

**STATE OF MAINE  
PUBLIC ADVOCATE OFFICE**

**ANNUAL REPORT  
JULY 1, 2004 TO JUNE 30, 2005**



Stephen G. Ward, Public Advocate  
William C. Black, Deputy Public Advocate  
Wayne R. Jortner, Senior Counsel  
Eric J. Bryant, Senior Counsel  
Ronald N. Norton, Economic Analyst  
Charles Pray, Nuclear Safety Advisor

Located: 103 Water St., 3<sup>rd</sup> Floor  
Hallowell, ME 04347  
Tel. 207-287-2445  
Fax 207-287-4317  
Email: [Stephen.G.Ward@maine.gov](mailto:Stephen.G.Ward@maine.gov)  
URL: [www.maine.gov/meopa](http://www.maine.gov/meopa)

## Table of Contents

	<u>Page</u>
A. Introduction: Savings for Ratepayers in 2004-2005 . . . . .	1
B. Advocating for Utility Consumers in Maine since 1982 . . . . .	2
C. Dealing with Customer Complaints, Consumer Education at the Legislature . . . . .	5
D. Electricity Cases at the Maine PUC and FERC . . . . .	6
E. Telephone Cases at the PUC, Maine Supreme Court and FCC . . . . .	16
F. Water Company Cases and Water Districts . . . . .	21
G. Natural Gas Cases at the PUC and FERC . . . . .	25
H. Radioactive Waste and Nuclear Power Issues . . . . .	27
Attachment A: Summary of Ratepayer Savings . . . . .	30
Attachment B: Performance Indicators - Newsletters Mailed. . . . .	34
Attachment C: Performance Indicators - Cases and Contacts . . . . .	35
Attachment D: 122 <sup>nd</sup> Legislature, 1 <sup>st</sup> Session - Bill Status Report. . . . .	36
Attachment E: Speaking Engagements - 7/1/05-6/30/05. . . . .	45
Attachment F: Breakout of Staff Time by Utility Category, FY 05 . . . . .	47
Attachment G: Electric Price Mitigation Task Force Report . . . . .	48
Attachment H: July 5, 2005 Letter to FERC from 28 Members of Congress. . . .	54

**A. Introduction: Savings for Ratepayers in 2004-2005**

Between July 2004 and June 2005 the Public Advocate Office scored several meaningful victories for Maine’s utility consumer. These included:

- a reduction in the “stranded costs” collected by Central Maine Power Company from its customers due to our success in negotiating for a three-year “levelization” of those costs, as one of four parties to the case. A 25% share of \$22.2 million is a \$5.5 million result of our advocacy;
- creation of a \$750,000 annual credit for natural gas customers in Maine, as part of a FERC settlement of the Maritimes and Northeast rate case;
- a reduction in Bangor Hydro-Electric’s stranded costs attributable to Public Advocate testimony on lowered costs of equity that resulted in an agreement to drop carrying charges from approximately 12.4% to 11.28% - equaling \$158,259 in lowered rates annually; and
- a win at the Maine Supreme Court which ruled in the Office's favor in January 2005 in a long-lived appeal of a 2001 PUC decision regarding Verizon's local rates.

As a result of these efforts, rates for Maine consumers were set at annual levels that we estimate to be \$6,460,282 lower than they would have been in the absence of our advocacy. This nearly \$6.5 million savings in annual rates compares favorably with the Office’s annual budget of \$1.5 million, yielding a return on investment for consumers of more than \$4 for every dollar in our annual budget. These savings when added to our previous efforts over the prior 22 years generate a total savings of \$245 million, as described in greater detail in Attachment A. This \$245 million total includes both litigated outcomes involving no other party as well as multi-party settlements, which the Office successfully negotiated with other interveners. Cumulative savings over the last 23 years are presented on page 4 of Attachment A.

July 29, 2005

Dear Consumer,

It is both a privilege and responsibility to serve as Maine’s Public Advocate during these contentious times in the nation’s telecommunications, energy and utility sectors. I have the good fortune of working with a highly experienced staff (three lawyers, an economist and three skilled support personnel) whose combined service for the OPA totals an impressive 114 years.

We do our utmost to respond to the needs of Maine’s utility consumers. Do not hesitate to contact the Office -- electronically, by mail, in-person at our Hallowell office or over the telephone -- if we can help you, your family or business with a utility problem, controversy or choice.

Again, thank you for the honor of serving as your Public Advocate since 1987.

Sincerely,  
Stephen G. Ward  
Public Advocate

## **B. Advocating for Utility Consumers in Maine Since 1982**

The Public Advocate Office began operations in 1982 in order to give consumers their own voice in utility-related proceedings at the Public Utilities Commission, at the Maine Legislature, at federal agencies and in State courts. In the past twenty-three years, the Office has pressed for lower utility bills for consumers and improved quality of service from utilities. These twin objectives have not changed materially over the years, but the settings in which the Office's personnel operate have changed considerably and the tasks we perform have also evolved.

In the year ending June 2005, the Office focused on tasks, initiatives and proceedings in Maine to a much greater extent than in recent years. This focus on in-state activity was the result of a number of intersecting factors: our involvement at the Maine Legislature in a full session involving numerous telecommunications and energy bills; agency-wide limitations on out-of-state travel; a complex and contentious case involving electric transmission in Northern Maine and alternatives to a proposed transmission project; and our participation in two gubernatorial initiatives seeking to improve wireless telephone coverage and penetration of high-speed Internet technologies in Maine. Notwithstanding these constraints, Office staff continued to be active on the national scene in 2004/2005 but to a lesser extent than in the past three years.

### **SHARE OF STAFF TIME DEVOTED TO REGIONAL PROJECTS**

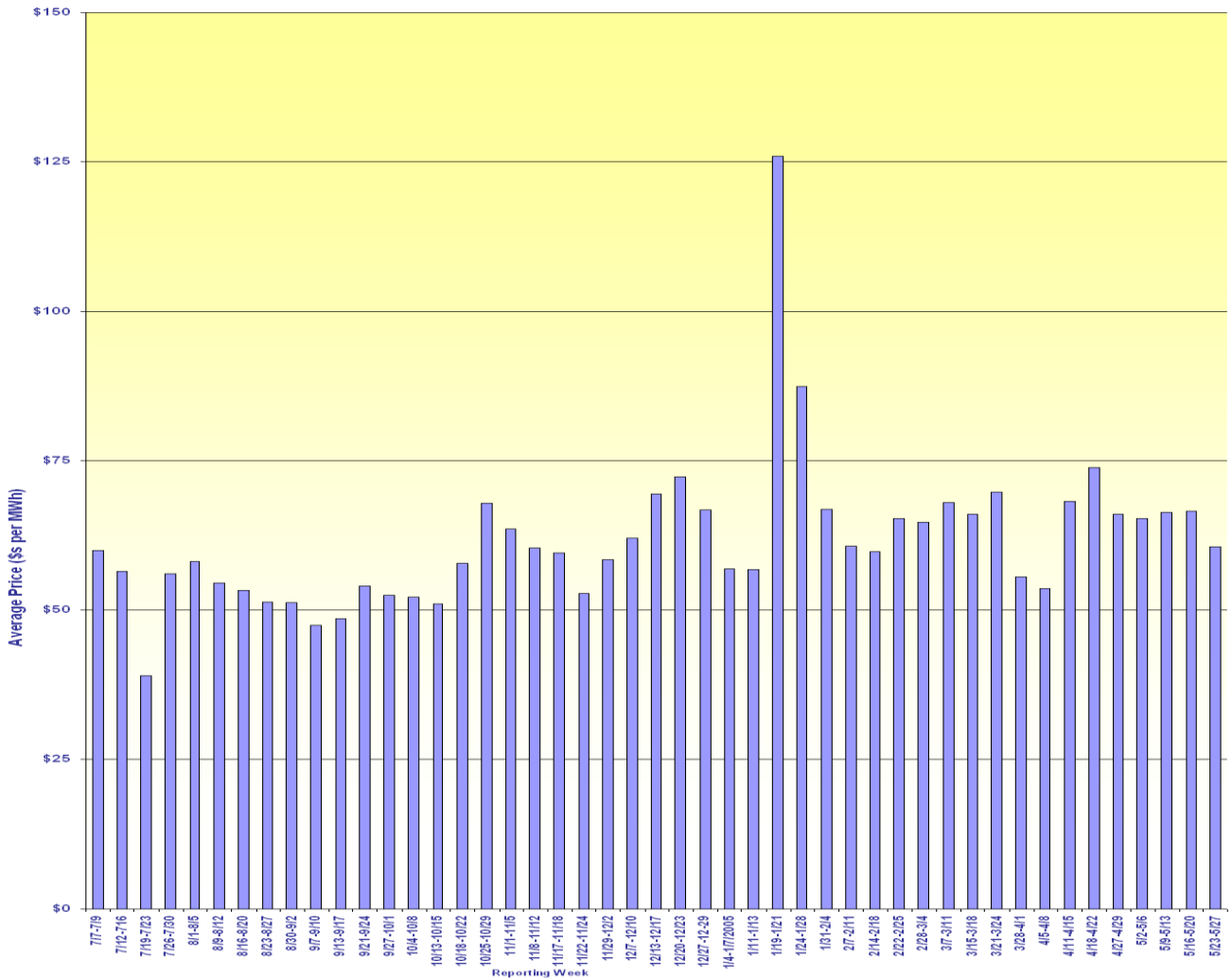
	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>
<b>A. Federal/regional advocacy % of staff direct time</b>	6%	13%	17%	24%	9%
<b>B. Maine-based in-state advocacy % of staff direct time</b>	94%	87%	83%	76%	91%

Public Advocate Ward continues to serve as a member of the North American Electric Reliability Council (NERC) and its Standards Authorization Committee and on the Executive Committee of the National Association of State Utility Consumer Advocates (NASUCA) - the national lobbying arm for 44 consumer advocate agencies in 41 states and the District of Columbia. The Office also has secured Maine's membership on the Retail Electric Quadrant of the North American Energy Standards Board (NAESB), the fledgling standard-setting body for commercial protocols in the nation's energy markets. Senior Office staff have also pursued important roles beyond Maine's borders. Senior Counsel Wayne Jortner currently serves as Treasurer for the Universal Service Administrative Company (USAC), overseeing the collection and allocation of \$6 billion in federal surcharges supporting low-income, telemedicine, library Internet and related programs. During 2004-05 Senior Counsel Eric Bryant has represented the office regularly before the Northern Maine Independent System Administrator (NMISA), at New England Power Pool (NEPOOL) committee meetings and at the Federal Energy Regulatory Commission (FERC).

During 2004/2005, Maine continued to be one of the nation's leaders in the extent of competition among electricity providers for medium and large business customers. 89% of CMP's industrial load was supplied by one of Maine's 55 licensed competitive providers, while the comparable

number for Maine Public Service was 87% in June 2005. Adding in smaller customers in other parts of the state causes the total of statewide load that was served by competitive providers in June 2005 to exceed 36%. For those customers who wish to shop for their own supply, there is an active and healthy retail market for electricity in Maine. Despite these indicators of health for Maine’s electric markets, wholesale electricity has become increasingly expensive in New England over the past year, bringing distress to many businesses and residential customers. As shown in the following chart, “Wholesale Electric Prices in New England,” wholesale prices have been volatile and generally trended upward. This trend reflects the underlying cost of natural gas, the fuel source for New England’s generation that most often sets the market-clearing price. Natural gas has tripled in price over the past three years and further increases are likely, at least until new liquefied natural gas supplies come to market. These price trends currently represent a major challenge for electric consumers in New England.

**WHOLESALE ELECTRIC PRICES IN NEW ENGLAND**



In the case of telecommunications markets in Maine, there continued to be an abundance of competitive options for long-distance service in 2004/2005 but in the case of local telephone service the opposite: a restriction of competition. This restriction was the result of two events: the FCC's elimination of a regulatory program (UNEP) that had enabled Verizon's competitors to inexpensively lease components of Verizon's network, and the imminent merger of Verizon nationally with one of its biggest competitors for local service, MCI. We currently estimate that Verizon's share of the market for local telephone service in Maine exceeds 90% - a very dominant position indeed at near-monopoly levels for local service.

During the fiscal year ending June 30, the Office generated a number of publications in an effort to inform the public about our mission. These publications are summarized below.

**Public Advocate Publications: July 2004 to June 2005**

- 1) September 24, 2004: "The Office of the Public Advocate Works for All Ratepayers," Capitol Weekly, Augusta
- 2) September 30, 2004: "Op-Ed Piece," opposing the self-generation plans of Eastern Maine Medical Center that will lead to lower revenue and higher rates for Bangor Hydro, Bangor Daily News
- 3) October 2004: Electricity Guide, Volume 9, "Green Power in Maine"
- 4) November 12, 2004: "The Anatomy of a Phone Bill and How to Save Money," Capitol Weekly, Augusta
- 5) January 2005: Ratewatcher Telecom Guide, Volume 15
- 6) February 4, 2005: "The Public Advocate Prevails in January 26th Supreme Court Decision," Capitol Weekly, Augusta
- 7) March 2005: Electricity Guide, Volume 10, "Prices for Electric Supply Went up in March...But the Sky is Definitely Not Falling"
- 8) March 2005: "Cross Sound Cable Project, An Overview," Consumer Energy Council of America, Transmission Infrastructure Forum
- 9) March 4, 2005: Press Release, "Public Advocate Office Staffers to Hold Individual Phone Bill 'Tune-up Sessions' at the Auburn Mall on March 9"
- 10) April 15, 2005: "The Anatomy of Your Electric Bill," Capitol Weekly, Augusta
- 11) April 19, 2005: Letter to the State Working Group, Regional Greenhouse Gas Initiative, with signatures of six other consumer advocates, calling for a public auction of carbon dioxide emission allowances
- 12) June 2005: Ratewatcher Telecom Guide, Volume 16

### C. Dealing with Customer Complaints, Consumer Education at the Legislature

In FY 2005, the Office regularly interacted with individual customers who contacted us with concerns or complaints about utility service. We also prepared and mailed newsletters on telephone and electric options to more than 78,000 consumers in the 12-month period ending in June 2004. In the case of individual customer complaints, the Office addressed more than 5,697 complaints or requests for information during FY 2005. This total includes contacts with legislators during the 122<sup>nd</sup> Regular Session and written testimony on individual bills during that session. Please see Attachments B and C for monthly detail on the frequency of newsletter mailings and on customer/legislator contacts.

As has been the case in prior years, the Office keeps track of those bills introduced during each legislative session and of our success in influencing debate on each bill. In 2005 the Office submitted written testimony on 29 bills in the 122<sup>nd</sup> Session. With respect to the bills on which the Office took a formal position, our recommendation corresponded to the final outcome in the Legislature on 21 occasions, or 72 % of the time. Attachment D presents a listing of all the bills we tracked during the First Regular Session and the disposition of each bill we testified on.

The Office of Public Advocate regularly accepts requests for public speaking engagements and addresses small groups on topics related to utility service.

As shown on Attachment E, the Office also has been quite active in responding to requests for speakers on utility-related topics. Thirteen of these informational talks took place in Maine at locations as diverse as a NIMSA meeting in Bangor and the Lion's Club in Westbrook and the University of Maine in Augusta. Attachment F provides a breakout of staff time for all eight OPA staff (exclusive of the Nuclear Safety Advisor) by project over the past fiscal year.

#### **Regional and National Meetings and Conferences** **July 1, 2004 to June 30, 2005**

1. Federal Energy Regulatory Commission, Maritimes and Northeast Pipeline rate case (Washington, D.C.)  
  
November 4, 2004, December 4, 2004, January 5, 2005, May 5, 2005  
Stephen Ward
2. Northern Maine Independent System Administrator (Bangor)  
  
August 31, 2004, October 19, 2004, December 14, 2004, February 15, 2005,  
April 26, 2005, June 21, 2005  
Stephen Ward, Eric Bryant
3. Northern American Electric Reliability Council (Vancouver, Long Beach)  
  
July 19-21, 2005, March 14-16, 2005  
Stephen Ward

4. Decommissioning Plant Coalition (Boston)  
 September 1, 2004, December 1, 2004, March 1, 2005, June 1, 2005  
Stephen Ward, Charles Pray
5. Universal Service Administrative Company (various locations)  
 July 19-21, 2004, October 18-20, 2004, January 24-26, 2005, April 18-20, 2005  
Wayne Jortner
6. Regional Greenhouse Gas Initiative (Boston and New York)  
 September 13, 2004, October 14, 2005, February 16, 2005, April 6, 2005  
Stephen Ward
7. Nuclear Waste Strategy Coalition (Washington, DC)  
 September 13-15, 2004, February 14-16, 2005  
Charles Pray
8. National Association of State Utility Consumer Advocates (Nashville, Washington DC, New Orleans)  
 November 14-17, 2004, March 1-2, 2005, June 12-15, 2005,  
Stephen Ward, Ron Norton, Wayne Jortner, Patty Moody, Debbie Tondreau, Eric Bryant, Mary Campbell, William Black
9. Independent System Operator - New England (various locations)  
 September 13-14, 2004, February 18, 2005, October 21, 2004  
Eric Bryant, Stephen Ward, William Black

#### **D. Electricity Cases at the Maine PUC and FERC**

##### 1. Central Maine Power Stranded Cost Case

The Office actively participated in the PUC case that addressed CMP's request for an adjustment in its stranded cost recovery in March 2005, beginning with a technical conference in August, 2004. CMP anticipated at that time a modest increase in recoverable stranded costs but that forecast changed due to number of factors. These included: increased sales of electricity above levels in the Company's current sales forecast; increased market prices for the Independent Power Production output and nuclear generation that CMP ultimately auctioned in November 2004, and decreased requirements for CMP's ownership share of Connecticut Yankee (CY) decommissioning costs.

We actively resisted CMP's request for full recognition in stranded cost rates of a 1,300% increase in Connecticut Yankee's decommissioning collection as proposed in a current



FERC proceeding. We argued that, given claims of imprudency and mismanagement of CY's decommissioning, there is no reason for the Maine PUC to put CY's full increase request into CMP's stranded cost rates as of March 2005. Additionally, a major civil trial in which CY seeks damages from its decommissioning contractor, Bechtel, would not have been concluded by March 2005 when stranded cost rates take effect. For both reasons, we argued that CMP's responsibility for increased decommissioning expense at CY is too uncertain to justify recognition now in CMP's stranded cost rates. We ultimately prevailed on this issue.

On September 16 we filed our stranded cost testimony in Phase I of the CMP Stranded Cost Case, at the same time the Industrial Energy Consumer Group (IECG) filed similar testimony and the PUC Staff filed a Bench Analysis. Following a technical conference on September 24 at which our accounting witness answered questions from CMP about his testimony, CMP filed its rebuttal case responding to the Bench Analysis of the PUC Staff and to our testimony. Additionally, on October 14, CMP filed its Phase II update of sales forecast and stranded cost accounting issues. At this point in the case, CMP projected a range of potential results for residential customers from a 3.3% increase to a 2.0% decrease and for industrial customers from a .1% increase to a 9.2% decrease. We evaluated CMP's testimony and the six rate design scenarios that CMP provided in order to identify the best result for the largest number of CMP's customers.

In November negotiations began among the multiple parties to the case. We began exploring the possibility of resolving by agreement the major questions associated with CMP's stranded cost rate change. In particular, the negotiators focused on the possibility of reconciling stranded cost estimates to actual results at the end of any twelve-month period. Reconciling estimates to actual expenditures eliminates uncertainty and justifies using a short-term debt rate instead of the overall cost of capital in computing the carrying costs for unrecovered stranded costs. The negotiators also looked at ways of softening the impact for larger customer groups of high electricity costs. Finally, the negotiators addressed the treatment of CMP's minority status under the CY ownership agreement.

In the third week of December we reached agreement with CMP, the IECG and the Independent Energy Producers of Maine (IEPM) on a 3-mil/kWh reduction on stranded cost rates for all customer groups to take effect in March 2005. The agreement calls for reconciliation of CMP's stranded costs, beginning in March 2005, and levelizes stranded costs over the 2005 to 2008 period so that rates are lower sooner. The 3-mil reduction amounts to a 2.2% reduction in the total rate for a typical residential customer or about \$2 per month for a typical residential customer. This decrease has partially offset the \$.02/kWh increase that resulted on March 1 from an increase in the Standard Offer rate for CMP's customers. On January 14, 2005 the Commission approved, by a 2-1 margin, the stipulation signed by CMP, the industrial customers, and our office over the objection of the MPUC Staff. That stipulation resulted in a price reduction for residential customers in the 3-mil/kWh range.

On December 30 we also filed with the PUC a letter from CMP, IECG and the IEPM's lawyers joining us in recommending the formation of an informal Electric Price Mitigation Task Force to investigate ways of moderating the impact of high electric supply and standard offer prices. This Task Force called on the resources of the PUC and solicited the input of the Governor's Office in exploring opportunities for lowering stranded costs and distribution rates. (See item 5 below)

## 2. Bangor Hydro-Electric Stranded Cost Case

On July 16, 2004, we joined the other parties to BHE's Stranded Cost Case at the PUC for an initial discussion of issues and scheduling. Bangor Hydro required a final PUC decision by February 15, 2005 in order to reset stranded cost rates for March 1. Because of a termination of major contracts with independent power producers and an expected reduction in BHE's authorized return on equity, we anticipated a lowering of stranded cost rates in March 2005.

On October 13 BHE provided discovery responses to our questions about Bangor's current costs of capital, which had not been re-set since 1999. Our consultant, Stephen Hill, prepared cost of capital testimony that we filed when the PUC rejected BHE's Motion in Limine to exclude such testimony. The PUC heard oral argument on that Motion on October 28. At hearings on October 16 we questioned six company witnesses on a variety of aspects of BHE's proposed adjustment to stranded costs, effective March 1, 2005. Eric Bryant participated in oral arguments before the PUC Commissioners over BHE's Motion to include any testimony or evidence on Bangor Hydro's cost of capital from this stranded cost case. In mid-November our consultants responded to discovery questions posed by Bangor Hydro on the testimony we filed on November 10 in BHE's stranded cost case. The PUC advisors also filed their bench analysis on November 10 with recommendations that were entirely compatible with those of our consultants.

In January we joined with IECG and Bangor Hydro in finalizing an agreement resulting in a 1¢ per kilowatt-hour decrease in BHE's stranded cost rates effective March 2005. The multi-party settlement included a lowered carrying charge rate (based on a lower cost of capital of 11.28%), agreement to the reconciliation of forecasted expenses and revenues to actual expenses and revenues and a revised sales forecast. The net effect is to reduce by more than 50% the impact of the 2¢ increase in Standard Offer costs that will also take effect on March 1, 2005. The stipulation resulted in a stranded cost price decrease in the 1 cent/kWh range, the first significant rate reduction for BHE since restructuring. On January 19 the PUC unanimously approved the settlement. Due to the expiration of major IPP contracts, the spreading out of costs over a 3-year period ending in 2008 and an agreed-to lowering of BHE's carrying charge on deferred costs, the outcome is a substantial reduction in stranded costs for BHE customers. The reduced carrying charge rate alone resulted in \$158,259 in lowered stranded cost rates annually.

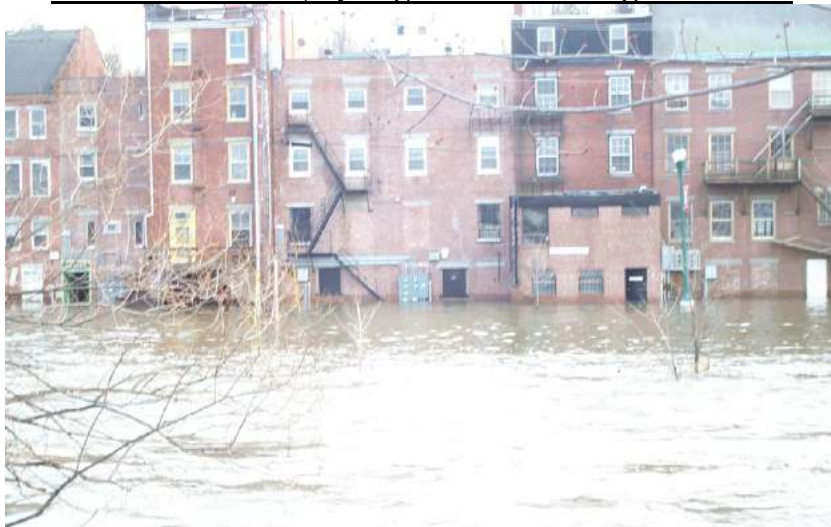
### 3. Bangor Hydro-Electric's Northeast Regional Intertie

In March 2005, we filed testimony in support of Bangor Hydro's request to build a second high-voltage transmission line connecting the Maine grid to that of New Brunswick. Although the facts did not overwhelmingly support the need for the line, we felt comfortable offering our support because the cost will be “socialized” throughout New England under current ISO-New England rules. Current estimates are that Maine ratepayers (not including those in Northern Maine) will pay no more than 10% of the estimated \$90 million cost.

The PUC convened an all day event on April 28 for all parties in the Northern Maine transmission line case, all parties to the Bangor Hydro/New Brunswick tie-line case, the Maine Public Service 35 MW capacity reservation case and the 15 MW Eastern Maine Co-op capacity reservation case. Also in attendance were officials from New Brunswick's System Operator, the New Brunswick transmission utility, the Northern Maine Independent System Administrator and ISO-New England. The two PUC Commissioners with the assistance of senior staff joined in extensive questioning of ISO-NE and New Brunswick personnel over the likely effects on Northern Maine from increased south-to-north capacity if a second tie-line to New Brunswick is built.

In June 2005, we reached agreement with Bangor Hydro on the terms for PUC approval of a Certificate of Public Convenience and Necessity for the new 345 KV tie-line to New Brunswick. The stipulation included BHE's agreement not to seek recovery at FERC of certain “localized” transmission costs if the PUC determines that those costs are not properly recoverable. The filing of the settlement (also joined by IECG with supporting letters from CMP and ISO-NE) placed before the PUC Commissioners a difficult question: can the PUC protect BHE customers from the imposition of “localized” transmission costs if FERC has explicitly approved them? The Stipulation pushes the envelope to a modest degree given the constraints of federal preemption case law. At year-end the PUC rendered its final decision in this case and approved the Stipulation and tie-line.

#### **Flood in Hallowell, Spring 2005: Drowning the Meters**



#### 4. Maine Public Service Tie-Line and Alternatives

Maine Public Service's proposal for construction of a new tie-line to New Brunswick triggered complex litigation over the past year, with four major elements. The first element concerns the status of New Brunswick Power in its transition to retail electricity choice. On October 1, that province accommodated, for the first time, the selection of electric suppliers other than NP Power for as many as 50 large industrial customers and 4 municipalities. As a result, the prospect has grown brighter for increased transfers of power to and from Aroostook County across the New Brunswick system and a mirroring of electric supply competition on the Canadian side of the border.

Second, Maine Public's claims that the new tie-line is needed to improve reliability were subject to dispute by many parties. At a technical conference at the PUC, representatives of the Houlton municipal utility and of Maine's independent power generators disputed claims by Maine Public Service that reliability concerns necessitate the new tie-line to New Brunswick. We engaged our own engineering consultant (from Synapse Energy Economics) to advise us in the matter and ultimately concluded that there was no near-term reliability concern.

The third complicating factor for MPS' tie-line proposal emerged on November 30 when Loring Bio-Energy filed a request for an amendment to the PUC Standard Offer rule, and made a related motion in the MPS tie line case. Loring, the proposed developer of a 55MW gas-fired co-generation plant to be located at the Loring Commerce Center, asked MPS to enter into a contract to purchase the output of the co-gen unit for two purposes: to improve reliability of the Northern Maine electric grid, and to increase competition in Northern Maine. Loring also claimed that this arrangement would facilitate the development of its plant, spur industrial development, and provide a boost to the Northern Maine economy.

Finally, the Northern Maine Independent System Administrator weighed into the case. NMISA focused primarily on how it should conduct its own independent review of grid reliability in Northern and Eastern Maine, given that the Board itself is composed of stakeholders who have a direct interest in electric transmission planning and pricing. It took several meetings for the Board to thrash out the proper relationship between its Director, and the Board itself, composed as it is of interests that are often at odds.

On January 28 we filed a response to Houlton's request that the PUC take no action on MPS' proposal for a new tie-line to New Brunswick and on the Loring Bio-Energy proposal. Our response was supportive of Houlton's argument that the PUC should consider input from the NMISA on the current level of grid reliability in Northern Maine but should not postpone a final decision in the case in order to get that input. Following extensive discovery, in early April the PUC heard oral arguments on Loring Bio-Energy's motion to have their siting issues incorporated into the Maine Public Service transmission line proceedings. MPS opposed the motion. On April 7 the PUC granted Loring's motion with the consequence of an immediate request from MPS for a delay in

hearings so that MPS could assemble testimony rebutting the claimed benefits of the Loring generator.

On April 14 we filed with the PUC testimony from Synapse Energy Economics opposing MPS' request for approval of a 35 MW reservation payment to New Brunswick Power. The payment covers NB Power's costs for building the tie-line continuation from Bangor Hydro's new transmission line into NB's existing system. NB Power is billing all entities with which it interconnects (Nova Scotia, PEI, Quebec, Eastern Maine Electric Co-op and MPS) for these costs. We urged the PUC to reject the reservation mechanism and instead have NB Power roll the transmission line costs into an Open Access Transmission tariff, so that only users of the BHE tie line pay for its costs.

During three days of hearings at the PUC on June 8-10, PUC Commissioners heard from witnesses presented by Maine Public Service, Houlton Water Company, Loring Bio Energy, and the Public Advocate presenting substantial disagreements as to the value of constructing the proposed Maine Public tie-line. With six parties in the case, nine expert witnesses, scores of exhibits, and an estimated 17.5 hours of cross-examination, the hearings were especially intense. We continued to advocate for a bid process in which competing generation alternatives to the new tie-line could be evaluated on a "level playing field" basis in determining whether building the transmission line is the least expensive means of improving system reliability over the next 5 to 10 years. At year's end the PUC had made no final decision in this matter and was awaiting briefs from the parties.

##### 5. Task Force on Electric Price Mitigation

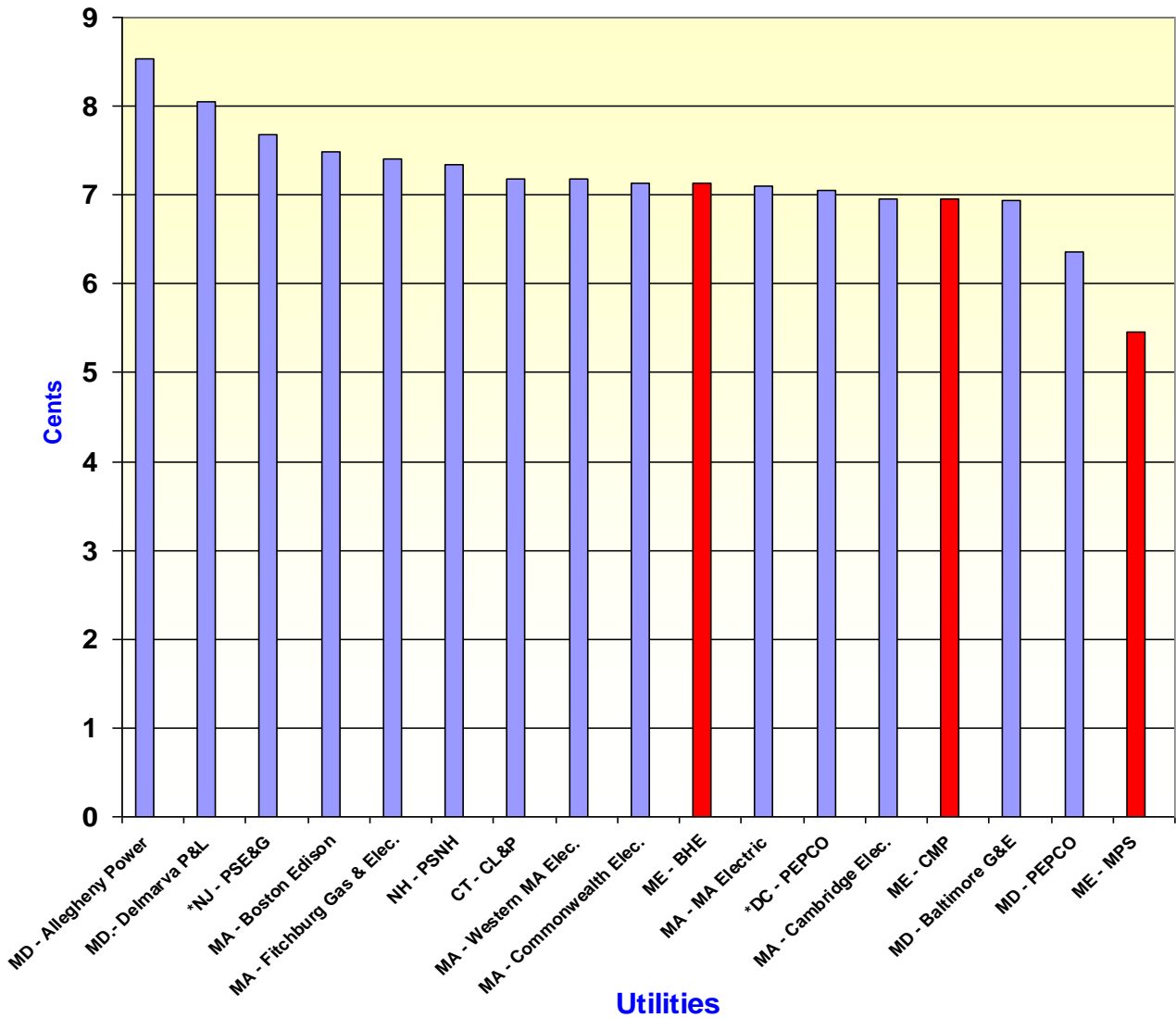
The PUC announced on December 15 that it had awarded a series of contracts to winning bidders in the BHE and CMP Standard Offer bid competitions for residential and small commercial customers. Each service territory will be served by a combination of Standard Offer providers over the next three years, ultimately resulting in a rolling set of 3-year contracts with the annual expiration of 33% of Standard Offer load each year in 2006, 2007 and thereafter.

For both CMP and Bangor Hydro residential customers the immediate result was a notable increase in retail power costs of 2¢ per kilowatt-hour. This increase amounts to \$10 per month or \$120 per year for a typical residential customer - a significant price increase. In response to these events in January we organized an agenda and scheduled the first meeting of an informal task force that met throughout the late winter at CMP. The group focused on opportunities for reducing CMP's bills in view of the negative effects of the March 2005 Standard Offer price change on both residential customers and Maine's economy.

The parties to the BHE and CMP stranded cost cases ultimately held five meetings for discussion of ways of lowering stranded costs and softening the impact on rising electric rates, with the able assistance of PUC Chairman Welch and Beth Nagusky and reached agreement on five action items. See Attachment G for a copy of the Task Force's March

21, 2005 letter to Governor Baldacci. As painful as the March 2005 increase in electric supply costs was for Mainers, most of the rest of the Northeast experienced even more drastic price increases. [see box]

**HOW MAINE'S NEW STANDARD OFFER PRICE FOR RESIDENTIAL CUSTOMERS COMPARES TO OTHER STATES**



6. Maine Electric Consumers Coalition, 1995 to 2005

We continued meeting this year with representatives of a number of statewide organizations for discussions of consumer aspects of electric restructuring. Representatives from AARP, IECG, Independent Energy Producers of Maine, Natural Resources Council, Competitive Energy Services, Constellation Power and the PUC joined Public Advocate Staff at meeting locations in Augusta for meetings and lunch. Foremost on the agenda was discussion of pending legislation at the Utilities Committee of the Maine Legislature, followed by an exchange of views on the long-term significance of the March 1, 2005 price increase. Some participants argued that customers are willing to pay a higher Standard Offer price in order to receive a full portfolio of energy contracts, selected through an auction process, which will reduce price volatility over the long run. Others are not convinced that customers are willing to build any price-hedging, volatility-dampening costs into the Standard Offer prices they must pay. For dates of meetings and Coalition membership, see below. The Coalition has been active at the Legislature and at the PUC on electric issues since 1995 with essentially the same membership. It celebrates its tenth anniversary in October 2005.

**Meetings of the Maine Electric Consumers Coalition**

1. September 23, 2004 at Captain Cote's in Augusta
2. October 20, 2004 at Preti Flaherty in Augusta
3. November 5, 2004 at NRCM in Augusta
4. December 8, 2004 at Captain Cote's in Augusta
5. January 19, 2005 at Captain Cote's in Augusta
6. February 4, 2005 at Captain Cote's in Augusta
7. March 11, 2005 at Preti Flaherty in Augusta
8. April 7, 2005 at OPA Offices in Hallowell
9. May 11, 2005 at OPA Offices in Hallowell

Attendance has ranged from 7 to 11 attendees per meeting representing from 6 to 10 organizations. Membership typically includes: AARP, the Industrial Energy Consumer Group, Natural Resources Council of Maine, Independent Energy Producers of Maine, Maine Council of Churches, Maine Council of Senior Citizens and the OPA.

## 7. FERC Locational Installed Capacity Proposal

Throughout the year customer groups and regulators focused on ISO-NE's multi-billion-dollar proposal for a Locational Installed Capacity Program (LICAP) in New England that is designed to create incentives for construction of new peaker generation units in New England. The region's consumer advocates as well as many PUCs in New England have been deeply concerned that the ISO's program will come at too high a price and may not, in fact, create any desirable incentives for investment in new peaker capacity. Further, we are not convinced that there is any new-term risk that Maine will have insufficient generation capacity.

On November 8, jointly with the Maine and Vermont PUCs, we filed testimony at FERC that challenged ISO-New England's extraordinarily expensive proposal for creating a capacity payment requirement in each of New England's zones. In that FERC proceeding, the litigation over a Locational Installed Capacity payment in wholesale electric rates established deep divisions between the positions of the public-sector parties on one hand and the generators and ISO-New England on the other. We currently anticipate that Maine's share of the region's LICAP responsibility would begin at \$130 million next year and ramp up to \$300 million annually by 2010. For the region as a whole these payments average as much as \$10.6 billion. The ISO-New England proposal therefore resembles a major transfer payment that could increase retail rates in Maine by as much as 40% but fails to bring new power plants on line. Appeals of a FERC order approving the LICAP proposal are probable. In late June, some 28 Members of Congress people collaborated in a joint letter to FERC's Chairman, calling for a delay in any implementation of LICAP. The letter is attached as Attachment H. Similar letters were sent to FERC by Maine's two senators and by all six New England governors.

The LICAP proposal is particularly distressing in view of higher Standard Offer prices in the region (see page 12), and the general upward trend of wholesale prices in New England over the past year (as shown on page 3).

## 8. Self-Generation at Eastern Maine Medical Center

In September 2004, Public Advocate Ward forwarded a letter to the Department of Health and Human Services (DHHS) Certificate of Need unit encouraging them to solicit advice from the PUC as to the economic justification for EMMC's proposed gas-fired electric generator. We were concerned by the probable consequences for Bangor Hydro's ratepayers if EMMC drops off the BHE system and generates its own electricity. The proposed 5 MW generator is economic for EMMC only if natural gas price forecasts, unit availability estimates and predicted BHE retail prices are all valid. We believed there was good reason for the PUC to assist DHHS in evaluating these estimates. On a related point, the Bangor City manager and Bangor City Council Chair also sent a letter to DHHS' Certificate of Need program urging consultation between DHHS and the PUC or Public Advocate over the electricity pricing implications of the EMMC application. Notwithstanding these efforts, DHHS subsequently granted a Certificate of Need for the self-generation facility at the hospital.



9. Regional Greenhouse Gas Initiative Stakeholder Group

Beginning in 2004, environmental regulators in nine Northeast states began meeting formally to determine the value of a regional cap-and-trade process for CO<sub>2</sub> emissions in an effort to address global warming. The Regional Greenhouse Gas Initiative (RGGI) Working Group at year-end was close to adopting a set of rules for implementing the program. Public Advocate Ward participated in the effort as an invited member of the RGGI Stakeholder Group in quarterly meetings in New York and Boston.

Public Advocate Ward participated in conference calls of the modeling sub-group of the RGGI Stakeholders in September in an effort to identify the baseline for power plant emissions of greenhouse gases. In September Ward also sent a letter to the Staff Working Group (posted on RGGI's website) recommending that modeling also be undertaken of the economic impact of greenhouse gas allowances on the incomes of residential electric customers in the region. Based on those modeling efforts, the initial estimate of the effect on wholesale electric rates in the ten states is a 2 to 5% increase over the next 15 years. Ward started the process of organizing conference calls with utility advocates in order to keep them abreast of these developments and their potential effect on retail electric owners.

On April 19, Ward forwarded to the RGGI Working Group members a letter encouraging the initial auctioning of CO<sub>2</sub> allowances by state entities. The letter was signed by utility consumer advocates in New Hampshire, Connecticut, Iowa, Arizona, California, New York as well as Maine. If an auction is conducted to require generators to bid for emission allowances, public-sector energy efficiency programs could receive a very desirable source of funding from this new source. The environmental and utility regulators in nine Northeastern states will continue to meet in 2005 and 2006 to consider the allocation issue, as well as other issues pertaining to a cap-and-trade program for CO<sub>2</sub>.

10. Central Maine Power and Bangor Hydro-Electric ARP Adjustments For 2005

In June, the Office reached agreement on settlements with CMP and Bangor Hydro of the July 1 retail ARP adjustments. The CMP agreement resulted in a 0.6% decrease in residential distribution rates. This decrease was offset by a substantial increase in FERC-jurisdictional transmission rates with the composite result of an overall 2.5% increase in CMP's delivery rates. The transmission-related increase is attributable to CMP's share of new investments in the New England grid (primarily in Vermont and Connecticut) and to a reallocation of CMP's costs from distribution rates to transmission rates. We have preserved for a future rate case the possibility of a symmetrical reduction in distribution rates from the reallocation of costs from distribution to transmission rates. The Bangor Hydro agreement resulted in a 2.4% decrease in distribution rates but was, as well, offset by a transmission-related increase driven by the same factors referred to above.

## 11. Fox Islands Rate Case

After meetings and negotiations, the Office supported a 29.3% rate increase for Fox Islands Electric Cooperative, effective May 9. That increase became necessary because of the replacement of underwater transmission cables from Rockland to Vinalhaven, a distance of roughly 6 miles. We have been aware for some time that the old cable was in severe disrepair and that a significant cost would be associated with installing a new cable. In a related matter in the Legislature, Fox Islands Co-op received express approval (LD 1442) to sell excess power from wind generators on North Haven or Vinalhaven in order to use the profits to mitigate the high cost of the new cables.

## **E. Telephone Cases at the PUC, Maine Supreme Court and FCC**

### 1. Law Court Remand Proceedings for Verizon's Local Rates

In 2001 we appealed a PUC ruling increasing Verizon's local rates and establishing an Alternative Form of Regulation (AFOR) for five years. In January 2005 we finally received word that we had prevailed in our appeal of the PUC's Verizon AFOR order, along with co-appellant AARP, with the result that the PUC must undertake a new and more thorough review of Verizon's revenues and expenditures. This success marks the first reversal of a PUC rate decision by the Maine Supreme Court in more than twenty years.

On February 3, we participated in the first conference held by the Commission in the remand by the Law Court of the Commission's 2001 AFOR Order. The discussion concerned the scope of the upcoming proceeding. We did not argue that the Commission should eliminate immediately the \$1.78 increase in local rates that was instituted in 2001. Because the existing AFOR will end in mid-2006, we suggested, (and Verizon and the Commission agreed) that it would be most efficient if the proceeding reviews Verizon's revenue requirement and designs a new AFOR.

In February we continued to address the question of what should be the scope and the schedule for setting Verizon's local rates prior to beginning the next five-year AFOR for Verizon. We consistently promoted the value of a full-blown rate investigation at least comparable to that employed for all other telephone utilities in the State. Verizon has consistently proposed a mini-proceeding with a brief schedule and greatly reduced scope. What complicates the issue from our perspective is that a number of unregulated Verizon products (Verizon wireless for terminating calls, DSL Internet service, caller ID and call waiting/forwarding) all depend entirely on the local service connection from a Verizon central office to a business or residence. We are concerned that Verizon's unregulated products are not fairly compensating local ratepayers for use of this local loop. We also are concerned that corporate overheads for all of Verizon's subsidiaries, including local service in Maine, have more than doubled in recent years.

At year-end we were, with Verizon, attempting to design an agreed-upon-in-advance method for assuring that for, the next five years, local rates under an AFOR will be no greater than local rates under rate-of-return legislation. In preparation for twin

proceedings this summer focusing on Verizon's rates for local service and the redesign of its AFOR, we completed a Request for Proposal (RFP) process and solicited an AFOR consultant. Bob Loube of Rhoads & Sinon was the successful (and low-cost) bidder out of a field of six. We now have on board for these Verizon cases a service quality expert (Barbara Alexander of Winthrop), an accounting expert (Tom Catlin of Columbia, Maryland), a cost-of-capital expert (Steve Hill of Hurricane, West Virginia), a depreciation expert (Bill Dunkle of New York) and a policy and AFOR expert (Bob Loube of Washington, D.C.).

#### New Area of Authority for the Office

Due to an increasing level of concern about poor scheduling and substandard service for freight customers using Maine railroads, the Legislature this spring directed the Public Advocate to establish a record-keeping system to track customer complaints and to report annually on the status of that system. LD 230 takes effect on September 17, 2005.

Accordingly at year-end, Public Advocate Ward began consultation with freight customers on the types of record-keeping measurements that will be most useful for these purposes.

## 2. Law Court Remand of IntraLATA Presubscription Appeal

In February we filed our initial brief supporting the Commission Order that prevents Verizon from marketing its own in-state toll service to local customers who call Verizon seeking to change toll providers. As the predominant local service provider, Verizon is, in our opinion, in a position where it can exercise leverage with respect to the toll market. In deciding Verizon's appeal, the Maine Supreme Court required the Commission to conduct an analysis of applicable First Amendment law to ensure that the Commission's marketing restriction is permissible. Our analysis demonstrates that the marketing restriction falls well within the scope of lawful regulation of commercial speech.

In April, we submitted a set of data requests in the PUC proceeding in which, on remand, Verizon is asking the Commission to lift the marketing restriction imposed on Verizon when it receives calls from customers of its local telephone service. The restriction -- originally agreed to in 1997 by Verizon -- bars Verizon from marketing its in-state toll service in the limited circumstances when it receives calls from customers of its local service about selecting a pre-subscribed in-state toll carrier -- i.e., intraLATA pre-subscription (ILP). We supported the Commission, and still believe that there is merit in retaining some version of the restriction because, at this point, Verizon is the dominant

provider of local service and therefore would be able to use that position to give itself an unfair advantage in the competition for instate toll service.

### 3. Local Telephone Service Competition Proceedings

The Office has been involved in a number of proceedings at the Commission and the Courts, determining the scope of access for competitive local exchange carriers (CLECs) to Verizon's network in order to deliver competitive local telephone and Digital Subscriber Line (DSL) services. Over the last several years, there has been an enormous amount of confusion, as a result of a many legal challenges to the FCC's interpretation of the 1996 Telecommunications Act and constantly shifting FCC rules governing access to incumbent networks. In Maine, the Commission has struggled to untangle a web of FCC and court decisions to determine a state commission's independent authority to order wholesale access by competitors to the incumbent's network.

This confusion has harmed competitive markets in Maine. USA Telephone and Homefield Telecom, two affiliated Maine-based telephone companies, were successfully marketing competitive local service to Maine's residential customers with increasing market shares. Recently, however, they ceased accepting new customers after the FCC withdrew access to UNE-P, the unbundled network element platform that allowed competitive carriers to profitably provide a competitive local service using the incumbent's network. The FCC also withdrew line sharing, the network element that allowed competitive DSL providers to access the high frequency portion of Verizon's copper loops in order to provide competitive high-speed Internet service. A current Commission proceeding will determine whether the Commission should require line sharing under state law.

Rural broadband availability has been sorely deficient in Maine but several small CLECs were demonstrating innovative ways to provide high-speed Internet service to unserved rural customers. Skowhegan Online, a very small CLEC Internet Service Provider (ISP) was successful at the Commission and at the Maine Supreme Court in its fight to access a small portion (copper subloop) of Verizon's network in order to provide these needed services. Its victories now appear to be in vain because it has recently announced that it has been forced out of business due to Verizon's delay in fulfilling legitimate orders for wholesale network elements.

This spring Verizon sued the Maine Commission in federal court to stop the Commission from considering the continuation of certain wholesale network elements that Verizon promised to provide as a condition for approval to serve the interstate long-distance telephone market under Section 271 of the 1996 Telecommunications Act.

The recent announcement of Verizon's acquisition of MCI will also substantially reduce competition in Maine. MCI was the most aggressive and had the largest market share of the local service competitors in Maine. Today, with respect to residential customers, only very high-volume toll users have economical competitive options for local telephone service.

Constantly changing rules, aggressive litigation and lobbying at the federal level by Verizon and the other former Bell companies, an incoherent set of state-federal jurisdictional boundaries, industry consolidation through mergers, and changes in network infrastructure (to elements not subject to access by competitors), have all conspired to diminish the promise of competition, as intended by the 1996 Act. Although various proceedings continue to be litigated at the PUC and in the courts, the outlook for wireline competition today in Maine is poor.

4. “Public Interest Payphone” Legislation

The Utilities Committee in the First Regular Session unanimously approved a proposal that we drafted jointly with Representative Herb Adams for creating a procedure for citizens to request payphones in locations of particular importance - such as islands, rural locations and urban areas that are underserved with regular pay phones. These newly initiated phones are called “Public Interest Payphones” and they will fill a portion of the gap that has emerged as the total number of payphones has fallen statewide from 8400 to 4200 over the past six years. The Utilities Committee endorsed a proposal agreed to by Verizon, the Telephone Association of Maine, the PUC and the OPA to budget \$50,000 each year for the program for three years and authorize the Legislature to revisit the funding level in 2008. This annual budget is sufficient to locate and maintain new payphones in 50 locations of particular significance, across the State, that otherwise would have no payphone service. The legislation calls for a PUC rulemaking process in locations of particular geographic importance where payphones could never be economic based on calling volume. The legislative compromise has attracted significant media attention, including an interview request for Wayne Jortner from BBC News in London.

5. Telephone “Tune-ups” in Bangor, Auburn, Augusta, and South Portland

As in prior years, this year Public Advocate staff members turned out to meet the public for advice on how to cut monthly phone bills and receive better service. On September 24 OPA staff traveled for the first time to the Bangor area for an all-day “telephone bill tune-up session” at the Bangor City Hall to which 25 local residents dropped in. OPA Staff returned to the Maine Mall on July 14 (70 customers) and to the Auburn Mall on March 9 (50 customers). We also held a “tune-up” session at the University of Maine at Augusta on December 3. Typical savings for customers came in at \$10 or more per month.

## Maine Mall July 2005



### 6. Unregulated Telecommunications Providers

In two areas, Public Advocate Ward took the initiative this year in addressing issues that have arisen with unregulated providers, cable TV service and wireless telephone service. The PUC has no jurisdiction over prices or service quality in the case of either industry (except when a wireless provider has been designated as an Eligible Telecommunications Carrier by the PUC under a 1996 federal law, or - in the case of a cable TV company - if it is charging for actual telephone service as Time Warner Cable currently does). In general, wireless customers and cable TV customers have no ability to seek redress at the municipal or state level for problems with their service or bills. With this concern in mind, Ward convened a series of meetings at the OPA with representatives of the Attorney General's Office, Maine Municipal Association, the PUC and key municipal attorneys to discuss the possibility of a Consumer Bill of Rights to be enacted in Maine. Although productive, the discussions did not result in a final agreement or proposed legislation.

With respect to wireless service, Public Advocate Ward chaired a task force on service availability at the request of Governor Baldacci (see box).

### **“I Can’t Hear You Now” Wireless Dead Zone Project**

On January 20 Governor Baldacci announced his Connect ME initiative for deployment of cellular telecommunications service by 2008 in all populated portions of Maine. On the same day the Public Advocate’s Office unveiled on its website a digital mapping project that seeks to identify all dead zones in Maine where no wireless signal is available based on the calls and e-mails of consumers who contact the office. At year-end in June 2005 we had received 1976 complaints and recorded their locations on the “I Can’t Hear You Now” map. You can access the map by going to [www.maine.gov/meopa](http://www.maine.gov/meopa), looking for the “I Can’t Hear You Now” button and going to "wireless phone reception." The map tracks complaints for the nine providers of wireless service doing business in Maine and permits a breakdown by county.

Interestingly enough, Maine’s rural counties (Somerset, Oxford, Franklin and Aroostook) ranked third, fourth, seventh and eighth respectively in the number of complaints. This may indicate that consumers in rural Maine have both a stronger desire for improved service and a stronger incentive to complain about poor service quality than is the case for customers in Kennebec, Cumberland, Androscoggin and York (who ranked first, second, fifth and sixth respectively) out of Maine’s sixteen counties.

The digital map was put together by Patty Moody and Maine GIS engineer Bob White.

## **F. Water Company Cases and Water Districts**

### **1. Fryeburg Water Company**

#### **(a) Maine Commission’s Investigation**

At the end of April 2004, customers of the Fryeburg Water Company (FWC) filed a petition requesting that the PUC open an investigation of (a) the Water Company’s reliability of service; (b) water quality problems in East Conway and a small section of Fryeburg; and (c) whether FWC is overearning. In May we submitted a five-page letter to the Commission that addressed two issues that the Commission should investigate and attached an analysis performed by our consultant that shows that FWC has had excess revenues in each of the two last years. One of the key issues involves FWC’s affiliate, which is now selling large volumes of its spring water to a large bottling company. FWC customers have consistently expressed concern about each of these issues. In mid-July the Commission held an evening meeting in Fryeburg at which ratepayers and Fryeburg customers commented on problems with the Water Company. In August, the

Commission opened an investigation into FWC's rates, its affiliated interest transactions, and questions about the reliability of its water quality and service.

At the end of August 2004 the Commission held a pre-hearing conference at which the parties to the case -- including the New Hampshire Office of Consumer Advocate -- identified the principle issues that the Commission should investigate. In mid-October 2004, a technical conference was held at which the Commission reviewed information about the Company's revenues and expenses, discussed contract arrangements between FWC and its affiliate (see item b below) and discussed possible funding assistance for the repairs or the replacement transmission line to water in West Fryeburg. At a technical conference held in December 2004, the parties reviewed a spreadsheet -- prepared by the Public Advocate -- that suggested that FWC, if converted into a water district, might be able to finance a replacement main and a new storage tank without increasing its rates.

In January 2005, we participated in a community meeting held at the Town Hall in Fryeburg to discuss the pros and cons of creating a Fryeburg water district that would purchase the assets of FWC and provide service to the Company's existing customers in Fryeburg and East Conway, New Hampshire. Thereafter the Public Advocate worked with the Office of Policy and Legal Analysis (OPLA) and the legislators local to Fryeburg to draft legislation that would create a Fryeburg Water District. Customers are seeking to create the water district in order to take advantage of the low-cost federal grant/loan programs and because current FWC management has indicated a desire to sell. In the meantime, the case before the Public Utilities Commission was inactive, while FWC and its engineers did the work necessary to produce a comprehensive facilities plan.

In April 2005 the private and special legislation creating the Fryeburg Water District was enacted. Since then a committee of Fryeburg citizens, appointed by the Fryeburg Board of Selectmen, has been considering the pros and cons of converting FWC into a local water district. We believe that in the fall of 2005 the selectmen will recommend that the question of creating a water district be put to a vote by Fryeburg customers.

In May 2005 FWC issued a comprehensive facilities plan that identified and set priorities on a series of improvements to plant, including (a) replacement of the transmission main that serves East Conway and West Fryeburg and (b) a new storage tank to be located on the east end of the water system. In mid-June the Commission held a technical conference at which FWC and its engineers presented the facilities plan. Parties asked questions about the details of the plan. At the conclusion of the meeting, FWC indicated that it would be reviewing the plan and establishing its priorities for the capital improvements recommended in the plan. It will file that information on August 1, 2005.

(b) Affiliated Interest Transaction Case

Late in 2004, the Commission opened a new proceeding with Fryeburg Water Company in order to examine FWC's proposal to sign a contract with its affiliate, Pure Mountain Springs, LLD (PMS). The Water Company (FWC) proposed to sign a contract with PMS under which FWC agreed to withdraw and take water -- at no charge -- from the PMS



well located on the Porter Road. We worked with one of the more active customers of FWC to negotiate a stipulation concerning the FWC's proposed contract. Under the terms of that Stipulation FWC agreed that it would not object if the Public Advocate or that customer proposed that FWC be required either to eliminate the fourth block of its tariff or to establish a definition for "commercial" customers. Either tariff change would permit FWC to increase the amount of revenues that it collects from PMS.

2. Fryeburg Water Company - Investigation by New Hampshire PUC

The New Hampshire PUC also is investigating the rusty water provided by Fryeburg Water Company to its customers in East Conway, New Hampshire and in Maine that are served by a transmission line that runs from Maine into New Hampshire, and back into Maine. FWC has acknowledged its problem with rusty water delivered by that main. In lieu of testimony, we filed a letter at the New Hampshire PUC stating our position on the issues initially under consideration in that case. Our letter emphasized that FWC must follow through on its initial promise to develop cost estimates for both of the approaches that can be used to resolve the water quality problem. In August and November 2004, FWC at the New Hampshire PUC filed testimony, criticizing FWC for its water quality problems and its failure to cooperate with customers and the New Hampshire Commission. In January, we joined in a stipulation agreed to by all the non-Water Company parties in the investigation. In effect, the stipulation was a joint recommendation that the New Hampshire PUC issue an order directing FWC to escrow the rates paid by the seventy East Conway customers (\$14,000 annually) until FWC has "fixed" the water quality problem in East Conway. On January 17, Bill Black participated in the hearing at the New Hampshire PUC in which the PUC Staff recommended that the Commission levy penalties that would provide FWC some incentive to make the investments necessary to deliver potable water to East Conway. The Commission ordered FWC to escrow all monies paid by New Hampshire customers until the time when FWC has improved water quality in East Conway and West Fryeburg.

On April 6, Bill Black traveled to Concord, New Hampshire and participated in a hearing before the New Hampshire PUC. After a hearing in April 2005, the New Hampshire Commission also directed FWC to provide clean water to customers who want it by delivering the water in containers to a central location in East Conway. By the end of June, FWC was delivering water as directed, and customers were filing letters asking for delivery in smaller containers delivered to peoples' homes. New Hampshire customers were also getting interested in the suggestion by the New Hampshire Commission that FWC might have to refund some amount of water payments in the form of "reparations" to customers. That Commission is deciding whether to order FWC to replace the aging transmission pipe, and whether to fine FWC for its failure to establish an escrow fund, as it was ordered to do last December. At the conclusion of the hearing, Bill Black recommended that the Commission not take immediate action, and await the ongoing efforts in Maine to create a Fryeburg Water District which could take over the utility and rebuild the transmission line at a lesser cost -- due to the availability of loans from US Department of Agriculture's Office of Rural Development.

### 3. Brewer Water District

In response to a petition signed by more than 800 customers, in August 2004 the PUC opened an investigation of the 15.99% rate increase proposed by the Brewer Water Department. We participated in the pre-hearing conference and mini-technical conference in that proceeding. At issue in the proceeding were both the Department's overall revenue requirement and questions about whether the Water Department should have instituted "main extension charges" under Chapter 65 of the Commission's rules. The petitioners suggested that, unless such charges were adopted, the general body of ratepayers would be subsidizing landowners in the industrial park through which the transmission main had been built. In turn, the Water Department argued that the City of Brewer, under its municipal authority, had the right to adopt some "impact fees" that would help pay for the construction of the new water main extension and for a new water standpipe. In the course of the proceeding, we submitted the Public Advocate's position paper, recommending that the Water Department institute some level of charges to pay for a portion of those capital costs. Before hearings, we joined representatives of the Water Department in a settlement conference at the PUC. When the Water Department failed to respond to our offer of settlement, we participated in the PUC hearing, cross-examining Department witnesses and recommending that the size of the increase be reduced due to significant rate increases in the recent past and because the Department used an incorrect method to calculate its proposed increase. After the hearing, and before we filed our brief, we reviewed the unresolved revenue requirement issues and filed a letter at the Commission indicating that, as the case proceeded, the Public Advocate would accept the Company's reduced rate request.

The Commission ultimately accepted -- with our concurrence -- the Water Department's request for a 13% increase in rates in lieu of its original 15% increase request. At the same time, the Commission accepted our proposal that it conduct "follow-on" proceedings to determine whether the water-related "impact fees" charged to businesses satisfied the requirements of Chapter 65 (line extension charges) of the Commission's rules. At the beginning of July 2005, after the petitioners withdrew from the proceeding, the Commission asked the parties for comments as to whether it should proceed with its investigation of the Chapter 65 issues.

### 4. Waldoboro Water Department

In the fall of 2004, we traveled three times to meet with water utility customers in Waldoboro to provide assistance in reviewing the 45% rate increase proposed by the Water Department. The customers were understandably concerned about a variety of issues, including the choices made as the Department explored options for a new water source, and its projections of future expenses. After that, the petitioners participated in the Water Department's public meeting concerning the proposed rate increase. Unhappy with the answers they received, the customers filed a request for a rate investigation under Section 6104. We participated in a pre-hearing conference and a technical conference held at the Commission. After the conferences at the Commission, the parties

participated in several settlement conferences. Ultimately the case was resolved by a stipulation under which the Department agreed to increase its annual operating revenues by 36.8% -- rather than by the 45.5% amount originally proposed in its filing. Furthermore, the Stipulation provided that the Department would undertake a specific program of ten different capital improvements, and complete at least \$100,000 worth of those capital projects before the end of 2005. In addition, the Department indicated that it would use its "best efforts" to avoid filing for another rate increase until after mid-2006.

## **G. Natural Gas Cases at the PUC and FERC**

### **1. Northern Utilities "Cast-Iron" Replacement Program**

The PUC Staff proposed in November that the Commission require Northern Utilities (NU), over the next 10 years, to replace all its cast iron pipes in Portland, Westbrook, Lewiston and Auburn – a total of 134 miles of cast iron pipe. In January, together with our consultants, we participated in an all-day discovery session concerning Northern Utilities' testimony on the Staff's proposal. Northern testified that its current infrastructure is safe and that there is no need for such an accelerated replacement program. Because the PUC proposal is highly unusual in its aggressiveness, and because it will be expensive for ratepayers, we explored alternative proposals and pursued a different objective: to go forward with a cast iron replacement program only on a demonstration that it is consistent with industry-wide standards to do so, is cost-effective and also in the absence of any showing of NU's imprudence for failing to maintain system infrastructure properly. In February, we filed at the PUC direct and supplemental testimony of our expert witnesses and gas engineers presenting an analysis of comparative risks in order to help the PUC assess how cost-effective it is to replace all of Northern Utilities cast iron pipes on an expedited basis.

We entered into a preliminary settlement with Commission Staff and Northern Utilities in March, in connection with a plan to replace cast iron mains with modern plastic pipe, on an accelerated basis. In view of differing assessments of the urgency of replacing cast iron mains, the settlement represented a compromise plan whereby the mains in Lewiston/Auburn will be replaced over the next four years and a later proceeding will determine whether accelerated replacement will be required for Portland. Currently, Northern Utilities is replacing cast iron mains on a slower schedule that is supported by current rates.

## MEOPA Staff



### 2. Maritimes And Northeast 50% Increase Request

Last summer the gas pipeline serving Eastern and Central Maine with gas from Sable Island, Canada filed at FERC for a 50% increase in its transmission rate. Maritimes and Northeast contended that the increase was necessitated by lower-than-expected volumes of deliverable gas at the Sable Island field that forced rates up to \$1.06/decathem. An important additional factor was Maritimes' decision to roll into the overall transmission rate all costs associated with the so-called Phase III project that connects the southern end of the Maritimes system with the northern end of the Algonquin system (a Maritimes' affiliate) south of Boston, by means of an underwater link across Boston harbor. Because no customers in Maine will receive gas from the Phase III interconnection, the Office joined with a group of Maine customers to oppose the increase and to argue for geographically-differentiated rates.

This group of Maine gas customers included the three local distribution companies in the state (Bangor Gas, Maine Natural Gas and Northern Utilities), two major electric generators that burn natural gas (Calpine in Westbrook and Hydro Quebec/International Paper in Bucksport) and as well the Maine Public Utilities Commission. The Office filed testimony from Dr. Marvin Kahn in January proposing a two-zone rate for Maritimes with a lower-cost zone in Maine from Westbrook north to the New Brunswick border. Calpine and Hydro Quebec also filed testimony in support of a zoned rate for gas transmission. Following two unsuccessful settlement conferences at FERC, Maritimes filed its rebuttal testimony in February which strongly resisted the zoned rate proposal and reaffirmed its proposal for rolling into the mainline rate 100% of the Phase III costs.

In a final set of negotiations that began on May 5, the multiple parties to the Maritimes rate case reached an agreement in principle that, once reduced to writing, was filed with FERC in June. At year-end, the FERC Administrative Law Judge was accepting comments in support or opposition to the Stipulation and Agreement but it appeared likely that the agreement will be accepted.

The key provisions of the FERC settlement from our perspective were the following: 1) the rate increase for mainline service is reduced from \$1.06 to \$.78; 2) end-use gas customers in Maine will receive a \$.02/decahem further discount through 2009 by means of a \$750,000 annual credit fund to be paid for by Maritimes and administered by a trustee to be appointed by the Public Advocate; 3) only a portion of the Phase III costs will be immediately rolled into rates; 4) the parties reserve their rights to argue for a fully-zoned ratemaking regime in the next Maritimes rate case. The next case is expect to involve a major system expansion with a tripling of volumes, due to the provision of new LNG contract arrangements and the addition of several new compressor stations.

This complex case turned into a minor victory for the Maine parties, and the Office, since the remaining parties (Exxon/Mobil, Canadian Shippers and Key-Span in Boston) strongly supported Maritimes' opposition to zoned rates or any other price concessions for the Maine customers. The argument over distance-sensitive ratemaking will continue in Maritimes' next rate case, which is likely to be filed in 2008.

## **H. Radioactive Waste and Nuclear Power Issues**

### **1. Maine Yankee Decommissioning**

One of the more memorable events in the 32-year history of the Maine Yankee nuclear power plant took place on September 17, 2004 before a crowd of 400 people in Wiscasset. Public Advocate Ward, State Nuclear Safety Advisor Charles Pray and many others traveled to Maine Yankee to watch the containment dome being demolished with explosives, dropping 75 feet into a pile of rubble. Many CMP and Maine Yankee personnel that had been involved in Maine Yankee's operational history were present, along with numerous local legislators and Citizen Advisory Board members

By year-end, Maine Yankee had completed the remediation of the reactor site at the Wiscasset plant site backfilling the final section in the third week of June. Also in June, the Department of Environmental Protection presented to Maine Yankee President Ted Feigenbaum an award for environmental achievement in his management of the project. The State Nuclear Safety Inspector has worked in tandem, with Maine Yankee's decommissioning team examining sectors as Maine Yankee completed each section, allowing a cross check which allowed either additional remediation without extended delays or a preliminary verification of the work done by Maine Yankee in each section being cleaned. The State Nuclear Safety Inspector will review all of the data collected by Maine Yankee through this period, as well as examine the area where Maine Yankee transferred contaminated soils from the reactor site to the ISFSI area until it can be shipped to Envirocare in Utah, expected to be completed this fall. The State will verify

that area has been properly cleared of radiological contaminants. The Bureau of Health assisted in a number of situations, aiding the Inspector to keep pace with Maine Yankee's aggressive schedule and creating pressure to assure the public that the clean-up was meeting the State's stringent environmental standards, and protecting current and future generations of Maine people.

This leaves the re-sited soils, the data review and assessment from the Decommissioning, groundwater assessments and the Independent Spent Fuel Storage Installation itself as main agenda items in the months ahead. For many years, the spent nuclear fuel consumed by the reactor, however, will remain on site at the Independent Spent Fuel Storage Installation due to the federal government's failure to open a repository for nuclear waste in Nevada.

## 2. Removal of Spent Nuclear Fuel From New England

On a quarterly basis over the past two years, Public Advocate Ward and the State Nuclear Safety Advisor Charles Pray attended meetings of government and industry personnel working on the removal of spent nuclear fuel from decommissioned nuclear power plants in New England along with representatives from Maine Yankee, Connecticut Yankee, Yankee Rowe and from the Connecticut and Massachusetts AG's offices, Massachusetts PUC and Governor's Office. The group has made progress in finalizing an action plan for mobilizing support for transporting of spent fuel out-of-region.

At these meetings, the Yankee companies' trial counsel also reported on the Court of Claim's litigation in which the nuclear utilities grid concluded August 31. The prospects appear good for the Yankee companies prevailing in that case with a damage award based on actual costs of constructing spent fuel installations at Wiscasset, Haddam Neck and Rowe. Because final briefs in this major case are not due until December, however, no damage award is possible before early 2006, at the earliest.

## 3. Allocation of State Oversight Fees for Decommissioning.

As a result of enactment of new legislation implementing the settlement of Maine Yankee's last FERC rate case, the Public Advocate now plays a key role in the downsizing of Maine Yankee oversight now that the site is fully decommissioned. Under the terms of LD 1342, the Public Advocate is responsible for ensuring that the total of State charges for activities at Maine Yankee do not exceed \$360,000 through August 2008 and \$190,000 thereafter. These totals are expected to be adequate to provide financial support for the State's Health and Environmental Testing Lab (where soil and water samples are analyzed for contamination), for security purposes and for environmental monitoring. The totals are supplemented by a \$500,000 agreement for Maine Yankee's payment for groundwater monitoring over the 2006 to 2011 period and covering all remediation expenses determined by the Department of Environmental Protection (DEP) to be necessary under the Federal Resource Conservation and Recovery Act.

At year-end the Public Advocate started the process of consulting with DEP, DHHS, the Department Public Safety, the State Nuclear Safety Advisor and Maine Emergency Management Agency as how best to implement the new law.

**Web Pages for Organizations Referenced in this Report**

1. Maine Public Utilities Commission: [www.maine.gov/mpuc](http://www.maine.gov/mpuc)
2. Independent System Operator - New England: [www.iso-ne.com](http://www.iso-ne.com)
3. Federal Communication Commission: [www.fcc.com](http://www.fcc.com)
4. Federal Energy Regulatory Commission: [www.ferc.com](http://www.ferc.com)
5. Northern Maine Independent System Administrator: [www.nmisa.com](http://www.nmisa.com)
6. Maine Public Service Company: [www.mainepublicservice.com](http://www.mainepublicservice.com)
7. Bangor Hydro-Electric Company: [www.bhe.com](http://www.bhe.com)
8. Central Maine Power Company: [www.cmpco.com](http://www.cmpco.com)
9. Regional Greenhouse Gas Initiative: [www.rggi.org](http://www.rggi.org)
10. North American Electric Reliability Council: [www.nerc.com](http://www.nerc.com)
11. Verizon: [www.verizon.com](http://www.verizon.com)
12. Northern Utilities: [www.northernutilities.com](http://www.northernutilities.com)
13. National Association of State Utility Consumer Advocates: [www.nasuca.org](http://www.nasuca.org)
14. Universal Service Administrative Company: [www.universalservice.org](http://www.universalservice.org)
15. Maine Yankee Atomic Power Company: [www.maineyankee.com](http://www.maineyankee.com)
16. Independent Energy Producers of Maine: [www.iepm.org](http://www.iepm.org)
17. Natural Resources Council of Maine: [www.maineenvironment.org](http://www.maineenvironment.org)
18. Consumer Energy Council of America: [www.cecacf.org](http://www.cecacf.org)

**Summary of Ratepayer Savings, 1982 to 2005  
Attributable to Public Advocate Interventions**

1. <u>FY 05</u>		
•	<u>Central Maine Power Stranded Cost Case</u> , 25% of the reduction resulting from the agreed-to 3-year levelization of stranded costs due to a 4-party stipulation	\$ 5,552,023
•	<u>Maritimes and Northeast FERC Case</u> , a negotiated discount of \$750,000 annually for Maine users of natural gas in a fund to be administered by the Public Advocate	\$ 750,000
•	<u>Bangor Hydro-Electric Stranded Cost Case</u> , a \$158,259 reduction resulting from an agreement to adopt lowered cost of equity component of carrying charges when the Public Advocate was the only party to file testimony	\$ 158,259
2. <u>FY 04</u>		
•	<u>Central Maine Power ARP Adjustment</u> , a one-year benefit of \$1.33 million in lower rates due to the PUC's adoption of our arguments opposing a retroactive inflation adjustment sought by CMP	\$ 1,330,000
•	<u>Maine Public Service Stranded Costs</u> , a \$6.5 million reduction in amounts deferred for recovery over 2004 to 2008 due to our consultant's testimony with no other parties active in this case	\$ 6,500,000
•	<u>Maine Public Service Distribution Rates</u> , 50% of the difference between MPS's overall increase request of \$1.7 million and the final result of \$940,000	\$ 380,000
3. <u>FY 03</u>		
•	<u>Central Maine Power ARP Adjustment</u> , a 7.82% reduction in distribution rates resulted from a 2001 settlement to which the OPA was the only non-utility litigant and which justifies a 50% share of this reduction	\$ 9,361,552
•	<u>Verizon Sales Taxation Adjustment</u> , at our instigation, Maine eliminated in February 2003 sales tax on a federal portion of Verizon's bills generating \$342,000 savings annually	\$ 342,000
•	<u>Assorted Water Rate Case Savings</u> , the OPA realized savings in rates of \$83,000 in a series of water district rate cases in 2002-2003.	\$ 83,000
4. <u>FY 02</u>		
•	<u>Stranded Cost Cases (MPS, BHE, CMP)</u> , Maine Yankee's in-state owners agreed to flow back to ratepayers the credit received from Maine Yankee's insurer when the plant ceased operations	\$ 4,654,000
•	<u>Bangor Hydro Rate Case</u> , BHE's rate increase request was withdrawn by BHE in conjunction with a 6-year Alternative Rate Plan which we negotiated for the 2002-2008 period	\$ 6,400,000
•	<u>Telephone Rate Cases</u> , lowered levels of local phone rates for Tidewater Telecom and Lincolnville Telephone as a result of negotiated settlements	\$ 557,000
5. <u>FY 01</u>		
•	<u>Maine Yankee Prudence Settlement (FERC/PUC)</u> , two in-state owners of Maine Yankee, CMP and BHE, agreed to acknowledge the increased	\$ 14,200,000

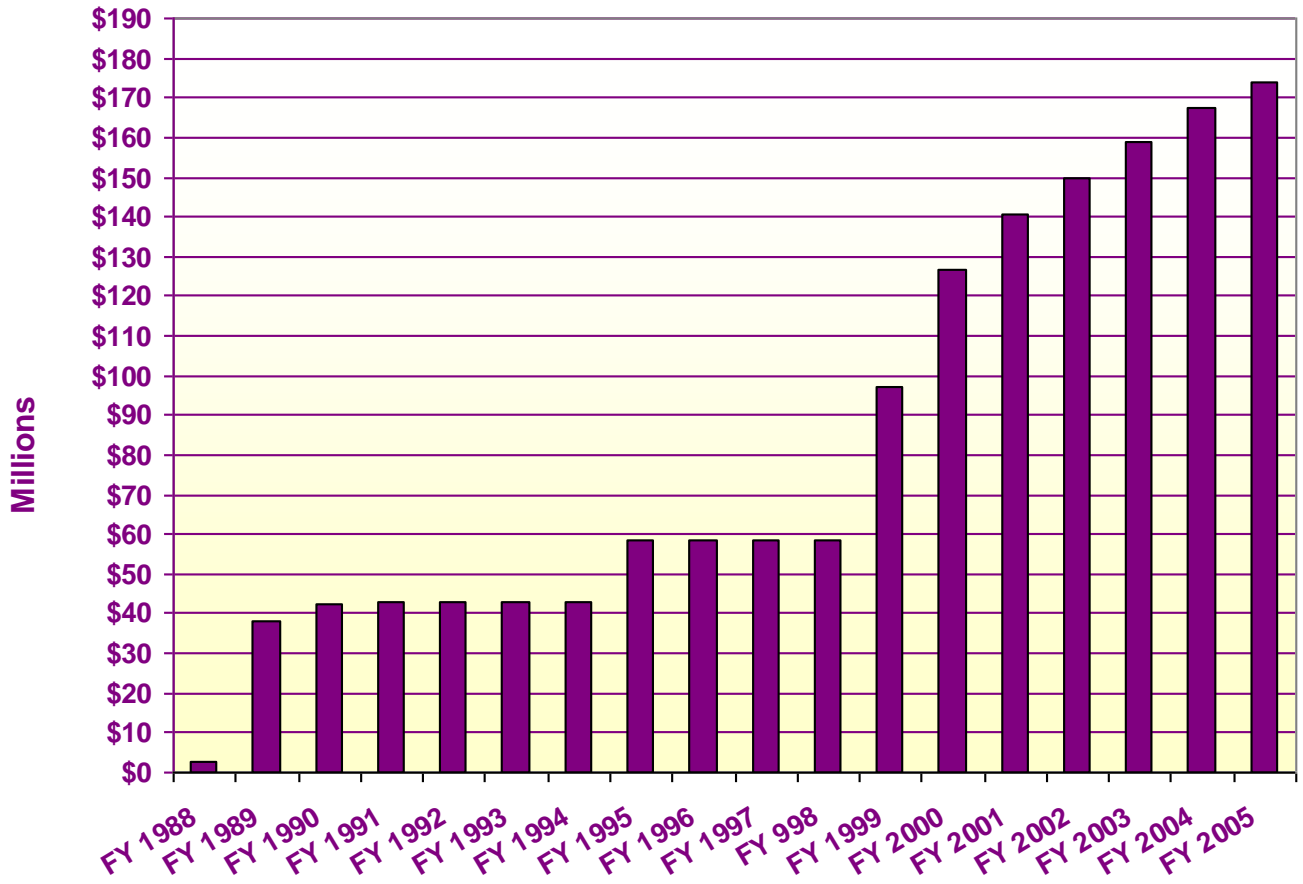


value of Maine Yankee output in wholesale markets by agreeing to a reduction in recoverable stranded costs

6. FY 00
  - CMP T&D Rate Case, Phase II, stranded cost reduction from excess earnings in stipulated resolution accepted by PUC on 2/24/00 \$ 20,000,000
  - Bangor Hydro T&D Rate Case, reduction in final PUC order on items where the only litigant challenging BHE's rate request was OPA \$ 9,500,000
7. FY 99
  - CMP T&D Rate Case, Phase I, reduction in final PUC order on items where the only litigant challenging CMP's rate request was OPA \$ 28,000,000
  - Maine Yankee Rate Case/Prudence Review (FERC), settlement of decommissioning case resulted in a \$19 million reduction of wholesale charges, 50% to be flowed-through to CMP, BHE, MPS. Also potential \$41 million reduction in stranded costs billed by MPS through 2008. \$ 9,500,000
8. FY 97
  - Consumers Maine Water Rate Case, \$8,000 reduction in final rate increase awards for Bucksport and Hartland where no other party filed testimony \$ 8,000
9. FY 95
  - NYNEX Rate Case, \$16.6 million reduction based on items proposed by no other party and adopted by PUC in final order \$ 16,600,000
10. FY 91
  - Bangor Hydro Rate Case, \$800,000 in lowered rates based on items by no other party and adopted by PUC on final order \$ 800,000
11. FY 90
  - CMP Rate Case, \$4 million reduction based on recommendations not duplicated by any other party which were adopted in the final order \$ 4,000,000
12. FY 89
  - New England Telephone Settlement, \$5 million reduction in intra-state where magnitude would have been less without our participation \$ 500,000
  - CMP Rate Case, only party to file for motion to exclude CMP's late filed attrition testimony, motion granted 12/22/89 \$ 35,000,000
  - Isle au Haut, instrumental in bringing telephone service to island NA

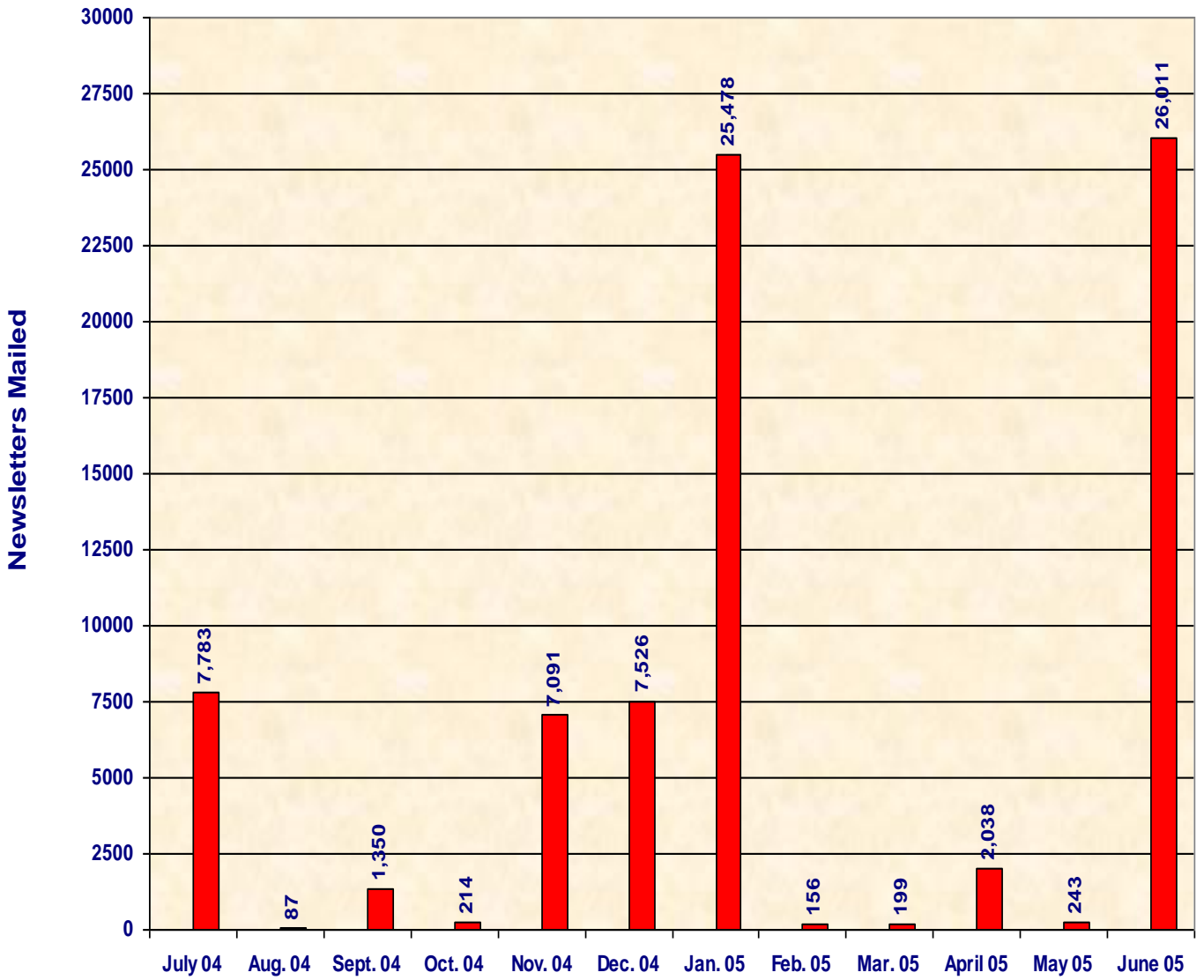
13. FY 88 and prior	
• <u>Bangor Hydro Rate Case</u> , provided sole rate of return testimony	\$ 2,000,000
• <u>Maine Yankee Rate Case</u> , (FERC), successfully proposed equity return at 11.9% and flowthrough of \$1.5 million settlement with Westinghouse	\$ 750,000
• <u>Portland Pipeline Cases</u> , successfully intervened at FERC, PUC, DOE Natural Energy Board (Canada) for approval of new gas supplies	NA
• <u>Seabrook Cases</u> , negotiated agreement for \$85 million write-off by CMP and for PUC and FERC approval of sale of Seabrook shares	NA
• <u>CMP Conservation Programs</u> , worked closely with CMP, PUC and OER for design of new industrial and residential conservation programs	NA
• <u>Rate Cases: Maine Public Service</u> , 1982 - litigated	\$ 2,000,000
Eastern Maine Electric Coop. 1983 - litigated	\$ 200,000
New England Telephone 1983 - litigated	\$ 10,000,000
New England Telephone 1984 - stipulated	\$ 20,000,000
Northern Utilities, 1981 - stipulated	\$ 100,000
Northern Utilities, 1983 - stipulated	\$ 1,000,000
Central Maine Power Co., 1982 - litigated	\$ 5,000,000
Central Maine Power Co., 1984 - stipulated	\$ 10,000,000
Central Maine Power Co., 1986 - stipulated	\$ 20,000,000
14. Total FY 89-FY 05, excluding settlements	\$ 95,580,000
15. <u>Total FY 89-FY 05, Including Settlements</u>	\$ 174,175,832
16. Prior Savings, including settlements, FY 82-FY 88	\$ 71,050,000
17. Total, excluding settlements, FY 82-FY 05	\$ 114,780,000
18. Total, Including Settlements, FY 82-FY 05	\$ 245,225,832

### Cummulative Savings in Rates 1988 to 2005



ATTACHMENT B

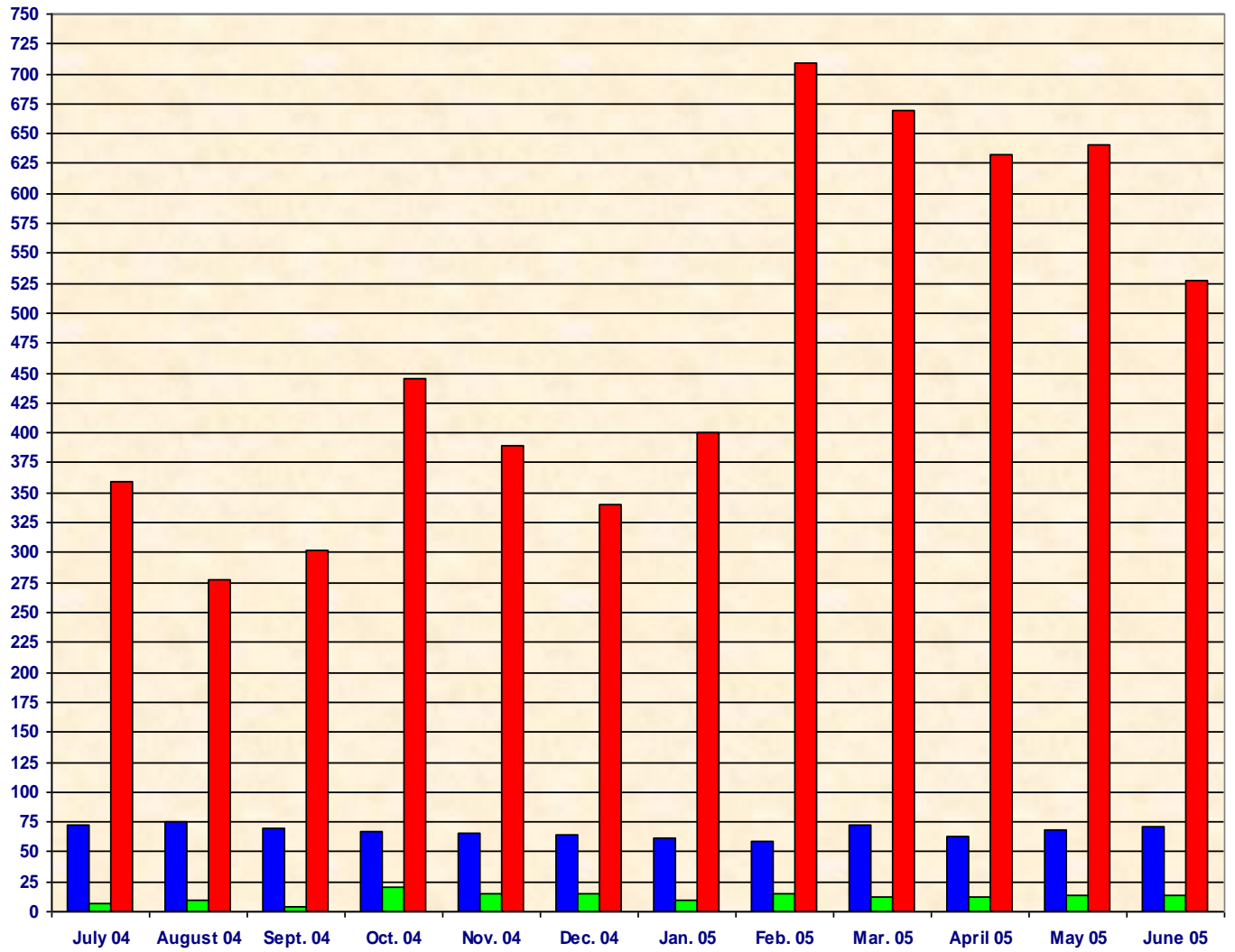
July 2004 through June 2005 Performance Indicators



ATTACHMENT C

PERFORMANCE INDICATORS - JULY 04 - JUNE 05

PUC/FERC Cases  
Filings  
Individual Complaints



<b>122nd LEGISLATURE, 1<sup>st</sup> SESSION</b>
--

OPA position adopted: 21 72%  
OPA position rejected: 8 28%

Bills OPA testified on: 29 100%

**LD# Bill Title**

Non-emergency bills effective 9-17-05

**0026 An Act to Authorize a General Fund Bond Issue for Stranded Costs of T&D Utilities**

**\$1B** bond to pay all stranded costs; directs PUC to establish by rule a method for using bond proceeds to pay off SC. PUC may modify §3208 SC definition.

Sponsor: Fischer

OPA position: nf/na

Committee action:

**ONTP**

**0046 An Act to Require Permission of Customers before a Phone Company Can Bill Retroactively**

Sponsor: Trahan

OPA position: n/a

Committee action:

**ONTP**

**0094 An Act to Credit Utility Customers with Certain Amounts Paid as Fines (OPA)**

Would allow PUC to credit to customers fine money (if greater than \$100k) that currently would go to the General Fund.

Sponsor: Bartlett

OPA position: support

Committee action:

**OTPA  
PL 432**

**0125 An Act to Allow Timothy Gousse to Purchase Water from the Gardiner Water District (Charter amendment)**

Sponsor: Miller

OPA position: n/a

Committee action:

**ONTP**

**0205 An Act Providing for Regulation of the Cable Television Industry by the PUC**

Basic tier subject to PUC reg; complaint procedure for rates and service; 25-person petition.

Sponsor: Gerzofsky

OPA position: nf/na

Committee action: OTP OTPA ONTP **Carryover**

**0207 An Act to Require Electric Utilities to Permit Customers to Pay Utility Bills in Their Communities**

Sponsor: Twomey  
OPA position: support      Committee action: OTP OTPA ONTP **Carryover**

**0230 An Act to Authorize the OPA to Represent Consumer in Federal Regulation of Railroads**

Sponsor: Hotham  
OPA position: nf/na      Committee action: **OTPA  
PL 248**

**0244 An Act to Standardize Water Lien Provisions**

Sponsor: Richardson (of Greenville)  
OPA position: support      Committee action: **OTP  
PL 7**

**0276 An Act to Provide Fair and Equitable Local Calling Service for the People of the State**

*Expands local calling area to include abutting municipalities*  
Sponsor: Courtney  
OPA position: oppose      Committee action: **ONTP**

**0312 An Act to Create a Manufacturing Energy Policy for Maine [concept]**

Sponsor: Fletcher  
OPA position: nf/na      Committee action: **ONTP**

**0327 An Act to Implement Energy Conservation Standards for Affordable Housing**

*Put energy costs into the mix with mortgage costs when determining what is affordable housing.*  
Sponsor: Eder  
OPA position: n/a      Committee action: **ONTP**

**0330 An Act to Protect Utility Customers from Imprudently Incurred Costs (OPA)**

*Requires the PUC to disallow costs (joint ownership) found by FERC to be imprudent.*  
Sponsor: Bliss  
OPA position: support      Committee action: **ONTP**

**0331 An Act to to Improve the Operation of Underground Damage Prevention Procedures**

Sponsor: Bliss  
OPA position: n/a      Committee action: **OTPA  
PL 334**

- 0352 An Act to Assist Cellular Telephone Users**  
*Bill would require cell providers to allow cell customers to call and find out how many minutes remain under customer's contract.*  
 Sponsor: Bliss  
 OPA position: n/a                      Committee action:                      **ONTP**
- 0397 An Act to Promote the More Efficient Use of Natural Gas**  
*Conservation for gas utilities – 40% program funds allocation to low-income and small business.*  
 Sponsor: Bliss  
 OPA position: support                      Committee action:                      **OTPA**  
**PL**
- 110**
- 0407 An Act to Place the Emergency Services Communication Bureau within the Department of Public Safety**  
 Sponsor: Hobbins  
 OPA position: n/a                      Committee action: OTP OTPA ONTP **Carryover**
- 0523 An Act to Designate 2-1-1 Maine, Incorporated as the Sole Provider for 2-1-1 Information and Referral Services for the State of Maine**  
 Sponsor: Brautigam  
 OPA position: support                      Committee action:                      **OTPA**  
**PL 51**
- 0563 An Act to An Act To End Discrimination against Persons with Pulmonary Disabilities in Northern and Eastern Maine**  
 Sponsor: Faircloth  
 OPA position: support                      Committee action:                      **OTPA**  
**PL 132**
- 0637 An Act to Allow Qualified Health Centers to Obtain Telecommunications Education Access Funding**  
 Sponsor: Bliss  
 OPA position: oppose                      Committee action: OTP OTPA ONTP **Carryover**
- 0642 An Act to Limit Telephone Utility Expenses Related to Relocation of Call Centers**  
 Sponsor: Gagnon  
 OPA position: n/a                      Committee action:                      **ONTP**
- 0656 An Act to Revise the Salary Range of Certain PUC Employees**  
 Sponsor: Bliss  
 OPA position: support                      Committee action:                      **OTPA**  
**PL 23**



- 0662 An Act to Limit Increases in Telephone or Electric Service Rates to a Maximum of 3% Annually**  
 Sponsor: Clark  
 OPA position: oppose      Committee action: **ONTP**
- 0711 An Act to Improve the Energy Efficiency of Buildings to be Owned or Occupied by the State**  
 Sponsor: Eder  
 OPA position: n/a      Committee action: **ONTP**
- 0789 An Act Pertaining to Internet Services**  
 Sponsor: Sullivan  
 OPA position: support      Committee action: **ONTP**
- 0824 An Act to Allow the PUC to Consider the Health of Maine’s Manufacturing Economy in the Design of Electric Rates and Energy Policy**  
 Sponsor: Fletcher  
 OPA position: gen. support      Committee action: **ONTP**
- 0848 An Act to To Restore to Maine Citizens Responsible Access to Sebago Lake**  
 Sponsor: Moore  
 OPA position: n/a      Committee action: **ONTP**
- 0849 An Act to Require That Certain Water Districts Install Sand Filtration Systemes to Ensure the Safety and Purity of the Water Supply**  
 Sponsor: Moore  
 OPA position: n/a  
 Committee action: **ONTP**
- 0860 An Act to Efficiently Use Funds of the PUC**  
 Sponsor: Bliss  
 OPA position: none      Committee action: **OTPA  
P&S 6**
- 0868 An Act to Ensure Equity in Funding**  
 Sponsor: Bliss  
 OPA position: support      Committee action: **OTPA  
PL 135**
- 0891 An Act to Authorize a General Fund Bond Issue to Fight Global Warming through Energy Conservation**  
 Sponsor: Strimling  
 OPA position: n/a      Committee action: OTP OTPA ONTP **Carryover**

- 0913 An Act to Promote Green Power Use at State Buildings**  
 S&L Sponsor: Piotti  
 OPA position: n/a Committee action: **ONTP**
- 1028 An Act to Prevent Fraudulent and Deceptive Sales Practices by Internet Service Providers**  
 Sponsor: Vaughan  
 OPA position: n/a Committee action: **ONTP**
- 1047 Resolve, To Study the Feasibility of Expanding the Market for American Fuels**  
 Sponsor: Bartlett  
 OPA position: n/a Committee action: **ONTP**
- 1051 Resolve, Establishing a Study Commission to Examine Water District Fees Assessed for Fire Suppression**  
 Sponsor: Courtney  
 OPA position: oppose Committee action: **ONTP**
- 1065 An Act to Promote Economic Development and Sustainable Energy**  
 Sponsor: Brennan  
 OPA position: qual supp't Committee action: **ONTP**
- 1081 Resolve, Directing the Department of Public Safety and the PUC to Review the E-9-1-1 System**  
 Sponsor: Seavey  
 OPA position: n/a Committee action: **ONTP**
- 1098 Resolve, To Establish Energy Standards for Residential Rental Properties**  
 Sponsor: Eder  
 OPA position: n/a Committee action: **OTPA  
 Res 109**
- 1101 An Act to Designate Pay Phone Locations in the Public Interest**  
 Sponsor: Adams  
 OPA position: suppt Committee action: **OTPA  
 PL 131**
- 1113 An Act to Create the Fryeburg Water District**  
 Sponsor: Muse  
 OPA position: suppt Committee action: **OTPA  
 P&S 14**

- 1128 An Act Directing the State Planning Office to Study Municipal Capabilities to Become Providers of Internet Services.**  
 Sponsor: Bromley  
 OPA position: suppt                      Committee action:                      **OTPA  
P&S 19**
- 1162 An Act to Permit the Establishment of Regional Water Councils**  
 Sponsor: Barstow  
 OPA position: n/a                      Committee action:                      **OTPA  
PL 209**
- 1198 An Act to Promote Responsible Advertising by Public Utilities**  
 Sponsor: Duplessie  
 OPA position: support                      Committee action:                      **ONTP**
- 1259 An Act to Sustain Maine Schools and Libraries**  
 Sponsor: Rosen  
 OPA position: oppose                      Committee action:                      **OTPA  
PL 251**
- 1282 An Act to Clarify the Process To Enforce Dig Safe Requirements**  
 Sponsor: Bliss  
 OPA position: n/a                      Committee action:                      **ONTP**
- 1290 An Act to Improve Funding for Telecommunications Relay Service**  
 Sponsor: Bliss  
 OPA position: support                      Committee action:                      **OTPA  
PL 305**
- 1342 An Act Reducing Oversight Expenses for Decommissioning Nuclear Power Plants to Benefit Electric Ratepayers (OPA)**  
 Sponsor: Bartlett  
 OPA position: support                      Committee action:                      **OTPA  
PL 254**
- 1347 Resolve, Directing the PUC to Amend Its Rules Governing Net Energy Billing**  
*Directs PUC to remove “in the vicinity of the customer’s premises” requirement. Also would allow net billing for all of customers accounts.*  
 Sponsor: Pinkham  
 OPA position: nf/na                      Committee action: OTP OTPA ONTP **Carryover**
- 1373 An Act to Implement Emergency Medical Dispatch Services for E-9-1-1 Calls**  
 Sponsor: Adams  
 OPA position: support                      Committee action:                      **OTPA  
PL 303**

**1375 An Act to Improve Cooperative Energy Purchasing for Schools, Towns and Nonprofits**

*Allows schools, towns and nonprofits to cooperate to purchase bulk electricity, oil and gas.*

Sponsor: Strimling

OPA position: n/a

Committee action:

**OTPA  
PL 190**

**1377 An Act Regarding Municipally Owned Street Lighting**

Sponsor: Woodcock

OPA position: n/a

Committee action: OTP OTPA ONTP **Carryover**

**1379 An Act to Amend the Maine Wind Energy Act**

*Comprehensive change to State policy in favor of wind energy projects*

Sponsor: Strimling

OPA position: qual sup't

Committee action:

**OTPA  
Carried Over**

**1392 Resolve, Regarding Legislative Review of Portions of Chapter 30I, Standard Offer Service.**

Sponsor: Bliss

OPA position: support

Committee action:

**OTPA (to reject rule)  
RES 65**

**1418 An Act to Subject Prepaid Wireless Telephone Service to E-9-1-1 Funding Requirements**

Sponsor: Bliss

OPA position: support

Committee action:

**OTPA  
RES 62**

**1434 An Act to Reform the Renewable Electricity Portfolio Standard**

*Disqualifies energy sold to a T&D; adds a Tier 2 for certain renewable generators built after 1-1-05; NEPOOL or Maritimes delivery; authorizes renewable credits; alternative compliance*

Sponsor: Bliss

OPA position: support

Committee action:

**ONTP**

**1435 An Act Establishing Minimum Energy Efficiency Standards for Certain Products Sold or Installed in the State**

Sponsor: Eberle

OPA position: support

Committee action:

**OTPA  
Died Between the Bodies**

- 1440 An Act to Encourage the Implementation of High-speed Internet Access in Rural and Isolated Areas**  
 Sponsor: Pingree  
 OPA position: initial sup't      Committee action: OTP OTPA ONTP **Carryover**
- 1442 An Act to Faciliate Energy Self-sufficiency for Maine's Offshore Islands**  
 Sponsor: Pingree  
 OPA position: n/a      Committee action: **OTPA P&S 21**
- 1586 An Act to Encourage the Use of Solar Energy**  
 Sponsor: Brautigam  
 OPA position: qual supp      Committee action: **OTPA PL 459**
- 1591 Resolve, [Chapter 920, Energy Building Codes]**  
 Sponsor: Bliss  
 OPA position: support      Committee action: **OTPA RES 88**
- 1610 Resolve [Chapter 306, Uniform Disclosure]**  
 Sponsor: Bliss  
 OPA position: support      Committee action: **OTP RES 57**
- 1612 An Act to Mandate E-9-1-1 TDD Testing and Training**  
 Sponsor: Edmonds  
 OPA position: n/a      Committee action: **OTPA RES 63**
- 1613 An Act to Promote the Use of Public Safety Telecommunications Equipment by the Deaf and Hard-of-hearing Community**  
 Sponsor: Edmonds  
 OPA position: n/a      Committee action: **OTPA PL 336**
- 1665 Resolve, [PUC rules, ch. 11]**  
 Sponsor: Bliss  
 OPA position: n/a      Committee action: **OTPA RES 89**
- 1675 An Act to Make a Standard Alternative Form of Regulation Available to Rural Telephone Companies.**  
 Sponsor:  
 OPA position: oppose      Committee action: OTP OTPA ONTP **Carryover**

**1685 An Act Regarding Energy Codes**

Sponsor: Bliss

OPA position: n/a

Committee action:

**OTPA**  
**PL 350**

**Speaking Engagements: July 1, 2004 to June 30, 2005**

- A. Stephen Ward
- |                    |   |
|--------------------|---|
| July 22-23, 2004   | <u>Consumer Energy Council of America</u> , Transmission Infrastructure Forum, Washington, D.C.   |
| September 13, 2004 | <u>Regional Greenhouse Gas Initiative</u> , Stakeholder Group, Boston   |
| September 14, 2004 | <u>Bangor Daily News Editorial Board</u> , Bangor   |
| September 14, 2004 | <u>Portland Press Herald Editorial Board</u> , Portland   |
| October 5, 2004    | <u>Maine State Bar Association</u> , Public Utility Regulation and Advocacy, CLE, panelist, Augusta   |
| October 6, 2004    | <u>Governor's Roundtable on Energy Conservation</u> , Augusta   |
| October 28, 2004   | <u>Massachusetts Restructuring Roundtable</u> , "Application of FERC's Regional Transmission Policy on (and Under) the Ground in Southwest Connecticut," Boston |
| January 12, 2005   | <u>Regional Greenhouse Gas Initiative</u> , Stakeholder Group, Boston   |
| March 9, 2005      | <u>Interview with Greg Lagerquist</u> , wireless issues, WGAN-TV, Auburn  |
| April 26, 2005     | <u>Northern Maine Independent System Administrator</u> , Annual Meeting, Bangor   |
| April 29, 2005     | <u>Governor's Connect ME Task Force on Wireless Telecommunications</u> , Augusta  |
| May 24, 2005       | <u>NEEP Conference</u> , "A Consumer Perspective on the Regional Greenhouse Gas Initiative," Providence   |
| May 25, 2005       | <u>Radio interview, WMPG Portland</u> , "Public Interest Lawyering in Maine"  |
| June 9, 2005       | <u>Governor's Broadband Access Infrastructure Board</u> , Augusta   |
| June 14, 2005      | <u>National Association of State Utility Consumer Advocates</u> , Mid-Year Meeting, RGGI panel, New Orleans   |
- B. Ron Norton
- |                |   |
|----------------|---|
| April 26, 2005 | <u>Presentation to Students &amp; Faculty in USM MBA Program</u> , the Verizon AFOR & Supreme Court Decision, Portland, Maine |
|----------------|---|
- C. Wayne Jortner
- |               |   |
|---------------|---|
| July 28, 2004 | <u>Interview With Kathleen Shannon</u> , telephone and wireless issues, WCSH TV, Portland |
|---------------|---|

- October 5, 2004                    Maine Bar Association, Public Utility Regulation and Advocacy, panelist, Augusta, Maine
- February 2, 2005                Talk at Lion's Club, Westbrook, Maine
- April 18, 2005                  Interview With BBC World News, public interest pay phones, Washington, DC
- June 14, 2005                  National Association of State Utility Consumer Advocates, Mid-Year Meeting, Universal Service Fund panel, New Orleans
- D.    William Black
- March 4, 2005                  Advisory Council to Maine Telecom Relay Services, quarterly meeting, Portland, Maine
- June 3, 2005                  Advisory Council to Maine Telecom Relay Services, quarterly meeting, Bangor, Maine



**Public Advocate Timesheets at 6/30/05  
Cummulative 2004/2005**

	<b>Hours</b>	<b>% of w/o Administration</b>
<b>Telephone</b>		<b>39.9%</b>
FCC	313	3.6%
PUC	1880.2	21.4%
Legislative Hearings/Policy	223	2.5%
Complaints	598.4	6.8%
NASUCA	241.2	2.7%
Newsletters	238.5	2.7%
Public Speaking	18.4	0.2%
 <b>Electric</b>		 <b>35.1%</b>
FERC	126.5	1.4%
PUC	2102	23.9%
ISO-New England	102	1.2%
Legislative Hearings/Policy	223	2.5%
Compliants	149.6	1.7%
Coalition	75	0.9%
NASUCA	160.8	1.8%
Newsletters	79.5	0.9%
Public Speaking	73.6	0.8%
 <b>Water</b>	 1268	 <b>14.4%</b>
 <b>Natural Gas</b>	 875	 <b>10.0%</b>
 <b>Radioactive Waste</b>	 54	 <b>0.6%</b>
 <b>Railroad Service Quality</b>	 4	 <b>0.04%</b>
 <b>Administrative/Training/Leave</b>	 7745	 <b>n/a</b>
 <b>TOTALS</b>	 16550.7	 <b>100.0%</b>

ATTACHMENT G

March 21, 2005

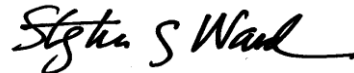
Governor John Elias Baldacci  
Office of the Governor  
1 State House Station  
Augusta, ME 04333-0001

Dear Governor Baldacci,

As you are aware from recent conversations with some of its members, the Electric Price Mitigation Task Force has met over the past six weeks in an effort to address the increasing cost of electricity supply. The Task Force is composed of all the participants in Public Utilities Commission proceedings that recently readjusted (and lowered) the rates for stranded cost recovery by Central Maine Power and Bangor Hydro Electric companies.

I enclose for your review a summary of the Task Force's conclusions and recommendations, entitled "Action Items for Policy Making and Implementation."

Very truly,



Stephen G. Ward  
Public Advocate

Attachment

cc: Task Force Members  
Kurt Adams, OOG  
Dick Davies, OOG

Senator Philip Bartlett, II  
Representative Lawrence Bliss  
Jon Clark, OPLA

**Electric Price Mitigation Task Force**  
**Action Items for Policymaking and Implementation**  
**March 2005**

**A. INTRODUCTION**

Composed of a number of parties to recent PUC Stranded Cost cases,<sup>1</sup> the Electric Price Mitigation Task Force has met over the past month in an effort to find opportunities to lower electric rates in response to increases in electricity supply prices due to rising world oil and natural gas prices. Until the recent change in Standard Offer prices for residential and small commercial customers, the combined cost of supply and delivery for residential and small business customers had declined in recent years through a combination of stable supply prices and decreasing delivery prices. In fact, the price that CMP residential customers pay for electricity right now is approximately the same price paid by customers in 1999; over the same time period, regular gasoline prices rose 70% and heating oil prices rose 150%.

Maine's approach to electric industry restructuring has worked and is working very well. Significant numbers of commercial and industrial customers purchase their electricity supply from competitive providers. Residential and small commercial customers purchase their supply from standard offer, which is procured through an effective competitive bidding approach. Below is a review of progress that has come in both components - the regulated delivery rate and the unregulated supply price:

1. **Regulated Delivery Rates**

- Stranded costs (past contract obligations for non-utility generators and decommissioning of closed nuclear units) have come down dramatically - from a \$1 billion level in 1999 to \$500 million today (net present value).
- CMP and Bangor Hydro have each agreed to alternative rate plans that result in a pattern of annual delivery rate adjustments over the 2001 to 2008 period that is likely to drive prices down further from 2000 levels. CMP delivery prices already have declined by over 30% since the beginning

---

<sup>1</sup> The Mitigation Task Force met on February 2, February 18, February 25, March 2 and March 10. Its members included representatives of the PUC (Tom Welch), CMP (Paul Dumais, John Carroll, Scott Mahoney), Bangor Hydro (Greg Hines), IECG (Tony Buxton, Linda Lockhart), IEPM (Dave Wilby, Pat Scully), Office of Energy Independency and Security (OEIS) (Beth Nagusky) and OPA (Steve Ward, Eric Bryant). While the OEIS does not endorse all statements contained in the introduction section, it generally supports the recommendations of the summary report.

of 2000. Bangor Hydro has locked in a pattern of delivery rate reductions totaling 12% over the seven years ending 2008.

- Efficiency Maine is effectively running energy efficiency programs targeted at all customers, consistent with its legislative mandate. Efficiency Maine's funding comes from a charge included in customers' delivery rates. In 2004, Efficiency Maine spent \$6.8 million on efficiency programs that are expected to result in \$12.9 million of benefits and significant reductions to air emissions. Efficiency Maine's funding will increase to \$12.6 million in 2006 as CMP's power partner program expenditures decrease.

## 2. **Electric Supply**

- Maine has a vibrant retail supply market that is benefiting its medium and large commercial and industrial customers. More than 90% of large customer load and 35% of medium customer load is served today with customers picking their own power suppliers in the competitive retail market. For these customers, choice, predictability and control are the key benefits of electric restructuring. The percentages are high relative to other states that have restructured their electric industry. Residential and small commercial customers benefit from the bidding process used by the Maine Public Utilities Commission to procure standard offer service. In fact, the standard offer price effective March 2005 for these customers is still less than that paid by customers in Massachusetts.
- The PUC locked in standard offer prices for a portion of the load for 2006/2007 and 2007/2008 that are lower than the prices taking effect in March 2005. As a result, Maine has increased the likelihood of a pattern of declining costs for residential and small commercial customers for the near future. The new standard offer contract with Constellation Energy that took effect on March 1 is in place for three years but in March 2006, 33% of the CMP and Bangor Hydro residential/small commercial load will go out for new bids, and in March 2007, another 33% will be put out to bid. If oil and natural gas prices subside from current levels, these new bids would capture lower prices for these customers.

- CMP and BHE customers benefited by as much as \$250 million over the last three-year standard offer period (2002 to 2005). Supply prices for these customers were locked in during the time period when wholesale natural gas prices increased by 100%.
- Today a 100% renewable power supply option is available and serving more than 2,800 Interfaith Power and Light customers, representing a clean power alternative that did not exist prior to electric restructuring.
- Maine has in place a 30% renewable requirement that suppliers must meet in order to supply electricity in Maine. Maine's renewable requirement is the highest in the nation.

In short, Maine has paid down more than 50% of the stranded costs that accumulated in the 1980's and 1990's and has created an effective device for aggregating residential customers into a single standard offer buying block to ensure competitive supply prices. Despite these successes and the structural advantages of Maine's policy of unregulated supply markets, there are additional opportunities that may offer more benefits for Maine's small businesses and residential customers.

## **B. RECOMMENDATIONS**

The Electric Price Mitigation Task Force recommends pursuing the following opportunities, in no particular order of importance:

1. **Contract Restructuring:** Continue to explore the buy-out or restructuring of contracts with private power generators and marketers that account for over 70% of stranded costs for CMP and Bangor Hydro. Through negotiation, explore opportunities for lowering the level of these contract payments by means of alternative methods of financing, including public financing.
2. **Efficiency Bond:** Support LD 891, a proposal now pending before the Appropriations Committee for funding fuel neutral energy efficiency programs to benefit low-income households (175% of federal poverty or less), moderate-income households (80% of county medium income or less) and manufacturers. These programs are to be managed by MSHA or by Efficiency Maine and should be funded at no less than \$20 million over a five-year period. At this time, the funding will supplement customer-funded Efficiency Maine programs that are already in place.

3. **Energy Star Appliances:** In conjunction with retail appliance marketers, such as Home Depot, Sears or Lowes, promote Energy Star appliance purchases when it can be demonstrated that the monthly energy cost savings exceed monthly financing costs and that the payback period is reasonable.
4. **Efficiency Maine Refrigerator Replacements:** Ramp up the existing refrigerator replacement program for HEAP-eligible, low-income households from 2,400 in 2005 to a 3,000 per year in 2006 and 2007. Each replacement generates annual savings of as much as 1,250 kWh annually, or more than \$160, for participating customers each year.
5. **Seek Improvements in Maine's Retail Marketplace:** Encourage the PUC to investigate rulemaking changes that may reduce barriers to entry for competitive providers serving residential and small commercial customers. Convene one or more meetings of competitive providers to solicit suggestions, proposals or innovations that could facilitate more activity in these markets.

The Electric Price Mitigation Task Force also considered a number of other possible options for addressing the price impacts associated with the March 2005 Standard Offer increase but does not recommend pursuing them, for the following reasons:

1. **Levelizing a Three-Year Standard Offer:** The group discussed the option of seeking to negotiate with the CMP and BHE Standard Offer providers a levelized three-year price for power purchased for 2005/06 (100% of load), 2006/07 (67% of load) and 2007/08 (33% of load). If successful, this effort would generate only a very modest reduction -- one tenth of a cent -- in the 2¢ increase, and would do so with some jeopardy for the successful conduct of future Standard Offer bid processes. The success of Maine's Standard Offer bid program has everything to do with bidders' confidence that the rules will not be changed mid-stream; this option could represent exactly that.
2. **Providing a Lower T&D Rate for Residential Customers:** For residential customers to receive a lower T&D rate (and thereby be sheltered from a portion of the Standard Offer increase), T&D rates for other customer groups would necessarily go up. This is the wrong time to raise rates for commercial and industrial customers, as they have been and are experiencing the same high supply prices that residential and small commercial customers are now experiencing.

3. **Deferring Stranded Cost Recoveries Over a 5-Year Period:** Any deferral of stranded cost recovery now by lowering the current delivery prices pushes recovery into an uncertain future and takes Maine off a steadily declining pattern of stranded cost recovery that will enable lower prices for Maine's customers in the future. The cost for such deferral is substantial: a .5-cent reduction which only offsets 25% of the supply price increase, results in \$45 million of additional financing costs for CMP and Bangor Hydro. This option is too risky and too costly because it presents the risk of needing to recover costs in the future and adding substantial financing costs at a time when wholesale electric prices might continue to increase.

ATTACHMENT H

**Congress of the United States**  
Washington, DC 20515

July 5, 2005

The Honorable Joseph T. Kelliher  
Chairman  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, D.C. 20426

Dear Mr. Chairman:

As you know, ISO New England has asked FERC to approve a plan (called "LICAP" or "Locational Installed Capacity Proposal") to provide additional compensation to power plant owners/generators as an incentive for them to build power plants needed to insure adequate electricity supplies for New England in the future. We are writing you to express our opposition to this proposal, and to urge the Commission to reject it.

At the time that FERC adopted its landmark Order 888 to promote wholesale competition in electricity markets, the Commission ordered a functional unbundling of electricity generation and transmission services, while also noting that its order would accommodate a full corporate unbundling of generation and transmission – including divestiture of generation assets. The Commission's order appears to have been predicated upon an assumption and belief that opening up competition in generation by ensuring open and nondiscriminatory transmission access and approving market based rates for transmission would result in new competitors entering the generation market and resulting competition creating lower prices for consumers. In fact, FERC Order 888 indicated that:

The Commission estimates the potential quantitative benefits from the Final Rule will be approximately \$3.8 to \$5.4 billion per year of cost savings, in addition to the non-quantifiable benefits that include better use of existing assets and institutions, new market mechanisms, technical innovation, and less rate distortion.

Today, New England has adequate supplies of electricity – in fact, there is a surplus of generation that will last until the end of the decade. In the face of this surplus, the proposed LICAP rule, if approved by FERC, would result in the largest rate increase in the history of New England, effective January 1, 2006. In contrast to the type of competitive generation market that appeared to be envisioned by the Commission a decade ago, under the proposed LICAP rule, huge financial subsidies would be provided to generators based on complex regulatory formulas. It is hard for us to see how such an approach is consistent with the underlying philosophy behind wholesale competition in the generation market – competition which was supposedly going to move such generation from a regime in which vertically-integrated utilities received a regulated

PRINTED ON RECYCLED PAPER



rate of return and consumers paid for investment in new generation, to one in which the costs and risks associated with new generation were to be shifted to generation company investors. Now, it appears that this cost is being shifted back to consumers in the form of LICAP charges.

Essentially, ISO-NE is asking FERC to order New England residential, commercial and industrial electric customers to pay out what some estimates have suggested could be \$13.5 billion over the next 5 years to companies that own power plants in our region, in the hope that these power plant owners will be "incented" to build new power plants.

The consequences of this for New England electricity consumers could be serious. It has been estimated that the typical Boston area residential customer's electric bill would increase by a projected 21% - 24% over the next 5 years because of the LICAP payments that would go to power plant owners under the ISO's proposal. A similar 21%-24% increase is projected in Connecticut as well. Commercial and Industrial customers likely will also see very significant price increases. These rate increases to businesses in our region will have a devastating impact on our state's and our region's economy.

Because the LICAP payments are only "incentives," this money will go to generators without any requirement or commitment from them to build any power plants. It is therefore entirely possible that ratepayers could spend \$13.5 billion for nothing.

We would note that the plan put forth by ISO is radical and experimental. There is no evidence that it will result in new generation in New England in the time frames needed. We also note that the ISO LICAP plan has broad opposition across New England. The ISO attempted but failed to achieve a 2/3rds vote of the NEPOOL Participants Committee for the first version of the LICAP plan, which ISO filed at FERC on March 1, 2004. ISO did not submit the current version of LICAP to the Participants Committee, and while ISO offered to continue a regional dialogue on LICAP, the FERC hearing schedule did not leave much of an opportunity to do so - particularly once the case was in litigation. All six New England governors are opposed to the LICAP proposal and have formally registered their concerns to the Commission. In addition, every state public utility commission in New England and the New England Conference of Public Utility Commissioners (NECPUC) has filed strong opposition to this plan at the FERC. The ISO LICAP Plan has also been broadly opposed by other New England market participants and stakeholders, including governors, state attorneys general, state consumer advocates, public utilities, municipal utilities, and investor-owned utilities.

A broad coalition of public officials and private parties tried to propose to FERC an alternative plan that that would be both much less costly and more certain to result in actual power plant construction since it would target payments to the type of generators needed for reliability and which had demonstrated that they were failing to earn sufficient revenues in the markets. Separate reliability option alternatives were put forth by the Connecticut Municipal Electrical Energy Cooperative and by a group led by the Connecticut DPUC. But the Commission refused to consider any alternatives other than the LICAP plan filed by ISO. The testimony and supporting evidence offered by the coalition, as well as similar testimony offered by other parties, were even stricken from the record of hearings at FERC.

On June 15, FERC Administrative Law Judge McCartney issued a recommended decision for FERC's approval. This recommended decision essentially endorses the ISO-NE LICAP plan, recommending no significant modifications to address the many objections and concerns raised by all the above listed parties.

In our view, there has been no showing that the LICAP mechanism approved by the Judge will result in just or reasonable rates. In evaluating the implications of ISO-NE's LICAP proposal, we respectfully request your assistance and cooperation in providing responses to the attached questions. We respectfully request that responses to these questions be provided to us as soon as possible.


We note that unless FERC rejects the ISO plan, this plan and its huge rate increases will become effective on January 1, 2006. We therefore urge the Commission to reject the ISO-NE LICAP plan, and to instead direct ISO-NE to go back and consult with all affected stakeholders to come up with alternative mechanisms for ensuring that our region's wholesale electricity markets function properly and that rates charged in such markets are just and reasonable and not unduly discriminatory or preferential – as is required under the Federal Power Act.

We look forward to receiving your response.

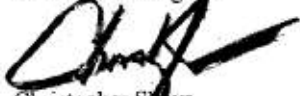
Sincerely,


  
Edward J. Markey  
Member of Congress

  
Christopher Dodd  
United States Senate

  
Nancy L. Johnson  
Member of Congress

  
Jack Reed  
United States Senate

  
Christopher Shays  
Member of Congress

  
Edward M. Kennedy  
United States Senate

  
Barney Frank  
Member of Congress

  
John F. Kerry  
United States Senate

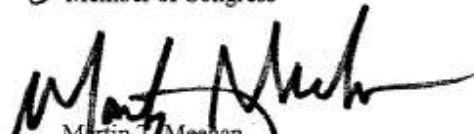
  
Roy Simmons  
Member of Congress

  
Rosa L. DeLauro  
Member of Congress

  
James P. McGovern  
Member of Congress


  
Richard E. Neal  
Member of Congress

  
John W. Olver  
Member of Congress

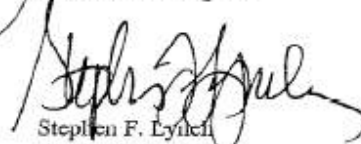
  
Martin T. Meehan  
Member of Congress


  
Michael H. Michaud  
Member of Congress


  
James M. Jeffords  
United States Senate


  
Patrick J. Leahy  
United States Senate

  
John F. Tierney  
Member of Congress

  
Stephen F. Lynch  
Member of Congress

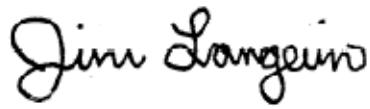
  
Michael E. Caputo  
Member of Congress


  
William D. Delahunt  
Member of Congress

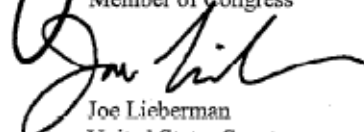
  
Bernard Sanders  
Member of Congress

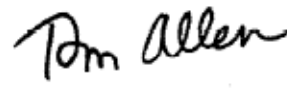
  
Patrick J. Kennedy  
Member of Congress

  
Lincoln Chafee  
United States Senate

  
James R. Langevin  
Member of Congress

  
John B. Larson  
Member of Congress

  
Joe Lieberman  
United States Senate

  
Thomas H. Allen  
Member of Congress