

Program Evaluation Report of the Office of the Public Advocate

November 1, 2019



Maine Office of the Public Advocate

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- P. A copy of the single-page list of organizational units and programs within each organizational unit required pursuant to section 955 (1)
- Q. Identification of provisions contained in the agency's or independent agency's enabling or authorizing statutes that may require legislative review to determine the necessity of amendment to align the statutes with federal law, other state law or decisions of the United States Supreme Court or the Supreme Judicial Court.

EXHIBITS

Exhibit 1 – Case Summary of Ratepayer Savings

Exhibit 2 – Financial Summary FY09/FY19

Exhibit 3 - 35-A M.R.S. Section 1702-A

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**Exhibit 5 – 2019 Legislative Changes to Office of the Public Advocate
Enabling Statute**

Exhibit 6 – List of organizational units and programs

Introduction

In response to 3 M.R.S. §956, the Joint Standing Committee on Energy, Utilities and Technology on May 1, 2019 directed the Public Advocate to prepare a program evaluation report under authority of the State Government Evaluation Act. A program evaluation report requires submission of the following items:

- A. Enabling or authorizing law or other relevant mandate, including any federal mandates;
- B. A description of each program administered by the agency or independent agency, including the following for each program:
 - (1) Established priorities, including the goals and objectives in meeting each priority;
 - (2) Performance measures or other benchmarks used by the agency to measure its progress in achieving the goals and objectives; and
 - (3) An assessment by the agency indicating the extent to which it has met the goals and objectives, using the performance measures. When an agency has not met its goals and objectives, the agency shall identify the reasons for not meeting them and the corrective measures the agency has taken to meet the goals and objectives;
- C. Organizational structure, including a position count, a job classification and an organizational flow chart indicating lines of responsibility;
- D. Repealed
- E. Financial summary, including sources of funding by program and the amounts allocated or appropriated and expended over the past 10 years;
- F. Repealed
- G. Identification of those areas where an agency has coordinated its efforts with other state and federal agencies in achieving program objectives and other areas in which an agency could establish cooperative arrangements, including, but not limited to, cooperative arrangements to coordinate services and eliminate redundant requirements;
- H. Identification of the constituencies served by the agency or program, noting any changes or projected changes;
- I. A summary of efforts by an agency or program regarding the use of alternative delivery systems, including privatization, in meeting its goals and objectives;
- J. Identification of emerging issues for the agency or program in the coming years;
- K. Any other information specifically requested by the committee of jurisdiction;
- L. A comparison of any related federal laws and regulations to the state laws governing the agency or program and the rules implemented by the agency or program;
- M. Agency policies for collecting, managing and using personal information over the Internet and nonelectronically, information on the agency's implementation of information technologies and

an evaluation of the agency's adherence to the fair information practice principles of notice, choice, access, integrity and enforcement;

- N.** A list of reports, applications and other similar paperwork required to be filed with the agency by the public. The list must include:
 - (1)** The statutory authority for each filing requirement;
 - (2)** The date each filing requirement was adopted or last amended by the agency;
 - (3)** The frequency that filing is required;
 - (4)** The number of filings received annually for the last 2 years and the number anticipated to be received annually for the next 2 years; and
 - (5)** A description of the actions taken or contemplated by the agency to reduce filing requirements and paperwork duplication;
- O.** A list of reports required by the Legislature to be prepared or submitted by the agency or independent agency;
- P.** A copy of the single-page list of organizational units and programs within each organizational unit required pursuant to section 955, subsection 1, placed at the front of the report;
- Q.** Identification of provisions contained in the agency's or independent agency's enabling or authorizing statutes that may require legislative review to determine the necessity of amendment to align the statutes with federal law, other state law or decisions of the United States Supreme Court or the Supreme Judicial Court.

This report provides detail responsive to each of these items, either in the form of the requested documents or in the form of a narrative.

- A. **Enabling Legislation:** 2019 Changes to these statutory provisions are reflected in attached Exhibit 5.

Title 35-A: PUBLIC UTILITIES
Chapter 17: PUBLIC ADVOCATE

§1701. APPOINTMENT AND STAFF

1. Appointment of the Public Advocate.

[2009, c. 399, §1 (RP) .]

1-A. Appointment of the Public Advocate; term; removal. This subsection governs the appointment, term of service and removal of the Public Advocate.

A. The Governor shall appoint the Public Advocate, subject to review by the joint standing committee of the Legislature having jurisdiction over public utilities matters and to confirmation by the Legislature. [2009, c. 399, §2 (NEW).]

B. The Public Advocate shall serve for a 4-year term of office, beginning on February 1, 2013 and every 4 years thereafter. [2009, c. 399, §2 (NEW).]

C. The Public Advocate may continue to serve beyond the end of the 4-year term until a successor is appointed and qualified. [2009, c. 399, §2 (NEW).]

D. Any vacancy occurring must be filled by appointment for the unexpired portion of the term. [2009, c. 399, §2 (NEW).]

E. Any willful violation of this chapter by the Public Advocate constitutes sufficient cause for removal of the Public Advocate by the Governor, on the address of both branches of the Legislature or by impeachment pursuant to the Constitution of Maine, Article IX, Section 5. [2009, c. 399, §2 (NEW).]

[2009, c. 399, §2 (NEW) .]

2. Staff of the Public Advocate. The staff of the Public Advocate shall consist of such other personnel, including staff attorneys, as the Public Advocate determines necessary to represent the using and consuming public, as required by subsection 1702. All such personnel shall be appointed, supervised and directed by the Public Advocate. The Public Advocate is not subject to the supervision, direction or control of the chairman or members of the commission.

[1987, c. 141, Pt. A, §6 (NEW) .]

3. Salaries of certain employees. The salaries of the following employees of the Public Advocate are within the following salary ranges:

A. Deputy Public Advocate, salary range 53; [1999, c. 259, §4 (NEW).]

B. Senior Counsel, salary range 36; [1999, c. 259, §4 (NEW).]

C. [2011, c. 655, Pt. P, §1 (RP).]

D. Research Assistant, salary range 30; [1999, c. 259, §4 (NEW).]

E. Business Services Manager, salary range 26; and [1999, c. 259, §4 (NEW).]

F. Special Assistant to the Public Advocate, salary range 20. [1999, c. 259, §4 (NEW).]

The employees listed in this subsection serve at the pleasure of the Public Advocate and are confidential employees. All other employees of the Public Advocate are subject to the Civil Service Law.

The Public Advocate may compensate one or more Senior Counsels at salary range 37 if, in the judgment of the Public Advocate, an increase is necessary to provide competitive salary levels.

[2011, c. 655, Pt. P, §1 (AMD) .]

SECTION HISTORY

1987, c. 141, §A6 (NEW). 1999, c. 259, §4 (AMD). 2001, c. 476, §1 (AMD). 2009, c. 399, §§1, 2 (AMD). 2011, c. 655, Pt. P, §1 (AMD).

§1702. DUTIES

The duties and responsibilities of the Public Advocate are to represent the using and consuming public in matters within the jurisdiction of the commission, including, but not limited, to the following: [1987, c. 141, Pt. A, §6 (NEW).]

1. Review and recommendations. The Public Advocate may review, investigate and make appropriate recommendations to the commission with respect to:

A. The reasonableness of rates charged or proposed to be charged by any public utility; [1987, c. 141, Pt. A, §6 (NEW).]

B. The reasonableness and adequacy of the service furnished or proposed to be furnished by any public utility or competitive service provider; [1999, c. 398, Pt. A, §24 (AMD); 1999, c. 398, Pt. A, §§104, 105 (AFF).]

C. Any proposal by a public utility to reduce or abandon service to the public; [1987, c. 141, Pt. A, §6 (NEW).]

D. The issuance of certificates of public convenience and necessity. Recommendations may include alternative analyses and plans as necessary; [1987, c. 141, Pt. A, §6 (NEW).]

E. Terms and conditions of public utilities; [1987, c. 141, Pt. A, §6 (NEW).]

F. Mergers and consolidations of public utilities; [1987, c. 141, Pt. A, §6 (NEW).]

G. Contracts of public utilities with affiliates or subsidiaries; and [1987, c. 141, Pt. A, §6 (NEW).]

H. Securities, regulations and transactions of public utilities. [1987, c. 141, Pt. A, §6 (NEW).]

[1999, c. 398, Pt. A, §24 (AMD); 1999, c. 398, Pt. A, §§104, 105 (AFF) .]

2. Intervention. The Public Advocate may intervene in any proceeding before the commission related to the activities under subsection 1, when determined necessary by the Public Advocate.

[1987, c. 141, Pt. A, §6 (NEW) .]

3. Petition to initiate proceedings. The Public Advocate may petition the commission to initiate proceedings to review, investigate and take appropriate action with respect to the rates or service of any public utility or competitive service provider when determined necessary by the Public Advocate.

[1999, c. 398, Pt. A, §25 (AMD); 1999, c. 398, Pt. A, §§104, 105 (AFF) .]

4. Public complaints. The Public Advocate may investigate complaints affecting the using and consuming public generally, or particular groups, of consumers and, where appropriate, make recommendations to the commission with respect to these complaints.

[1987, c. 141, Pt. A, §6 (NEW) .]

5. Intervention on behalf of public. The Public Advocate may, on behalf of the using and consuming public, or any particular group of consumers, petition to initiate, or intervene and appear in, any proceedings before the commission, appeals from orders of the commission, or proceedings before state and federal agencies and courts in which the subject matter of the action affects the customers of any utility or competitive service provider doing business in this State, except that the Public Advocate may not intervene in any proceeding in which the commission staff is representing a position substantially similar to that of the Public Advocate, as determined by the Public Advocate.

[1999, c. 398, Pt. A, §26 (AMD); 1999, c. 398, Pt. A, §§104, 105 (AFF) .]

6. Annual report. The Public Advocate shall prepare and submit an annual report of activities of the Public Advocate to the Governor and to the joint standing committee of the Legislature having jurisdiction over public utilities by August 1st of each year, with copies available to all legislators on request.

[1987, c. 141, Pt. A, §6 (NEW) .]

7. Assist customers of consumer-owned transmission and distribution utilities. The Public Advocate shall assist customers of consumer-owned transmission and distribution utilities in reviewing proposed rate increases and preparing questions and testimony for public hearings and, on request of a customer and when determined necessary by the Public Advocate, intervene in the proceedings conducted in accordance with chapter 35.

[1999, c. 398, Pt. A, §27 (AMD); 1999, c. 398, Pt. A, §§104, 105 (AFF) .]

8. Represent interests of retail customers on regional bodies. The Public Advocate, when the Public Advocate determines it necessary, may serve as a voting member of any regional body whose decisions directly affect the prices or quality of utility services in the State, as long as that service is limited to a seat that is designated for the representation of consumer interests. Service as a voting member of a regional body in accordance with this subsection does not create or constitute a conflict of interest pursuant to section 1709.

[2001, c. 27, §1 (NEW) .]

9. Other advocacy forums. The Public Advocate, consistent with the priorities established in section 1702-A and the requirements of this chapter, may represent and promote the interests of the using and consuming public:

- A. In appropriate proceedings of the Legislature; and [2011, c. 79, §2 (NEW).]
- B. In regional or national forums, including but not limited to any proceeding of an independent system operator or the Federal Energy Regulatory Commission. [2011, c. 79, §2 (NEW).]

[2011, c. 79, §2 (NEW) .]

10. Independent representation of the interests of the using and consuming public. The Public Advocate, when taking a position on any matter in any proceeding or forum pursuant to the Public Advocate's authority under this chapter, shall exercise independent judgment to ensure the position:

- A. Is consistent with the priorities established in section 1702-A and the requirements of this chapter; and [2011, c. 79, §2 (NEW).]
- B. Promotes stabilization and lowering of prices paid by those members of the using and consuming public whose interests the Public Advocate is representing. [2011, c. 79, §2 (NEW).]

[2011, c. 79, §2 (NEW) .]

SECTION HISTORY

1987, c. 141, §A6 (NEW). 1989, c. 660, (AMD). 1999, c. 398, §§A24-27 (AMD). 1999, c. 398, §§A104,105 (AFF). 2001, c. 27, §1 (AMD). 2011, c. 79, §§1, 2 (AMD).

§1702-A. EVALUATION OF NEEDS AND RESOURCES

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

- A. "Low-income consumers" means residential consumers for whom paying public utility bills is difficult or impossible without some form of assistance or government aid; [1997, c. 166, §1 (NEW).]
- B. "Residential consumers" means consumers who take public utility service for domestic purposes; and [1997, c. 166, §1 (NEW).]
- C. "Small business consumers" means commercial consumers that employ fewer than 100 employees. [1997, c. 166, §1 (NEW).]

[1997, c. 166, §1 (NEW) .]

2. Intent. It is the intent of the Legislature that the resources of the Public Advocate be devoted to the maximum extent possible to ensuring adequate representation of the interests of those consumers whose interests would otherwise be inadequately represented in matters within the jurisdiction of the commission.

[1997, c. 166, §1 (NEW) .]

3. Priority. When the interests of consumers differ, the Public Advocate shall give priority to representing the interests of consumers in the following order:

- A. Low-income consumers; [1997, c. 166, §1 (NEW).]
- B. Residential consumers; [1997, c. 166, §1 (NEW).]
- C. Small business consumers; and [1997, c. 166, §1 (NEW).]
- D. Other consumers whose interests the Public Advocate finds to be inadequately represented. [1997, c. 166, §1 (NEW).]

This subsection does not require the Public Advocate to represent the interests of a consumer or group of consumers if the Public Advocate determines that such representation is adverse to the overall interests of the using and consuming public.

[1997, c. 166, §1 (NEW) .]

SECTION HISTORY

1997, c. 166, §1 (NEW).

§1703. APPEAL FROM COMMISSION ORDERS

The Public Advocate has the same rights of appeal from commission orders or decisions to which the Public Advocate has been a party as other parties to commission proceedings. [1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

1987, c. 141, §A6 (NEW).

§1704. LEGAL REPRESENTATION

Notwithstanding the provisions of Title 5, section 191, the Public Advocate, or a staff attorney, may act as the counsel for the office of the Public Advocate. The Public Advocate may request the assistance of the Attorney General or employ private counsel for this purpose. [1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

1987, c. 141, §A6 (NEW).

§1705. RELATIONSHIP WITH THE ATTORNEY GENERAL

This section in no way limits the rights of the Attorney General to intervene before the commission or to appeal from commission orders or decisions. [1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

1987, c. 141, §A6 (NEW).

§1706. EXPERT WITNESSES

The Public Advocate may employ expert witnesses and pay appropriate compensation and expenses to employ the witnesses. [1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

1987, c. 141, §A6 (NEW).

§1707. EXPENSES OF THE PUBLIC ADVOCATE

The Public Advocate, within established budgetary limits and as allowed by law, shall authorize and approve travel, subsistence and related necessary expenses of the Public Advocate or members of the staff of the Public Advocate, incurred while traveling on official business. [1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

1987, c. 141, §A6 (NEW).

§1708. INFORMATION FROM UTILITIES

Utilities shall provide to the Public Advocate copies of all reports and other information required to be filed with or which may be submitted to the commission, except to the extent that this requirement is waived, in writing, by the Public Advocate. The Public Advocate has the same right to request data as an intervenor in a proceeding before the commission, and, in addition, may petition the commission for good cause shown to be allowed such other information as may be necessary to carry out the purposes of this chapter. [1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

1987, c. 141, §A6 (NEW).

§1709. CONFLICTS OF INTEREST

In addition to the limitations of Title 5, section 18, the Public Advocate or any employee of the Public Advocate may not have any official or professional connection or relation with, or hold any stock or securities in, any public utility or competitive service provider operating within this State; render any professional service against any such public utility or competitive service provider; or be a member of a firm that renders any such service. [1999, c. 398, Pt. A, §28 (AMD); 1999, c. 398, Pt. A, §§104, 105 (AFF).]

SECTION HISTORY

1987, c. 141, §A6 (NEW). 1999, c. 398, §A28 (AMD). 1999, c. 398, §§A104,105 (AFF).

§1710. RESTRICTION

Unless otherwise provided by law, the duties of the Public Advocate are restricted to those relating to matters within the jurisdiction of the commission. [1987, c. 141, Pt. A, §6 (NEW); 1987, c. 490, Pt. C, §6 (AMD).]

SECTION HISTORY

1987, c. 141, §A6 (NEW). 1987, c. 490, §C6 (AMD).

§1711. RAILROAD SERVICE QUALITY

(REPEALED)

In addition to the authority and duties otherwise specified in this chapter, the Public Advocate shall seek to promote and enhance railroad freight service quality in accordance with this section.

The Public Advocate shall undertake activities under this section only to the extent funding for those activities is available in the fund established under subsection 5. [2005, c. 248, §2 (NEW).]

SECTION HISTORY

2005, c. 248, §2 (NEW). MRSA T. 35-A, §1711, sub-§7 (RP).

§1712. RAILROAD CROSSING INFORMATION COUNCIL

(REPEALED)

SECTION HISTORY

2007, c. 657, §2 (NEW). 2011, c. 79, §3 (RP).

§1713. INFORMATION FOR CONSUMERS

In addition to the duties and responsibilities in section 1702, the Public Advocate may publish in printed copy or electronic format, or both, information for consumers in the State relating to regulated services provided by public utilities, unregulated services provided by public utilities and unregulated services provided by any entity relating to telecommunications, electricity delivery or supply and gas delivery or supply. Telecommunications services include, but are not limited to, telephone service, Internet service, video service, wireless phone service, satellite service and voice over Internet protocol service. [2013, c. 79, §1 (NEW).]

SECTION HISTORY

2013, c. 79, §1 (NEW).

B. Program Description: ratepayer advocacy

1. Goals and Objectives:

Since its creation in 1982, the primary responsibility of the Office of the Public Advocate (OPA) is to represent the interests of Maine users of utility services. Our attorneys and staff advocate for rates, services and practices to benefit customers in proceedings at the Public Utilities Commission (PUC), the federal agencies regulating Maine utilities including the Federal Energy Regulatory Commission (FERC), and the courts. We also provide information and advice to ratepayers. The OPA has an overall goal to increase ratepayer satisfaction with utility consumer advocacy and to represent the interests of all ratepayers with an emphasis on residential customers with priority given to low-income customers.

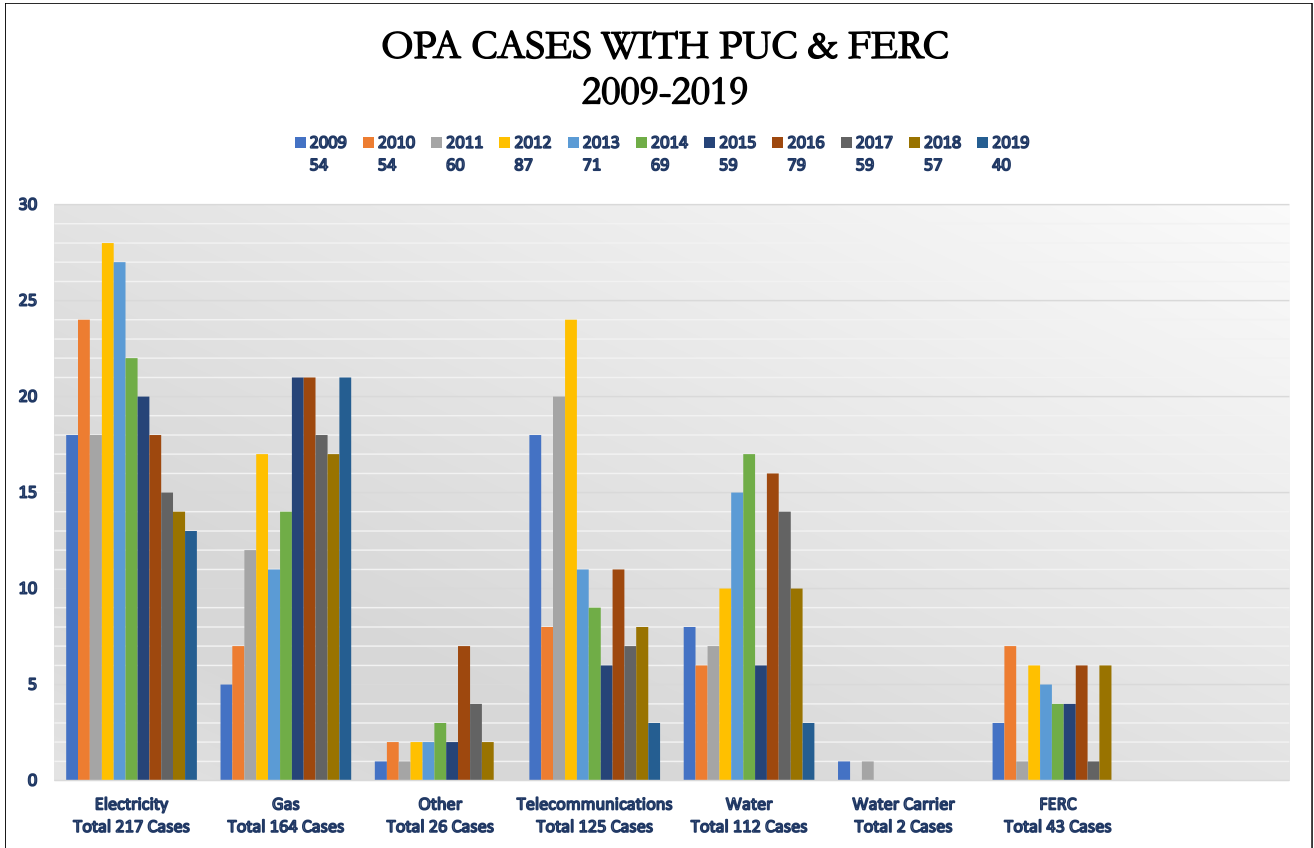
In fulfilling our commitment, our mission is to work with absolute integrity and a pursuit of excellence. Specifically, our goals and objectives include:

- Employing persuasive advocacy to influence the PUC's setting of utility rates and its regulation of utility services in a manner that provides affordable and reliable services to utility consumers;
- Earning the respect of individual consumers and consumer groups by communicating openly, clearly and courteously;
- Encouraging broad public representation in PUC proceedings, consumer coalitions and in our policy-making process;
- Being sensitive to the overall impact of our actions on all participants in the regulatory process and protecting utility consumers who lack competitive alternatives; and
- Treating the public, utility personnel and each other with respect and courtesy, encouraging open dialog and communication, and recognizing that the work of every employee is important to the success of the office.

2. Performance Measures and Criteria:

Our office maintains data concerning performance measures for tracking our progress in achieving our goals and objectives. Those measures are: 1) number of cases at PUC and FERC; 2) number of newsletters mailed to the general public providing information about rates, policies and consumer choices; 3) number of newsletters submitted to legislators and the governor's office and other agencies concerning office activities; 4) the number of telephone or personal contacts from a member of the public or a legislator concerned about utility matters; 5) website traffic, or total number of visits to our website.

Case Advocacy at the Public Utilities Commission (PUC) and Federal Energy Regulatory Commission (FERC): Total Number of Cases at the PUC and FERC



OPA Cases with PUC by Year	
Year	Number of Cases
2009	51
2010	47
2011	59
2012	81
2013	66
2014	65
2015	55
2016	73
2017	58
2018	51
2019	40

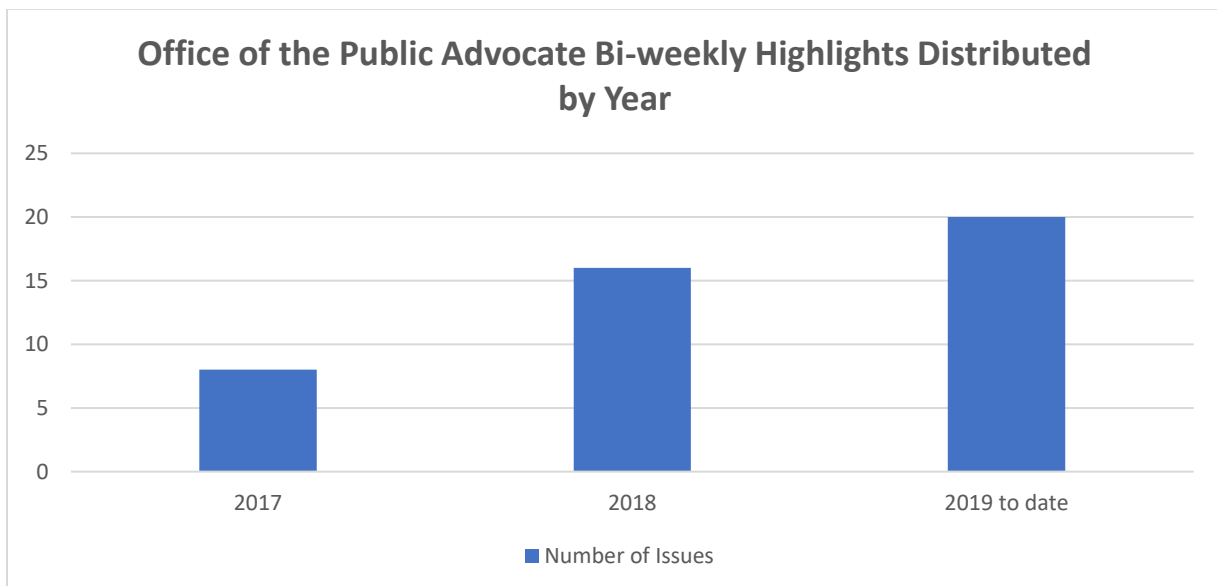
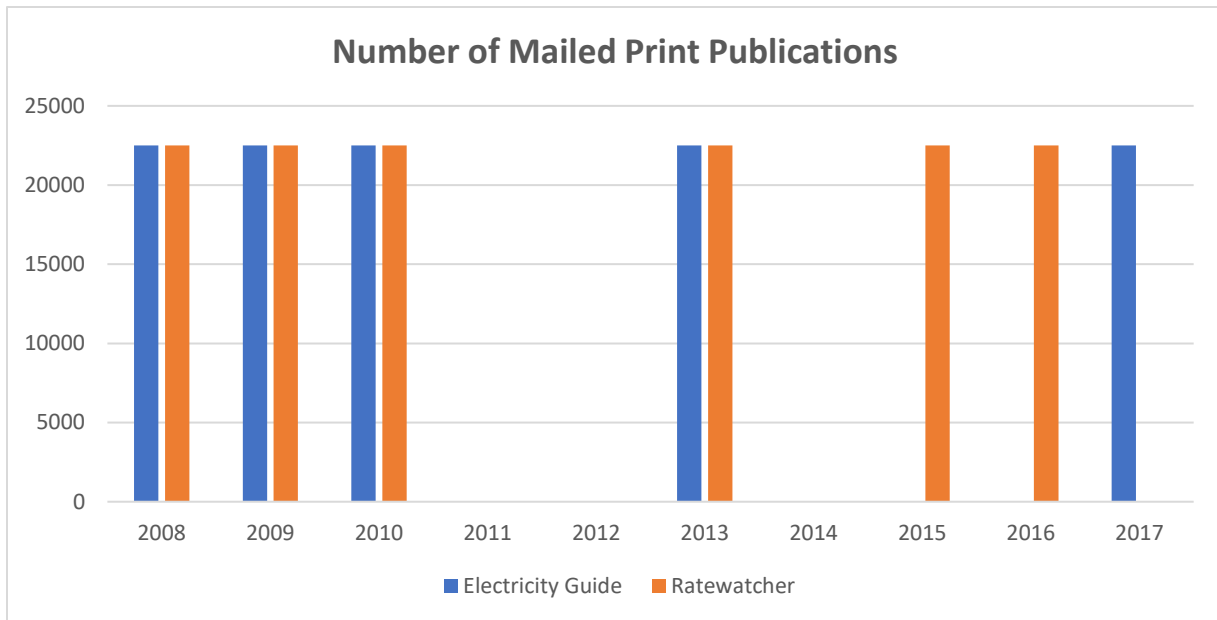
FERC Cases by Year	
Year	Number of Cases
2009	3
2010	7
2011	1
2012	6
2013	5
2014	4
2015	4
2016	6
2017	1
2018	6
2019	0

Publications Mailed to the General Public and Newsletters to Legislators, Governor’s Office and State Agencies:

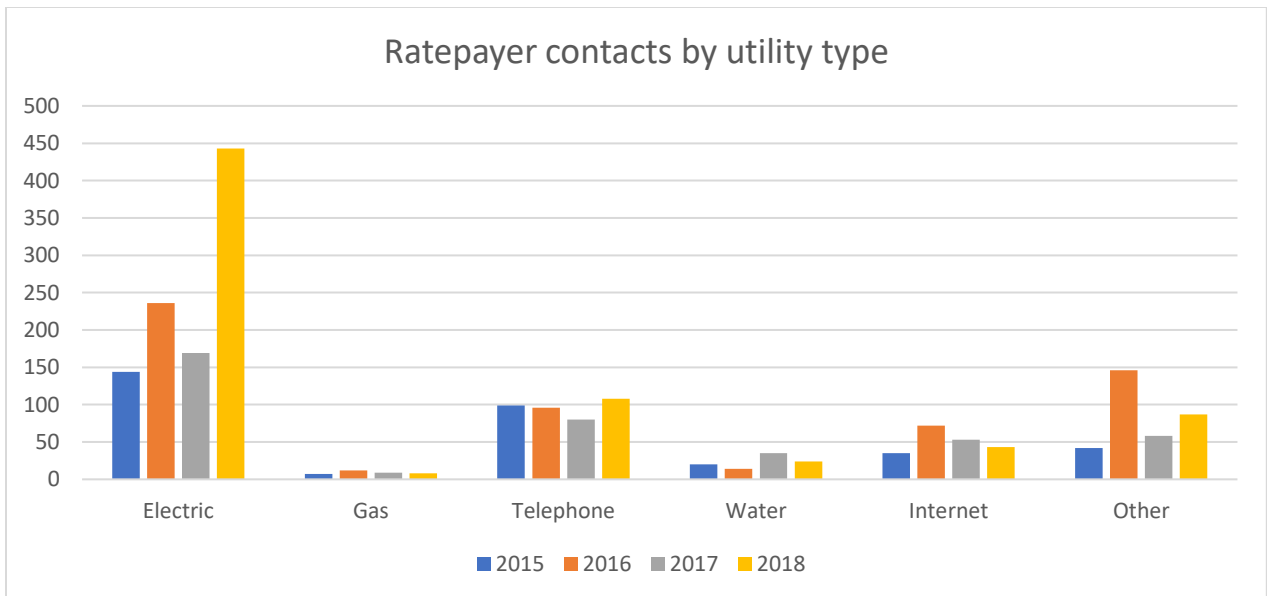
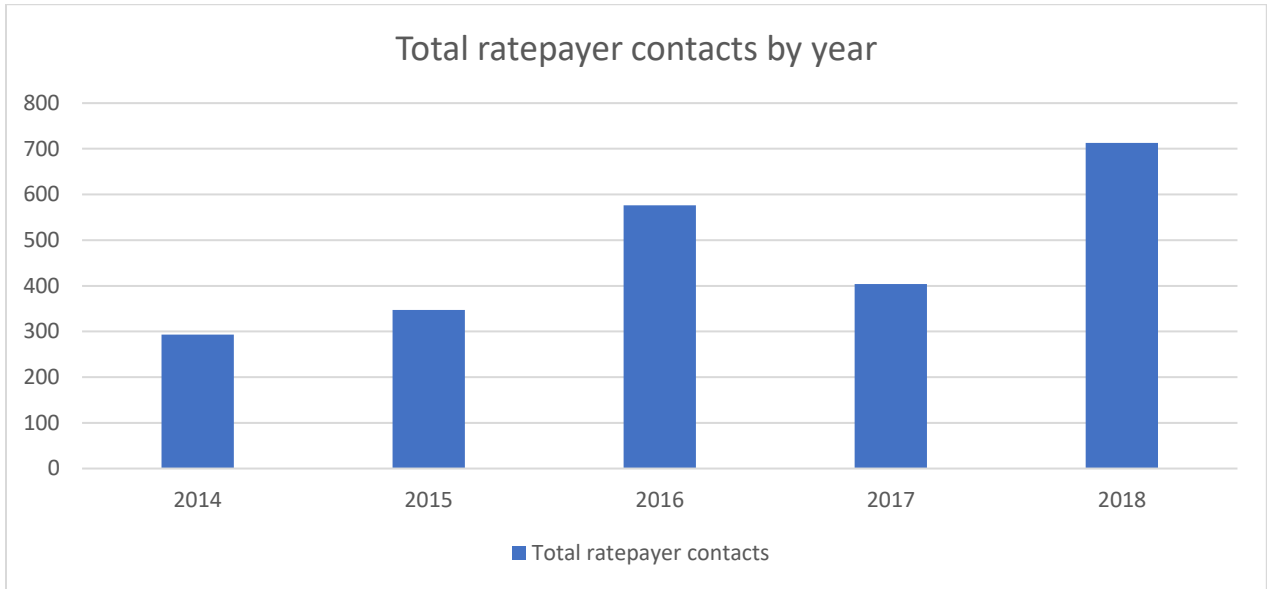
The mailing list for printed publications includes 22,500 residences, all Maine libraries, the current members of the Maine Legislature as well as other State agencies.

In 2107, we started publication of the bi-weekly highlights, a newsletter highlighting the work of our office, including our activities in significant cases. The newsletter is designed to offer a snapshot of the office in real time. The newsletter is distributed to all members of the Maine Legislature, all heads of State agencies, as well as members of the media and public.

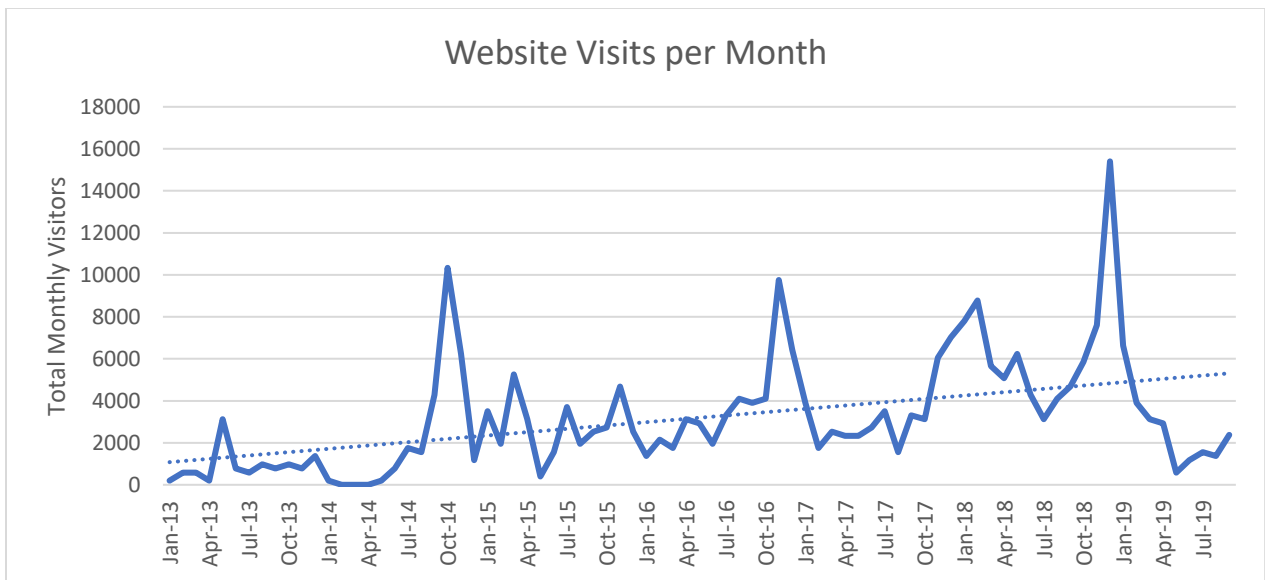
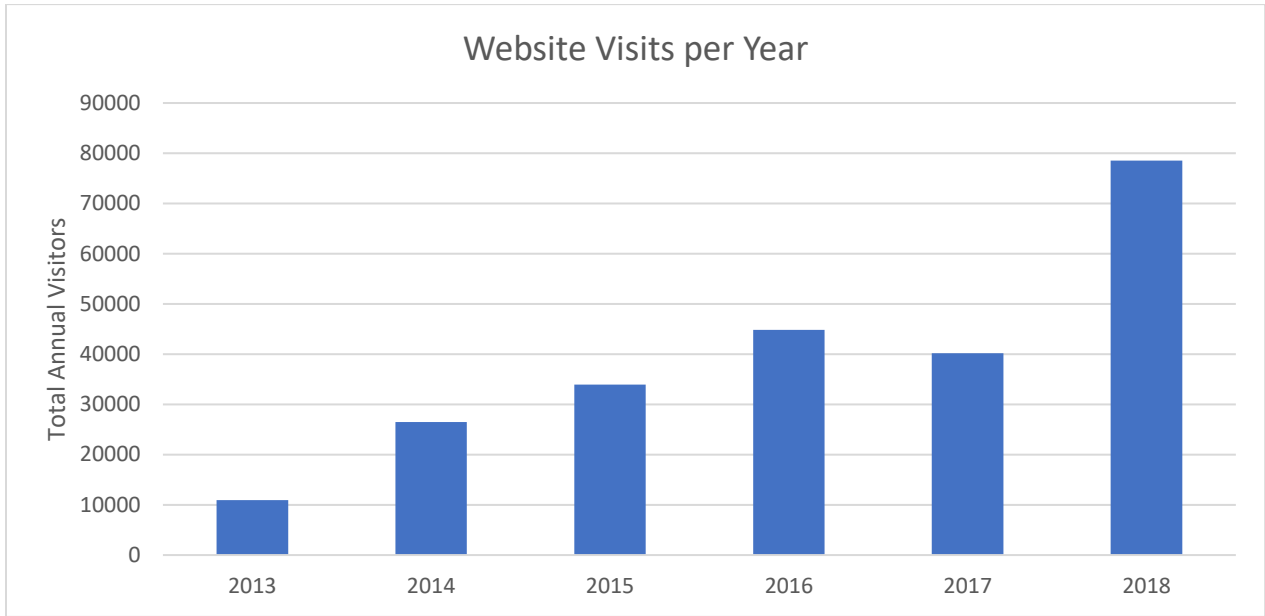
Printed Publications:



Number of Telephone or Personal Contacts from a Member of the Public or a Legislator:



Website visits:



3. Creation of Consumer Advisor Position

We worked to establish a Consumer Advisor position in the Office of the Public Advocate to address the need, identified in the Office of Program Evaluation and Government Accountability's 2013 Report on the Public Utilities Commission, for a person who would facilitate consumers' ability to effectively represent themselves in adjudicatory proceedings before the Public Utilities Commission. The report is available at the following link: https://www.maine.gov/legis/opega/GOC/GOC_meetings/Current_handouts/9-19-13/Final%20PUC%20Report.pdf

In October of 2014, the Office of the Public Advocate hired its first Consumer Advisor, with direct responsibility for responding to consumer complaints, providing information to consumers, and assisting citizen litigants before the Commission. Previously, this work was handled primarily by the office's attorneys.

The consumer advisor assists litigants in their efforts at the PUC, responds to consumer calls and letters, maintains and updates the OPA website and prepares and updates consumer education materials in a variety of areas that are also hosted on our website.

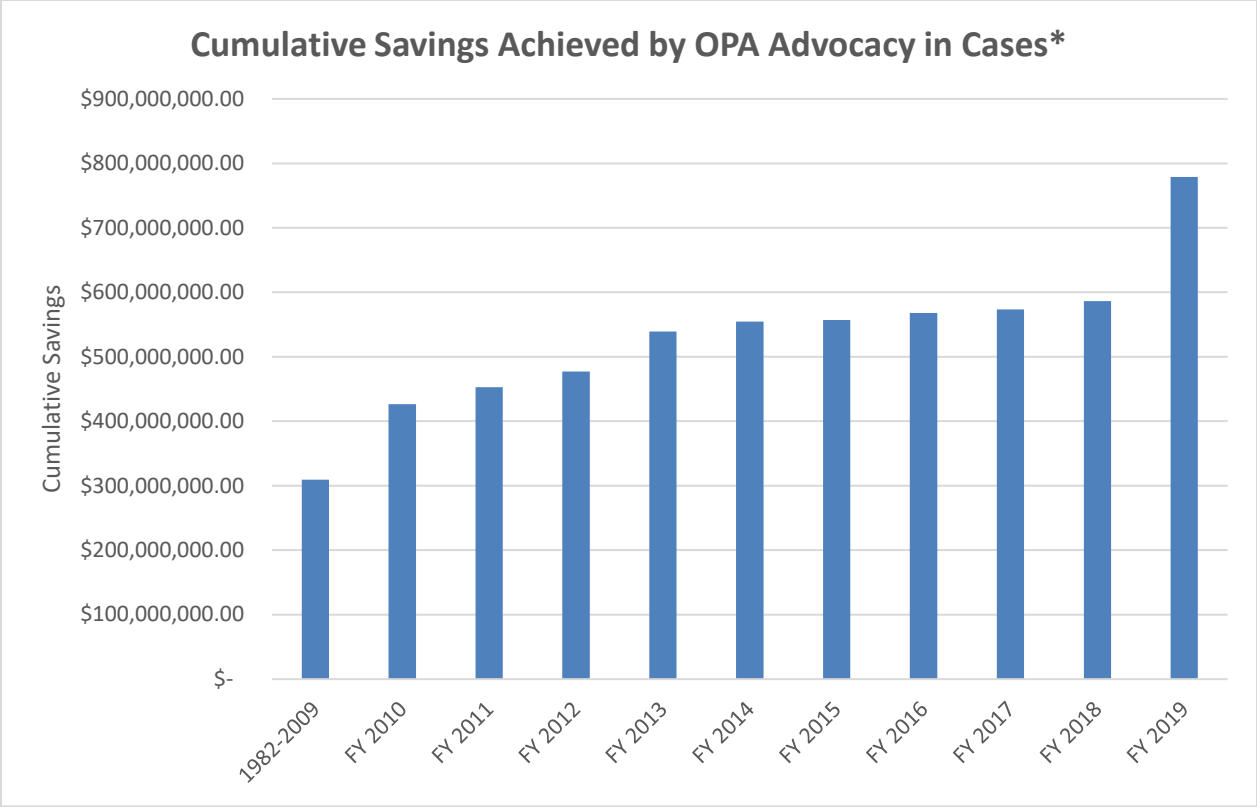
The Consumer advisor is also responsible for our public outreach efforts, including editing and distributing a bi-weekly newsletter and preparing the Ratewatcher Guide and the Electricity Guide. The Ratewatcher contains articles and charts detailing the services and rates of broadband internet service providers, local and long-distance telephone service, voice over internet protocol (VOIP) options and wireless phone and internet providers available across Maine. The Electricity Guide provides information about rates, rules, policies, choices and other concerns involving electricity. In 2017 we published a special edition to help customers understand their choices regarding competitive electricity suppliers. The Ratewatcher and Electricity Guide are each distributed to 22,500 households across the State.

Copies of these newsletters are available for download from the OPA website at the following links: <https://www.maine.gov/meopa/electricity/electricity-guides>
<https://www.maine.gov/meopa/telephone-service>

4. Assessment of Agency's Success

a. Amounts saved through case advocacy:

The primary criterion we have historically employed in determining whether Maine's ratepayers are likely to be satisfied with our efforts on their behalf has been to calculate the amount of dollars saved in PUC cases that would not have been saved in our absence. Since 1982, we have maintained a running total of ratepayer savings due to our advocacy at the PUC. As shown on the chart below the savings for ratepayers have been substantial. From 1982 through 2019 they total more than \$778,000,000.



*Attached Exhibit 1 provides details of the savings from 2009 through 2019.

b. Effectiveness of Legislative Advocacy:

Another measure of our success is the extent of our activities in the Legislature. The Public Advocate regularly appears before the Joint Standing Committee on Energy, Utilities, and Technology with recommendations on pending legislation and, also introduces legislation that works to assist us in our efforts to obtain the greatest benefits for ratepayers.

As summarized below the office has tracked the ultimate outcome of individual legislative proposals and compared them with the office’s written recommendations.

	OPA POSITION ADOPTED	OPA POSITION REJECTED	% ADOPTED
129th First Session	20	1	95%
128 th First Session & Second Session	14	7	66%

	OPA POSITION ADOPTED	OPA POSITION REJECTED	% ADOPTED
127 th First Session & Second Session	7	7	50%
126 th First Session & Second Session	2	8	20%
Nine-year Average	43	23	65%

Our office has also authored, or co-authored legislation designed to assist our efforts in achieving affordable service and obtaining additional benefits for Maine ratepayers.

Significant examples in the electric area include:

P.L. 2019, ch. 298 “An Act to Reduce Electricity Costs through Non-wires Alternatives”

Non-wires alternatives (NWAs) use distributed energy resources to defer or replace the installation of more traditional ‘wires and poles’ infrastructure. NWAs can save ratepayers money by avoiding investments in costly infrastructure. Our office, together with other stakeholders, has long supported the use of NWAs, through advocacy at the PUC and in regional forums. We worked with other stakeholders, helping to draft and ultimately with the enactment of “An Act to Reduce Electricity Costs through Non-wires Alternatives.” This bill was signed by Governor Mills on June 14, 2019 and became effective on September 19, 2019.

This law establishes the position of non-wires alternative coordinator in the Office of the Public Advocate. The duties of the NWA coordinator include but are not limited to investigation and identification of non-wires alternatives to proposed distribution and transmission lines and associated infrastructure through evaluation of the costs and benefits of non-wires alternatives compared to utility capital investments in the transmission and distribution system.

We have issued an RFP to secure a consultant and expect to begin this important work in the fall. Although we are not able to quantify the effect of this work at this time, we fully expect to achieve significant ratepayer savings going forward. An example of the savings that can be achieved through the implementation of NWAs was demonstrated by our advocacy at the PUC for the establishment of the Boothbay Pilot NWA project. The Pilot project, together with certain transmission improvements, was configured to be capable of reliably reducing load by 2 MW in the Boothbay area. This “hybrid NTA solution” eliminated the

need for Central Maine Power's (CMP) proposed \$18,000,000 rebuild of a 34.5 kV line. Avoiding the debt obligation associated with this CMP proposed rebuild reduced carrying costs to CMP ratepayers by approximately \$3 million per year.

P.L. 2013, ch. 556 amended by P.L. 2017 ch.414 “An Act to Assist Utility Ratepayers”

Our office drafted and worked with stakeholders including the state's electric utilities and low-income advocates to obtain unanimous support for passage of this legislation. The law requires the state's transmission and distribution utilities to implement arrearage management programs to assist low-income residential electricity customers who are in arrears on their electricity bills. The goal of arrearage management programs is to create a positive relationship between the customer and the utility and encourage on-time payment behavior, during the program and after. Another important goal of the program is to utilize energy efficiency programs to assist these customers in reducing their usage. Participants have the opportunity to reduce their electricity usage by working with the Efficiency Maine Trust.

- To enhance the efforts of providing meaningful energy efficiency programs to low-income customers, in 2017, the OPA commissioned a Low-Income Usage Study: [Maine Low-Income Household Energy Efficiency Baseline Study](https://www.maine.gov/meopa/sites/maine.gov/meopa/files/inline-files/Maine_EE_LI_Baseline_%20Study_1.pdf) (2018). The study provides significant data points that help our efforts to reduce the energy burden of low-income customers and make their bills more affordable. In designing the study, we worked with Efficiency Maine Trust (EMT or the Trust) to obtain the data that would be most useful in the program design of energy efficiency programs for low-income customers. We have worked with the EMT to create programs that maximize cost-effective savings opportunities and impacts for low-income customers. The study can be found at the following link: https://www.maine.gov/meopa/sites/maine.gov/meopa/files/inline-files/Maine_EE_LI_Baseline_%20Study_1.pdf

P.L. 2017, ch. 74 “An Act to Improve Transparency in the Electricity Supply Market”

The OPA was closely involved in the drafting of this legislation. The law is intended to address consumer protections in the competitive electricity supply market, which continues to generate many of the consumer complaints received by our office. The law adds several restrictions for suppliers serving residential customers. They include prohibitions on any renewal of a supply contract without advanced notice by mail, and a bar on renewal of a supply contract without express consent if: 1) the rate is more than 20% higher than the customer's previous rate; or 2) longer than 12 months (or the prior contract's term). Competitive electricity providers are also barred from charging early termination fees for contracts that have been renewed without express consent.

Significant examples in the telecommunications and broadband areas include:

P.L. 2016, ch. 462 “An Act to Increase Competition and Ensure a Robust Information and Telecommunications Market”

The OPA worked with FairPoint (now Consolidated Communications) and additional stakeholders to update and define the service standards for basic telephone service (so-called “Provider of Last Resort” (POLR) Service) across Maine. These negotiations produced a compromise that would allow limited deregulation in 22 Maine cities and towns with demonstrated availability of multiple competitive alternatives. This compromise formed the basis for this law.

The law made the following changes to Maine’s telephone regulation:

- Eliminated Consolidated Communication’s POLR regulation in Maine’s 22 most populous communities;
- Established a process for Consolidated Communications to pursue relief of its POLR obligation in additional communities when it is proven that at least 95% of households in the municipality are served by another wireline provider and at least 97% of the households are served by mobile telecommunications services and a public hearing is held in the community;
- Improved service quality protections by requiring the PUC to automatically investigate service quality issues when the utility fails to meet a service quality metric for two consecutive quarters in communities where Consolidated Communications continues to have a POLR obligation;
- Limited the amount that Consolidated Communications may increase the cost of POLR service to no more than 5% annually; and
- Strengthened the state law prohibiting telephone providers from discontinuing, reducing or impairing service provided without Public Utilities Commission approval.

The statute, effective in 2016, also required the Commission to report back to the Legislature in 2018 and 2020 on the impact of these changes.

P.L 2015, ch. 323 “An Act to Establish the Municipal Gigabit Broadband Network Access Fund” and P.L. 2015, ch.465 “An Act to Promote Community Broadband Planning and Strengthen Economic Opportunity throughout Maine”

The OPA worked for the enactment of these two laws which represent the first major changes to the state’s broadband policy since the ConnectME Authority was created in 2005. They were enacted during the 127th Session of the Maine Legislature, when there were a large number of bills introduced in the area of municipal broadband, as Maine’s smallest

towns and largest cities embarked on planning and investment to improve their broadband infrastructure. They provided for:

- Requiring the Connect ME Authority to develop and present a three-year broadband strategic plan to the Legislature by February of 2015.
- Directing the ConnectME Authority to provide matching funds for community broadband planning efforts.

P.L. 2015, ch. 151 “An Act to Eliminate the Broadband Sustainability Fee”

The OPA, together with other stakeholders, worked for the enactment of this law that terminated the Broadband Sustainability Fee, a State surcharge on the federally funded 3 Ring Binder that hindered the development of broadband infrastructure.

Significant Example of Legislation Benefiting All Utility Ratepayers:

P.L. 2019, ch. 353 “An Act Regarding Utility Reorganizations”

“An Act Regarding Utility Reorganizations” was drafted by our office. The law strengthens the interest of ratepayers in any reorganization involving a public utility. This bill, sponsored by Senator Mark Lawrence as emergency legislation, was signed into law by Governor Mills on June 18, 2019 and applies retroactively to March 27, 2019.

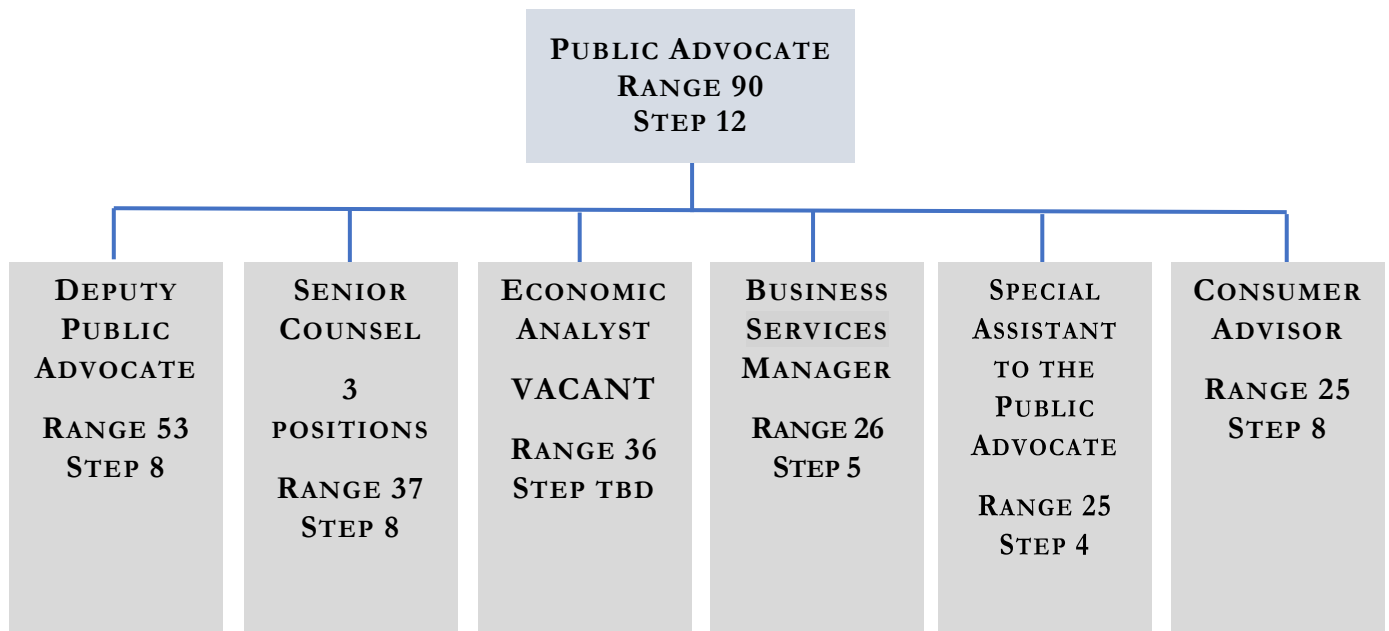
The law changed the existing statutory language in 35-A M.R.S. 708(2), which provided that the PUC may approve the “reorganization” of a public utility, if the PUC found the reorganization to be “consistent with the interests of the utility’s ratepayers.” The PUC has interpreted this language as what is commonly referred to as a “no net harm” standard, under which the PUC will approve a reorganization if the anticipated benefits are at least equal to any risks. However, the “no net harm standard” did not serve Maine’s ratepayers because it did not require that the Commission conclude that ratepayers would be better off as a result of the transaction. Under the prior standard it was difficult to show, in a quantifiable way, that any potential harm outweighed the benefits asserted by the utility. Changing the standard of review to require that the PUC only approve a reorganization if it finds a “net benefit” for ratepayers will reverse this dynamic by requiring utilities to show that any potentially harmful effects of a reorganization are outweighed by the expected benefits.

In determining whether a utility reorganization provides net benefits to the utility's ratepayers, the commission at a minimum must examine whether the reorganization will result in a rate increase for the utility's ratepayers and whether the reorganization will result in a loss of local control of the utility's management and operations in a manner that limits the ability of local management to protect the interests of the utility's ratepayers in this State.

This change in the standard the PUC must use in reviewing and deciding utility reorganizations will greatly benefit the ratepayers of Maine.

C. Organizational Structure of the Office

The current organizational structure of the office is identified graphically as shown below. At present the Public Advocate, Deputy Public Advocate, all Senior Counsel and the Consumer Advisor are compensated at the top of their pay ranges.



D. Repealed

E. Financial Summary

The schedule that is attached Exhibit 2 presents amounts in the Public Advocate Regulatory Fund allocated and expended or encumbered in fiscal years beginning with FY 2009 and ending with FY 2019. All amounts shown pertain to public utility assessments billed annually under authority of 35-A M.R.S. § 116(8).

F. Repealed

G. Efforts at Coordinating Agency Mission

There are several instances where the office has worked closely with other state agencies in a manner designed to reduce costs and promote efficiency. They include:

1. Consumer Advocates of New England (CANE)

Recognizing that electricity consumers across the region share many common concerns, the Office of the Public Advocate took a lead role in facilitating cooperation between the state

agencies charged with representing utility customers in each of the New England states. These agencies included the Connecticut Office of Consumer Counsel, the Office of Ratepayer Advocacy in the Massachusetts Attorney General's Office, the New Hampshire Office of the Consumer Advocate, the Rhode Island Attorney General's Office, and the Public Advocacy Division of the Vermont Public Service Department. The heads of office participate in a monthly conference call to share information and develop collaborative approaches to problems affecting utility consumers. These efforts resulted in coordinated action on behalf of the Consumer Advocates of New England in a number of proceedings, including at the Federal Energy Regulatory Commission and at the D.C. Federal Circuit Court of Appeals.

2. Coordination with the Public Utilities Commission

Also, our office routinely coordinates with the Public Utilities Commission in matters before the Federal Energy Regulatory Commission in view of our mutual representation of Maine ratepayers in these proceedings.

3. Maine Telecommunications Relay Council

The Office has also been actively involved in the Maine Telecommunications Relay Council for many years. The Council is responsible for the oversight and management of relay services, which allow Maine residents who are deaf, hard of hearing or late-deafened to obtain telecommunications services on an equal basis as hearing residents. In 2016, the Office and the Public Utilities Commission assisted the Council in streamlining its financial administration through the execution of a memorandum of understanding with the Maine Department of Administrative and Financial Services (DAFS) for the provision of fiscal services. The Council's treasurer now works directly with DAFS service center representatives to ensure the Council's relay services vendor and outreach vendor are compensated in a timely manner and in accordance with State rules for contract administration and financing.

4. North American Numbering Council

In December of 2017 Public Advocate Barry Hobbins was appointed by Federal Communications Commission's ("FCC") Chairman Ajit Pai to serve as a Representative Member for the National Association of State Utility Consumer Advocates (NASUCA) on the FCC's North American Numbering Council (NANC), the federal advisory committee on numbering matters. His 2-year term was recently extended.

NANC advises and makes recommendations to the FCC on numbering policy and other technical issue. As a voting member of NANC Hobbins status will be that of a representative of the telecommunications industry and not as a "special government employee."

Under the leadership of Chairman Pai NANC has been re-chartered to ensure the efficient, impartial assignment and use of vital numbering resources in the changing, modern world of communications.

As the re-chartered NANC proceeds there will be four working groups: Numbering Administration Oversight Working Group; Call Authentication Trust Anchor Issues Working Group; Toll Free Number Modernizing Issues Working Group; and Nationwide Number Portability Issues Working Group. Public Advocate serves on the Numbering Administration Oversight Working Group.

H. Identification of Constituencies Served

Historically the Public Advocate has undertaken the representation of all consumer interests in PUC proceedings. In rate cases and revenue requirement disputes with a utility, typically all consumers share the same interest (i.e. lowered rates or improved services) while the utility and its shareholders argue for increased rates. Occasionally, however, groups of consumers are pitted against each other with conflicting self-interests; this typically is the case when the PUC decides how to redesign rates or divide up an approved increase between business and residential customers. In order to help clarify the Public Advocate's responsibilities in cases where there are differing consumer interests, the Legislature enacted P.L. 1997, Chapter 166 codified as 35-A M.R.S. § 1702-A (Attached as Exhibit 3) to establish a hierarchy of claims on the Public Advocate's representation.

The highest priority for OPA advocacy is with low-income customers, followed by all other residential customers, by commercial customers with 100 or fewer employees and then by all remaining utility consumers. This hierarchy of consumer interests has not made significant changes in the actual operation of the office, since its enactment in 1997, but continues to guide our activities.

In recent years the office has interacted extensively with statewide and regional consumer organizations as well as with individual consumers and businesses. These interests can be summarized as follows:

1. Low-Income Initiatives Advisory Group

This group was established pursuant to an agreement with Efficiency Maine Trust (EMT or Trust) in the course of a PUC proceeding that was initiated to examine assumptions, methodologies and program strategies regarding the Trust's low-income programs. The group includes representatives of EMT, the OPA, a member of the PUC's Consumer Assistance Division, Maine Housing, representatives of Maine's electric and gas utilities, the Governor's Energy Office, and Community Action Program agencies. The group meets quarterly and works collaboratively to develop targets to implement a transparent and effective continuous improvement program for low-income energy efficiency initiatives.

2. Arrearage Management Stakeholder Group

As discussed above the arrearage management program (AMP) legislation was enacted to assist low-income residential electricity customers who are in arrears on their electricity bills. To help effect the goals of the program an AMP stakeholder working group was created. The

stakeholder process for AMP is very involved and very successful. The stakeholders include Central Maine Power, Emera Maine, the Office of the Public Advocate, the Community Action Program agencies, Maine Equal Justice Partners, and Efficiency Maine Trust. The Public Utilities Commission staff facilitates the stakeholder process and actively participates in the decision making and problem solving. Stakeholders who participated in the implementation of the program continue to have frequent meetings to assess its progress and to suggest changes and adjustments for improvement.

3. New England Power Pool

In May of 2012 our office became a member of the New England Power Pool (“NEPOOL”). We joined NEPOOL as part of our continuing effort to stabilize and lower the cost of electricity for Maine’s ratepayers. Membership in NEPOOL gives the OPA greater opportunity for involvement in the decisions made at ISO-New England. Decisions made at ISO-NE have a significant, sometimes disproportionate effect on the cost of electricity within the New England Region. We have worked with Synapse Energy Economics, a consultant who has helped us target our efforts to issues related to system planning and markets with an overall goal of identifying short-term improvements that reduce costs for all Maine customers.

4. The E4 Group

The E4 group is a collection of parties from CMP’s Maine Power Reliability Program case who have access to a \$1.5 million fund for the purpose of advocating for better transmission planning and cost allocation by ISO-NE. The Group is made up of the Public Advocate, GridSolar LLC, Environment Northeast, Conservation Law Foundation, National Resources Council of Maine and the Industrial Energy Consumers Group. The efforts of this group have been focused on swaying ISO-NE to pursue and adopt cost-allocation methods that put transmission and non-transmission alternatives on an equal cost-recovery footing.

A significant accomplishment of the group was a report prepared by Synapse, at the Group’s request, showing that there is a large amount of distributed generation (DG) in New England that, if incorporated into the load forecast, would likely reduce the need for transmission. This report presented at NEPOOL, with follow-up stakeholder discussions, resulted in the creation of the Distributed Generation Forecast Working Group at ISO-NE. This working group now ensures that the rapid growth of DG is incorporated in transmission planning, resulting in significant ratepayer savings. Most recently the group has been working on collection of data in anticipation of examining the need for Central Maine Power’s proposed transmission project in the Portland area.

5. Consumer Liaison Group

The Consumer Liaison Group (CLG) is a unique consumer group founded in 2009 in response to a Federal Energy Regulatory Commission order seeking to improve communication between the energy industry and consumers. Our office played an important role in establishing

the group and has been a member of the Coordinating Committee that governs the CLG. The CLG meets regularly with the goal of providing information to regional consumers and consumer representatives to help them better understand the opportunities as well as the risks of the region's wholesale electricity market structure. Each meeting has presentations and discussion about current industry activity, new technologies, and economic and public policy developments that change with the industry. More information about the CLG can be found at the following link: <https://www.iso-ne.com/committees/industry-collaborations/consumer-liaison>.

6. National Association of Consumer Advocates

We are a member of the National Association of Consumer Advocates (NASUCA), an association of 44 consumer advocates in 40 states and the District of Columbia, Barbados, Puerto Rico, and Jamaica. NASUCA provides a forum for agencies which are designated by state law to act as independent ratepayer advocates. The organization provides a forum for the exchange ideas, improvement of consumer representation at the state and federal levels, and encouragement of greater consumer participation in the regulatory process focusing on consumer protection issues, such as service quality, reliability, and price stability.

I. Use of Alternative Delivery Systems

Beginning in 2006 we began using a lay-out specialist and designer for our Ratewatcher guide and our Electricity Guide. Both publications provide extensive information and the presentation of that information benefits from professional layout and design.

J. Emerging Issues

1. Energy Resource Economics and Energy Burden of Low-Income Customers

Technological advances and energy resource economics are driving change across the electric utility industry. Also, policy makers are rapidly implementing objectives to reduce greenhouse gas emissions. As a result of these changes, in the short-term rates for customers are rising. Given this background, it is important to remain mindful of the objectives related to affordability, consumer protection and fairness as we move forward to implement change.

- One constant from the residential consumer's perspective is that home energy service remains a necessity of life. Because they pay a larger percentage of their income for energy, low-income people in Maine and elsewhere, are disproportionately impacted by the costs of efforts to address climate change. While the state of Maine has addressed this disparity through various measures for decades, the state and other relevant entities can act more effectively by gaining a better understanding of how and where this disparity tends to strike. With this in mind, the OPA commissioned a study on the energy burdens faced by Maine's residents. *Maine Low-Income Energy Burden Study (2019)*. Attached as Exhibit 4. The study

provides valuable information and analysis for effectively targeting low-income customers and strategies to address specific barriers to low-income program implementation and participation. There must be a continuing and meaningfully inclusive strategy for addressing these concerns over the long-term.

2. The Broadband Gap

The telecommunications industry in Maine has been impacted by increasing competition and other factors. Consequently, basic telephone service, defined as Provider of Last Resort (or POLR) service, is the only telephone service that remains regulated. At the same time, this service continues to experience a reduction in access lines and subscribers. Telephone service employing VOIP technology – particularly the offerings of cable television providers – competes aggressively with traditional service in those areas where cable broadband is available. In addition, an increasing number of customers are substituting mobile wireless service and cable for traditional wireline service. However, wireless service is not ubiquitous and is unreliable or inconsistent in many areas. Rural parts of Maine are very costly to serve, and therefore, often lack sufficient broadband. Our challenge is to maintain reliable service for all Maine customers.

To provide information on the extent and quality of cellular voice coverage in five selected rural telephone exchanges in Maine we commissioned a study which can be found at the following link: https://www.maine.gov/meopa/sites/maine.gov.meopa/files/inline-files/2015CellularVoiceCoverageReport_0.pdf

K. Other Information Specifically Requested

The Joint Standing Committee on Energy, Utilities and Technology has not specifically requested information from the Office of the Public Advocate on an individual topic, with respect to this Government Evaluation Act review.

L. A Comparison of Federal Laws and Regulations to State Laws Governing the Office

There are presently no federal laws providing for a consumer advocacy function for regulated products and services that is directly comparable to the office's mission. Hence there is no comparison possible.

M. Agency Policies for Collecting, Managing and Using Personal Information Over the Internet and Non-Electronically, Information on the Agency's Implementation of Information Technologies and an Evaluation of the Agency's Adherence to the Fair Information Practice Principles of Notice, Choice, Access, Integrity, and Enforcement

The office already relies extensively on its web page for disseminating information to the public. We have updated and improved the OPA website to better support our public outreach efforts. We have revised and updated our consumer materials on competitive electricity providers, notably creating an electricity rate comparison calculator that allows customers to calculate their estimated monthly and annual electricity supply costs. Our website now also includes templates and a detailed explanation, in lay terms, about the typical process a case takes through the Public Utilities

Commission. We have also developed a new web page layout to host the documents created to support individuals participating at the PUC.

The office has a general policy of promoting the use of Internet resources by office staff in better handling the office's workload. Currently, the office has no formal policy regarding use of personal information over the Internet. We are open to discussions regarding such policies. Likewise, the office at this time has no formal policies respecting fair information practice principles.

N. A List of Reports to be Filed with the Agency by the Public

There are no reports required to be filed with the office.

O. A list of reports required by the Legislature to be prepared or submitted by the agency

35-A M.R.S. §1702 requires that the Public Advocate submit an annual report of activities of the Public Advocate to the Governor and the joint standing committee on Energy, Utilities and Technology by September 1st of each year.

P. A copy of the single-page list of organizational units and programs within each organizational unit required pursuant to section 955, subsection 1

This list is provided as attached Exhibit 6.

Q. Identification of provisions contained in the agency's or independent agency's enabling or authorizing statutes that may require legislative review to determine the necessity of amendment to align the statutes with federal law, other state law or decisions of the United States Supreme Court or the Supreme Judicial Court.

There are no such provisions.