STATE OF MAINE
PUBLIC UTILITIES COMMISSION

June 30, 2003

ORDER ON
RECONSIDERATION

PUBLIC UTILITIES COMMISSION
Procedures for Conservation Program Planning

Docket No. 2002-162

MADISON DEPARTMENT OF ELECTRIC WORKS
Revision to Terms and Conditions to Establish
A New Assessment for the Conservation Program
Funding

Docket No. 2003-385

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

By this Order, we reconsider our *Order on Conservation Program Funding* of April 4, 2003 (*the April 4* Order), in this docket, and grant a stay of the *April 4 Order* as it relates to the conservation assessment for Madison Electric Works (MEW). Until our investigation in Docket No. 2003-348 is completed, we will exclude the kWhs sold to Madison Paper Industries (MPI) from the calculation of MEW's conservation assessment of 0.6 mils/kWh. Instead, MEW's assessment will be 0.6 mils/kWh for the kWhs sold to its customers other than MPI, and 0.5% of the revenue received from MPI (effective July 1, 2003).

II. BACKGROUND

In our *April 4 Order*, we decided to assess all transmission and distribution (T&D) utilities at the statutory maximum, 1.5 mils/kWh, for conservation programs. *See* 35-A M.R.S.A. § 3211-A(4)(B). For those T&D utilities that had been assessed at the statutory minimum, or 0.5% of total T&D revenue, we decided to phase-in the increased assessment. The statutory minimum rate produced per kWh rate that varied from about 0.02 to .73 mils/kWh. Accordingly, we decided to begin the phase-in, effective July 1, 2003, at 0.6 mils/kWh or the then-current assessment, whichever was larger.

In reaching our funding decision, we noted that some consumer-owned T&D utilities (COUs) asserted that the nature of their service territories warranted lesser conservation assessments. *See* 35-A M.R.S.A. § 3211-A(4)(A). Because this docket had not included a detailed, individualized examination of the COUs service territories, we decided to open an investigation and invite all COUs to demonstrate the facts that justify treating their service territories differently.[1] We stated that the initial assessment of 0.6 mils/kWh (or the current level for the COUs above 0.6 mils), would represent only

[1] The investigation has been opened and assigned Docket No. 2003-348.

a small increase to the statutory minimum (or the statutory minimum for those COUs already above 0.6 mils). Since the next step increase in the assessment, of 0.2 mills/kWh, would not be imposed for one year, there was adequate time for the Commission to conclude its investigation while the conservation assessments represented only a small increase over the statutory minimum.

On April 11, 2003, MPI filed a petition to suspend the April 4 Order from requiring a conservation assessment of 0.6 mils/kWh on MEW effective July 1, 2003.[2] MPI asked to suspend the increase until the Commission completes its investigation concerning the COUs (Docket No. 2003-348), and to leave MEW's assessment at the statutory minimum in the meantime. MPI justifies the suspension of the increased assessment for MEW because of the extremely large percentage increase that results from increasing MEW's rates by 0.6 mils/kWh. MPI asserts that, based upon adjusted test year numbers in MEW's recent rate case (Docket No. 2002-613), MEW's current assessment at the statutory minimum would be $6,239. At an assessment of 0.6 mils/kWh, MEW's assessment would be raised to $133,583, which MPI points out amounts to a 2141% increase. MPI argues that the Commission erred in the April 4 Order when it concluded that an assessment of 0.6 mils/kWh "represent[s] . . . a small increase to the statutory minimum" for MEW. *April 4 Order* at 6.

III. DECISION

We decide to grant MPI part of the relief it seeks. If imposed as a conservation assessment surcharge of 0.6 mils/kWh,[3] MPI would owe more than an additional $120,000, assuming MPI purchases a similar amount of kWh into the future. Such a T&D rate increase would be more than a 66% increase in MPI's total T&D bill.[4] For rate stability reasons alone, we would typically phase-in or otherwise reduce such a large percentage increase. Given that we have opened Docket No. 2003-348 in order to give MEW and MPI, among others, an opportunity to demonstrate "special circumstances" that justify different conservation assessments, we believe that the simplest and most equitable course of action is to exempt MPI from the effect of the conservation assessment surcharge pending the investigation and to adjust MEW's conservation assessment accordingly.

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[2] We treated MPI's petition as a petition to reconsider, governed by Chapter 110, section 1004.

[3] In our *April 4 Order*, we indicated that COUs could collect the increased conservation assessments as a simple surcharge to their existing rate schedules. MEW has elected to so in a filing made on May 29, 2003.

[4] With a rate increase effective early in 2003, MPI pays about 0.86 mils/kWh for T&D service.

We decide not to delay the imposition of the increased conservation assessment on MEW as to its remaining customers. A surcharge of 0.6 mils/kWh represents a small percentage increase to MEW's other customers.[5] Residential and small commercial customers in MEW's service territory have been, and continue to be, eligible to participate in many of the interim conservation programs. It seems equitable then that MEW's other ratepayers be subject to the conservation assessment surcharge effective on July 1, 2003, just like the other T&D ratepayers, when such equity can be achieved without T&D rate shock. Indeed, CMP's ratepayers are already subject to the statutory maximum conservation assessment, and pay T&D rates considerably higher than MEW's other ratepayers.

Accordingly, we will allow the Madison Electric Works rate schedules for all customer classes other than Madison Paper Industries,[6] as filed on May 29, 2003 and docketed as No. 2003-385, to go into effect without suspension. We reject the new rate schedule filed for Madison Paper Industries,[7] and order the rate schedule for Madison Paper Industries currently in effect to remain in effect until otherwise lawfully changed.

Dated at Augusta, Maine, this 30th day of June, 2003.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Nugent
Diamond

This document has been designated for publication.

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[5] MEW's other rate classes pay about 3.4¢/kWh, or 34 mils/kWh, so a 0.6 mils/kWh increase is less than 2%.

[6] The rate schedules are identified as Rate Schedule R, Seventh Revised Sheet 1; Rate Schedule GC, Seventh Revised Sheets 1 & 2; Rate Schedule LP, Seventh Revised Sheets 1, 2, and 3; Rate Schedule SL, Sixth Revised Sheets 1 and 2; Rate Schedule DL, Sixth Revised Sheet 1 and Fifth Revised Sheet 2; and Rate Schedule CA, Original Sheet 1.

[7] Rate Schedule MP, Third Revised Sheet 1 and Second Revised Sheet 2.

NOTICE OF RIGHTS TO REVIEW OR APPEAL

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

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

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

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

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