

2012

Public Advocate Office Annual Report. July 1, 2011 to June 30, 2012

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Recommended Citation

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State of Maine Public Advocate Office

Annual Report July 1, 2011 to June 30, 2012

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October 12, 2012

Dear Maine consumer of utility services,

The recently-concluded fiscal year (July 1, 2011-June 30, 2012) was noteworthy for a number of important cases which either began or were concluded during this twelve month period.

In the Electricity area, when the fiscal year began two cases involving Bangor Hydro and Maine Public Service Company and their parent company, Emera, had been merged into one Docket to deal with the request of Bangor Hydro and Maine Public Service for exemptions from certain PUC laws and for the reorganization of these entities. At the end of the year several parties in this case, including the Office of Public Advocate, had appealed the PUC's decision in that Docket to the Maine Supreme Court.

Another electricity matter revolved around Central Maine Power's installation of Smart Meters on homes and businesses in its service territory. Shortly after CMP started this installation, a number of customers raised concerns about health and safety, cyber-security, and privacy issues. Following a series of PUC hearings and technical conferences, the PUC approved a plan to let customers "opt out" of having a smart meter, but required those who opted-out to pay monthly fees for the privilege. This prompted both legislative and legal challenges to the opt-out ruling. One group of customers, dissatisfied with the PUC's rejection of their appeal, appealed the matter to the Maine Supreme Court. In early July, 2012, the Supreme Court found that the PUC had not properly considered certain health issues in their decision, and remanded the case back to the PUC for further consideration.

In the Natural Gas arena, Kennebec Valley Gas Co., a new business venture, had been given conditional approval in early 2011 to build a gas pipeline to serve a dozen communities, from Richmond to Madison, with natural gas. The approval was conditional pending demonstration of the company's ability to finance this \$80+ million project. The Public Advocate is an intervenor in the Summit application to build a gas pipeline to serve the twelve Kennebec Valley towns. As the year ended, Kennebec Valley Gas was being purchased by Summit Natural Gas of Maine, Inc. which plans to serve the same dozen communities. At the same time, Summit and Maine Natural Gas Corp. had submitted proposals to serve State facilities in Augusta, and the State's selection of Maine Natural Gas was being challenged by Summit.

In the Telecommunications area, Time Warner Cable and CRC Communications renewed their requests (previously rejected by the PUC) for interconnection agreements with five rural telephone companies. Time Warner and CRC based their renewed request to lift the "rural exemptions" on these five small telephone companies on a clarification of certain federal statutes governing the obligations of rural local phone companies to negotiate interconnection agreements with competitors like Time Warner. "Rural exemptions" were created by the US Congress to protect small rural carriers from undue economic harm and to minimize the threat to universal service for their customers.

The issues are often complex and difficult to resolve, but we strive to do our very best to represent the long-term best interests of Maine's utility consumers.

This Annual Report is intended to provide you with an in-depth review of the work we do before the Maine Public Utilities Commission, the Maine Legislature, Federal regulatory agencies, and (when necessary) in state and federal courts, and in other arenas. But the most important information is how our efforts have benefitted you, the utility ratepayers whom we represent, by improving the reliability of the services you receive from your utilities, and by keeping the costs of these services as low as possible consistent with the need for reliable service.

The Office of Public Advocate is here to serve you, the consumers of utility services. If we can assist you, your family or your business with a utility issue, please feel free to contact our Office – electronically, by mail, in-person at our Hallowell office, or by telephone.

Sincerely,



Richard S. Davies
Public Advocate



ELECTRICITY MATTERS AT THE MAINE PUC

ISO New England Compliance Filing with FERC's Rule on Demand Response (Order 745) -

In September 2011 we joined the protest of the Maine Public Utilities Commission, the Industrial Energy Consumer Group, and others, which challenged the FERC's decision to accept ISO New England's proposal to limit compensation where a demand resource with behind-the-meter generation reduces its load, and simultaneously continues to generate. ISO New England proposed to treat behind-the-meter generation as a demand resource and to measure demand reductions at the retail delivery point. Our protest was denied by FERC on May 17, 2012.

Return on Equity FERC Filing - On September 11, 2011 we joined a complaint filed by a coalition of consumer advocates against the New England Transmission Owners requesting that FERC reduce the 11.14% base return on equity ("Base ROE") on transmission upgrades built by New England transmission owners. The argument put forward is that given the changes in financial markets since the ROE was last revised in 2006, that the percentage is no longer "just and reasonable." The coalition of consumer advocates requested that the ROE be reduced to 9.2%, which would result in an annual savings to New England consumers of over \$100 million.

On May 3, 2012 FERC issued an order establishing hearing and settlement procedures. Settlement discussions are ongoing with a second formal settlement conference scheduled for August 1, 2012.

Consumer Liaison Group - ISO-New England - 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 continues to actively participate in the work of the Coordinating Committee that governs the CLG. The CLG meets regularly with the goal of providing information to 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. A primary focus of the group is on working to balance economic and public policy goals with the lowest possible rates for end-users.

E4 Group - Pursuant to the Stipulation approved by the Commission in CMP's Maine Power Reliability Program, a group of non-utility parties (the OPA, the IECG, GridSolar, Environment Northeast, Natural Resource Council of Maine, and the Conservation Law Foundation) gained the ability to use \$1.5 million of CMP ratepayer funds for the purpose of seeking changes at the ISO-NE or at the national level with regard to transmission planning and cost allocation. The funds are to be used to seek improvements in these areas so that customers can enjoy a reliable grid but at a reasonable cost.

In July of 2011 the group hired Synapse Energy Economics as a consultant to assist us in identifying means by which costs for ratepayers may be reduced. Together with Synapse the group has worked on developing strategies that, among other things, further our goal of implementing changes to the regions' market design and planning process that adequately considers customer costs.

Since 2010 the ISO-New England states and market participants have engaged in a Strategic Planning Initiative focused on the region's wholesale electricity sector to identify and address some of the challenges to the reliability of the power system. One of the significant issues identified through this initiative is the need to improve the alignment of markets and transmission planning. The E4 group has worked extensively on this topic and issued an initial discussion paper highlighting the importance of exploring non transmission alternatives such as energy efficiency, demand response and distributed generation for solving reliability needs if they prove to be less expensive than transmission solutions.

Cost Allocation Rules to Take into Account State and Federal Policies - FERC Order 1000 - On July 21, 2011 FERC issued Order 1000 which requires, among other things, that ISO New England amend its tariff in order to provide for the consideration of transmission needs driven by public policy requirements and to provide for a regional cost allocation method that will assign cost responsibility for these transmission projects in a manner that is "roughly commensurate" with the benefits of the projects. Significantly, the Order holds that the planning process may not discriminate in favor of existing transmission owners. Rather the regions must put in place a process by which project sponsors can propose projects that would meet the identified transmission need.

Our office is working through the regional stakeholder process to: (1) establish a process by which to identify public policies that may drive transmission needs; (2) define a method that will identify the transmission needs that are driven by public policy; (3) determine the process for selecting the project sponsor; and (3) determine how the costs for the transmission upgrades that are identified will be allocated across the region. The date for compliance for this aspect of the Order is October 11, 2012.

NEPOOL Membership - 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.

Our office has hired Synapse Energy Economics as a consultant who will help us target our efforts to issues related to system planning and markets with an overall goal of identifying short-term improvements that will reduce costs for all Maine customers.

Central Maine Power Increase in Distribution Rates - Central Maine Power has continued to operate under the terms of a price cap mechanism, or alternative rate plan (ARP) approved by the Maine Public Utilities Commission for a 5 year period beginning in 2008. Under the ARP price changes occur effective July 1 in the years 2009 through 2013.

In June of 2011 the Commission issued an order approving an increase to CMP's distribution rate by 4.48% effective July 1, 2011.

Also, an issue held over from the previous year's annual ARP update was litigated. This issue concerned whether CMP could collect from ratepayers amounts associated with major storms that hit Maine in February and November 2010. The dispute about the February storm concerned the

prudence of CMP's use of restoration crews from outside the state. The issue concerning the November storm centered on how outages and customers should be counted in order to determine if the storm was a "major storm" under the ARP agreement, and thus qualify for incremental cost recovery. We argued that a small amount associated with the February storm was imprudent and that CMP should not recover any incremental costs for the November storm given the language of the ARP agreement. The Staff agreed and issued an Examiners' Report detailing its findings. At year's end, the Commission deliberated the matter and reversed the recommendation of its Staff and will allow CMP to recover all amounts in rates.

Emera-First Wind-Algonquin Reorganization - At the end of the last fiscal year, Bangor Hydro-Electric and Maine Public Service, both owned by Emera, Inc. (a Nova Scotia utility holding company) had filed for authority to proceed with a reorganization that involved two unregulated generation companies: First Wind and Algonquin Power Utilities Corporation. Through its Maine utilities, Emera sought to purchase, along with Algonquin, up to 49% of a First Wind subsidiary that would own and operate wind farms in Maine, New England and New York. (Prior to the Commission's decision, Algonquin pulled out of this part of the transaction.) Separately, Emera sought permission to purchase up to 25% of the shares of Algonquin. After a lengthy and difficult proceeding, the Commission Staff recommended to the Commission that the transactions not be approved, finding that there was significant potential to harm to ratepayers that could result from these transactions and that no set of conditions could be imposed upon the deal that would mitigate that risk. This proposed outcome was consistent with the position we had taken in the case. We were very concerned that Emera, owning both regulated transmission utilities and generators in Maine, would be privy to information that would allow it make decisions and control outcomes that would not be in the interests of Bangor's and Maine Public's captive ratepayers. The Commission disagreed, finding that while the potential for harm existed, it could create and enforce conditions that would prevent the harms. Believing that the Commission lacks the statutory authorization to impose many of these conditions, and that federal law preempts its enforcement of others (among other issues) we have appealed this case to the Maine Law Court, an appeal that was pending at the end of the fiscal year.

The Mid Coast Pilot - In its approval of a multi-party Stipulation that settled CMP's massive Maine Power Reliability Program (MPRP) case, the Commission delayed consideration of the reliability needs in the area covering Camden/Rockland through Boothbay Harbor. Instead, the Commission agreed to consider a pilot program under which GridSolar, working with CMP, would create and operate a program involving non transmission alternatives such as local customer-owned generators, demand response, new energy efficiency programs and new solar arrays to maintain and enhance the reliability of the region. This program would serve to meet the customer load in the region during peak load hours and delay or eliminate the need for CMP to build a larger capacity transmission path to the region while maintaining reliability.

While a dispute remains concerning how reliability needs will be met in the Camden/ Rockland region, the Commission approved a Stipulation that we endorsed that creates this pilot for the Boothbay region. Under the pilot, GridSolar, in the coming months, will be contacting customers in the area and submitting proposed RFPs designed to contract with these customers to provide energy (or energy curtailment) in order to meet the goals of the pilot. The parties estimate that the

program, which avoids the building of the transmission line, will save CMP ratepayers \$3 million per year.

The pilot program is intended to provide important information to guide the Public Utilities Commission in its decision regarding future smart grid solutions, including a similar project in the Portland area.

CMP – MPRP Abutter case - We intervened and participated to limited extent in a case involving a landowner who abuts the MPRP and their dispute about placement of the line and the health effects of the Electro Magnetic Field (EMF) generated by the line. This case followed the Commission’s “Landowner Dispute Resolution Process” for such cases. The decisions of the Landowner Dispute Resolution Team with regard to the appropriate EMF levels as determined by the World Health Organization (WHO) was in error and we appealed to ensure that this error was corrected and to suggest that the Commission investigate EMF levels in order to provide more clarity to consumers about the health effects. The Commission agreed with us that the LDRT made an error in its order about appropriate EMF levels but declined our suggestion to further clarify the health effects of those levels.

Transmission Planning Standards - We have participated, with the assistance of an engineering consultant, in a Commission-initiated case that is looking at the planning standards for “local transmission” for all three of Maine’s investor owned transmission and distribution utilities. Local transmission is that which may not subject to the planning standards imposed by NERC, FERC or ISO-NE. At year’s end we filing comments on a series of questions from the Staff and awaiting an Examiners’ Report.

Smart Meters - During the course of this year, we have received an unusually large number of calls from CMP ratepayers who have concerns and questions about smart meters. Most of the calls concerned the cost associated with CMP’s “opt-out” program, under which customers who do not want a smart meter on their house can keep their old electro-mechanical meter (or get a smart meter without the transmitter) for an initial fee followed by a monthly fee. Customers have expressed concerns about the health effects from the radio transmissions from the meters, about cyber-security and about privacy. We have tried to objectively describe the options to customers and have explained why there is a charge.

In another vein, we have worked with Commission Staff and CMP personnel to create a “dynamic pricing” program to be offered to CMP customers. Under this program, the information from smart meters can be used to provide opportunities for customers to save money on their bills by shifting usage to off-peak times during which rates would be lower. At year’s end, this plan was still undergoing development and review. We have also participated in a case concerning a pilot dynamic pricing program devised by Bangor Hydro. This program was nearing completion at year’s end.

Finally, we await CMP’s update to its smart meter revenue requirement case which has been pending for many months.

Regional and National Meetings and Conference
July 2011 through June 2012

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1. Universal Service Administrative Company (Washington, DC) July 25-27, 2011; October 24-25, 2011; December 5-6, 2011; April 9-11, 2012
Wayne Jortner
 2. Independent System Operator – New England – Meeting (Westborough, MA) September 28, 2011; May 24, 2012; June 21, 2012
Agnes Gormley
 3. Independent System Operator – New England – Meeting (Westborough, MA) September 28, 2011
Eric Bryant
 4. Federal Energy Regulatory Commission (Washington, DC) September 25-26, 2011
Wayne Jortner
 5. RTO Meeting (Boston, MA) December 8, 2011
Agnes Gormley
 6. Broadband Conference (Boston, MA) November 8, 2011
Wayne Jortner
 7. Hearing/Meeting (Concord, NH) October 12, 2011; (Springfield, MA) March 13-14, 2012
Wayne Jortner
 8. 2012 National Electricity Conference (Washington, DC) February 7-9, 2012
Agnes Gormley
 9. Regional Meeting – Digital Future (Burlington, VT) May 5-8, 2012
Wayne Jortner
 10. Meeting Dig Safe Systems, Inc. (Woburn, MA) April 30, 2012
Dick Davies

NATURAL GAS MATTERS

Expansion of Gas Utility in Maine - We intervened and participated in several cases addressing proposed new gas infrastructure projects. Kennebec Valley Gas Company (KVGC), sought conditional approval of a certificate as a new gas utility and proposed the construction of a pipeline and distribution facilities that would serve, for the first time, communities along the Kennebec Valley, from Richmond to Skowhegan. The Company later began the process of transferring its interest in the planned project to Summit Utilities, an existing utility serving in several western states.

At about the same time, Maine Natural Gas (MNG), a subsidiary of Iberdrola, a sister company of Central Maine Power, proposed to serve State facilities in the Augusta area, one of the key customers that KVGC sought to secure. MNG won the bid in response to a State of Maine RFP for gas service to State facilities in Augusta, and KVGC (subsequently Summit) challenged that decision. The issue is now before the Bureau of Purchases.

The Public Advocate favors the development of gas service to as many communities as possible. However, current law and rules do not necessarily allow the Commission to compare proposed projects and choose the one that best serves the public interest. The current law allows any authorized gas utility to extend service in unserved areas at the utility's discretion.

Northern Utilities Supply Portfolio - The Public Advocate has participated in various meetings and technical conferences with respect to Northern's gas acquisition policies, with a view toward ensuring safe, reliable and economic supplies of gas. OPA has particularly focused on Northern's practice of purchasing higher than necessary pipeline capacity from its sister Company's interstate pipeline, Granite State Transmission. Maine law requires Commission approval of certain transactions with affiliates in order to ensure that the utility does not cause unnecessary costs to ratepayers when it enters into contracts with affiliates.

FERC Interstate Pipeline Rate Cases - Granite State Gas Transmission, Inc.: In July 2011, the Public Advocate joined with Granite State Gas Transmission, Inc. (Granite), and with the staff of the New Hampshire PUC and the Maine PUC in submitting a joint petition for the approval of an amendment to the 2010 stipulation respecting Granite's increase in its interstate base transportation rates. The amendment provided a mechanism for Granite to recover post-October 2010 costs of three significant capital projects involving Granite's disbonded-pipe replacement, its integrity management program, and the construction involved in the "Little Bay Bridge" crossing. It was agreed that Granite would recover the capital cost additions for those projects as of March 31, 2011, together with certain expense adjustments to Granite's cost of service, through a rate increase that was effective August 1, 2011.

Portland Natural Gas Transmission System (PNGTS) – FERC Rate Case: In November and December 2011, the Public Advocate drafted and filed briefs in the ongoing FERC rate case in which Portland Natural Gas Transmission System (PNGTS) is asking for a significant increase in its transmission rates. In March 2012, the FERC Staff issued an examiner's report in that proceeding, recommending further decreases in PNGTS' interstate rates for gas transportation through that pipeline. The recommended reduction in rates, when implemented, will represent a significant savings for Maine's gas customers, including the mills in Jay (Verso Paper) and Rumford that take

gas from that pipeline. However, at this writing, even though the parties have completed the process of filing exceptions to the examiner's report, the FERC Commissioners have not yet issued a final order, implementing the recommended rate reductions. As a result, Maine customers are waiting still to benefit from the proposed rate reductions both from this PNGTS rate case and from the prior PNGTS rate case, which PNGTS has appealed to the DC circuit court of appeals.

Northern Utilities/Granite State Affiliate Contract - In late 2010, the Public Advocate asked the Commission to open an investigation into the contract between Northern Utilities and its affiliate Granite State Gas Transmission, Inc. We had asked that the Commission open an investigation into the benefits and costs of merging Granite's operations – i.e., its pipeline – into Northern Utilities, for operation under State regulation. After a series of technical conferences and written submissions, in July 2012 the Commission determined that Granite's facilities, ownership, management and function are so closely intertwined with Northern's that dividing the system into two entities seems inefficient. In addition, the Commission noted that the existing affiliate structure "gives rise to questions about whether the corporate layering benefits ratepayers or simply provides an additional layer of profit-taking from Maine's gas customers." Nevertheless, the Commission determined that the complexity and cost of obtaining a federal regulatory exemption for Granite's operations and facilities within Maine would likely be substantial. Hence the Commission decided to approach its concerns by using the tools that it has within its own state jurisdictional authority – i.e., in base-rate cases, cost-of-gas cases and a review of Northern's contracts with Granite. Therefore, the Commission declined to open a formal investigation of the costs and benefits of State regulation of Granite. Therefore, in July 2012 the Public Utilities Commission opened a proceeding in which it considered Northern's request for approval of its affiliated-interest transaction that proposed to amend the gas transportation agreement between Northern and Granite. At the time of this writing, the Public Advocate and Commission Staff were submitting discovery requests concerning Northern's contract for 100,000 dekatherms per day of firm pipeline capacity from Northern.

Woodland Pulp, LLC – Authorization to Operate Private Pipeline - In May 2011, the Legislature enacted a bill that established that a privately owned pipeline (i.e., non-utility) is subject to the Commission's safety oversight and enforcement authority. Later that same month, Woodland Pulp, LLC filed a petition for authorization to construct a private natural-gas pipeline. The Public Advocate intervened in the Commission proceeding and participated in numbers of meetings held by the Commission staff regarding Woodland's petition. In August 2011, the Commission issued an order authorizing construction of the pipeline after Woodland filed certain information showing compliance with state and federal safety requirements. In November 2011, the Commission issued an order authorizing Woodland to energize and begin operation of the pipeline while completing its public awareness plan and pressure testing. Finally, in March 2012, the Commission issued its final order approving the operation of Woodland's private pipeline, noting that Woodland had submitted all of the required safety and testing results necessary for its continued operation.

Bangor Gas Financing Proceedings - In March 2012, Bangor Gas filed for Commission approval of an expanded \$30 million credit facility between its parent company, Energy West, Inc. (EWI) and Bank of America and a \$15 million credit facility between EWI and Allstate/CUNA, an insurance company. During April and May 2012 the Public Advocate and the Commission Staff issued data requests and held technical conferences on Bangor Gas's application. In mid-May

Bangor Gas and the Public Advocate filed a joint stipulation at the Commission. However, thereafter negotiations between Bangor Gas and its lenders broke down, and Bangor Gas filed an amended application in late June 2012, proposing a materially different credit facility structure – i.e., a \$40 million credit facility with a single lender, Bank of America. Thereafter the Public Advocate and the Commission Staff participated in further negotiations and in mid-August 2012 the Commission approved a revised stipulation between Bangor Gas and the Public Advocate, which contained certain “ring-fencing” provisions together with some conditions about the expansion of gas service by BGC to the town of Bucksport.

Routine Cost of Gas Reconciliation Proceedings (every 6 months for each of 3 gas utilities) -

The Public Advocate intervened in each of the semi-annual cost of gas reconciliation proceedings for each of the three local distribution gas companies in Maine. Every six months, each of the three gas utilities in the State are required to file for reconciliation of their actual cost of gas commodity with the amount that they have billed their customers for gas commodity. Maine gas utilities recover gas costs on a dollar for dollar basis and do not earn a profit on the sale of gas.

Accordingly, the Public Advocate intervened in two proceedings each for Northern Utilities (Unitil), Bangor Gas, and Maine Natural Gas. These routine gas cost filings regularly present unusual issues which requires the Public Advocate to keep a watchful eye for items or issues that could represent inappropriate costs to gas customers.

Northern’s Ongoing Cast Iron Main Replacement Proceedings - As a portion of the “global stipulation” described above, Unitil agreed that it would carry out a Cast Iron Replacement Program involving a capital investment of more than \$62.8 million (in 2011 dollars) over fourteen years. It was agreed that after May 2012 Unitil would recover the remainder of its CIRP costs through a series of additional rate increases each year, starting in 2013. The parties agreed that Unitil will file annually, by March 15, a report describing its CIRP investments for the prior calendar year and on the CIRP progress relative to the CIRP plan that had been approved earlier in 2011.

EcoGas Landfill Gas – Proposed Line Extension to University of Maine at Orono - EcoGas (Casella), the operator of a landfill about 10 miles from UMO, proposed to serve UMO with landfill gas and construct and operate a pipeline from the landfill to UMO to deliver that gas. EcoGas secured a contract with UMO which is normally served by Bangor Gas. OPA is concerned that the EcoGas project could adversely affect the ratepayers of Bangor Gas if Bangor Gas loses a substantial amount of load that it has been providing to UMO. OPA proposed settlement discussions so that the project might be developed in a way that allows EcoGas to sell its landfill gas to UMO while allowing Bangor Gas to own and operate the pipeline, thereby retaining its large customer. Discussions between the two companies are ongoing.

Northern’s Affiliate Supply Contract with Granite State Gas Transmission - Northern, the local gas distribution company, and Granite, an interstate pipeline company, are both owned by Unitil. Therefore, when they contract with each other, the Commission has the duty to ensure that those contracts are consistent with the public interest. The Public Advocate now believes that Northern buys excessive capacity on the Granite State pipeline, which results in higher costs of gas to Maine ratepayers. After unsuccessfully attempting to settle with Northern, the Public Advocate is actively litigating the issue of the appropriate amount of capacity that Northern should reserve on

the Granite pipeline. The Granite pipeline serves no customers other than those on Northern's distribution system.

Northern Utilities – Integrated Resource Plan - In late December 2011, Northern Utilities filed its 2011 Integrated Resource Plan (IRP) at the Commission. In January 2012, in conjunction with the New Hampshire Public Utilities Commission, the Maine Public Utilities Commission has opened an investigation to review Northern's gas portfolio planning. This is important to ensure both the reliability of gas supply and the avoidance of excessive cost of gas. The purpose of Northern's Integrated Resource Plan is to keep each of the Commissions informed of Northern's forward-looking system-planning processes, including details involving Northern's system reliability reserve allocation methodology. (In an earlier stipulation Northern had agreed to the establishment of a reliability reserve level equivalent to 30% of the combined capacity-exempt transportation load in Maine and New Hampshire, or approximately 5% of Northern's total system-wide design-day demand. In addition Northern had acknowledged that the Maine Commission could consider the level of such reliability reserve as part of the IRP process.) At the time of this writing, this investigation is continuing. To date it has consisted of written discovery filed by the staffs of the New Hampshire PUC and the Maine PUC as well as the Maine Public Advocate. In addition, there have been held several joint technical conferences at which the parties have questioned the Company on the details of its analyses and portfolio decisions. The investigation is continuing into the fall of 2012.

Northern's Portland Waterfront Property - The Public Advocate recognized that Northern, prior to the acquisition by Unitil, owned certain property along Portland's waterfront which was not necessary for provision of gas utility service. Therefore, when the Public Advocate negotiated the terms of Unitil's acquisition of Northern, we successfully won an agreement that Unitil would conduct a study to determine whether the property could be sold and thereby benefit ratepayers. Because the property is contaminated and subject to costly environmental remediation, ratepayers have, for many years, been paying to clean up the property even though no utility service depends on the property. After several years, Unitil agreed to market the property and found a purchaser this year. The transaction has not yet closed because of continuing issues that the parties are working to resolve.

Northern Utilities (UNITIL) Base-Rate Case - In May 2011 Northern Utilities, a gas distribution company doing business as "Unitil," filed a request for an increase of \$9.33 million in distribution revenues, which represented a 15% increase in total operating revenues and a 49% increase in distribution revenues. Unitil also proposed to modify its rate design, shifting greater amounts of costs to its residential customers. In August 2011 the Public Advocate filed the direct testimony of four witnesses in the general areas of revenue requirement, rate design, rate of return, and operational design. Thereafter technical conferences were held both on the Unitil case and on the testimonies filed by the Public Advocate. In mid-September 2011 the Staff issued a bench analysis outlining the Staff's preliminary assessment of legal and technical issues in the case. After a technical conference on the bench analysis the Hearing Examiners issued a ruling barring Unitil from further updates to its case. Then both Unitil and the Public Advocate filed their rebuttal testimony. In mid-September 2011, before hearings took place, Unitil and the OPA filed a joint stipulation on temporary rates providing for a \$3.5 million revenue-requirement increase. The parties then held meetings and technical conferences to discuss Unitil's proposed Cast Iron

Replacement Program (CIRP) expenditures and program changes. In late October Unitil and the other parties to the case filed a stipulation that set forth a global settlement of all the issues in the proceeding, including the Company's temporary rate request, the CIRP plans, and changes in rate design. The global stipulation resulted in an annual revenue increase of \$7.78 million effective January 1, 2012, followed by a further "step" increase of \$850,000 on May 1, 2012, to recover the increase costs resulting from cast-iron replacement expenditures in 2011. The stipulated revenue amount of \$7.78 million incorporated the temporary rate increase of \$3.5 million that earlier had been approved by the Commission. The global stipulation also required that Unitil would not file a new base-rate case that has an effective date earlier of January 1, 2014. A calculation of the savings resulting from the Public Advocate participation in the case results in an estimate of \$1.5 million.

Northern Utilities Ongoing Cast Iron Main Replacement Program - After a settlement between Unitil, the Public Advocate and Commission Staff several years ago, Northern embarked upon a major 14-year program to replace all of its cast iron gas mains in Portland, Westbrook and surrounding communities. The Commission is concerned with the safety risk of old cast iron mains that some believe to be prone to leaks from corrosion. As part of its monitoring of Northern's progress, the Commission holds regular technical conferences to ensure that appropriate progress is being made and that problems are appropriately resolved. The Public Advocate monitors these proceedings and tries to ensure that costs are no greater than necessary.

Kennebec Valley Gas Company – Seeking Authority to Furnish Natural Gas Service - In April 2011, the Kennebec Valley Gas Company (KVGC) had filed a petition for authority to furnish natural gas service in the municipalities located along the Kennebec River, including Richmond, Gardiner, Farmingdale, Hallowell, Augusta, Sidney, Waterville, Oakland, Fairfield, Norridgewock, Madison, and Skowhegan. The Commission opened a proceeding to consider KVGC's petition and held technical conferences on the issues raised by the petition in June and July 2011. In August 2011, the Commission approved a stipulation among KVGC, the Public Advocate, and the Town of Farmingdale, granting KVGC's petition for conditional authority to furnish gas service to those municipalities. The Commission found that KVGC had developed sufficient preliminary engineering plans to show that KVGC had the technical capability to develop a natural gas transmission pipeline and distribution system. The Commission also noted that KVGC demonstrated that it possessed adequate financial resources to perform the necessary construction work. Finally, the Commission listed the information and data that KVGC should file in order to obtain full authority to serve.

Summit Natural Gas of Maine – Petition for Authority to Provide Natural Gas Service - In June 2012, Summit Natural Gas of Maine (Summit) filed a petition to provide natural gas service to the same thirteen Kennebec-Valley municipalities as served by the Kennebec Valley Gas Company. Furthermore, KVGC and Summit filed a petition requesting Commission approval for the sale of KVGC assets to Summit. The Public Advocate has intervened in the newly-filed case involving Summit's petition for authority to provide gas service in which Summit is seeking Commission authority to finance, construct, install, own, operate and maintain natural gas pipelines, and operate as a gas utility. At time of this writing, discovery was proceeding in the case, and the Commission staff has recommended that Summit be granted conditional authority subject to the same general conditions as had been placed upon Kennebec Valley Gas Company in the Commission's August 2011 Order.

WATER MATTERS

Aqua-Maine Water Co. – End-Stage of Three Rates Cases - At the very beginning of the fiscal year, the Public Advocate finished its litigation of three separate rate cases involving divisions of the Aqua-Maine Water Company – specifically, the three Aqua-Maine divisions that serve in the towns of Millinocket, Skowhegan, and Freeport. Each of those cases was settled by a stipulation in which the Water Company was granted a rate increase in a percentage that was less than the amount that it had requested. For instance, a 9.63% increase had been requested in the revenues of the Skowhegan Division; yet the increase was in the amount of 8.38%. Overall, the savings generated by our participation in those cases was as follows: for the Millinocket Division, \$4,026; for the Skowhegan Division, \$26,993; and for the Freeport Division, \$2,462.

Celine A. Goddard – Commission Investigation Into Drinking Water Resources in Lisbon - In May 2011, the Public Advocate was contacted by Celine Goddard, a customer of the Lisbon Water Department. Ms. Goddard was concerned that the Lisbon Water Department was not taking sufficient steps to protect its water-source well from contamination that would be occurring as a result of development on a parcel of land adjacent to that well. After several conversations, Ms. Goddard decided that she and a group of additional customers wanted to file a 10-person complaint against the Water Department pursuant to 35-A M.R.S.A. § 1302. In response to her request, we drafted such a complaint, and Ms. Goddard filed that complaint at the Public Utilities Commission on May 11, 2022. Three months later, the Commission issued an order dismissing the 10-person complaint filed by Ms. Goddard. The Commission dismissed the complaint on the grounds that (a) the Department lacks the authority to control the use to which properties adjacent to its well and under private ownership are used; (b) the Department lacks the ability to require the Town of Lisbon to purchase the adjoining property or to enact the zoning ordinance necessary to protect the well from development on such property; (c) the regulation of drinking water is beyond the scope of the Commission’s expertise; and (d) issues involving drinking water should be addressed to the Maine Drinking Water Program. Nevertheless, in its Order dismissing the 10-person complaint, the Commission indicated that it would be appropriate for the Department to file with the Commission a plan to address the future costs and other infrastructure requirements necessary to prevent or mitigate contamination of its water sources. Also, the Commission did note that it was “unfortunate that the Department has been unable, in the preceding six years, to achieve its sought-after amendments to the Town of Lisbon’s zoning ordinances that would secure greater protection for the Department’s wells.”

Brian T. Mills, et al. v. Andover Water District - On August 5, 2010, eighteen residents of Andover filed a complaint at the PUC alleging that in March 2010 the Andover Water District had sold a parcel of waterfront property adjacent to Stony Brook -- which until 1998 had been the source of water for the Water District and claiming that the sale had been in violation of 35-A MRSA Section 6109 (which requires that notice of intent to sell be given to the municipality and to a water district’s ratepayers). The complaint also requested that any proceeds from the sale be turned over to the Town of Andover. The Water District responded, claiming that at the time of the sale the Stony Brook property was no longer the source of the District’s water supply. On February 4, 2011, the Commission opened an investigation into the Commission’s acts and practices with regard to the sale of the Stony Brook property. Two of the original petitioners acted as intervenors in the proceeding. A round of discovery was completed, and a technical conference was held on

May 3, 2011. The Public Advocate submitted a filing arguing that land sold constituted “water resource land” and was exactly the sort of land that the Legislature intended to protect when it enacted Section 6109. After several more filings by the Water District, the Commission issued its Order (Part I), finding (a) that the Stony Brook property was “water resource land” within the meaning of Section 6109, and (b) that the Water District was therefore required to follow the notice provisions of that Section. The Commission then opened the second part of the proceeding in order to determine whether the Water District had in fact satisfied those notice requirements. The Town of Andover filed a petition to intervene, but did not take an active role in the remaining part of the case. The parties engaged in another round of discovery, including depositions taken in Andover of two people who had been trustees of the Water District at the time of its decision to sell the Stony Brook property. At one of those depositions, one of the former trustees expressed regret that the Water District had waited until after the sale to inform the Town and its citizens about its intention to sell. Thereafter, the Water District and the intervenors made direct filings, and a hearing was held on March 7, 2012. On June 6, 2012, the Commission issued its Order (Part II), finding that the District had violated both Section 6109 and Chapter 691 of the Commission rules by failing to give notice of its intention to sell the Stony Brook land to its customers or to the Town of Andover, and by failing to give a right of first refusal to the Town. For those violations, the Commission directed the Water District to pay an administrative penalty of \$100. In response to the Public Advocate’s suggestion that the Commission provide some clarity about the applicability of Section 6109 to similar situations, the Commission found that the Orders in this proceeding and in a prior PUC proceeding involving the sale of water resource land “provide sufficient guidance for a water utility to correctly determine the statutory requirements for the sale of real property.”

Aqua-Maine Water Co. – Purchase by Connecticut Water Co. - Aqua-Maine, Inc. is Maine’s largest investor-owned water utility and operates eight divisions that provide water in different areas of the state including Millinocket, Skowhegan, Freeport, Kezar Falls, Oakland, Hartland, Bucksport, and the Camden, Rockport, and Rockland area. On August 23, 2011, Aqua-Maine filed a request at the Commission seeking approval of its purchase by the Connecticut Water Service (CTWS). After a period for discovery, a technical conference was held in mid-October, and after CTWS responded to sets of oral data requests, negotiations took place between Aqua-Maine, CTWS, and the Public Advocate. In late October 2011 the parties agreed to a stipulation that approved the “reorganization” subject to a series of conditions, including the following: (a) Aqua-Maine agreed not to seek an increase in revenues for any of its divisions during calendar year 2012; (b) Aqua-Maine agreed not to seek, in any future rate proceeding, recovery of any “acquisition adjustment” arising out of the transaction; (c) Aqua-Maine and CTWS will list all “transaction costs” incurred as a direct result of the acquisition and also promised there will be no short-term rate or service impacts on Aqua-Maine customers as a result of the acquisition; (d) for a period of two years, subsequent to the acquisition, if CTWS requires additional employees to implement the transition and/or provide existing services to Aqua-Maine, then those costs will be assumed by CTWS; and (e) for a period of two years, if additional information-technology equipment or software were required by the acquisition, then the excess costs associated with that equipment and software will be assumed by CTWS. On November 22, 2011, the Commission issued an order approving the stipulation.

Winterport Water District – Proposed 11.42% Increase in Revenue - On December 16, 2011, the Winterport Water District filed for an 11.42% revenue increase. That filing came as a result of a

prior case in which the District had agreed to file for revised rates in late 2011. An initial case conference was held on January 18, 2012, and thereafter the Public Advocate and the Commission's Advisory Staff each filed data requests. Directly after the case conference closed, the Public Advocate and the Advisory staff spent additional time with the Water District staff and its rate consultant listing our concerns that remained from the District's last rate filing. The Water District provided responses to its data requests on February 29, 2012. However, because of a change in the make-up of the staff at the Water District, no technical conference was held. On June 14, 2012, the Water District withdrew its application for a revenue increase, explaining that recent changes in staff had made it difficult to meet the timetable for the case. The Water District also indicated that it would work to submit another rate-case filing "as soon as possible."

NUCLEAR POWER AND NUCLEAR WASTE MATTERS

Maine Yankee oversight meetings - Every three months a group of Maine state officials, including the Public Advocate meets with representatives from Maine Yankee to review developments and update attendees on issues regarding the former Maine Yankee site and the Independent Spent Fuel Storage Installation (ISFSI) located in Wiscasset. Meetings during this fiscal year covered such topics as recent security inspections at the ISFSI, the results of the Maine Yankee law suit against the United States Department of Energy (USDOE) over damages (1998-2006) attributable to the Federal Government's failure to comply with its contract obligations to begin removing spent nuclear fuel from Maine Yankee beginning in 1998, and actions at the federal level to cancel the development of Yucca Mountain as the site to which spent nuclear fuel was to be sent.

Maine Yankee lawsuit against USDOE - In May, 2012 we learned that the U.S. Court of Appeals in the Phase I lawsuit awarded Maine Yankee \$81.69 million in damages for DOE's failure to honor its contractual obligation to move spent nuclear fuel from Maine Yankee's spent fuel pool in Wiscasset to a permanent disposal facility (most likely Yucca Mountain, Nevada). The judge also found that no further remand is required.

In March, the Judge in the Phase II lawsuit issued an order that established a schedule for post-trial briefing. In late April, the Judge issued an order denying the government's request to admit into evidence any of the 167 Maine Yankee privileged documents submitted for his "in camera" review. This closed the record, and all post-trial briefing has been completed. The case is now ready for a decision. All funds that are awarded as damages in these cases, or in a negotiated settlement, are to go back to the companies which own shares in Maine Yankee, and then used to reduce the amounts billed to the customers of those owner-companies for the costs of operating and maintaining the ISFSI, and carrying out the other obligations remaining with Maine Yankee.

Quarterly conference calls re: Yankee Atomic rate and lawsuit issues - On a quarterly basis, representatives of the three Yankee Atomic companies (including Maine Yankee), and state regulators from Maine, Connecticut and Massachusetts, including the Maine Public Advocate, hold a conference call to review national, regional and state activities regarding nuclear waste disposal, lawsuits against the USDOE, federal actions effecting nuclear power plants (open or closed), and the activities of the several national groups working on nuclear power and waste issues. These calls are scheduled for September, December, March and June of each year.

Maine Yankee investment overview - Annually, each March, Maine Yankee's investment advisory firm briefs the PUC Chair and the Public Advocate on the performance of their Nuclear Decommissioning Trust investment portfolio during the preceding calendar year. After under-earning in 2008, the portfolio's mix of stocks, bonds and cash performed better than anticipated. The portfolio in 2011 has successfully achieved its goal of averaging a 5.5% return over the most recent five year period. Chairman Welch and I had an opportunity to question the company's advisors and treasurer on expectations for 2012-13, and what changes in investment strategies they may employ to maintain the 5.5% target. Fortunately, most of the funds invested are not needed in the short term, so the advisors are able to make long term investment decisions not driven by the need to generate a rapid turnaround in performance. They have tweaked their conservative investment strategies to slowly bring results back to the targets over a five year time horizon.

TELECOMMUNICATIONS MATTERS

FairPoint's Broadband Obligations - At the time of the acquisition of Verizon-Maine by FairPoint, the Commission Ordered – and FairPoint agreed, to expand DSL service to 90% (reduced to 87% during bankruptcy proceedings) of the customers connected to its network. During ongoing compliance proceedings, it became clear that FairPoint's claimed accomplishment was mathematically far from what was expected by the Commission's staff and the Public Advocate. As a result, the Public Advocate initiated enforcement proceedings before the Commission and successfully demonstrated that FairPoint was using the wrong numbers and definitions in its calculation of broadband percentages. After the Commission Order that agree with the Public Advocate, FairPoint appealed to the Maine Supreme Court. That appeal is ongoing.

FairPoint's Allocation of Federal Connect America Fund Broadband Support - The Public Advocate filed a formal request for a Commission inquiry to monitor and influence FairPoint's decision to accept its allocation of \$4.8 million to connect unserved Maine customers to new broadband DSL service. The Commission declined to open the Inquiry. Later, FairPoint accepted half of the allocated support and used nearly all of it in Vermont, using only about \$4600 for some small projects in one of its classic properties in Maine.

Public Advocate Opposition to FairPoint's Proposal to Use Service Quality Penalty Rebates Due to Customers and Divert It to Deploy Broadband - The Public Advocate successfully blocked FairPoint from converting bill credits due to ratepayers to compensate for poor service quality in the preceding year. FairPoint sought to use millions of dollars to invest in its network at the cost of raising the bills of most telephone customers. The Public Advocate successfully argued that State law prohibits the use of regulated revenues to fund unregulated business ventures. The Public Advocate also argued that FairPoint had continuing obligations to deploy more broadband that were not yet achieved.

Comprehensive Telecommunications Reform Legislation - After FairPoint sought to introduce new legislation that would grant it substantial regulatory relief and deregulate many of its services, the Public Advocate fully participated in negotiations that led to the ultimate passage of comprehensive reforms. While recognizing that changing markets and changing technologies called for some regulatory reforms, the Public Advocate worked to ensure that customers without

market choices continue to be protected and that basic consumer protection and Commission oversight remain intact where appropriate.

Maine Universal Service Fund Stakeholder Group - As part of the comprehensive regulatory reforms, the Commission was directed to determine how Maine telephone companies will be assured adequate revenues going forward, while maintaining just and reasonable rates. The Public Advocate is actively participating in that ongoing proceeding and has hired an expert to analyze any cost model that will be developed to determine the amount of support. It is anticipated that FairPoint NNE – the former Verizon territory – will, for the first time, receive support from a State fund. For that reason, the State fund is likely to become much larger. It is expected that most telecommunications companies in Maine will contribute to that fund.

Rural Exemption Proceedings – Time Warner’s Petition to Require Interconnection in Order to Provide Service in 5 Rural Telephone Company Territories - The Public Advocate actively participated in continuing litigation between Time Warner Cable and five small rural telephone companies that want to preserve their federal exemption from competition by Time Warner in their rural territories. The Public Advocate's witness found that entry by Time Warner Cable in those areas would render the telephone companies economically non-viable. Since Time Warner cable serves only selected profitable areas, the incumbent telephone companies are the only entities that exist to serve every customer with telephone service. As of this writing, the Commission has determined that the five telephone companies must submit to mandatory arbitration with Time Warner to determine the terms of an interconnection agreement. The key issue is whether the telephone companies will have to provide local number portability (allowing new Time Warner customers to keep their existing telephone number). The litigation is ongoing.

Ongoing Federal Proceedings at the FCC - The Public Advocate participated in various FCC dockets in association with the National Association of State Utility Consumer Advocates (NASUCA), which intervenes on behalf of consumers at the Federal Communications Commission and the Federal Energy Regulatory Commission. In November, the FCC released its transformational Connect America Fund Order which broadly reforms telecommunications regulation and creates new programs to encourage and support broadband deployment in unserved areas. Various dockets have arisen from that Order; the Public Advocate has taken an active role on some of those dockets.

Maine Speaking Engagements, Continuing Education & Developmental Training - July 2011 through June 2012

A. Richard Davies

- July 26, 2011: Teleconference “Electricity Storage”
- August 25-26, 2011: TRS Broadband Forum – panel moderator
- September 1, 2011: Teleconference w/ FERC Chairman Wellinghoff
- September 28, 2011: ISO-NE Consumer Liaison Group meeting – panelist
- October 13, 2011: Information resource – Madison, ME town meetings re: natural gas pipeline
- October 19, 2011: “Digitally Inclusive Communities” leadership forum – speaker/panelist
- November 10, 2011: Teleconference “How states can achieve effective clean-energy policies”
- December 1, 2011: Teleconference “The future of Federal-State jurisdictional relationships in the new broadband world”
- December 15, 2011: Teleconference “The FCC’s new USF order – What does it mean for states, the industry, and consumers”
- January 12, 2012: Teleconference “Jurisdiction over the US electric industry”
- March 14, 2012: Teleconference “Maine Yankee Decommissioning trust fund performance 2011-2012”
- May 30, 2012: Underground Damage Prevention Training – Maine PUC
- May 31, 2012: MTUG annual convention – workshop on cyber-security risks



B. William C. Black

- October 31, 2011: Board of Bar Overseers – The Legal and Ethical Quandries of Social Networking
- November 17, 2011: National Business Institute, Inc. – Find it Free and Fast on the Net: Strategies for Legal Research on the Web
- November, 2011, April 2012, May 31, 2012: Maine Telecommunications Users Group
- December 14, 2011: Board of Bar Overseers – Thurgood Marshall’s Coming
- March 14, 2012: Board of Bar Overseers – Impeach Justice Douglas

C. Patty Moody-D’Angelo

- August 2, 2011: Webinar – State of the Internet 2011
- September 6, 2011, February 10, 2012, June 5, 2012: Human Resource Briefings and Training
- September 8, 2011: MainePers Training
- October 20, 2011: Webinar – Workforce Planning & Recruitment & Retention Network Forum (Knowledge Management and Transfer)
- December 2, 2011, April 2012, May 31, 2012: Maine Telecommunications Users Group
- May 14, 2012: FCC Webinar – The Broadband Adoption Lifeline Pilot Program – how it will adopted among low-income consumers

D. Eric Bryant

- July 27, 2011: Attorney General sponsored “Legal Year in Review”
- November 30, 2011: Board of Bar Overseers – Legal Ethics

E. Agnes Gormley

- August 11, 2011: NRRI Teleseminar – FERC’s Order 1000 Sets Regional Transmission Policy: Landmark, a Landmine, or Both?
- November 29, 2011: NRRI Teleseminar – Investing in New Technologies: What Regulators and Utilities Can Do to Balance Costs, Risks and Rewards

F. Wayne Jortner

- July 1, 2011: Consumers Matters TWC Studio
- August 25, 2012: Maine Telecommunications Relay Services Advisory Council – Broadband Forum (Speaker)
- September 22, 2011: Board of Bar Overseers – Continuing Legal Education Seminar
- January 5, 2012: Energy and Telecommunications Committee – PUC Presentation
- April 4, 2012: Maine Telecommunications Users Group



125th LEGISLATURE, 2nd SESSION

OPA position adopted: 11 73.3%
OPA position rejected: 4 26.7%
Bills OPA testified on: 15 100.0 %

Legend: OTP = Ought to Pass
OTP-A = Ought to pas as amended
ONTP = Ought not to pass

PL = Public Law
P&S = Private and Special Law

LD# Bill Title

- 1622 An Act to Clarify the Laws Governing Electric Industry Restructuring**
Sponsor: Sherman
OPA position: support Committee action: **OTP-A Resolves Ch. 154**
- 1644 An Act to Expand the Availability of Natural Gas to Maine Residents**
Sponsor: Katz
OPA position: support Committee action: **OTP-A PL Ch. 586**
- 1676 An Act to Increase Energy Options**
Sponsor: Raye
OPA position: support Committee action: **ONTP**
- 1703 An Act to Create the New Gloucester Water District**
Sponsor: Espling
OPA position: support Committee action: **OTP P&S Ch. 19**
- 1706 An Act to Protect Maine's Biomass and Forest Products Industries**
Sponsor: Fitts
OPA position: support Committee action: **ONTP**
- 1784 An Act to Implement Recommendations To Reform Telecommunications Regulation**
Sponsor: Reported by Fitts (for PUC)
OPA position: support Committee action: **OTP-A PL Ch. 623**
- 1789 Resolve, Regarding Legislative Review of Portions of PUC Rules, Ch. 316**
Sponsor: Reported by Fitts (for PUC)
OPA position: support Committee action: **OTP-A Resolves Ch. 138**
- 1790 Resolve, Regarding Legislative Review of Portions of PUC Rules, Ch. 895**
Sponsor: Reported by Fitts (for PUC)
OPA position: support Committee action: **OTP-A Died between the houses**
- 1791 Resolve, Regarding Legislative Review of Portions of PUC Rules, Ch. 815**

- Sponsor: Reported by Fitts (for PUC)
OPA position: support Committee action: **OTP-A** **Resolves Ch. 128**
- 1792 Resolve, Regarding Legislative Review of Portions of PUC Rules, Ch. 421**
Sponsor: Reported by Fitts (for PUC)
OPA position: support Committee action: **OTP** **Resolves Ch. 143**
- 1803 An Act to Implement the Recommendations of the Dig Safe Work Group**
Sponsor: Reported by PUC
OPA position: support Committee action: **OTP-A** **PL Ch. 588**
- 1820 An Act to Implement Recommendations to Provide Additional Flexibility for Funding Infrastructure Improvements for Water Utilities**
Sponsor: Reported per LD 909 (as passed in 2011)
OPA position: support Committee action: **OTP-A** **PL Ch. 602**
- 1863 An Act to Lower the Price of Electricity for Maine Consumers**
Sponsor: Thibodeau
OPA position: support Committee action: **ONTP/OTP-A** **Died in non-concurrence**
- 1875 An Act to Provide Transparency in Electricity Pricing for Maine Ratepayers**
Sponsor: Fitts
OPA position: support Committee action: **OTP-A** **PL Ch. 590**
- 1883 An Act to Clarify the Regulation of Private Natural Gas Pipelines**
Sponsor: Raye
OPA position: support Committee action: **OTP** **PL Ch. 592**

**PUBLIC ADVOCATE STAFF TIME
BY UTILITY CATEGORY AND PROJECT: FY 12**

A. ELECTRICITY			100.00%	4389.25	49.71%
1. Federal		666.25	15.18%		
ISO/NE	431.75				
FERC	199.5				
NERC	2				
NASUCA	33				
2. State		3703	84.37%		
LEGISLATURE/HEARINGS	379.5				
POLICY	43.5				
PUC	2877.5				
COMPLAINTS	126				
BHE TRANSMISSION	1				
CMP TRASNMISSION	263				
MPS TRANSMISSION	8				
OTHER TRANSMISSION	4.5				
SMART GRID	100				
3. Other		20	0.46%		
NEWSLETTERS	8				
PUBLIC SPEAKING	12				
B. FERRY			0.00%	42.5	0.48%
1. State		42.5			
PUC	42.5				
C. TELEPHONE			100.00%	2723	30.84%
1. Federal		654.5	24.04%		
FCC	528.5				
NASUCA	126				
2. State		1773.5	65.13%		
PUC	964				
POLICY	139.5				
LEGISLATURE/HEARINGS	355				
NON-ASSESSED PROVIDERS	23				
COMPLAINTS	292				
3. Other		295	10.83%		
PUBLIC SPEAKING	32				
TELEPHONE GROUPS	171				
TRAINING	36				
NEWSLETTERS	56				
D. WATER			100.00%	531.5	6.02%
1. Federal		6	1.13%		
NASUCA	6				

2. State		525.5	98.87%		
POLICY	97				
LEGISLATURE/HEARINGS	1				
GOVERNOR'S INITIATIVE	0.5				
PUC	427				
E. NATURAL GAS			100.00%	1143.5	12.95%
1. Federal		115	10.06%		
FERC	112.5				
NASUCA	2.5				
2. State		1022.5	89.42%		
POLICY	144.5				
GOVERNOR'S INITIATIVE	6				
PUC	872				
3. Other		6	0.52%		
PUBLIC SPEAKING	6				
TOTAL	8929.75	8829.75			100.00%

Summary of Ratepayer Savings, 1982 to 2012
Attributable to Public Advocate Interventions

1.	FY 12 As part of a Bangor Hydro Electric Company investigation of stranded cost revenue requirement and costs and rates for the three years period March 1, 2011, the Public Advocate Office was successful in arguing there is no basis to allow the generous ROE of 8.5% proposed by BHE	\$ 600,000
*	FairPoint acquisition of Verizon resulted in a rate reduction worth \$90 million over a five year period (FY 09 through FY 13) (5 yr. reduction – 4 th year)	\$ 18,000,000
*	Maritimes updated its fuel charges based on higher expected throughput and compressor fuel use. With persuasive and effectual reasoning it would mean that delivering gas by Maritimes to markets in Maine will be lower for the 2011-2012 winter season	\$ 500,000
*	Granite proposed a \$3.22 capital adjustment rate but settled for a rate of \$3.10 which benefitted Maine consumers since half of Northern costs go to Maine	\$ 75,000
*	Under the terms of the FairPoint regulatory settlement Maine ratepayers will continue to receive 100% of SQI rebates that were at risk in the bankruptcy proceeding	\$ 4,000,000
*	Various water utility cases where the OPA was the only non-utility party	\$ 33,481
*	Northern Utilities requested an increase in rates of \$9.33 million. The Public Advocate's participation resulted in a savings to ratepayers of \$1.5 million and stipulated that Unitil would not file a base-rate case earlier than January 1, 2014	\$ 1,500,000
2.	FY 11 CMP Credit and Collection: Pursuant to an agreement with the OPA CMP agreed to pay a \$3 million dollar penalty in this case to benefit ratepayers. In addition, the Company agreed to contribute \$1 million to fund an arrears forgiveness program to reduce past balances for certain low-income customers on CMP's Electricity Lifeline Program ("ELP") as of September 30, 2010	\$ 4,000,000
*	BHE Standard Cost Case: Office's efforts contributed to a reduction in stranded cost charges	\$ 600,000
*	FairPoint acquisition of Verizon resulted in a rate reduction worth \$90 million over a five year period (FY 09 through FY 13) (5 yr. reduction – 3 rd year)	\$ 18,000,000
*	CMP – December 2008 Ice Storm Deferral - In July, the Commission issued an Order resolving this case. CMP had requested reimbursement from customers for a little more than \$11 million for incremental costs it incurred in restoring service from damage caused in York and Cumberland counties by the December 2008 Ice Storm. The Commission agreed to allow CMP to recover \$7.71 million. We had argued in our brief that CMP was only entitled to \$5 million. Thus, through our efforts, CMP' revenue requirement will have \$3.3 million	

	less than it would have and rates will therefore be lower	\$ 3,300,000
*	Various water utility cases where the OPA was the only non-utility party	\$ 398,808
3.	FY 10 Various water utility cases where the OPA was the only non-utility party	\$ 343,622
*	CMP's Advanced Metering Infrastructure proposal: In 2007, CMP proposed a \$90 million Advanced Metering Infrastructure investment in the context of a rate case. We strongly opposed the AMI investment, and a June 2008 stipulation that settled the rate case set up a "Phase II" process for ongoing examination of the AMI issue. In early 2010, the Commission approved a revised CMP AMI investment proposal the cost of which was covered in large part by a US DOE smart grid grant. This grant is expected to allow CMP to make this investment with no cost to ratepayers because the benefits of AMI will cancel out those costs. Thus, our advocacy in forestalling approval of AMI in 2008 allowed for this grant to be won by CMP, saving ratepayers approximately \$90 million	\$ 90,000,000
*	Maritime ratepayer savings are attributed to elements: restoring two compressor fuel zones, and expand the first zone to include all of the Maritime delivery points in Maine which reduces the costs of delivering gas to Maine markets. The second element gained was the pipeline's commitment to make up to \$250,000 per year available to subsidize the costs of constructing new gate stations for gas distribution companies seeking to supply gas to new markets off of the Maritime pipeline (this program will be in place for 5 years).	\$8,500,000
*	FairPoint acquisition of Verizon resulted in a rate reduction worth \$90 million over a five year period (FY 09 through FY 13) (5 yr. reduction – 2 nd year)	\$ 18,000,000
4.	FY 09 During FY 09 customers of 10 Maine electric utilities received an increase of 13% in Low Income Assistance Program funding	\$ 906,000
*	Due to a shift in the schedule by which Maine Yankee will collect the cost to repay a loan from the Spent Fuel Disposal Trust Fund	\$ 4,125,000
*	As part of CMP's alternative rate plan, CMP's rates are adjusted each July 1 based on a price index formula. On March 13, 2009 CMP submitted its annual filing. Our Office participated in the review of CMP's request to increase its distribution delivery rates by 10.5% effective July 1, 2009. As a result of a negotiated settlement the Company agreed to an overall 5.9% increase in their distribution delivery rates	\$ 1,900,000
*	FairPoint acquisition of Verizon resulted in a rate reduction worth \$90 million over a five year period (FY 09 through FY 13) (5 yr. reduction – 1 st year)	\$ 18,000,000
*	New Util Low Income Program	\$ 111,717
*	Various water utility cases where the OPA was the only non-utility party	\$ 21,178

- 5. FY 08** Between July 2007 and July 2008, the Office was able to secure several victories for ratepayers. We helped negotiate lower rate increases for Bangor Hydro than the one originally proposed by the utility, saving \$2.4 million \$ 2,400,000
- * Central Maine Power rate case and the Central Maine Power-Energy East merger with Iberdrola, these two cases led to reductions secured by the office. In the Energy East/Iberdrola that CMP would not pursue its request to recover \$48 million of alleged merger savings associated with the CMP-Energy East merger that was approved in 2002. This savings was realized in the subsequent agreement that resolved the ARP/rate case. In this rate case, we were instrumental in securing a \$20.3 million reduction in rates compared to what CMP requested. The bulk of the reduction was made up of cost of capital numbers \$ 68,300,000
 - * FairPoint acquisition of Verizon resulted in a rate reduction worth \$90 million over a five year period (FY 09 through FY 13) NA
 - * Ratewatcher Telecom Guide is estimated to save people \$5 million a year \$ 5,552,023
 - * FairPoint/Verizon case, negotiated a reduced debt for FairPoint from the transaction through a payment at closing from Verizon to FairPoint of \$235,500,000 NA
 - * Various water utility cases where the OPA was the only non-utility party \$ 286,038
- 6. FY 07** The PUC is required to review Verizon's AFOR every five years. At the time of the Commission's first review (in 2001), the Public Advocate asked the Commission to investigate Verizon's revenue requirement because we had good reason to believe that Verizon was over-earning. The AFOR statute requires that the Commission set local rates under an AFOR that are at, or below, the level of local rates that would be in effect for Verizon under traditional rate-of-return regulation.) In 2001, the Commission rejected the Public Advocate's request for a revenue investigation and permitted Verizon to enter a second five-year AFOR. The Public Advocate appealed that ruling to the Law Court and, in early 2003, the Law Court remanded the case to the PUC directing the Commission to examine Verizon's revenues, as required by the AFOR statute. The finding by the Commission Staff that Verizon has over-earnings of over \$32.4 million. At year-end the Commission had not made a decision as to whether to accept all the recommendations in the Examiner's Report. In addition, the Commission was considering a Stipulation that postponed consideration of the Examiner's Report until the first quarter of calendar year 2008 \$ 32,400,000
- * Various water utility cases where the OPA was the only non-utility party \$214,182
- 7. FY 06** Maine Public Service rate case, reduction in final outcome attributable to testimony of OPA witnesses on issues not pursued

	by any other intervenor	\$ 994,000
*	Bangor Hydro ARP Adjustment, a .46% reduction from BHE's original request where the OPA was the only non-utility litigant	\$ 254,740
*	Maine Yankee incentive case at FERC, 50% share of reduction in final payment attributable to success in multi-party negotiations	\$ 400,000
*	Various water utility cases where the OPA was the only non-utility party	\$ 174,201
8. FY 05	Maine Yankee incentive case at FERC, 50% share of reduction in final payment attributable to success in multi-party negotiations	\$ 400,000
*	Central Maine Power Stranded Cost Case, 25% of the reduction resulting from the agreed-to 3-year levelization of stranded costs due to a 4-party stipulation	\$ 5,552,023
*	Maritimes and Northeast FERC Case, 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
*	Bangor Hydro-Electric Stranded Cost Case, 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
9. FY 04	Central Maine Power ARP Adjustment, 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
*	Maine Public Service Stranded Costs, 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
*	Maine Public Service Distribution Rates, 50% of the difference between MPS's overall increase request of \$1.7 million and the final result of \$940,000	\$ 380,000
10. FY 03	Central Maine Power ARP Adjustment, 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
*	Verizon Sales Taxation Adjustment, 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
*	Assorted Water Rate Case Savings, the OPA realized savings in rates of \$83,000 in a series of water district rate cases in 2002-2003	\$ 83,000
11. FY 02	Stranded Cost Cases (MPS, BHE, CMP), 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
*	Bangor Hydro Rate Case, BHE's rate increase request plan was withdrawn by BHE in conjunction with a 6-year Alternative Rate which we negotiated for the 2002-2008 period	\$ 6,400,000

*	Telephone Rate Cases, lowered levels of local phone rates for Tidewater Telecom and Lincolnville Telephone as a result of negotiated settlements	\$ 557,000
12. FY 01	Maine Yankee Prudence Settlement (FERC/PUC), two in-state owners of Maine Yankee, CMP and BHE, agreed to acknowledge the increased value of Maine Yankee output in wholesale markets by agreeing to a reduction in recoverable stranded costs	\$ 14,200,000
13. 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
14. 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
15. 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
16. 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
17. 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
18. 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
19. 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
20. FY 88 and prior		
*	Bangor Hydro Rate Case, provided sole rate of return testimony	\$ 2,000,000
*	Maine Yankee Rate Case, (FERC), successfully proposed equity return at 11.9% and flow-through of \$1.5 million settlement with Westinghouse	\$ 750,000
*	Portland Pipeline Cases, successfully intervened at FERC, PUC, DOE Natural Energy Board (Canada) for approval of new gas supplies	NA
*	Seabrook Cases, negotiated agreement for \$85 million write-off by CMP and for PUC and FERC approval of sale of Seabrook shares	NA

*	CMP Conservation Programs, worked closely with CMP, PUC and OER for design of new industrial and residential conservation programs	NA
*	Rate Cases: Maine Public Service, 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

20. Total FY 89-FY 06, excluding settlements	\$ 127,980,000
21. Total FY 89-FY 12, Including Settlements	\$ 541,427,681
22. Prior Savings, including settlements, FY 82-FY 88	\$ 107,050,000
23. Total, excluding settlements, FY 82-FY 12	\$ 152,635,434
24. Total, Including Settlements, FY 82-FY 12	\$ 477,327,981

Cummulative Savings in Rates 1988 to 2012

