STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 98-555

December 17, 1998

BANGOR HYDRO-ELECTRIC COMPANY
Request for Approval of
Affiliated Interest Transaction
and Reorganization to Transfer
its CareTaker Home Security
Monitoring Business into a Separate
Subsidiary

EXAMINER'S REPORT

NOTE: This Report contains the recommendation of the Hearing Examiner. Although it is in the form of a draft Commission Order, it does not constitute Commission action. Parties may file responses or exceptions to this report on or before December 23, 1998 or may provide an oral response or exceptions to this Report on December 23, 1998 at 10:00 a.m. at the Commission. It is expected that the Commission will consider this Report at its Deliberative Session on January 4, 1998.

I. SUMMARY OF DECISION

In this Order, we approve the Stipulation filed in this matter with certain conditions discussed in detail below. In granting conditional approval of the Stipulation, we allow Bangor Hydro-Electric Company (BHE or Bangor Hydro) to form a subsidiary, CareTaker Inc. (CareTaker), which will be wholly owned by BHE. The sole purpose of CareTaker will be to own and operate a security and monitoring business for residential and commercial customers of CareTaker. We also allow BHE to invest up to $680,000 in CareTaker and approve a support services agreement allowing BHE to provide certain support services to CareTaker.

II. BACKGROUND

On July 17, 1998, BHE filed a Petition for Affiliated and Reorganization Approvals Needed in Connection with its CareTaker business. In its filing, BHE requested approval pursuant to section 708 of Title 35-A to form and participate in CareTaker, to invest $215,000 in cash to cover operational cash shortfalls at CareTaker during the 12-month period beginning with the filing and to transfer $177,135 in assets to CareTaker.[1] BHE also sought approval pursuant to section 707 of Title 35-A to enter into a support services agreement with CareTaker.

In our January 28, 1997 Order in *Robert D, Cochrane et al v. Bangor Hydro-Electric Company*, Docket No. 96-053, we required BHE to form a separate subsidiary to undertake its security alarm business which is a non-core activity. The Order also required BHE to file for approval of a reorganization and affiliated transactions in connection with the creation of a separate subsidiary for its CareTaker operation. 35-A M.R.S.A. §§ 707, 708. In addition, Chapter 820 of the Commission's rules took effect on August 14, 1998. These rules set forth requirements for utility participation in non-core activities such as BHE's CareTaker.

On August 7, 1998, the Examiner issued a Notice of Proceeding and Procedural Order requiring BHE to prefile testimony relating to its financial condition, its valuation for the use of its name by CareTaker, and support for a request of a waiver of Section 5(B) of Chapter 820. On August 24, 1998, BHE filed the testimony of Frederick S. Samp. In that testimony, BHE indicated that CareTaker intends to use BHE's name in

[1] Based on projected cash flow analysis for CareTaker, BHE anticipates that it will need to make additional investments in CareTaker in subsequent years. It will seek approval for any additional investments. Petition at 3.

its promotions or advertisements and to charge CareTaker for using BHE's name in accordance with the formula stated in section 4(C) of Chapter 820. In addition, BHE requested that the Commission waive section 5(B) of Chapter 820 based on the financial information filed in the record in Docket No. 97-796 (*Bangor Hydro-Electric Company, Petition for Affiliated and Reorganization Approval Needed in Connection with Bangor Gas Company Transaction).*[2] BHE also indicated that it had, as of the date of the prefiled testimony, invested a total of $219,525 in CareTaker. Thus, as of August 24, 1998, BHE sought to invest a total of $611,660. In the course of this proceeding, BHE updated the total amount that it sought approval to invest. The Stipulation asks the Commission to approve a total investment in CareTaker of $680,000.

The Public Advocate and Central Maine Power intervened in this case. The Public Advocate and the Commission's Advisory Staff (Advisors) issued data requests to which the Company responded. The Commission held two technical conferences. The Public Advocate, BHE and the Advisors participated in the conferences. In order to allow discussions between the Advisors and BHE to continue after the technical conferences, the Public Advocate and CMP agreed to an *ex parte* waiver. On December 7, 1998, BHE filed a Stipulation on behalf of itself and the Public Advocate. BHE represents that CMP has no objection to the Stipulation.

By the agreement of the parties, the record in this proceeding includes the Stipulation, all discovery materials, prefiled testimony, transcripts of technical

[2] BHE later produced an updated financial forecast reflecting its agreement to sell its generation assets.

conferences and the entire record in Docket No. 97-796, including testimony, discovery materials and transcripts of technical conferences.

III. PROVISIONS OF THE STIPULATION

The Stipulation states the parties agreement that:

- the Commission should approve BHE's creation of CareTaker, which will be wholly owned by BHE;
- the sole purpose of CareTaker will be to own and operate a security and monitoring business;
- the Commission should grant a waiver from section 5(B) of Chapter 820 to allow BHE to invest a total of $680,000 in CareTaker including amounts already expended on CareTaker, asset transfers, and amounts, including development costs, that the Company expects to invest in CareTaker during the period from July 1, 1998 to December 31, 1999;
- the Commission should grant a waiver (to the extent necessary) from section 4(A) of Chapter 820 to allow BHE to use the cost allocation methodology set forth in its cost manual to allocate the costs associated with BHE services and facilities that will be used by CareTaker;
- a waiver of section 4(A) is based on BHE's representation that CareTaker's use of BHE's services and facilities will be limited and will decrease after a transition period;
- the waiver may be revoked, after BHE has an opportunity to be heard, if CareTaker's use of BHE's services extends beyond the limited use represented by BHE;
- six months after the approval of the Stipulation, BHE will file a report at the Commission describing the extent of CareTaker's use of BHE's services and facilities;
- based on the waiver of section 4(A), BHE should be granted permission to enter into the Support Services Agreement filed in this matter;
- BHE's participation in CareTaker will be consistent with the requirements of Chapter 820 except for sections 4(A) and 5(B).
- BHE will use the methodology set forth in Chapter 820 to determine the value to CareTaker of using BHE's name;

- BHE will not enter into any arrangement with CareTaker other than those approved in this Docket, except if granted approval by the Commission;

- CareTaker will not lease any space from BHE without specific Commission approval except that BHE will be permitted to provide office, and storage space during a six month transition period after the Commission approves the Stipulation; and

- the Commission will be provided reasonable access to CareTaker's books and records.

In addition, the Stipulation contains the following provision:

> BHE's ratepayers shall be held harmless from any and all negative consequences flowing from BHE's investment and participation in CareTaker, regardless of the prudence of BHE's actions in participating in CareTaker. Negative consequences include, but are not limited to, effects on cost of capital, cash flows, financial indicators, and financing costs (e.g., financing costs, higher than would have otherwise been the case for utility capital projects, financing costs [sic], buyouts of purchasing power contracts, or the pay-down of debt). In any proceeding that may affect rates or involve the issue of the financial condition of Bangor Hydro, Bangor Hydro shall have the burden of proof that ratepayers are held harmless. The parties further agree that the intent and purpose of this provision of holding ratepayers harmless shall not be hindered or compromised by an inability to quantify with precision the financial consequences to ratepayers of BHE's participation in CareTaker.

Stipulation ¶ 5. This provision is nearly identical to the ratepayer hold harmless language in the Stipulation in Docket No. 97-796 approved in our Phase I Order in that case. *See* Second Revised Stipulation ¶ 4(b), appended to Order Rejecting Stipulation and Approving Second Revised Stipulation, (Phase I Order), *Bangor Hydro-Electric Company Petition for Affiliated and Reorganization Approval Needed in Connection with Bangor Gas Company Transaction,* Docket No. 97-796 (March 26, 1998).

IV. DISCUSSION

A. Approval of Investment with Conditions

1. Statutory and Regulatory Criteria

We have recently set forth the standards governing reorganizations of public utilities. In our Phase II Order in Docket No. 97-796, we stated:

> Section 708 of Title 35-A provides that no reorganization may be approved unless the applicant establishes that the reorganization is consistent with the interests of the utility's ratepayers and investors. Section 708 further states that in granting its approval for a reorganization, the Commission shall impose such terms, conditions and requirements as are necessary to protect the interests of ratepayers, including, in relevant part, provisions which ensure:
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> - that the utility's ability to attract capital on reasonable terms, including the maintenance of a reasonable capital structure, is not impaired;
> - that the ability of the utility to provide safe, reasonable and adequate service is not impaired;
> - that the utility's credit is not impaired or adversely affected; and
> - that reasonable limitations are imposed upon the total level of investment in non-core ventures.

Bangor Hydro-Electric Company, Petition for Affiliated and Reorganization Approval Needed in Connection with Bangor Gas Company Transaction, Docket No. 97-796, Order (Phase II) at 3 (October 30, 1998). *See also, Maine Public Service Company, Request for Approval of Reorganization Approvals and Exemptions and for Affiliated Interest Transaction Approvals,* Docket No. 98-138 Order at 2-3 (September 2, 1998) (MPS Order). In addition, section 707 of Title 35-A prohibits utilities from entering into

agreements with an affiliated interest unless the Commission approves the agreement.[3] Section 713 of Title 35-A specifies that a utility may not charge its ratepayers for costs attributable to unregulated business ventures. *Id.*

Taken together, these statutory provisions require utilities entering into non-core ventures to demonstrate that ratepayers are insulated from any negative financial consequences that may result from a utility's participation in such non-core ventures.[4] MPS Order at 3. The Legislature also sought to preclude ratepayer subsidy of unregulated businesses, as well as any unfair competitive advantages that may result from an affiliation with a utility. 35-A M.R.S.A. § 713.

Chapter 820, which governs a utility's non-core activities and transactions between affiliates, implements the legislative policies and directives set forth in sections 707, 708 and 713. Section 5(B) of Chapter 820 provides, in relevant part: "No petition for affiliated interest or reorganization approval for a utility to invest in a non-regulated affiliated interest shall be approved if the utility's bond rating is below investment grade." MPUC Rules Ch. 820 § 5(B). Chapter 820 uses the utility's credit rating as the standard for allowing investments because such ratings are a reliable indicator, prepared by an independent entity, of a utility's financial health. MPS Order at 7, citing Order Provisionally Adopting Rule at 38, Docket No. 97-886 (Feb. 18, 1998). The rationale underlying section 5(B) of Chapter 820 is that a utility with a non-investment grade bond rating is not financially sound and, as a result, there is a

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[3] In order to approve an affiliated interest transaction, the Commission must find that it is not adverse to the public interest. 35-A M.R.S.A. §707(3).

[4] Negative financial consequences of a utility's non-core investments may include increases in the cost of debt or equity.

reasonable likelihood that the Commission would not be able to fulfill its policy of protecting ratepayers from the consequences of a utility's participation in non-core activities. MPS Order at 4**.**

Chapter 820 also seeks to protect ratepayers from subsidizing non-core activities and to prevent unfair competitive advantages by establishing specific affiliate transaction and accounting rules. Section 4 of Chapter 820 requires utilities and affiliates to charge each other market rates for goods and service that are not tariffed. To the extent a market price is unavailable, Chapter 820 requires the utility to charge its affiliate based on a fully distributed cost methodology. MPUC Rules Ch. 820 § 4.

In addition, Chapter 820 allows for a waiver of any of the rule's provisions that are not required by statute upon a finding of good cause and that the waiver would not be inconsistent with the purposes of Chapter 820 or applicable statutes. MPUC Rules Ch. 820 § 9.

2. Requested Waiver of Section 5(B) of Chapter 820

The Stipulation states the parties' agreement that a waiver of Section 5(B) of Chapter 820 should be granted to allow BHE to invest $680,000 in CareTaker from the inception of the CareTaker business in 1995 through December 31, 1999. In our decision in Docket No. 97-796, we allowed BHE to invest $1.22 million in Bangor Gas. Granting the waiver and approving the proposed investment in CareTaker would increase the amount of BHE's total non-core investments to $1.9 million.

BHE does not currently have an investment grade bond rating. BHE's most recent rating is Standard & Poor's private letter rating of BB.[5] Thus, unless a waiver of section 5(B) of Chapter 820 is granted, BHE would not be allowed to make the $680,000 investment.

We must determine whether there is good cause for the waiver and whether the waiver is consistent with the purposes of Chapter 820 and section 708 of Title 35-A. In so doing, we determine whether ratepayers can be insulated from the negative effects of the investment. We consider first whether BHE's financial condition is sound enough to make the investment even though it has not attained an investment grade bond rating. *Bangor-Hydro Electric Company, Petition for Affiliated and Reorganization Approval Needed In Connection with Bangor Gas Company Transaction,* Docket No. 97-796, Phase II Order at 5. (October 30, 1998), (Phase II Order). The reason for making this determination is that "unless the utility is in sound financial condition, it is impossible to insulate ratepayers from the negative consequences of an investment." Phase II Order at 2. We also consider ways to enforce our legislative and regulatory mandate that ratepayers shall not be subject to any increase in costs resulting from a utility's non-core investment.

a. <u>BHE's Financial Condition</u>

In our Phase II Order in Docket No. 97-796, we determined that:

> BHE's financial condition has improved since March 1998. By no stretch, however, can BHE be viewed as so healthy

[5] *See* letter dated February 10, 1998, from Standard & Poor's to Frederick S. Samp, Appended to BHE's supplemental filing of July 17, 1998, Docket No. 97-796.

> financially that we should abandon our scrutiny over the size of its investments in non-core activities.

Phase II Order at 16. Since the closing of the record in Docket No. 97-796, BHE announced its agreement to sell most of its generation assets for approximately 1.5 times their book value (or approximately $90 million). BHE subsequently submitted an updated forecast based on the anticipated generation asset sale. The updated forecast indicates that BHE's financial performance will improve as a result of the asset sale. Based on the updated forecast, it appears that the Company's financial indicators will likely be within the range necessary to attain an investment grade bond rating within the next few years.

Having considered the moderate size of BHE's cumulative non-core investments and BHE's improved financial condition, we find good cause for the waiver of section 5(B), as long as ratepayers are insulated to the maximum degree possible from the negative impact of BHE's non-core investments. In order to ensure that ratepayers are fully protected, we condition our approval of the Stipulation on certain measures designed to ensure that ratepayers are held harmless from the negative consequences of BHE's non-core investments. We adopted these conditions in our recent approval in Docket No. 98-138 of MPS's $2 million investment in its marketing affiliate. We discuss these conditions below.

b. <u>Provisions to Hold Ratepayers Harmless</u>

In the MPS case, we articulated a methodology that we find appropriate in this case to enforce the parties' agreement that ratepayers should be

held harmless from the negative effects of BHE's proposed investment. *See* Stipulation, ¶ 5. In the MPS Order, we stated:

> After careful consideration, we will allow MPS to proceed with its investment upon the condition, and with the complete understanding, that ratepayers will not be subject to any additional costs that may result from the investment.
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> To enforce this condition, we intend to scrutinize any future rate request to ensure that ratepayers are held completely harmless. MPS is under a permanent obligation to demonstrate in any rate proceeding that no part of a rate request is caused by its investment in EA. If MPS cannot make such a showing, we will reduce the amount of the rate change accordingly to ensure that ratepayers have been insulated from the investment. Moreover, we will not allow ratepayers to pay for any additional interest costs resulting from a debt covenant violation that is caused in whole or in part by the investment; neither will we allow an increase in rates to maintain or place the utility in compliance with its debt covenants if the violation or potential violation is a direct or indirect result of the investment.
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> We will also act to neutralize any impact of the investment on the Company's cost of capital through mechanisms, described below, that establish caps on the costs of debt and equity in future rate proceedings *unless the Company demonstrates that the caps should not apply.* In essence, we adopt a rebuttable presumption that the costs of debt and equity will not be higher than the caps. For existing variable-rate debt (either long-term or short-term debt) on MPS's books, we will use the current margin to the stated index as the maximum margin allowable regardless of the Company's future circumstances. The reason for this is that it is common practice in negotiations regarding the breach of loan covenants for lenders to increase the margins they charge the borrower and also to impose additional fees.
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> . . . .
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> The possibility of new fees and higher rates also exists with the company's fixed-rate long-term debt. We will similarly cap MPS's fixed-rate long-term debt instruments at

their current embedded cost rates subject to a demonstration that a higher rate is unrelated to EA.

It is conceivable that MPS could require future debt issuances for utility purposes but be in a weakened financial condition due to some event at EA. To prevent ratepayers from being subject to this risk, MPS's future debt cost will be capped at the then current rate on investment grade utility bonds (defined as having a rating not lower than BBB- from S&P, Fitch or Duff & Phelps, or Baa3 from Moody's).

The question of segregating any cost impact of the EA investment on MPS's cost of equity is more complex. We adopt a methodology to cap the Company's cost of equity using a variation of a risk premium approach to insulate MPS's ratepayers from changes in cost of equity due to investments in EA. Rather than using Treasury or other debt instruments as the benchmark to which an equity risk premium would be added, we will use an <u>industry-specific risk premium</u> for the foreseeable future. Specifically, we will calculate both the current cost of equity for a peer group of electric utilities comparable to MPS as well as the current cost of equity for an index of water utilities to determine an appropriate premium (if any) for the electric industry today versus the water utility industry. As part of MPS's upcoming proceeding to establish transmission and distribution rates, we will determine an appropriate "electric industry" cost of equity margin for MPS. This margin would then be added to the calculated result for the same index of water utilities at a point in the future when the question may arise in order to determine a maximum possible cost of equity for MPS. The water utility industry is our benchmark in this methodology because it is not currently undergoing substantial structural change and remains largely a monopoly service. It is reasonable to compare the future T&D utility industry to the water utility industry today. Therefore, the water industry appears to be a good proxy for the T&D utility industry for the foreseeable future. If future structural changes in the water industry invalidate this comparison, we will revisit this position. For the time being, however, this methodology would capture changes in the capital markets that would have an impact on "pure utilities."

. . . .

> To conclude, we emphasize to MPS that despite its current or future financial condition, we intend to fulfill our policy of insulating ratepayers from the consequences of this investment. Therefore, if MPS decides to go ahead with the investment, it is doing so with the clear knowledge that rate relief will not be afforded if the need is a consequence of the investment.

MPS Order at 5-7.[6] We conclude that these conditions are equally applicable in this case. Because BHE has not attained investment grade bond rating, it is imperative that we implement safeguards to insulate ratepayers from any cumulative negative effects of BHE's non-core investments. Unless we can ensure that ratepayers will be held harmless from any negative effects of BHE's non-core investments, we cannot find that there is good cause for granting a waiver of section 5(B) or that the waiver is consistent with the regulatory and statutory policy of protecting ratepayers from the negative consequences of a utility's participation in non-core activities.

We conclude that the conditions fashioned by us in the MPS case provide specific methodology to enforce the ratepayer hold harmless provision set forth in the Stipulation. Establishing a rebuttable presumption that caps the cost of debt and equity in future rate proceedings, unless the Company shows that the caps should not apply, requires BHE to carry the burden of proof that ratepayers are held harmless. Stipulation ¶ 5. This requirement is especially important because of the difficulty of segregating the negative effects of the Company's non-core investments

[6] The MPS Order also provided that MPS would have both the burden of production and burden of persuasion in such proceedings and that in the event that the portion of a requested rate increase attributable to the EA investment cannot be readily determined, the Commission will approximate an amount based on any available information.

from negative effects of events or circumstance relating to the Company's core operation.

Moreover, BHE could overcome the rebuttable presumption by showing that an event related to the Company's core activity caused the increased cost. For example, in Docket No. 97-201, we determined that the Company's cost of debt for financing the Ultra-Power buyout increased as a result of covenant violations caused primarily by the Maine Yankee outage. *See Bangor Hydro-Electric Company, Petition for Temporary Rate Increase,* Docket No. 97-201, Order (Part II) at 7-9 (August 13, 1997). In such a case, BHE could demonstrate that the caps should not apply.

Accordingly, we grant the waiver from section 5(B) and approve the investment subject to the following conditions:

> 1. BHE must demonstrate in a rate proceeding that no part of a rate increase is caused by its non-core investments.[7] If BHE cannot make such a showing, the Commission will reduce the amount of the rate change accordingly to ensure that ratepayers have been insulated from the investments. In the event that the portion of a requested rate increase attributable to the non-core investment cannot be readily determined, the Commission will approximate an amount based on any available information.[8]
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> 2. Ratepayers will not be required to pay for any additional interest costs resulting from a debt covenant violation that is caused in whole or in part by the non-core investments.

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[7] Because of the difficulty of isolating any negative effect of BHE's investment in CareTaker from the negative effect of BHE's cumulative non-core investments, the conditions apply to all of BHE's non-core investments.

[8] BHE will have both the burden of production and burden of persuasion in such proceedings.

3. Rates will not be increased to maintain or place the utility in compliance with its debt covenants if the violation or potential violation is a direct or indirect result of the investments.

4. In order to neutralize any impact of the non-core investments on the Company's cost of capital, we establish caps on the costs of debt and equity in future rate proceedings unless the Company demonstrates that the caps should not apply. A rebuttable presumption exists that the costs of debt and equity will not be higher than the caps. Specifically:

a. For existing variable rate debt (either long or short term debt) on BHE's books, the applicable margin will be capped at the current margin to the stated index regardless of the Company's future circumstances. The reason for this cap is that it is common practice in negotiations regarding the breach of loan covenants for lenders to increase the margins they charge the borrower and also to impose additional fees.

b. The possibility of new fees and higher rates also exists with the Company's fixed rate long-term debt. We will similarly cap BHE's fixed-rate long term debt instruments at their current embedded cost rates subject to a demonstration that a higher rate is unrelated to BHE's non-core activities.

c. If BHE requires future debt issuances, its debt cost will be capped at the prevailing rate applicable to investment grade utility bonds **(**defined as having a rating not lower than BBB- from S&P, Fitch or Duff & Phelps, or Baa3 from Moodys). This provision prevents ratepayers from paying higher interest costs if BHE requires future debt for utility purposes but is in a weakened state due to its participation in non-core activities.

5. We adopt a methodology to cap the Company's cost of equity using a variation of a risk premium approach to insulate BHE's ratepayers from changes in cost of equity due to investments in non-core ventures. Rather than using Treasury or other debt instruments as the benchmark to which an equity risk premium would be added, we will use an <u>industry-specific risk premium</u> for the foreseeable future. Specifically, we will calculate both the current cost of equity for a peer group of electric utilities comparable to BHE as well as the current cost of equity for an index of water utilities to determine an appropriate premium (if any) for the electric industry today versus the water utility industry. As part of BHE's ongoing proceeding in Docket No. 97-596 to establish transmission and distribution rates, we will determine an appropriate "electric industry" cost of equity margin for BHE. This margin would then be added to the

> calculated result for the same index of water utilities at a point in the future when the question may arise in order to determine a maximum possible cost of equity for BHE. The water utility industry is our benchmark in this methodology because it is not currently undergoing substantial structural change and remains largely a monopoly service. It is reasonable to compare the future T&D utility industry to the water utility industry today. Therefore, the water industry appears to be a good proxy for the T&D utility industry for the foreseeable future. If future structural changes in the water industry invalidate this comparison, we will revisit this position. For the time being, however, this methodology would capture changes in the capital markets that would have an impact on "pure utilities."[9]

In addition to the above conditions designed to hold rate payers harmless from the negative consequences of BHE's participation in non-core ventures, we also require BHE to obtain any additional authorization it may need from its lenders to make the $680,000 investment in CareTaker before making the investment. The purpose of this requirement is to prevent any increased interest costs that might result from a violation of the conditions of BHE's agreement with its lenders.

B. Support Services Agreement

The Stipulation states the parties' agreement that the Commission should grant a waiver (to the extent necessary) of section 4(A) of Chapter 820 and approve the Support Services agreement filed by BHE in this matter. The Support Services Agreement lists numerous services that may be provided to CareTaker by BHE and also provides that charges for the use of such services shall be:

> (1) If the service is a tarrifed service it shall be provided at the tarrifed rate; (2) If the service is one of which there is a readily available market rate, such service shall be provided at the market rate; or (3) If the service is one for which either (1) or (2) above do not apply the service shall be provided on a fully distributed cost basis.

[9] In the future, if a sufficient number of "pure" T&D electric utilities emerge, we may adopt methodologies that use those utilities directly, rather than our present choice of the water companies plus some margin.

Support Services Agreement, Article II, ¶ 1. In addition, BHE has indicated that it will use the methodology set forth in Chapter 820 to determine payments that will be made by CareTaker to BHE for CareTaker's use of BHE's name. BHE has represented that it intends that CareTaker will have its own employees and office space after a transition period and that it expects that BHE employees will be used by CareTaker in a limited manner during a six month transition period. During the transition period, CareTaker is expected to use approximately 270 labor hours of BHE employees; BHE anticipates that CareTaker will be charged approximately $6,750 for the use of BHE's services during the transition period. BHE has represented that after CareTaker has its own space and employees, CareTaker's use of BHE employees will decrease.

BHE has submitted a copy of its cost manual in this proceeding. Having considered the information provided by BHE in support of its cost allocation manual in this proceeding, it is not clear that BHE's methodology for assigning direct and indirect costs to CareTaker is consistent with section 4(A) of Chapter 820. However, we agree with the parties that there is good cause for the waiver. CareTaker's use of BHE's resources is expected to be very limited, and therefore the dollar amounts at issue are very small. In addition, the Stipulation's reporting requirement will allow us to determine, on an ongoing basis, whether a waiver of section 4(A) of Chapter 820 continues to be appropriate. Further, the Stipulation's revocation mechanism provides a safeguard if the report shows that the use of BHE facilities and services by CareTaker is greater than expected.

Accordingly, based on the representations and conditions set forth in the Stipulation, we find good cause to grant a waiver of section 4(A) of Chapter 820 and will allow BHE to use its cost allocation methodology to allocate costs associated with CareTaker's limited use of BHE facilities and services. In addition, we find that, based on the representations and safeguards set forth in the Stipulation, the Support Services Agreement is not adverse to the public interest and we, therefore, approve it. 35-A M.R.S.A. §707.

V. CONCLUSION

Based on the above discussion, we conditionally approve the Stipulation.

Dated: December 17, 1998

Respectfully Submitted,

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Lisa C. Fink
Hearing Examiner

Angela Monroe
Richard Kivela
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Advisory Staff