve a second customer. The second (and any subsequent) customer owns property that abuts the line or obtains an easement that allows access to the line, as required by section 7(B)(7). Similar requirements are found in some utilities' existing Terms and Conditions.

The Rule does not require the owner of a line to provide an easement to a second customer. If the only way (or the most feasible way) that a potential second customer might obtain access to the line is across land owned by the owner of the line, nothing in the provisional Rule requires the owner to grant that access. However, if the owner of the line does agree that a second customer may be served from the line, and access will be across the owner's land, the owner must transfer ownership of any portion of the line extension that will serve both customers, and must also grant an easement to the utility so it has the necessary access to serve the new customer. The easement requirement protects the second customer and the utility.

In some cases, a second customer is able to gain access to a customer-owned line that serves only the owner of the line without obtaining an easement from the owner of the line. For example, the second potential customer may own land that abuts the line or may have access through an easement granted by a third party. In those cases, the Rule (and contracts that will be required by the Rule) will require the owner to transfer ownership of the line to the utility even though the owner does not agree that a second customer should be served. We consider this requirement as a necessary condition to allowing any private ownership of lines. In requiring this condition, we have weighed competing societal and private ownership interests. We find that the public interest is substantial and the private interest is minimal. The public has an interest in preventing the wasteful building of duplicate lines. If a person seeking service from an existing line is able to gain access to the line without crossing land owned by the owner of the line, there is no direct detriment to the land of the line owner.

We also do not consider the ownership transfer requirement (under either of the two circumstances described above) as necessarily detrimental to the line extension owner. Owning a line extension is generally more burdensome than beneficial. If it is privately owned, the owner must maintain the line; if it is owned by the utility, the utility maintains the line, although in some instances the utility charges for that maintenance.[13] The only advantage to a customer that owns a line extension is that the customer avoids paying the so-called "CIAC tax," and the only significant detriment to a customer that is required to transfer the line is the customer must then pay that tax.

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[13] CMP and BHE do not charge for maintenance. MPS charges for maintenance for the portions of line extensions that exceed 2000 feet per customer on a public way and 1000 feet per customer on private property.

A "CIAC" is "contribution in aid of construction" (CIAC). When a customer makes such a contribution to an investor-owned utility (IOU) by transferring ownership of a line extension, federal and state income tax law treats the contribution as current income, and the utility must pay taxes on that income. A taxable contribution occurs whether a person pays a utility to build the line that the utility will own from the outset or the person builds the line and subsequently transfers ownership to the utility. Under the Terms and Conditions of the IOUs (and of proposed section 7(E)(1) and 7(F)(1) of this Rule), the person making the contribution must pay the utility for most of the tax that the utility pays.[14]

When a line extension is built by the T&D utility, the utility will own the line (even if it is located on private property and will serve only one customer). In that instance, the utility must pay a tax on the CIAC (the payment to the utility for the line), which in turn it charges to the person ordering the line extension. Similarly, if a customer is not allowed to own a line because it serves more than one customer from the time it is energized, the customer must transfer the line and pay the CIAC tax before obtaining service. It is only in the circumstance that the line is built by a private contractor and the line is privately-owned because it serves only one customer that there is no contribution (transfer of ownership) and no tax.

Requiring a customer in the latter circumstance to transfer the line (and pay the CIAC tax) when a second customer is served places that customer in the same position as that of other customers who had to transfer the line and pay the CIAC tax prior to receiving service, except that they were allowed to delay payment of the tax. In addition, the transfer results in benefits that may partially or wholly offset the burden of having to pay the tax. First, the utility will assume the maintenance obligation. Second, under section 9, the costs of the line (including the CIAC tax) are allocated among all of the customers served by the line, provided that the line is less than ten years old.

We therefore consider the transfer requirement as an essential condition of allowing private ownership of line extensions under the limited circumstance permitted by the Rule. When that circumstance ends, the right to own a line also terminates, but the owner of the line is placed in a position that is similar to other customers and that may carry offsetting benefits.

Finally, BHE's written comments recommended that only one metered electric service be provided on a private line and that if additional services are required, the customer should, at that time, transfer the line to the utility. BHE asserted that it "does not have the ability to link multiple services together in such a way that one of the services, as allowed by section 6(B)(1), could not be assumed by another customer. This puts the utility in the position of providing service to one customer over a power line owned by another. Disputes over such use could result in potential interruptions of service." BHE recommended that section 6(B)(1) be amended to read

[14] The amount is discounted by the present value of the tax depreciation benefits received by the utility.

as follows: "A person who is not a T&D utility may own a line extension that is located on a private way and that provides one metered electric service to only one customer." We disagree. There are many situations where a single customer has a single premise (or multiple premises on the same or contiguous property), and has more than one meter. We do not believe it is fair to prohibit private ownership of a line extension simply because a single customer has more than one meter. It normally should be obvious to the utility if one of these meters is transferred to a different customer, because the account will be transferred to a different name. In that circumstance, the line must be conveyed to the utility. Section 6(B)(1) of the provisional Rule states that a customer with more than one meter that is served from the same line extension shall be considered a single customer.

5. Obligations of Private Owner

Section 6(B)(5) of the proposed Rule sets forth the obligations of a person who owns a line extension. Section 6(B)(5) requires an owner to maintain and repair the line extension, allow access to the pole or other structure containing the interconnection point, and transfer ownership as required by section 7(B). In written comments, MPS urged that if the final Rule permits private ownership of a line extension that serves only one customer, section 6(B)(5) should be modified to require the private owner to perform all maintenance required by the standards approved under section 3. In the proposed Rule, section 6(B)(5) stated simply that the contract required from owners must obligate them to maintain and repair the line. We have modified that provision to state that the maintenance and repairs must be performed as required by the standards approved under section 3.

MPS also recommended that the rule require the owner to grant the T&D utility an easement to inspect the line and give the utility the authority, after appropriate notice, to disconnect the line if maintenance is not performed as required by the standards. As discussed above, for privately-owned extensions in the public way, we have adopted a provision stating that the utility must actually perform the necessary maintenance when a line extension presents a risk to public safety or the utility system. In general, improperly-maintained line extensions in the public way are more likely to present those dangers than lines on private property. We agree with the second part of MPS's proposal. Section 6(C)(2) of the provisional Rule states that the utility may disconnect a line extension on private property that serves only one customer if it becomes aware of a condition on the line extension that presents a public safety risk or that could result in harm to the utility's distribution system. Since we do not intend by this provision to create a duty for utilities to monitor for such conditions, we do not require owners to grant the inspection easement proposed by MPS.[15]

[15] If a utility had reason to believe that the condition of the line extension presented a public safety risk or could result in harm to the utility's distribution system, it could request the opportunity to inspect it, and the failure of the owner to grant permission might warrant a disconnection by the utility.

Section 6(B)(5) of the provisional Rule requires each utility to require customers who own line extensions to execute a contract containing certain listed obligations. No person commented on the proposed provision, which has been modified in the provisional Rule to reflect other changes in the Rule, particularly in section 6. Section 6(B)(6) requires each utility to submit a form contract to the Commission that includes the obligations contained in section 6(B)(5), for approval either by the Commission or by the General Counsel.

As in the case of section 3, EMEC also asked that section 6 be amended to make clear that the Commission is willing to waive certain requirements of section 6 for consumer-owned T&D utilities (COUs). Again, we point out that the general waiver provision of section 10 may be used for requests of this type. EMEC's comment was very general, and it is not clear what in section 6 it believes should be waived or what it believes is onerous about the section. We note that in investor-owned utilities (IOUs) service areas, there is substantial incentive for individuals to own line extensions so that they do not make a contribution (CIAC) to the utility and do not pay the CIAC tax. By contrast, COUs do not pay income taxes. Accordingly, there is little or no incentive for customers to own lines. Indeed, the incentive would be negative if a COU had a policy (like that of at least CMP and BHE) that the utility maintains utility-owned line extensions without charge, but not privately-owned lines, customers would promote utility ownership.

G. Section 7: Transfer of Ownership; Taxes on Contribution in Aid of Construction

Section 7 contains provisions that implement the ownership policies contained in section 6. Subsections A, B, and C address transfers of line extensions to the utility when sections 6(A) and (B) do not, or no longer, permit private ownership of a line extension, or when an owner that is allowed to own a line extension voluntarily decides to transfer the line to the utility. Subsection D states the conditions under which a utility shall or shall not compensate the transferring owner for the line extension. Subsection E addresses the actions that transferring owners must take and payments they must make, both to bring the line into compliance with current standards and to pay the CIAC tax. Subsection F addresses the same subject matter when an owner must transfer the line because an additional customer will be served by the line.

A line may be transferred for one of three general reasons: (1) because it is a new line or a facility in a development and is serving at least one customer and the owner must transfer the line as required by section 7(A); (2) because the owner decides voluntarily to transfer ownership to the T&D utility as described in section 7(B); or (3) because a second customer will be served by a customer-owned line extension, and the owner must transfer the line as required by section 7(C).

Under section 7(B), a T&D utility must assume ownership of the line extension when a person wishes, but is not required, to transfer ownership to a T&D utility, and the private owner has paid the T&D utility for the CIAC tax and various other costs identified in section 7(E). If the line extension does not meet current standards,

either the owner or the utility must upgrade the line prior to transfer of ownership. If the utility upgrades the line, the owner must pay the utility for the upgrade as required by section 7(E). Section 7(B) states that if the standards have changed since the line was energized, a utility may require those upgrades that affect public safety or reliability.

In written comments, BHE expressed concern that section 7(B) "may result in an influx of customers wanting to have Bangor Hydro assume ownership of their private lines." BHE stated that its current terms and conditions did not allow it to take ownership of a private line on private property servicing only one customer, but that it did not oppose the proposed policy as all costs associated with the transfer of ownership are recovered from the transferring owner. We believe the Rule as proposed generally did require such recovery, but BHE specifically requested that we include a provision stating that the owner of a line extension who transfers that line extension pursuant to section 7 must pay any costs incurred by the T&D utility for obtaining easements and permits. We have added provisions to sections 7(E) and (F) that we discuss below.

The transfer requirement of section 7(C) of the proposed Rule is directly related to section 6(B)(4), which allows a non-utility person to own an energized line extension on private property if it serves only one customer. Section 7(C) requires transfer of ownership to the T&D utility when the line will serve more than one customer. It requires transfer of only the portions of the existing line (and any new extension that may be built off the original extension) that will serve more than one customer.

As in the case of section 7(B), section 7(C) states that prior to transfer, the portions of the line that are transferred must be upgraded to current utility standards. In contrast to section 7(B), which requires the transferring owner to make or pay for the upgrades, section 7(C) states that the new customer (rather than the owner) must pay for the upgrade and all of the other costs described in section 7(F) except the CIAC tax, which is allocated between (among) the transferring owner and the new customer(s). In the NOR, we suggested this policy was fair, at least for those costs that must be incurred because standards have changed since the line extension was built, because it is the addition of the new customer that triggers the requirement that the line extension be upgraded to more recent standards. Indeed, in some instances (where the new customer does not need an easement from the owner to gain access to the line), the owner will be required to transfer the line even if he or she does not consent to the addition of the new customer. In additon, newer customers receive a substantial benefit by virtue of the fact that the line extension already exists and there is no need to build a whole new extension. Finally, it is easier to enforce payment of upgrade costs from new customers, who must pay prior to connection, than from old customers, who are already connected.

We requested comment on the fairness of the policy of requiring new customers to pay all upgrade costs, particularly in light of the fact that there might be occasions when the line needs work not because of changed standards but because the owner neglected his or her obligation to maintain the line. We received no comments on this issue, and have not changed the policy we proposed in the NOR. We

note that it might be very difficult to determine how to assign or allocate upgrade costs that could be attributed either to changed standards or to lapsed maintenance between the transferring owner and new customers.

We have tempered the requirement of paying for upgrade costs somewhat by making clear that if the standards have changed since the line was energized, new customers are required only to pay for upgrades to meet changed standards that affect public safety or reliability.

Section 7(D) of the proposed Rule addresses the compensation, if any, that a utility should pay to a private owner who transfers ownership of a line to a utility. It incorporates existing utility policy, if any, but limits the amount that a utility may pay to the equivalent of the costs absorbed by the utility (i.e., by the utility's other ratepayers) in the event that the utility were to build the line extension at the customer's request. Alternatively stated, this is the amount that the line extension customer does not pay. CMP and BHE require a person who requires a line extension to pay the full cost of construction if the line is built by the utility, or to contribute a privately-built line extension. Thus, those utilities do not (and cannot under the Rule) pay any compensation for a transferred line.[16] By contrast, MPS provides 300 free feet per customer and requires a customer connecting to a line extension to pay a "support charge" for five years. The support charge does not fully compensate MPS for the cost of the line.

Some commenters in the Inquiry stated that a person who pays the cost of building a line extension should not be required to transfer a line extension that the person paid for without compensation by the utility. They have suggested that the current practice of CMP and BHE, whereby the private owner is not compensated and, in addition, must pay additional costs made necessary by the transfer, is inequitable to private owners.

CMP's and BHE's Terms and Conditions (and perhaps those of others) require persons needing a line extension to pay the full cost of the line extension, whether the utility or a private contractor builds it. If the utility builds the line, it will own it, even though the particular customer(s) who will obtain service from the line (rather than the general body of ratepayers) have paid for it. We see no financial or equitable difference between (1) requiring a person to pay the full cost for a line built by a utility that will own the line and (2) requiring a person who has paid a private contractor to build a line to turn over that line to the utility without compensation, whether immediately

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[16] Although BHE's terms and conditions (section 7(G)(11)) state that the Company "would offer to purchase" the line, we understand that in practice the payment to the original customer consists of the amounts collected as payments from new customers (less the CIAC tax) that BHE pays to the original owner pursuant to BHE's allocation provisions, which are essentially the same as those contained in section 9 of this proposed Rule. BHE might wish to make its term and condition clearer in this respect.

(because the line will serve more than one customer from the outset) or at some later date (because a privately-owned line that had served only one customer will begin to serve more than one).

We have approved the current CMP and BHE line extension Terms and Conditions at least in part because they follow the principle that the person who causes a cost to be incurred should be the person who pays that cost, to the greatest extent possible. The alternative is that all other utility ratepayers pay for the cost incurred by only a single person or a small group of persons. Many electric (and most telephone) utility line extension Terms and Conditions do not follow this principle fully; instead, costs are shared between the individual customer that requires a line extension and the general body of ratepayers. We have recently encouraged utilities to reconsider these policies. [17]

Where, however, the utility does pay for some portion of line extension costs when it builds the line itself (a footage allowance, costs that support charge does not pay for, or both), Section 7(D) requires the utility to compensate the transferring customers in an amount "equivalent" to those costs, if the utility has not already done so. Although the proposed Rule stated that a utility that paid some line extension costs "may" provide equivalent compensation upon transfer, in the provisional Rule we require compensation. We believe this policy is necessary to ensure competitive neutrality between utilities and private contractors that build line extensions. Where the costs paid for by the utility are in the form of the difference between what it cost the utility to build the extension and the amount that a line extension customer pays over time (as in the case of a support charge), the "equivalent" amount the utility pays the owner should take into account the time value of money.

As noted at the beginning of this NOR, the scope of this Rulemaking is relatively narrow. We are addressing the matters required by newly-enacted 35-A M.R.S.A. § 314. We do not at this time propose to alter existing line extension policies with regard to the overall cost allocation between line extension customers and the general body of ratepayers for line extensions that are built by utilities. This Rulemaking focuses more narrowly on issues that have arisen in connection with privately-constructed and privately-owned lines. [18]

Sections 7(E) and 7(F) of the Rule describe the payments that a private owner must make to a T&D utility before the T&D utility may take ownership of the privately-owned line extension. Section 7(E) applies to two circumstances: (1) the transfer of new, unenergized lines built to serve a development by a private contractor

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[17] In our report to the Legislature in December of 2000, we recommended that utilities re-examine their policies to consider full compensation, but we did not require that they do so.

[18] We note, however, that §314 requires us to address the apportionment or reallocation of line extension costs for *all* line extensions, not just those that are privately-built, and we address that issue in section 9.

that the developer (or other owner) must transfer to the utility prior to energization as required by section 7(A), and (2) the voluntary transfer of lines (previously energized or not) pursuant to section 7(B). Section 7(F) applies to transfers of ownership that are required by section 7(C) when a second customer will be served by a privately-owned line, whether the line is on a public way or on private property.7

Sections 7(E) and (F) both apply the principle that persons who cause costs to occur should pay those costs. Section 7(E)(1) requires the transferring owner to reimburse an investor-owned T&D utility for federal and state corporate income taxes (the "CIAC tax") that the utility must pay as a result of the contribution of facilities that occurs at the time of transfer.[19] A parallel provision in section 7(F) requires the transferring owner and new customers to pay the cost of this tax, which is shared according to the allocation formula in Section 9(D).

Section 7(E)(1) also describes the method of calculation for the amount the utility will charge to the contributor, based on the tax paid by the utility, reduced by the present value of the benefit that the utility receives because of accelerated tax depreciation.[20] The payment required from transferring ("contributing") owners is a significant amount, typically about 33% of the value of the contribution. The central policy question is whether that cost should be borne by the general body of ratepayers or by the individual owner of the line that directly causes the tax event because of the transfer. Our general policy is that cost should be paid by those persons causing the cost. Sections 7(E) and (F) apply that policy by requiring a transferring owner to pay the net effect of the CIAC tax on the utility.

The existing Terms and Conditions of the three IOU utilities presently require reimbursement for the CIAC tax both for line extensions that the utility builds (in which case the tax event occurs when the customer pays the utility for the line extension) and for subsequent transfers of facilities. We agree that both circumstances should be treated the same. Owners who are required to transfer ownership of a line extension because of Commission and utility policies might understandably believe that because they are forced to transfer the extension it is the policy requiring transfer, not the customer's action, that has caused the cost to occur. The real cost cause of the tax event, however, is the fact that the line extension was built at all and, for sound policy reasons (with one exception), must be owned by the utility.

It is unimportant who builds the line. If the utility builds the line and the customer pays the utility for the construction, the cash payment is a contribution in aid of construction (CIAC) that is taxed as income to the utility. If the customer pays a private contractor to build the line and then "contributes" (even unwillingly) the line to the utility, the same taxable event occurs.

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[19] Sections 7(E)(1) and 7(F)(1) do not apply to consumer-owned utilities (COU) because COUs do not pay income taxes.

[20] The source of the language for this section is sections 3(C) and 4(C) of Chapter 65 (Water Main Extension and Service Line Rule).

With regard to the calculation method contained in section 7(E)(1), CMP stated in its written comments that it agreed with the formula for calculating the CIAC tax, but suggested that the cost of equity (which is used for the limited purpose of determining a discount rate for flow-back to the contributor of tax depreciation) be the cost as established in the utility's latest Maine rate proceeding. CMP also suggested that a utility be allowed to use an existing rate until that it changes by more than 100 basis points. All three investor-owned T&D utilities are presently (and for the foreseeable future) under alternative rate plans (ARPs). The setting of costs or capital (or equity) in rate proceedings may become increasingly rare. Nevertheless, section 7(E)(1) now states that a T&D utility may use a cost of equity that is established in a recent rate proceeding for any investor-owned T&D utility. If a utility or the Commission believes any such finding is too stale, either the utility or the Commission could establish a cost of equity (or capital) pursuant to the waiver provision in section 10.

Proposed section 7(E)(1)(a) (and a parallel provision in section 7(F)(1)(a)) stated that the utility shall determine "the amount of the contribution, which shall equal the costs of construction…, less depreciation, pursuant to the depreciation schedule required by section 9(D)(1)(c)." In its written comments about section 9, CMP questioned the requirement of reflecting depreciation in the *allocation* system established by that section, but not here. We address CMP's comments, with which we agree, in our discussion of section 9 below. Since the comment period, we have learned that under I.R.S. regulations, utilities must use fair market value for the purpose of determining the amount of tax they must pay on the income represented by the contribution. CMP uses current replacement cost to determine fair market value. Depreciation therefore appears to be irrelevant. We have rewritten this provision to be consistent with tax law.

Because of its origin in Chapter 65, the formula in the proposed rule calculated both the amount of the contribution plus the amount of the tax that the contributor must pay. That result would be relevant under Chapter 65, because the contribution would be in cash rather than facilities. Here, however, the provision only applies to contributed facilities. We have therefore revised the formula in section 7(E) (and 7(F), by incorporation) to calculate the portion of the utility's tax the contributor must pay, after flow-through of the present value of tax depreciation.

BHE, in its written comments, recommended that the word "remaining" be placed in front of the words "tax depreciation life" in section 7(E)(1)(c) of the provisional Rule. We agree and have made that change, as well as a similar change to section 7(E)(1)(b). BHE further requested that the term "investment formula factor" be defined in the Rule. "Investment formula factor" is a term used in Chapter 65, from which section 7(E) is derived. It is not used in this Rule. We have therefore removed the term.

Section 7(E)(2) and 7(E)(3) address issues we have discussed above concerning reimbursement to the utility by the transferring owner for the costs to connect the line extension to the distribution system and for upgrade costs. Section 7(E)(4) (as well as a parallel provision in 7(F)(2)(c) and, by cross-reference, various

subsections in section 8, which addresses energization) provide that if a T&D utility has an approved Term and Condition for "upstream" costs (i.e., costs to upgrade existing distribution or substation facilities leading to the extension) that are caused by the new customer's demand, those costs must also be paid prior to transfer or energization, as applicable.[21]

Pursuant to BHE's request (discussed above in connection with section 7(B)), we have added a section 7(E)(5) that requires the owner to pay all costs incurred by the utility to obtain or maintain easements and necessary permits when a person transfers a line extension pursuant to sections 7(A) or 7(B). We have added a similar provision to section 7(F) for transfers pursuant to section7(C), when a line will serve a second person. We have not added a general "all other costs" provision to sections 7(E) and (F), but we did add sections 7(E)(6) and 7(F)(2)(f), which allow a utility in its Terms and Conditions to specify other costs that an owner or subsequent customer must pay.

Section 7(F) is structured similarly to section 7(E), but is separate because it addresses the payments that must be made when ownership is transferred because a second person will be served by an extension on private property that previously served only the owner of the line. The requirements of this subsection are tied to the transfer requirement contained in section 7(C). The payment amounts and the method for calculating them are similar to the provisions in section 7(E). We have addressed these payment issues separately because section 7(F)(2) requires the second and subsequent customer(s) to pay the costs of connection and the upgrade costs that are incurred because of the transfer. As mentioned above, section 7(F)(1) states that the CIAC tax payment will be allocated among the old and new customer(s) in the same way that construction costs are allocated under section 9.

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[21] This Rule defers to utilities' Terms and Conditions for the details of such provisions. The Commission is presently conducting an informal investigation of CMP's practices concerning the charging of upstream costs, and Commission staff expects that CMP may file a specific upstream cost Term and Condition. We express no opinion at this time concerning whether we will approve such a provision.

The provisions of the Rule that recognize the possibility of such Terms and Conditions address all situations involving energization or transfers of privately-built and privately-owned line extensions. To ensure competitive neutrality, a utility filing a proposed "upstream costs" term and condition must also apply it to line extensions it builds.

We note that logically such a provision should apply only when additional demand is presented because of a new line extension customer. At least one transfer of ownership circumstance described in section 7 does not result in additional demand. Under section 7(B), the owner of a line extension may voluntarily transfer ownership at any time. If the customer transfers an existing energized line, no additional demand is created because of the transfer itself.

Section 7(F)(2)(e) requires that new customers make the payments, required by section 9, that reallocate the costs of the line prior to energization for those customers. There is no parallel provision in section 7(E) because there is no need for transfer payments from new customers to old customers under the circumstances to which section 7(E) applies.

As under section 7(E), section 7(F) requires that payments must be made before the T&D may assume ownership of the line and energizes any new facility that will serve the new customers, whether the new facility is a service drop, a further line extension from the end of the original line extension, or a new line extension at some point along the original extension.

H. Section 8: Energizing an Electric Line Extension

Section 8 of the proposed Rule requires that a T&D utility determine that all requirements of the Rule are satisfied before it energizes a line extension. Section 8(A) provides that the T&D utility must obtain the certification required by section 4 before it energizes the line extension. In its comments, BHE recommended that we delete the word "prior" in front of the word "owner" from the first sentence in section 8(A) of the proposed Rule. We agree and have made the requested deletion .

In its written comments, the Board of Registration for Professional Engineers recommended that section 8(A) be amended to clarify that a T&D utility may contest the viability of an installation pursuant to the dispute resolution provisions of section 5 of the Rule. We agree and have modified section 8(A) accordingly. We have also made changes to subsection B to accommodate the change to subsection A.

Section 8(B) prohibits energization if a dispute resolution process concerning the line extension is pending. Sections 8(C) and (D) state that before energization, the owner must have complied with the various requirements of sections 6 and 7. Finally, Section 8(E) states that the utility shall not energize any new facilities (whether service drops or a further line extension) that serve new customers, when a line extension that previously served only one customer will serve a new customer, until the new customers have complied with all of the ownership transfer and payment requirements of section 7.

I. Section 9: Allocation of Line Extension Costs Among Customers

Section 9 establishes the method whereby multiple customers who share a line extension, or portions of a line extension, will share the construction and other costs of building the line extension whether a customer is served by the line initially or is added later. Only CMP and EMEC provided written comment on this section. Only CMP provided any detailed testimony at the hearing. EMEC stated that even though the proposed method "differs somewhat from the method currently utilized by the cooperative," EMEC was "generally supportive of the cost methodology being proposed." EMEC also stated that "a line extension should not be considered 'free' before it has been in service for 10 years," consistent with its existing Terms and

Conditions, and as proposed in section 9(C). CMP opposed many aspects of proposed section 9, including the method for reallocation and the 10-year period of section 9(C), as described below.

1. Applicability

Section 9(A) describes the line extensions to which the allocation and reimbursement provisions of section 9 apply. Although most of this Rule addresses issues related to privately built or owned line extensions, this section addresses allocation and reallocation for lines that are built by either a T&D utility or that are privately constructed. We address both categories in this section because the statute requiring this Rulemaking, 35-A M.R.S.A. § 314(3), directs us to do so; we also can see no reason why different allocation policies should apply to utility-built and privately-built line extensions. By definition, however, this section applies only to utility-*owned* lines. Section 6 permits private ownership only if a line extension will serve a single customer. There is no need to allocate the costs of those lines. Those lines will become subject to the allocation method only when a second customer is served from the line and the ownership of the line is transferred to the utility. No comment or testimony was provided concerning this policy.

Section 9(A) also applies the allocation method of this section to polyphase line extensions. Although section 314(3) requires the Commission to establish an allocation policy only for single-phase lines, we can see no reason to exclude polyphase line extensions from the allocation methodology of this section. In its written comments, CMP objected to the application of the allocation and reallocation provisions of this section to polyphase line extensions. CMP argued that section 314 applies only to single-phase line extensions. CMP contended that "[i]ssues related to the allocation and reallocation of polyphase line extensions are sufficiently different from those of single-phase line extensions and should not be addressed in this rulemaking." CMP did not provide any reasons why polyphase lines are different in such a way that would suggest that the allocation method contained in this section 9 should not apply. In any event, we disagree with CMP and believe that the fairness principles underlying the section 9 allocation system should apply equally to polyphase extensions. We see no reason why entities that build polyphase line extensions should not recover reasonable amount from future attachers, and no reason why future attachers should receive a "free ride." We also see no reason why some other allocation system should apply to polyphase extensions, and CMP did not propose a separate method.

In the NOR, we proposed one major exception to our general inclusion of all line extensions. We saw no need to apply the policy to developments. No one commented on this proposed exclusion and we adopt it. Like other persons who cause line extensions to be built, developers must pay for those extensions, either by paying the utility to build the extension or by contracting with a private contractor to do it. Proposed section 9 establishes an allocation formula for determining customer shares for the costs of the line extension, but it does much more. It requires the T&D utility to collect payments from new customers who attach to the line, and to distribute those payments among older customers according to the allocation formula. Absent a

policy requiring these payments, it is unlikely that an individual residential or business customer could ever obtain compensation from a newer customer attaching to a line extension that the first customer financed. Unlike individual customers, however, a developer is uniquely capable of recovering all of its costs through the sale of lots or buildings that it builds on those lots. The cost of building a line extension is no different in principle from the cost of building a road or the cost of building houses or other buildings. The developer can adjust the sales price to cover those costs.

We can think of no sound policy reason why T&D utilities should be in the business of guaranteeing that developers collect the cost of line extensions from future customers who connect to the line extension financed by the developer when cost recovery for other costs incurred by developers is not guaranteed in this manner. We also can see no need to cast an additional administrative burden on utilities. Indeed, we expect that the exclusion of developments from the scope of section 9 will substantially mitigate any burden that this section might impose.

2. Allocation Method – Background and General Discussion

Currently, the methods for reallocating costs among multiple customers vary among utilities. In general, policies that are easier to administer are less precise in allocating costs among customers fairly, and policies that allocate costs more precisely are more complex.

Section 9 requires all T&D utilities to use the allocation method for water main extensions that we adopted in 1986 in our Chapter 65 for water utilities, and that BHE adopted in 1990 in its Terms and Conditions for electric line extensions. This method allocates costs according to the length of the line extension that serves each customer. A portion of a line extension that serves only one customer is assigned to that customer. Each length of line extension that serves more than one customer is divided by the number of customers it serves. The amount of the total length assigned to each customer is the sum of the shares of each segment allocated to that customer. As in the Chapter 65 and BHE policies, under section 9 line extensions have a “life” of 10 years; each time a new customer is added during that 10 years, the allocation is recalculated.

A reasonable allocation method has both linear and temporal elements. The life of poles is about 30 years. As noted above, EMEC supported a 10-year period, and BHE’s allocation system and the Chapter 65 both have a 10-year period. In its written comments, CMP proposed that we apply the reallocation system to line extensions for only 5 years, on the ground that it has a large number of line extensions, and a 10-year period would require it to keep track of twice as many extensions.[22] We address CMP’s comments about the administrative burdens in Part I(5) below. On balance, we believe that 10 years is a reasonable amount of time to

[22] Simultaneously, CMP claimed that “most additional customers attach within the first five years.” We do not know what evidence supports this claim, but, if correct, it suggests that a 10-year period is not twice as burdensome as a 5-year period.

require new customers that connect to a line extension to pay for some of its costs, to use those payments to reimburse earlier customers, and for T&D utilities to administer line extensions. We also find that limiting reimbursements to earlier customers for only a 5-year period does not give adequate consideration to the interests of persons who initially financed a line extension.

The allocation method uses the simplifying assumption that costs of construction for each customer are proportional to length of line that serves that customer. We recognize that some portions of a line may cost more than others because of the presence of ledge or above-normal needs for tree clearing or tree trimming, but we also believe it would not be practical for utilities to maintain detailed cost records for each line extension segment.

CMP's recent line extension revisions require each new customer to make a fixed payment that is then paid to the person who initially paid for the line extension with little regard to the total cost of the line extension or the amount (length) that the new (or first) customer uses.[23] In short, there is almost no attempt to allocate the costs on some basis related to the amount of cost that each customer has caused. CMP requires new customers on a line extension to make payments that will be used to reimburse the first customer for a period of five years.

MPS's reallocation method is the same that CMP used prior to CMP's recent revisions. For any line extension, all customers (whenever they are added during the first five years) share in the cost of the whole line equally, without regard to their distance from the beginning of the line or the length serving each customer. In addition, if a new line extension is built from the end of the first line extension (within the five-year period), the two line extensions will be combined for allocation purposes if that will reduce the cost per customer for all customers served by the two extensions. If combining the two line extensions would increase the costs for the customers served by the original line extension, the two extensions will not be combined. While this method may be somewhat simpler to administer than the Chapter 65-BHE method, it does not allocate according to the length used by each customer (which we believe is related to the cost to serve each customer), and we doubt it is any easier to explain to customers than the Chapter 65-BHE method.

In approving CMP's current line extension policy, we decided that the allocation method described above was adequate. Since that decision, both the Commission and the Legislature have received customer complaints asserting that the method produces inequitable results, both with regard to the amounts paid to persons who paid for the line initially (too low) and the fact that CMP requires payments from new customers (to reimburse old customers) for only five years. A line extension has many years of useful life, and the complaint (with which we agree) is that new customers should not receive a "free ride" on extensions that are only five years old.

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[23] CMP's "development incentive payment charge" (DIP charge) is only slightly distance-sensitive. A new customer pays the greater of $500 or $1.00 per foot for portions of the line used in common.

It appears that BHE has not considered its method to be administratively burdensome. We conclude that the possible administrative convenience of CMP's current method does not compensate for its failure to allocate the cost of line extensions to individual customers in a manner that is related to the line extension needs of each of those customers, i.e., in a manner that is (or should be) acceptable to customers. Even the very smallest publicly-owned water utilities in Maine use this allocation method, and we have heard few complaints either that it is either too difficult or costly for water utilities to administer or that they have applied the policy erroneously or unfairly. We discuss the details of the allocation method, which are set forth in section 9(D), further below.

3. Subsections B and C: Payments by and to Customers Attaching to Line Extensions

Section 9(B) states that when two or more customers connect to a new line extension initially, the costs shall be allocated pursuant to the method set forth in section 9(D). Section 9(C) addresses the question of reallocation whenever a new customer is connected within 10 years after initial energization of the line. It also cross-refers to the allocation method in section 9(D). Section 9(C) primarily addresses the payment made by a new customer and the flow-through of that payment in the form of payments to existing customers. It requires the new customer to make a payment to the utility in an amount equal to the customer's "customer responsibility" that is calculated under section 9(D). The payment from the new customer is not a contribution in aid of construction. The cost of the whole line (or the line itself) has already been contributed by prior customers. The payment is simply part of the cost reallocation process. The utility takes the entire amount of the payment from the new customer and distributes all of it to previous customers.[24] The utility will distribute the amount paid by the new customer to each previous customer who has attached to the line extension, based on the previous customers' reallocated shares. The exact amount paid to a previous customer equals the customer's responsibility under the prior allocation minus the customer's responsibility under the new allocation. Using that method, the total of the amounts paid to previous customers will equal the amount paid by the new customer.

CMP's comments object to the requirements to collect payments from new attaching customers and to distribute those payments among customers who had previously attached to the extension. CMP claims that the administrative burden of these activities is excessive, and proposed an alternative allocation and payment method that avoids some of the reallocation activity and many of the payments. (All payments would be to the person who first built the line). We discuss CMP's objections and alternative method at Part I(5) below.

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[24] Section E-1(1) of BHE's Terms and Conditions states that subsequent customers must make a "contribution in aid of construction." This characterization may be misleading. Later provisions in the Terms and Conditions make clear that these are payments that are used to reallocate line extension costs among the customers using the extension.

In the NOR, we raised a problem that we did not specifically address in the draft Rule. We asked for comment, but did not receive any. The circumstance we described is when a customer location is removed from a line extension: one example is a building that has been torn down and not replaced. We note first that when a customer location is eliminated, no problem arises unless and until a new customer is added so that the line must be reallocated under section 9(D) and payments must be made under section 9(C). When a new customer is connected, however, it is necessary to consider how the reallocation should take account of the abandoned customer service location. The departed customer has already made a payment toward the line extension costs and the payment has been distributed among other customers.

We see no reason why the departed customer should receive any portion of the payment from the new customer, even assuming he or she could be located. A customer who leaves the system had no reasonable expectation that other customers will connect or of receiving future payments. In effect, therefore, the contribution made by the customer(s) at the abandoned service location is frozen in time. The amount of that customer's share the last time the line was allocated is known, and it will never decrease as a result of future distributions from contributions by new customers. If follows that there is no need to reallocate the share attributable to that customer location. Thus, the customer location should not be taken into account in future reallocations. In addition, the departed customer's contribution (defined as the customer's share at the time of the last reallocation multiplied by the cost of the line extension) should be excluded from all future calculations, as it should not be reallocated. We have added a new paragraph 5 to section 9(C) describing this calculation.

4. Subsection D: Allocation Formula

The allocation method is set forth in Section 9(D)(1). It establishes the payments that multiple customers connecting to a new line extension or a new customer connecting to an existing line extension must make for that customer's share of the cost of the full line extension. The amount is based on two factors – the customer's share of the length of the line extension and the total cost of the line extension. Multiplication of the two factors results in a "customer responsibility" amount for each customer, stated in dollars.

We recognize that the first factor – each customer's percentage share of the extension – is somewhat complicated to calculate if many new customers are connected. However, we believe the effort is not unreasonable. We note that the water utilities have been using this allocation system for over 15 years and BHE for over 10, and neither the water utilities nor BHE have claimed that the system if unworkable or overly burdensome. Appendix B contains examples of reallocations and the addition of a further line extension, thereby demonstrating the operation of sections 9(D) and 9(E).

The second factor – the total cost of the line extension – consists of the costs of construction and the amount paid by the contributing customers toward the CIAC tax paid by the utility (calculated under sections 7(E)(1) and 7(F)(1)). We discuss the details of the construction cost calculation in our discussion of section 9(D)(2).

In the proposed Rule we included a depreciation component to the cost calculation. In its supplemental comments, CMP argued:

> The value of the line to the customers is its ability to provide service and that value doesn't change over time. There also is no increased burden on the customers over time since the Utility will repair and replace it forever without additional direct charge to the customers who take service from the line. Therefore, while depreciation of a line is relevant to the Utility, depreciation has no impact on customers taking service from the line.

We agree that depreciation is not meaningful to the customer, and therefore should not be reflected in the cost calculation under this section. We also agree with CMP that it adds a further level of unnecessary complexity.

For the amount paid by customers toward the CIAC tax, the actual amount should be used. Utilities should keep a record of this amount as part of the record for every line extension. If, by chance, there is no adequate record of that amount, the utility should attempt to reconstruct the amount from its tax records or by applying the CIAC tax percentage factor that it already has in its Terms and Conditions (or that it will need to develop for the implementation of sections 7(E)(1) and 7(F)(1)) to a reasonable fair market value at the time the line extension was contributed. Because the amount of tax paid by the utility differs from the amount customers pay to the utility, it is obviously important for utilities to maintain adequate records of the latter amount. [25]

As noted above, section 9(D)(2) addresses the calculation of construction costs. Construction costs shall be determined by the actual original cost of construction (whether the line was built by the utility or a private contractor) if there is reasonable proof of those costs available. Section 9(D)(2)(a) of the proposed rule stated that the amount the utility used as the basis for establishing the amount of contribution for the purpose of the tax on the contribution should be the same as the construction cost amount established under this provision if the line was contributed when it was new, unless there was good cause to deviate. As our discussion above in connection with section 7(E) makes clear, utilities must use fair market value for tax purposes. That amount is not likely to equal the original construction cost. (CMP uses current replacement cost to establish fair market value.) We have therefore deleted this provision in the provisional rule.

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[25] The amount charged under sections 7(E)(1) or 7(F)(1) to a person making a contribution is discounted by the present value of the tax reduction due to accelerated tax depreciation received by the utility.

If actual construction costs are unknown (a circumstance that is more likely if the line has been in use for some time before it was contributed), the utility will use its own average per foot construction costs for the year in which the line extension was built, multiplied by the number of feet for the line extension.

As noted above, applying an allocation based on length per customer to total construction costs does not allow each customer's share to reflect the fact that construction costs may vary significantly for different portions of the line extension. However, we believe it offers a reasonable approximation of the true cost each customer incurs, while avoiding undue complexity and administrative burden.

Section 9(D)(2) contains a provision for determining single-phase-related costs when a polyphase line (constructed originally as a polyphase line or later rebuilt) serves a single-phase customer.

Section 9(D)(3) addresses the fact that under some utilities' Terms and Conditions, customers do not make a contribution in aid of construction for the full cost of a utility-built line extension. MPS, for example, provides the first 300 feet per customer for free, requires a support charge for lengths per customer between 300 and 2000 feet (1000 feet on private property), and requires a full contribution only for amounts in excess of 2000 feet (1000 feet on private property) per customer. In addition, at least one utility (CMP) provides a credit (stated in dollars) for low-income customers. Section 9(D)(3) specifies that any allowance or low-income credit or other support shall be deducted from each customer's "customer responsibility" amount *after* allocation of the line extension costs pursuant to section 9(D)(1). These allowances or credits are for a fixed amount per customer, without regard to the distance that serves each customer or the cost per customer. If the allowances or credits were included prior to the allocation under section 9(D)(1) (e.g., as a deduction to construction costs), the total amount of the allowances or credits would themselves be allocated among all customers. Thus, for example, an MPS customer assigned a shorter distance would end up with less than 300 feet of allowance, and a customer assigned a longer distance would end up with more. MPS will, of course, need to convert 300 feet into a dollar amount that will be deducted from each customer's responsibility, which, under section 9(D)(1), is calculated as a dollar amount.

Section 9(D)(4) addresses the allocation of support or other monthly charges. A support charge requires individual line extension customers (rather than the general body of ratepayers) to pay the costs of supporting the utility's investment in the line extension. The line extension is not contributed, but is instead paid for by the utility and carried on its books as an investment. Under a support charge, individual line extension customers pay for such expenses as depreciation, maintenance and property taxes, as well as the return on the investment and income taxes on that return. MPS requires line extension customers to pay a support charge for footage between 300 and 2000 feet per customer (1000 feet on private property). Customers must pay in full (make a contribution in aid of construction) for all lengths in excess of those limits.

BHE allows a customer to pay a monthly charge instead of making a full contribution. It is similar to a support charge in that the utility invests in the line extension and there is no contribution. However, line extension customers pay for the entire cost of the line extension over a 10-year period, i.e., for purposes of the line extension monthly charge, the line extension is fully depreciated (or amortized) in 10 years. From the customer's perspective, the BHE monthly charge resembles a loan.

Section 9(D)(3) simply requires support or similar monthly charges to be allocated by the first factor of the allocation formula in section 9(D)(1), i.e., by the number of feet serving each customer. It is not necessary to calculate costs or consider any other factors of the allocation methodology.

Section 9(E) addresses "additional" line extensions, i.e., those that begin at the end of the original extension and those extending from some point along the original extension (sometimes referred to as "laterals"). The purpose of this provision is to require a customer who connects to one of these extensions, but who benefits from a relatively recent "original" extension leading to the customer's own extension, to participate in paying for, rather than "free riding" on, the original extension. Absent this provision, in the worst case example, a person served by a very short additional extension would obtain a "free ride" on a relatively long, recently-built extension. If an additional line extension is built within 10 years following energization of the original line extension, the customers connecting to the new line extension will also be considered as connected to the original extension. They will make a payment that will be paid to the earlier customers on the original extension. The amount of the payment will be calculated pursuant to the allocation method of section 9(D)(1). For the purpose of that calculation, the customers served by the new extension will be considered to be "located" on the original line extension at the end of that extension (if the new extension is a "further" extension) or at the point where the "lateral" leaves the original extension. Once the 10-year life of the original line extension expires, section 9(E) will no longer require new customers on the additional extension to support the original extension. CMP objected to this provision. We address its comments at Part I(5) below.

While this provision adds another level of complexity to the allocation process, it is derived from a provision in BHE's Terms and Conditions. We are not aware of any difficulties that BHE has had in applying it. Part IV (the "Fourth Action") of Appendix B contains an example of a "lateral" line extension.

5. <u>CMP's Objections; Alternative Allocation Proposal</u>

CMP, in both of its written comments, stated its view that the allocation system proposed in this section "would be extremely burdensome to CMP." Although CMP acknowledges that BHE has used the system successfully and does not want to change its system, it argues that "BHE and other small utilities have relatively few line extensions." CMP states further: "In contrast, CMP constructs 1,600 new line

extensions, on average, each year and has approximately 800 new customers taking service from existing line extensions each year." [26]

CMP's supplemental comments propose an alternative allocation system that it claims "is also equitable and is more compatible to CMP operations." CMP describes its proposed allocation system as:

> based on the cost of the specific line extension at issue and the actual footage. … CMP then divides that value of the line by the length of the line to determine the cost per foot of that line. CMP will record the value and cost per foot at the time CMP energizes the line. When subsequent customers take service directly from the initial line, CMP will multiply that per-foot cost by one-half the actual length of the portion of the initial customer's line used by the subsequent customer. CMP will collect that amount from each subsequent customer and pay that amount to the initial customer. Reimbursements to the initial customer continue as additional customers take service directly from the initial line until the initial customer has been fully reimbursed for the value of the line or the tracking period has expired. [27] Since the value of the line and per-foot cost are readily available to CMP's field planners, they can more readily provide a cost to subsequent customers. If the initial line is privately owned, the second customer will also be responsible for the CIAC tax and any costs to bring the line up to CMP's Standards.

CMP also describes how its proposed allocation method would address an additional extension (either from the end of the extension or a "lateral"), the same circumstance addressed by section 9(E):

> If a customer ("B") installs a further line extension from the line installed by the initial customer ("A") and a third customer ("C") takes service from B's line, customer C would only reimburse customer B since customer C took service directly from B's line. Customer A has already received half of the cost of the portion of the line used by customer B and C from B. Customer A may receive more than half the cost of the portion of the line if other customers take service directly from the initial line.

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[26] CMP also argues that the burden on BHE is lighter because customers on many of its line extensions pay over time, and "it is only necessary to adjust future payment, not issue refund checks." It is not clear why making such an adjustment (presumably involving BHE's billing system) is easier than issuing a check. In either event, it is necessary to recalculate each customer's share. Moreover, customers in the BHE service area have the option to contribute a line rather than pay over time, in which case, BHE must issue checks when the costs of the line are reallocated.

[27] CMP notes that its proposed allocation method avoids the need to address the issue of a subsequent customer discontinuing service because only the initial customer receives reimbursement.

The chief virtue of CMP's alternative is that it avoids the need to keep track of second and subsequent customers for the purpose of reimbursing them as further new customers come onto the line. The calculation CMP must make when a new customer is added may be somewhat simpler if there are more than two customers served by the line. In either event, CMP must determine various line segment lengths and divide by a finite number (2 under its proposal; the number of customers served by the segment under section 9). Under section 9, however, CMP will have to make a calculation for each segment, not just the one measured by the length serving the new customer.

The chief detriment to the alternative is that it is easy to hypothesize numerous situations in which it will produce a distinctly less fair allocation among the customers attaching to a line extension than the method contained in section 9. CMP claims the system is fair because "[a] subsequent customer will never pay the initial customer more than half the cost to install the portion of the line used by that subsequent customer and will never pay the initial customer more than other subsequent customers on a per-foot basis."

We are greatly concerned about the first claim. In the case of a fairly lengthy line extension, the second customer may pay for up to half of the extension (exactly half if the second customer is located across the street from the first customer). When future customers connect, the first customer will receive all of the payments from those customers; the second (and all subsequent customers) will receive nothing. In addition, CMP would have the second customer pay the entire CIAC tax. This amount would never be allocated later among other customers.

As for the claim that all subsequent customers would pay the same per-foot amount, under the section 9 allocation system each customer also pays the same amount per foot; but, each time the line is reallocated, that equal amount per foot becomes lower for each customer through the payment of rebates that spread the total cost among all customers. Under CMP's proposal, the first customer's per-foot cost declines, possibly to $0. All other customer's per foot costs are frozen.

We are also concerned about CMP's proposal concerning additional extensions that connect to the original extension, for the reasons stated in our discussion above concerning section 9(E), which addresses that issue. One customer might attach at or near the end of an original lengthy extension and have to pay nearly half or its costs. Another customer might attach to a much shorter further extension, pay only half of the costs of the shorter line, and avoid paying any of the costs of the longer original extension, even though the customer uses the line just as much as the customers attaching to it directly. In this case, not only the subsequent attacher but also the original attacher will receive no reimbursement.

We also have difficulty placing much weight on CMP's claim that the section 9 allocation method will place a greater administrative burden on it than on other T&D utilities. CMP is the largest T&D utility in the state. It undoubtedly has more line extensions than other utilities because it is larger. It may even have more extensions relative to its size because of greater relative growth in southern Maine.

Because of its size, however, CMP has, or should have, substantially greater resources than other utilities.

Many of the large number of line extensions that are built in CMP's service area each year will not present a substantial administrative burden. In general, longer lines will be more difficult to administer because there will be more customers attaching, a greater number of and more complicated reallocations, and more checks to issue. However, a significant number of the longer line extensions will be completely exempt from the allocation method because they will serve developments. A large number of the lines that do not serve developments are likely to be relatively short so that reallocations will be infrequent.

CMP stated that it "is not proposing that all utilities be required to adopt this system." As we have noted several times, no other T&D utility is claiming that the section 9 system is overly burdensome. Even if we were more favorably disposed toward CMP's alternative proposal, we would not care to include two allocation systems in the Rule. In addition to making the Rule quite cumbersome, we would need to decide whether only CMP could use the alternative or whether other utilities could use it as well, even though they apparently are comfortable with a system that we believe is substantially fairer. If CMP desires to pursue its alternative, the most appropriate course is for it to seek a waiver pursuant to section 10.

J. Section 10: Waiver

Section 10 of the proposed Rule establishes a waiver provision for this Chapter and is discussed at page 26 or the NOR. No person commented on this waiver provision and we have made no changes to section 10 of the Rule.

V. RULEMAKING PROCEDURES

Pursuant to 35-A M.R.S.A. § 314(5), the attached provisional Rule is considered to be a "major substantive rule" as defined in Title 5, chapter 375, subchapter II-A and must be submitted to the Legislature for review no later than February 1, 2002.

VI. FISCAL IMPACT

5 M.R.S.A. §8057-A(1) requires the Commission to estimate the fiscal impact of this Chapter. In the NOR, we indicated that we expected the fiscal impact of this Rule to be minimal and invited comments on the fiscal impacts of the Rule. No party offered any specific comments regarding the fiscal impact of the proposed Rule.

Accordingly, we

ORDER

1. That the attached Chapter 395 "Construction Standards and Ownership and Cost Allocation Rules for Electric Distribution line Extensions" is hereby provisionally adopted;

2. That the Administrative Director shall submit the provisionally adopted rule and related materials to the Legislature for review and authorization for final adoption;

3. That the Administrative Director shall file the provisionally adopted rule and related materials with the Secretary of State; and

4. That the Administrative Director shall send copies of this Order and the attached provisional Rule to:

a. All transmission and distribution utilities in the State;
b. All persons who have filed with the Commission within the past year a written request for copies of this or any other notices of Rulemaking;
c. The Office of the Public Advocate;
d. All persons listed on the service list or who filed comments in the Inquiry, *Inquiry into Terms and Conditions Governing Line Extensions Built by Persons other than Transmission and Distribution Utilities*, Docket No. 2001-461; and
e. The Executive Director of the Legislative Council, State House Station 115, Augusta, Maine 04333-0115 (20 copies).

5. That the Public Information Coordinator shall post a copy of this Order and provisional Rule on the Commission's World Wide Web page (http://www.state.me.us.mpuc).

Dated at Augusta, Maine, this 29th day of January, 2002.

BY ORDER OF THE COMMISSION

_____

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: WELCH
NUGENT
DIAMOND

APPENDIX A – Text of P.L. 2001, Ch. 201

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND ONE

S.P. 263 – L.D. 910

An Act Concerning Private Line Extensions

Be it enacted by the People of the State of Maine as follows:

Sec. 1 35-A MRSA §314 is enacted to read:

§314. Private line extensions

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Line" means an electric distribution line, including poles and other related structures.

2. Standards for private lines. The commission shall by rule establish standards for the construction of a line by a person other than a transmission and distribution utility. The rules:

A. Must establish standards for the construction of lines. The commission may establish different standards in different transmission and distribution utility territories. The standards must be the same as the standards that would apply if the transmission and distribution utility in whose territory the line is constructed built the line unless there are compelling public safety reasons for applying different standards. If these standards and any other reasonable conditions established by the commission are met, a transmission and distribution utility may not refuse to connect the line to the utility's system or to deliver energy over the line;

B. Must establish terms and conditions for transferring the ownership of a line to a transmission and distribution utility. The rules may establish a requirement that

certain types of lines, lines under certain conditions, or lines in certain locations, such as lines located in the public way, must be transferred to the transmission and distribution utility; and

C. May require that a person that is not a transmission and distribution utility that constructs a line meet minimum qualifications established or approved by the commission.

3. Apportionment of costs of line extensions. The commission shall adopt rules establishing requirements for apportioning the costs of a single-phase overhead line extension among persons who take service through the line after the construction of the line. The commission may provide for exemptions from the apportionment methodology established by the commission for any transmission and distribution utility that petitions the commission for an exemption and establishes to the satisfaction of the commission that the transmission and distribution utility's apportionment methodology adequately serves the public interest and balances competing interests of customers.

4. Lines constructed in the public way. Nothing in this section or rules adopted under this section limits the application of section 2305 to any line constructed in a public way.

5. Submission of rules. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter II-A and must be submitted to the Legislature for review no later than February 1, 2002.

Sec. 2. Public Utilities Commission examination of minimum qualifications of line constructors. The Public Utilities Commission shall examine whether minimum qualifications should be established for persons who construct private line extensions and if so, how the qualifications should be established and what mechanisms are most appropriate for ensuring the qualifications are met. The commission shall, with any rules submitted to the Legislature pursuant to the Maine Revised Statutes, Title 35-A, section 314, submit a report to the Joint Standing Committee on Utilities and Energy on the commission's findings and recommendations under this section.

Appendix B - Examples of Line Extension Calculations

I. First Action -- Initial line extension built – 3000 ft

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|
|
|
|
|-----------------------------------------------------------------------------
|                                                                            |
|                                                                            |
|                                                                            A
|
|
[Primary line]
```

Costs

Action		Ft from primary line	Cost
I (customer A)	Initial line extension	3000	A: $18,000

II. Second Action: One new service drop added

```
|
|
|
|
|------------------------------------------------------------------------------------- (3000 ft)
|                          |                                                  |
|                          |                                                  |
|                          B                                                  A
|
|
```

Cost Allocation (calculations do not reflect depreciation)

Action		Ft from primary line	Calculation of feet allocated to each customer	Calculation of share paid by each customer to cost of initial line extension	Cost Allocation after each action
I (customer A)	Initial line extension	3000	3000 ft paid by A		A: $18,000
II (customer B)	1st additional extension	1000	1000/2 = 500 ft shared by A ,B 2000 ft paid by A	A: (500 +2000) / 3000 = .8333 B: 500 / 3000 = .1667	A: .8333x$18,000 = $15,000 B: .1667x$18,000 = $ 3,000

Payments After Action II

Customer	Calculation of Payment Made	Calculation of Payment Received
A		$18,000 - $15,000 = $3,000
B	$3,000	

III. Third Action: Second New Service Drop Added

```
|
|                                        C
|                                        |
|                                        |
|------------------------------------------------------------------------------- (3000 ft)
|                        |                                                       |
|                        |                                                       |
|                        B                                                       A
|
|
```

Cost Allocation (calculations do not reflect depreciation)

Action		Ft from primary line	Calculation of feet allocated to each customer	Calculation of share paid by each customer to cost of initial line extension	Cost Allocation after each action
I (customer A)	Initial line extension	3000	3000 ft paid by A		A: $18,000
II (customer B)	1st additional service drop	1000	1000/2 = 500 ft shared by A ,B 2000 ft paid by A	A: (500+2000) / 3000 = .8333 B: 500 / 3000 = .1667	A: .8333x$18,000 = $15,000 B: .1667x$18,000 = $ 3,000 Total: $18,000
III (customer C)	2nd additional service drop	2000	1000/3 = 333 ft shared by A,B,C 1000/2 = 500 ft shared by A,C 1000 ft paid by A	A: (333+500+1000) / 3000 = .6111 B: 333 / 3000 = .1111 C: (333+500)/3000 = .2778	A: .6111x$18,000 = $11,000 B: .1111x$18,000 = $ 2,000 C: .2778x$18,000 = $ 5,000 Total $18,000

Payments After Action III

Customer	Calculation of Payment Made	Calculation of Payment Received
A		$15,000 - $11,000 = $4,000
B		$ 3,000 - $ 2,000 = $1,000
C	$5,000	

IV. Fourth Action: New Line Extension Added, with two service drops on the line

```
|
|                                        C
|                                        |
|                                        |
|------------------------------------------------------------------------------ (3000 ft)
|                        |                                |              |
|                        |                                |              |
|                        B                                |              A
|                                                         |
|                                        D---------|
                                                         |
                                                         |---------E
                                                   (400 feet)
```

Cost Allocation (calculations do not reflect depreciation)

Action		Ft from primary line	Calculation of feet allocated to each customer	Calculation of share paid by each customer to cost of initial line extension	
I (customer A)	Initial line extension	3000	3000 ft paid by A		A: $1
II (customer B)	1st additional service drop	1000	1000/2 = 500 ft shared by A ,B 2000 ft paid by A	A: (500+2000) / 3000 = .8333 B: 500 / 3000 = .1667	A: .8 B: .1 Total
III (customer C)	2nd additional service drop	2000	1000/3 = 333 ft shared by A,B,C 1000/2 = 500 ft shared by A,C 1000 ft paid by A	A: (333+500+1000) / 3000 = .6111 B: 333 / 3000 = .1111 C: (333+500)/3000 = .2778	A: .6 B: .1 C: .2 Total
IV (customer D&E)	additional extension leading to two dwellings	2500 from primary line plus 400 foot new line extension	1000/5 = 200 ft shared by A,B,C,D & E 1000/4 = 250 ft shared by A,C,D,E 500/3 = 167 ft shared by A,D,E 500 ft paid by A In addition, E and F share the cost of the 400 foot line	A: (200+250+167+500)/3000 = .3723 B: 200 / 3000 = .0667 C: (200+250) / 3000 = .1500 D: (200+250+167) / 3000 = .2055 E: (200+250+167) / 3000 = .2055	A .3 B: .0 C: .1 D: .2 E: .2 Total

			extension built solely to them for 10 years.		

Payments After Action IV

Customer	Calculation of Payment Made	Calculation of Payment Received
A		$11,000 - $ 6,700 = $4,300
B		$ 2,000 - $ 1,200 = $ 800
C		$ 5,000 - $ 2,700 = $2,300
D	$3,700	
E	$3,700	