

Maine Public Utilities Commission

**Report Regarding the Implementation of Time-of-Use Rates
Pursuant to Resolves 2023, chapter 79**



**Submitted to the Joint Standing Committee on Energy,
Utilities and Technology**

November 20, 2023

I. Background

During the First Special Session of the 131st Legislature, [Resolves, 2023, chapter 79](#) (Resolve) was enacted directing the Maine Public Utilities Commission (Commission) to investigate the feasibility of implementing time-of-use (TOU) rates. Specifically, the Resolve requires investigation of the feasibility of requiring:

1. Standard offer service to include a TOU option, including whether the Commission recommends the use of a pilot program to assess this option; and
2. All investor-owned transmission and distribution utilities (IOUs) to offer a TOU rate for delivery of electricity that would complement a TOU supply rate.

The Resolve further requires the Commission to submit a report by January 15, 2024, to the Joint Standing Committee on Energy, Utilities and Technology (Committee), that includes a summary of the Commission’s investigation along with any findings and recommendations related to the report. The Resolve authorizes the Committee to report out a bill to the Second Regular Session of the 131st Legislature.

II. Commission Inquiry

Prior to the enactment of the Resolve, on February 2, 2023, the Commission issued a notice of inquiry (February NOI) in [Docket No. 2023-00019](#) to obtain comments from interested persons regarding issues related to offering standard offer (SO) TOU supply rates. Specifically, the February NOI sought comment on thirteen questions related to the provision of standard offer TOU rates. The February NOI is included as Appendix A.

The Commission received comments from nine parties including the two investor-owned utilities (Central Maine Power (CMP) and Versant Power (Versant)), the Office of the Public Advocate (OPA), the Governor’s Energy Office, the Efficiency Maine Trust (EMT), AARP Maine, Acadia Center, NRG Energy Inc., and one individual.

On September 14, 2023, the Commission issued a procedural order in the same docket seeking further comment on the two issues addressed in the Resolve that were not otherwise addressed in the February NOI.

The Commission received comments from seven parties including CMP, Versant, OPA, EMT, AARP Maine, Natural Resource Council of Maine, and an additional individual.

III. Responsive Comments

The comments submitted in response to the Commission’s February NOI highlight that there are potential benefits and risks associated with SO TOU adoption. The benefits include accurately reflecting supplier pricing and marginal costs, motivating shifts in demand, reducing need for capital investment, saving certain customers money, reducing need for peak period generation (which generally includes the most polluting sources), reducing greenhouse gas (GHG) emissions, and advancing the State’s policy goals. The risks include not achieving the intended load or cost savings due to poorly designed rates with misaligned peak hours and price

differentials that would result in incorrect price signals being sent to customers. Commenters also expressed concern regarding increased cost to customers who may have highly inflexible load that they are unable to shift to off-peak periods, leaving them vulnerable to higher costs with no tools for mitigation. The commenters expressed particular concern for low-to moderate income and medically vulnerable customers due to their inability to shift demand, which could disproportionately impact their relative electricity costs.

A threshold question that must be addressed prior to adoption of SO TOU rates is whether such rates should be “opt-in,” as in voluntary, “opt-out,” as in default, or mandatory. Commenters observed that an opt-in program would likely result in less customer uptake and thus risks not achieving the intended benefits. An opt-out approach would likely result in higher participation rates, thus increasing the likelihood of achieving intended policy goals, but could also result in certain customers receiving higher bills than they would under a non-TOU structure. Mandatory TOU rates would clearly result in maximum customer uptake but would leave vulnerable customers without a path to alleviate disparate billing impacts.

Several commenters observed that SO TOU rates are likely to be most effective when offered in conjunction with properly designed delivery rates because the combination would provide more effective price signals to consumers. Additionally, several parties commented that individual devices capable of independently shifting load (*e.g.*, household appliances, electric vehicle chargers) are likely to be significant drivers of reductions in peak demand both alone and in conjunction with TOU rates. Commenters agreed that any SO TOU offering would require a carefully planned customer education campaign.

CMP and Versant both currently offer distribution TOU rates. Commenters generally agreed that any SO TOU periods should align with distribution TOU periods and that those periods need to be carefully designed so as to provide proper price signals to customers. It is also important to consider the current positioning of CMP and Versant to implement SO TOU service. In that regard, CMP stated it needs 15 months to reconfigure its billing system to accommodate SO TOU service. Versant estimated needing until approximately 2027 to reconfigure its billing and related systems. System reconfigurations for both utilities could come at a substantial cost that would be borne by ratepayers. The utilities note that system modifications would be required regardless of whether SO TOU rates were offered on a pilot or permanent basis. Additionally, both CMP and Versant observed that they have ongoing rate design efforts, and it will be important for the Commission to ensure that there are not conflicting outcomes from the various proceedings.

SO service providers must also be considered if SO TOU rates are adopted. Although they did not provide formal comments, suppliers that have participated in past Commission SO procurements have indicated that a SO TOU product is possible and that, if offered, it would be preferable for SO TOU periods to match delivery TOU periods. If both a flat rate and TOU rate structure is procured, most suppliers would be interested in bidding only for the combined service, rather than the SO TOU rate or fixed SO rate alone. These suppliers have emphasized to the Commission the importance of access to TOU load data to avoid inclusion of potentially unacceptable risk premiums in their bid prices.

Finally, Chapter 301 of the Commission’s Rules, which governs the provision of SO service, currently prohibits residential and small non-residential class rates that vary by a customer’s usage level, or by month or time of day. Thus, to the extent a SO TOU rate was to be offered, the Commission would be required to open a rulemaking proceeding to amend Chapter 301.

IV. Findings and Recommendations

There is sufficient information available to support a finding that carefully designed TOU supply and distribution rates are likely to shift load, reduce peaks, and thus meaningfully reduce overall costs for ratepayers. The Commission agrees that to be effective, any TOU supply option must be complemented by a TOU distribution option.

The Commission does not believe that a pilot program is necessary to assess the feasibility of implementing a TOU supply option. A pilot would not allow for the enrollment levels necessary to realize meaningful reductions to peak load or deferred capital investments, and thus the Commission would not be able to fully assess the benefits of TOU supply rates through a pilot program. In addition, as the T&D utilities stated, a pilot would require significant cost and time investments similar or equivalent to the investment needed to implement TOU supply rates for all customers. At present, a pilot represents an unnecessary cost to ratepayers and years of valuable customer savings and peak GHG emissions reductions lost.

As is evident from the comments received in this inquiry, properly designing TOU periods and rates will require significant effort and input from numerous stakeholders. The Commission believes this work can be accomplished with available resources, review of results from pilot programs in other jurisdictions, and further stakeholder input. From this information it also appears that the success of a TOU on this scale likely requires it to be opt-out. The Commission intends to open a formal investigation to further consider adoption of a TOU supply rate.