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# Annual report 2014-2015

Maine Office of the Public Advocate

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STATE OF MAINE  
OFFICE OF THE PUBLIC ADVOCATE

# ANNUAL REPORT

July 1, 2014 - June 30, 2015

October 1, 2015

Hallowell, Maine



State of Maine  
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Paul R. LePage  
GOVERNOR

Timothy R. Schneider  
PUBLIC ADVOCATE

October 1, 2015

Dear Governor LePage and Members of Joint Standing Committee on Utilities, Energy and Technology:

Each year, as required by 35-A M.R.S. § 1702(6), the Office of the Public Advocate submits an Annual Report providing an overview of the office's work in the prior year. Over the past twelve months the Office of the Public Advocate has been active in more than 90 proceedings at the state, regional and federal level, and testified on more than 50 bills affecting Maine utility customers. A summary of the office's most significant efforts on behalf of electric, gas, telecommunications and water utility customers are included in this report.

Highlights from the past year include:

- Establishment of a Consumer Advisor position, who ably handled an unprecedented volume of calls associated with the FairPoint strike, and developed education materials for consumers and litigants before the Maine Public Commission;
- Supporting passage of legislation to overhaul the state's broadband policy;
- Commission rejection, based in part on arguments advanced by our office, of FairPoint's request for \$67 million in ratepayer subsidy through the Maine Universal Service Fund.

Our office has vigorously pursued our mission for the past 34 years, and in the process earned the respect of both customers and regulated utilities. While there are a variety of ways to measure our success, the most easily understood is money saved for utility customers, based on positions advocated by our office alone. During Fiscal Year 2014 – 2015, our advocacy saved ratepayers \$2,394,906 million, bringing our 34 year total to more than \$557,010,343 million.

I am honored to have the opportunity to work on behalf of Maine consumers, and am proud of the work of this office representing their interests before the Maine Public Utilities Commission, the Maine Legislature, Federal and state courts, and Federal agencies. I look forward to continuing the work of this office in the year to come.

Sincerely,

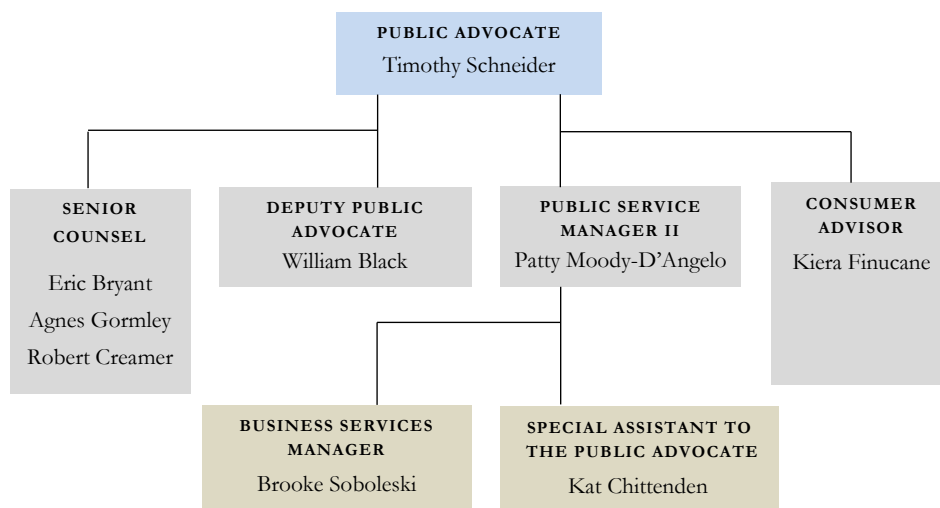
Timothy Schneider  
Public Advocate

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## ABOUT THE OFFICE OF THE PUBLIC ADVOCATE

The Office of the Public Advocate's primary responsibility is to represent the interests of Maine users of utility services. Our attorneys and staff advocate for rates, services and practices to benefit residential customers in state and regional forums, and provide information advice to ratepayers. For FY 2014-15, we had eight employees and a total budget of \$1,676,660. An organizational chart is below.



### **2014-00048**

#### **Emera Maine Request for Approval of a Certificate of Finding of Public Convenience & Necessity for Construction of a Transmission Line in Northern Maine**

Emera Maine filed for Commission approval of a transmission upgrade to address reliability needs of the northern Maine transmission system. The case included alternative proposals, including transmission upgrades that would connect the system to ISO-New England and the rest of Maine, and potentially address the market liquidity issues and facilitate development of new renewable generation in Aroostook County. The case involved many uncertainties, including questions about cost, cost allocation, system impacts, the ability of the various proposals to address market issues and renewable development, and whether Emera Maine (northern division) could or should join ISO-NE if an interconnection is made. The Commission is expected to deliberate the matter in September 2015, and may resolve some or all issues, or it may establish a Phase II proceeding to address the many uncertainties. The OPA advocated for a relatively inexpensive investment that would solve the reliability issues; and we support further proceedings in which the market and renewables issues can be further developed so that the Commission can make a more-informed decision.

### **2014-00069**

#### **Ten Person Complaint (Pat Paradis et al) Against Iberdrola, S.A., Iberdrola USA, Central Maine Power and Maine Natural Gas, Inc. for Unreasonable Practices and Acts**

In March of 2013, a Ten-Person complaint was filed against Central Maine Power (CMP) by a group of Augusta-area citizens who alleged that CMP President Sara Burns participated in meetings between Maine Natural Gas (MNG) and prospective MNG customers in an effort to sway those customers to sign up for service with MNG and not with its competitor, Summit Natural Gas. The Complaint alleged, *inter alia*, that because CMP and MNG are affiliates, this activity violated Commission rules that prohibit a utility from influencing customers to use an affiliate's services. After the submission of testimony, and subsequent discovery and technical conferences, settlement talks occurred. In settlement, the OPA sought to bring CMP and the Complainants together on certain issues, and ultimately succeeded with a Stipulation signed by the Complainants, CMP and the OPA. In the

Stipulation CMP, while not admitting to any wrongdoing or to violating any statutes or Commission rules, agreed to pay \$95,000 to ratepayers in the form of a rate reduction. At the end of June, the Commission approved the Stipulation.

### **2014-00071**

#### **Investigation of Parameters for Exercising Authority Pursuant to the Maine Energy Cost Reduction Act**

The OPA continued its participation in the Commission's Energy Cost Reduction Contract (ECRC) proceeding, in which the Commission is considering whether it is in the best interests of ratepayers to direct Maine utilities to enter into long-term contracts for new gas pipeline capacity. In July of 2014 OPA consultants filed testimony critiquing the analysis conducted by the Commission's consultant, the Sussex Group, and offering recommendations regarding which ratepayer benefits should be considered and how they should be evaluated. At the briefing stage, the OPA argued that there was clear evidence of market failure that necessitated state intervention, and recommended that the Commission move ahead with the proceeding and solicit pipeline proposals, evaluate them using the Total Resource Cost metric, and explicitly consider the hedging and capacity resale value in its evaluation of potential benefits. The Commission issued an Order in October of 2014 opening a Phase II proceeding to receive and evaluate the costs and benefits based on specific proposals from companies proposing to enter into an ECRC.

In December 2014, three pipeline companies, Tennessee Gas Pipeline Co., Portland Natural Gas Transportation System, and Spectra Energy submitted ECRC proposals to the Commission. These proposals were evaluated by London Economics, Inc., in a report issued in July of 2015, which concluded that none of the proposed contracts were likely to offer ratepayer benefits. The primary basis for this conclusion was that if Maine acted alone, it would bear 100% of the costs, but only capture a fraction of the overall benefits, which would be shared regionally. Discovery in this proceeding is ongoing, and a Commission decision is expected in late 2015.



**2015-00090**

**Emera Maine Request for Approval of Heat Pump Program**

In April, Emera Maine filed for approval of a “Heat Pump Rate Program” following its successful heat pump pilot program that concluded in 2014. Under the proposal, Emera Maine would install and own heat pumps on customer premises, and customers would pay a discounted heat pump rate for the usage of the unit, and also pay a fixed monthly fee for the cost of the unit.

Commission Staff identified two potential legal issues with the proposed program: 1) whether the Legislature’s authorization for a heat pump pilot included authorization for a full program; and 2) whether providing heat pumps was a core utility service or whether it would violate Commission rules designed to protect competitive markets from a utility’s market power. While we support programs, such as Efficiency Maine Trust’s, that promote the installation of heat pumps, and recognize that heat pumps can reduce a customer’s overall heating costs, we concluded that Emera Maine’s proposed program did not have the necessary statutory authorization and would violate the Commission’s rules. A Commission decision is expected in September 2015.

**2013-00519**

**Grid Solar, LLC Request for Approval of Designation as the Smart Grid Coordinator for the State of Maine and of Grid Solar’s Initial 5-Year Smart Grid Implementation Plan**

Pursuant to the Maine Smart Grid Policy Act, Grid Solar LLC filed a petition to be designated as the Smart Grid Coordinator (SGC) for the State. A SGC is an entity that would manage access to smart grid functions and associated infrastructure, technology and applications within the service territory of a transmission and distribution utility. The Commission determined that it was not in the public interest to designate Grid Solar as the SGC but also found, consistent with the position of the OPA, that there could be benefits from having an entity serve as a NTA coordinator. In June 2015, the Commission opened an inquiry to develop parameters for a procurement process by which proposals for the provision of NTA services would be solicited and evaluated.



**2014-00171****Inquiry into the Determination of the Value of Distributed Solar Generation in the State of Maine**

In response to Public Law Chapter 562, the Maine Solar Energy Act, the Commission conducted a study to determine a quantitative value for distributed solar photovoltaic electric generation produced in Maine. The study was intended to inform policy decisions going forward, as distributed solar generation is a small but rapidly growing sector of Maine's energy mix. The Act required the Commission to develop a method for valuing distributed solar energy generation and at a minimum account for:

- the value of the energy;
- market price effects for energy production;
- the value of its delivery, generation capacity, transmission capacity and transmission and distribution line losses; and
- the societal value of the reduced environmental impacts of the energy.

Together with our consultants, the Office of the Public Advocate participated in the study and provided comments to the Commission and its consultants regarding the valuation of the required elements. The Study, including a "value of solar" and potential policy recommendations was submitted in a January 2015 Commission report to the Legislature.

For FY 2014-15, the Office of the Public Advocate focused its regional efforts on ISO New England's revisions to its transmission planning guides and continued attention to the methodology used to forecast load for transmission planning purposes. For a variety of reasons, ISO New England made very little progress on these initiatives over the past year, limiting our work primarily to monitoring developments likely to impact Maine electricity customers.

### **Consumer Liaison Group**

OPA Senior Counsel Agnes Gormley is a member of the Coordinating Council of ISO New England's Consumer Liaison Group (CLG), a consumer group that holds regular meetings that provide 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. This past year's meetings focused on issues of grid modernization and state energy policy goals, including a June 18th, 2014 meeting in Westborough, MA on the subject of "After the Mid-Term Elections: New Energy Policymaking and Legislation in the New England States," which included Mark Vannoy, Chair of the Maine Public Utilities Commission.

### **Consumer Advocates of New England (CANE)**

Recognizing that electricity consumers across the region share many common concerns, the Office of the Public Advocate continued to take a lead role in facilitating communication and 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 participated in a monthly conference call to share information and develop collaborative approaches to problems affecting utility consumers. Over the past year, discussions focused primarily on the ongoing appeal of FERC Order 745, regional natural gas pipeline issues, and the practices of competitive electricity providers.

**2014-00132****Northern Utilities, d/b/a Unitil, Proposed Changes to Retail Choice**

On May 9, 2014, Northern Utilities, d/b/a Unitil filed a petition for approval to make changes to its Retail Choice program, which allows commercial and industrial customers to choose between: (1) having their gas both supplied and delivered by Northern, referred to as “sales service”; or (2) procuring their gas supply from other parties, such as gas marketers, and having Northern deliver that gas, referred to as “delivery service.” Northern described a number of problems with its current Retail Choice structure, including (1) an inability to determine the amount of transportation capacity it should plan for; and (2) the use of estimates instead of actual costs to price capacity resources used by marketers; and (3) Northern’s direct management of its capacity resources, instead of releasing those resources to suppliers who may utilize them more efficiently. Northern proposed a two-phase approach to reforming its retail choice program, which would include acquiring capacity to meet the full requirements of all of its customers, using actual costs in pricing its capacity resources, and releasing resources directly to gas suppliers.

The OPA agrees with Northern that its current Retail Choice program has a number of problems, most notably the shifting of costs from delivery service customers to sales service customers when sales service customers pay for the reconciliation of estimated versus actual costs of capacity resources used to supply delivery service customers. As a result, the Public Advocate has supported many of Northern’s proposed changes. This case, which has involved a tremendous amount of discovery and negotiations between the parties, is still ongoing, but a resolution is anticipated before the end of 2015.

**2015-00087****Northern Utilities, d/b/a Unitil, Request for Approval of Affiliate Transaction**

On April 1, 2015, Northern Utilities, d/b/a Unitil filed its Annual Information Report concerning its reservation of firm pipeline capacity with its affiliate, Granite State Gas Transmission, Inc. As in previous years, Northern requested Commission approval to continue contracting with Granite for 100,000 Dth per day of natural gas capacity on Granite’s pipeline, which supplies much of Northern’s distribution system.

As one of its primary justifications for this request, Northern posited that contracting for any lesser amount of capacity with Granite would cause Granite to file a rate case with the Federal Energy Regulatory Commission seeking an increase in rates to make up for the decreased revenue from Northern.

The OPA raised concerns that: (1) the amount of gas capacity that Northern sought to continue to reserve on Granite's pipeline exceeded Northern's actual needs for much of the year, given that its customers use far less than 100,000 Dth per day during Northern's summer period; and (2) the Granite contract resulted in an under-allocation of granite costs to Northern's capacity exempt transportation customers and an over-allocation of costs to its residential sales customers. After extensive discovery and two technical conferences, the OPA and Northern reached an agreement whereby Northern would reserve capacity on Granite's pipeline for 115,000 Dth/day during its six month winter period and 85,000 Dth/day during its six month summer period. Doing so would: (1) allow Northern, if its plan to acquire capacity for almost all of its customers is approved in the 2014-00132 case, as described above, to better meet its customers' capacity requirements during the winter period; (2) not change the yearly amount of capacity that Northern is reserving with Granite, avoiding any need for Granite to increase its rates; and (3) be an initial step in balancing Northern's capacity reservations with its seasonal needs. A decision by Commission Staff, and a final approval of the agreement by the Commission, are still pending.

### **2015-00063**

#### **Maine Natural Gas Corporation, Request for Approval of Capacity Agreement**

On March 26, 2015, Maine Natural Gas Corporation filed a request for Commission approval of an agreement with Algonquin Gas Transmission, LLC and Maritimes & Northeast Pipeline, LLC, to reserve natural gas transportation capacity on the Atlantic Bridge project. This project, anticipated to be in service sometime between 2017 and 2019, will use Algonquin's and M&N's pipeline systems to make more transportation capacity available to New England and the Canadian Maritimes. MNG asserted that reserving this capacity would increase its system's reliability and reduce the price of gas for its customers.

The OPA supported the reservation, noting that the additional capacity would: (1) result in lower price volatility; and (2) make available a greater diversity of gas

supply sources. However, we opposed the credit guarantee with MNG's parent company that was required as part of MNG's contracts with Algonquin and M&N, arguing that the cost of the guarantee was unreasonably high. After discovery and extensive settlement discussions, the OPA reached an agreement that would allow MNG to contract for the desired capacity on the Atlantic Bridge, but reduce the cost of its credit guarantee by nearly 75%, a significant savings for MNG ratepayers. The other parties to the case have either joined the agreement or indicated that they do not oppose it. A decision by Commission Staff, and a final approval of the agreement by the Commission, is still pending.

#### **2015-00048**

##### **Summit Natural Gas of Maine, Inc, Request for Rebates and Capitalization**

On February 25, 2015, Summit Natural Gas of Maine ("Summit") filed a petition seeking: (1) approval of the terms and conditions for a proposed natural gas conversion rebate program for commercial and industrial customers; and (2) the issuance of an accounting order permitting the capitalization (i.e., inclusion in rates) of the costs of the rebate program, and the capitalization of what Summit describes as its "qualifying educational marketing costs."

The OPA did not oppose the terms of Summit's proposed rebate program for commercial and industrial customers, nor the inclusion of the costs of that program in rates, provided that certain conditions are imposed to protect ratepayers. However, we strenuously objected to the capitalization of Summit's marketing expenses, which would contradict decades of Maine utility regulated and would appear to be unprecedented nationally. This case is still active, and we continue to work with Summit to identify and address the challenges of expanding gas service in a manner that is fair to all ratepayers.

#### **2012-00598**

##### **Bangor Gas Company – Request for Renewal of Multi-Year Rate Plan**

In August 2015, the Maine Law Court issued its decision in *Office of the Public Advocate vs. Public Utilities Commission*, concluding more than two and a

## NATURAL GAS

half years of litigation regarding Bangor Gas's request for a multi-year rate plan. The key issue in the case involved the value that the Commission should set on the gas plant that Bangor Gas bought in 2007 for \$500,000. The OPA argued that the Commission should set the value of the Company's plant at its reduced purchase price, which represented the value that the Company's investors actually paid for those assets, and was consistent with prior Maine precedent and the prevailing treatment in nearly every other jurisdiction. The Commission rejected the OPA's position and the recommendations of its own Staff, and used the unimpaired value of those assets, originally constructed at a cost of more than \$38 million. The difference in methodology resulted in rates between \$2 and \$3 million higher per year than those based on the impaired value.

The OPA appealed the Commission's decision, and after briefing and oral argument, the Law Court affirmed, finding, *inter alia*, that the Commission's use of the unimpaired value was within its discretion.

### **Maine Yankee Oversight Meetings**

Every three months a group of Maine state officials (including the Public Advocate, and representatives from the departments of Public Safety, Human Services, and Environmental Protection) meet 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.

### **Quarterly Conference Calls**

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 U.S. DOE, federal actions affecting nuclear power plants (open or closed), and the activities of the several national groups working on nuclear power and waste issues.

### **Maine Yankee Investment Overview**

In March of each year, 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. The portfolio in 2014 exceeded its goal of a 4.4% return over the most recent five year period.



### **2013-00340**

#### **FairPoint Communications, Request for Increase in Rates and for Maine Universal Service Fund Support for Provider of Last Resort Service**

In October 2013, FairPoint Communications filed a case in which FairPoint asked (a) to increase the rates for its residential and business provider-of-last-resort (POLR) service by \$2.00; and (b) for \$66.9 million in additional support from the Maine Universal Service Fund (MUSF). In the spring of 2014, the parties agreed to the \$2.00 rate increase. The remaining portions of the case were litigated, with the OPA opposing both further increases in POLR rates and any disbursement of MUSF funds.

In November 2014, the Commission issued its decision, finding that FairPoint was not entitled to MUSF funding. The Commission rejected FairPoint's argument that the company should receive MUSF support for its Maine network because the company is required to provide ubiquitous provider-of-last-resort (POLR) service throughout its service territory. Reflecting the OPA's testimony about "residual" revenue requirements, the Commission expressed concern that it could not realistically determine whether FairPoint was maximizing the revenues that it receives from its non-regulated lines of businesses – especially when a support program like the MUSF might create an incentive for the company to lower its prices for those services. The Commission also noted that its rules do not permit a non-rural telecommunications carrier such as FairPoint to receive MUSF support. The Commission determined that FairPoint had failed to show that there were any incremental costs that the company incurred solely on account of its statutory obligation to provide POLR service. Finally, the Commission denied FairPoint's request for MUSF funds because the purpose of the MUSF is not to insure a return on investments in a network that is used largely to provide non-POLR services.

### **2014-00340**

#### **FairPoint Communications, Request for Approval of Tariff Revisions (POLR Rate Increase)**

In October 2014, FairPoint filed a request for another increase in its POLR rates. FairPoint proposed to increase those rates by 13.8%, or \$2.30 per customer per month, for a residential customer, and by 6.6%, or \$2.25 per customer per month, for a business customer. The OPA submitted comments noting that FairPoint had

failed to provide testimony and data in support of its claim that a second POLR rate increase in less than a year was just and reasonable. We also argued that FairPoint should not be permitted to increase POLR rates again without committing to see CAF II funds, and that FairPoint should not be allowed to increase its POLR rates when its service quality is deteriorating.

The Commission sought memoranda on what level of evidentiary support was required for FairPoint's proposed POLR increase. The OPA responded that FairPoint should be required to file some affirmative support as to the reasons for the increase, including up-to-date 2014 test-year financial data. That was because the evidence introduced in Docket No. 2013-00340 did not provide a suitable and complete record upon which the Commission could determine whether the rates newly proposed by FairPoint for its POLR services were "just and reasonable." In June 2015, the Commission agreed with the OPA argument and directed FairPoint to file a full set of data with respect to its revenues and expenses in Maine using the revenue-requirement adjustments that the Commission had identified in its order issued the prior November when denying FairPoint's request for MUSF support. On June 23, FairPoint filed its updated cost based intrastate revenue requirement. On July 18, the FairPoint's proposed POLR tariff became effective by operation of law. As a result, the monthly POLR rate for residential customers is now \$18.99 per month and \$36.53 per month for business customers.

#### **2014-00346**

Standish, China, Community Service, and Maine Telephone Companies  
Request for Tariff Revision re: "Grandfathering" of Economy Service.

In October 2014, the FairPoint rural companies filed requests to eliminate the less expensive "Economy Calling" option for new business and residential POLR service customers. (Existing "Economy" customers would be allowed to keep their service.). Since 2002, each of the FairPoint rural telephone companies has offered both the "Economy Calling Option" and the "Premium Option" to its POLR service customers, both business and residential. The issues in the case involved customer choice and telecommunications policy. The OPA argued that, within the FairPoint rural companies, "Economy Calling" customers are a substantial contingent within the Company's customer base, indicating that Economy Calling remains a viable and popular option for consumers. Further, the OPA argued that the purpose of the

## TELECOMMUNICATIONS

Commission's Chapter 204, which allows for two calling options, is to allow customers to select calling options that are suited to their calling patterns. Granting the rural companies' requests would deprive consumers of what remains a popular, and less expensive, product offering. The Commission rejected the OPA's position, finding that the Economy Calling option is not a POLR service, and that therefore there is no statutory requirement that carriers maintain rate schedules containing an Economy calling option. Accordingly, the Commission approved the rate schedules filed by the FairPoint rural companies that eliminated the Economy Calling option for new customers.

**2012-00487****Investigation into Lease Agreement and Contract for Bulk Water Sales  
Between Fryeburg Water Company and Nestle Waters North America**

In 2012 the Fryeburg Water Company asked the Commission to approve a new lease agreement between the Water Company and Nestle Waters North America. The OPA supported approval of the agreement, with certain conditions. A hearing took place in September 2013, after which the case was suspended when all three Commissioners recused themselves from the proceeding. After passage of legislation to address the unique circumstances, Governor LePage appointed two “Alternate Commissioners” to decide the case, and in August 2014, the Commission re-started its investigation.

The Hearing Examiner issued an Examiner’s Report recommending that the proposed agreement not be approved. The OPA filed exceptions to the Report, arguing that the Water Company’s charter did not (a) bar the sale of water to an entity that is re-selling the water, and (b) require that, in order to be “pure,” the water sold to NWNNA must be treated so as to meet the standards of the federal Safe Drinking Water Act. In November 2014 the Commission issued its final order, rejecting the Examiner’s Report and approving the FWC/NWNNA agreement with certain conditions – including (a) requiring that FWC retain the option of signing similar agreements with other bulk-water purchasers, and (b) removing any suggestion that NWNNA have unimpeded access to the Water Company’s premises.

Thereafter, two intervenors appealed the Commission’s decision to the Law Court, arguing that the Water Company has no authority to sell untreated bulk water outside of FWC’s service territory, and challenging the agreement on the grounds that it discriminated in favor of NWNNA and also had improperly “conveyed” a key Water Company resource. That appeal is currently pending.

**2014-00354****Berwick Water Department, Request for Approval of Rate Change**

In mid-November 2014, the Berwick Water Department filed proposed changes to its water rates, seeking an increase in revenues of 11.41%, to be effective April 1, 2014. A public meeting concerning the increase was held in Berwick on January 20, 2015, and on February 19, 2015, a petition was filed at the Commission containing the signatures of 160 Berwick Water customers, and the

Commission opened an investigation of the proposed rate increase. After an initial case conference and discovery, the Department and the OPA thereafter participated in settlement discussions concerning the Water Department's revenue requirement. On July 17, 2015, a settlement on revenue requirement issues was achieved among all parties. Thereafter, there were several discussions among the parties and with the Department's consultant concerning the rate design that would be adopted to achieve the agreed-upon revenue requirement. Settlement discussions between all parties on the rate design issue are ongoing.

## **2015-00086**

### **Maine Water Company, Request for Approval of an Accounting Order**

In November 2014, the Maine Water Company (MWC) filed a petition seeking a 37% rate increase (or an additional \$1,708,048 in annual revenue) for its Biddeford & Saco Division. The Company further requested that the proposed increase in the first rate effective year be reduced by \$704,080 through a customer refund of federal income tax savings from the adoption of repair tax regulations, so that the first year's increase would be \$1,003,968, or 21.8%. The principal issue in the case was the extent to which the customers in the Biddeford & Saco division would receive the benefit of Maine Water's decision to take advantage of the newly-available federal repair tax deduction.

The OPA hired a consultant with expertise in analyzing the effect of the repair-tax deduction on utilities. Under new IRS rules, certain expenditures that were previously considered as capital for tax purposes are now eligible for deduction in the year of expenditure because those expenditures are now deemed by the IRS to be a "repair" costs. The IRS allows a company to reflect a "catch-up" adjustment to be reflected in the year that it adopts the new procedures by making such election with respect to previous years' treatment of capital expenditures. MWC adopted this new method on its 2013 tax return (through the consolidated tax return of its parent, Connecticut Water Service, Inc.) for qualifying 2013 expenditures. In addition, MWC made this election for prior years' expenditures back to 2003, resulting in a catch-up adjustment on the 2013 federal return.

The case was resolved by stipulation in which the parties agreed that the federal income tax savings of the "catch-up" adjustment for expenditures from 2003 through 2012 for the Biddeford & Saco Division that resulted from MWC's adopting the new treatment of capital expenditures on its 2013 federal tax return will be refunded directly to customers of the Biddeford & Saco Division. The net benefit

will be refunded to customers as a credit on their monthly, quarterly, or seasonal bills beginning no later than July 1, 2015. As a result, customers will receive a total refund of \$881,241, expected to equal approximately \$293,747 every year for three years. Under the terms of the stipulation, the rates for the Biddeford & Saco Division were increased to give the Division an opportunity to earn an increase in annual revenue of \$1,338,145, or 29.02% over pro forma present revenue.

In the First Session of the 127th Legislature, the Office of the Public Advocate testified on more than 50 bills before the Energy, Utilities and Technology Committee, and monitored many more. Highlights of the session are described below.

## **Broadband**

By some counts, there were as many as 35 bills relating to broadband introduced in the 127th Session of the Maine Legislature, which ended this past July. These bills reflect a groundswell of public interest, particularly in the area of municipal broadband, as Maine's smallest towns and largest cities embarked on planning and investment to improve their broadband infrastructure.

In response, the Legislature enacted a number of laws intended to promote the expansion of broadband. In particular, the OPA supported passage of LD 1185 and LD 1063 that among other things:

- Eliminated the Broadband Sustainability Fee, a state surcharge on the federally funded 3 Ring Binder that hindered use of this important infrastructure.
- Required the Connect ME Authority to develop and present a three year broadband strategic plan to the Legislature by February of 2015.
- Directed the ConnectME Authority to provide matching funds for community broadband planning efforts.

Notably absent from this list is more funding for broadband, an outcome sought in many of the bills. Legislation carried over until the second session may address this need. Nonetheless, these laws represent the first major changes to the state's broadband policy since the ConnectME Authority was created in 2005.

## **Solar**

This session saw at least three bills intended to promote the expansion of solar photovoltaic energy through the expansion of net metering and other compensation



mechanisms, including rebates for farmers and a renewable energy credit carve out similar to that currently in use in Massachusetts. Opponents to these bills, including the transmission and distribution utilities and the OPA, raised concerns about the wisdom of continuing or expanding net metering as a foundation for future growth and support of distributed generation. The OPA developed a white paper that, using the analysis done by the Commission in the Value of Solar proceeding, proposed an alternative to address the concerns associated with net metering while still providing an ongoing basis for expansion of solar PV equivalent to existing policy. Solar advocates, environmental groups, utilities and the OPA worked together to craft a Resolve directing the Public Utilities Commission to host a stakeholder process to develop this alternative and report back to the Legislature. LD 1263 was ultimately enacted and the stakeholder process will begin this fall.

### **Provider of Last Resort Service**

This session saw a number of bills regarding further revision to the state laws regulating telephone service. Some proposed further oversight of providers of Provider of Last Resort Service, while others included measures that would effectively end state regulation of telephone service. The OPA argued that recent experience demonstrates that ongoing state oversight is necessary to ensure universal access to affordable, reliable telephone service, and joined with a broad coalition to oppose the elimination of the POLR obligation. Ultimately, all of these bills were carried over, and will likely be taken up by the Legislature next session.

In October of 2014, the Office of the Public Advocate hired Kiera Finucane as its first Consumer Advocate, 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. Over the ensuing nine months, we have made significant progress on each of the position's three main goals.

### **Assisting Litigants**

In order to better assist litigants before the Maine Public Utilities Commission we have created several documents that detail the various levels of participation in open cases, a template letter to petition to intervene in cases, a how-to guide for viewing archived video of PUC proceedings, and an instructional document providing instruction on how to appeal or request reconsideration of a PUC decision.

The case management system (CMS) is often a barrier for pro se interveners at the PUC. To assist these individuals, we also created several instructional documents that are now available for distribution including: how to register on CMS, subscribe to a case notification list, file public comments, and file data requests. This list of documents continues to grow as interveners call with new questions. Currently, the consumer advisor has assisted pro se litigants in four separate cases and worked with two individuals to help draft ten-person complaints.

### **Responding to Customer Concerns**

In the past nine months, Kiera received and addressed 530 consumer calls. These calls often require multiple follow-ups with the utility and the consumer before the issue is completely resolved. Almost half of these calls were received during the FairPoint strike. During this four month period, 214 calls came in with an average of 11 days to resolution.

In addition to consumer complaints that come in to the office directly, the Consumer Advisor participated in a town meeting between the residents of Boothbay and Central Maine Power. The Office of the Public Advocate provided documents to assist residents in deciding the appropriate avenue to pursue their complaints.

## Consumer Education

Over the past year, we have identified the need to update and improve the OPA website as a crucial first step in improving 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. We are currently working to develop a new web page layout to host the new documents created to support individuals participating at the PUC.

The second major project has been the completion of the 2015 edition of the Ratewatcher Guide. The 24-page guide 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 Ratewatcher is distributed to 22,000 households across the State and is available for download from the OPA website.

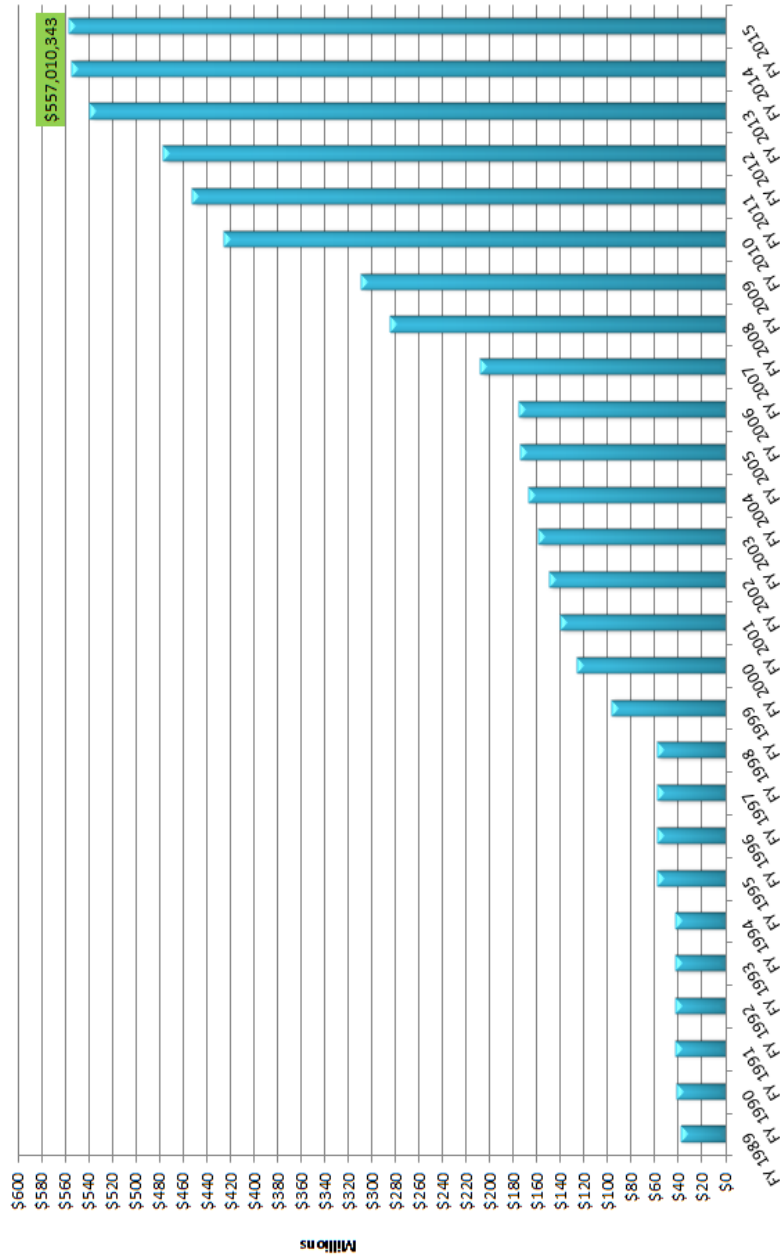
## RATEPAYER SAVINGS

Ratepayer savings from June 30, 2014 – 2015 attributable to the Office of the Public Advocate:

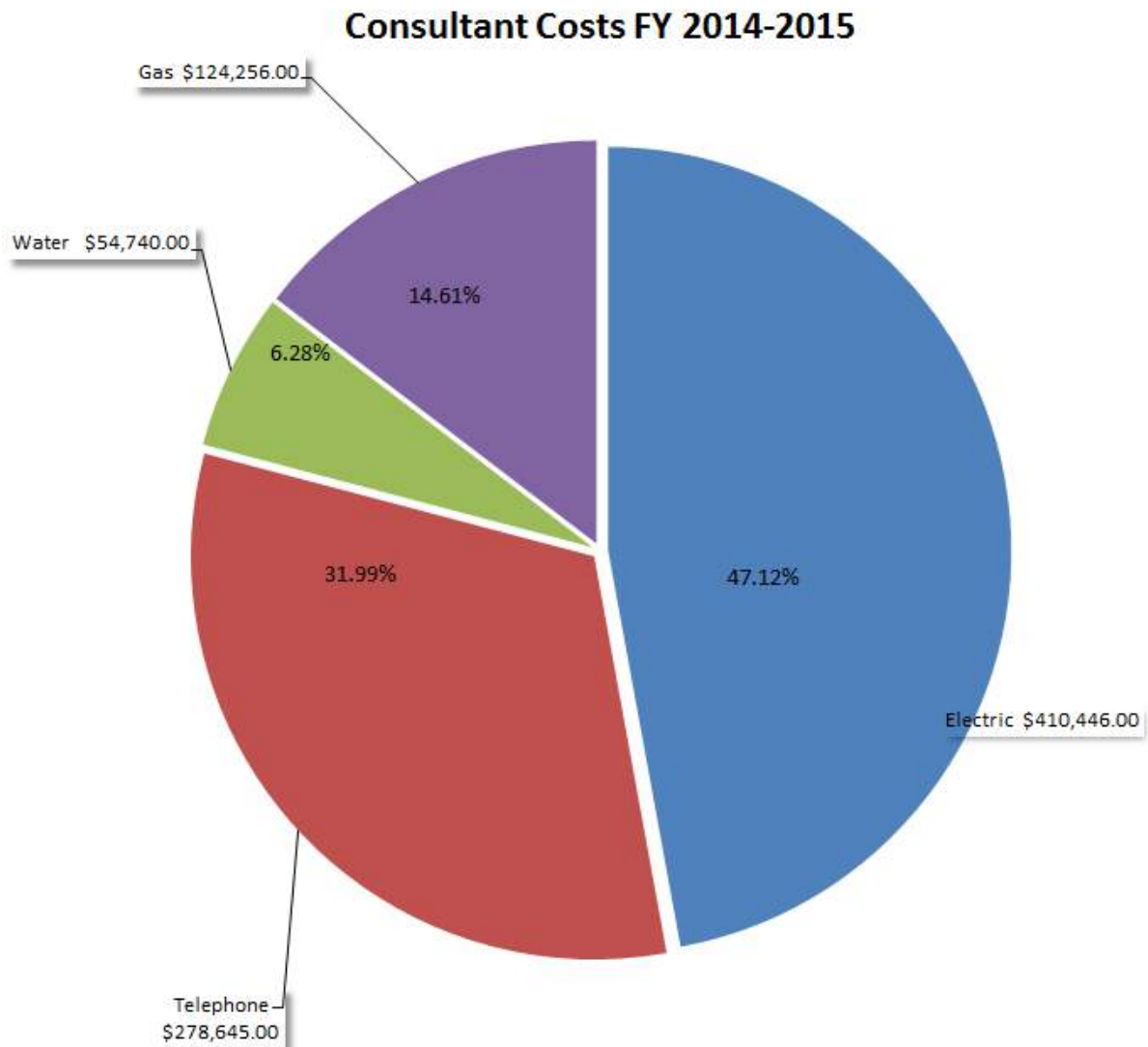
<b>2012-00487</b> Investigation into Lease Agreement and Contract for Bulk Water Sales Between Fryeburg Water Company and Nestle Waters North America <i>For description, see page 15</i>	<b>\$63,500</b>
<b>2014-000354</b> Berwick Water Department, Request for Approval of Rate Change <i>For description, see page 15</i>	<b>\$17,150</b>
<b>2014-00069</b> Ten Person Complaint (Pat Paradis et al) Against Iberdrola, S.A., Iberdrola USA, Central Maine Power and Maine Natural Gas, Inc. for Unreasonable Practices and Acts <i>For description, see page 2</i>	<b>\$95,000</b>
<b>2015-00045</b> Central Maine Power, Request for Approval of a Rate Change – Section 307  In a stranded cost proceeding CMP proposed to collect an “incentive payment” for its efforts in negotiating an Early Termination Agreement related to the termination of a purchase and sale agreement. We objected noting that there was no provision in the law which provided for recovery of such payments. The Commission agreed.	<b>\$140,000</b>
<b>2015-00063</b> Maine Natural Gas, Request for Approval of Capacity Agreement <i>For description, see page 8</i>	<b>\$1,709,353</b>
<b>2015-00086</b> Maine Water Company, Request for Approval of an Accounting Order <i>For description, see page 16</i>	<b>\$369,903</b>
<b>TOTAL SAVINGS FY 2014 – 2015:</b>	<b>\$2,394,906</b>

## CUMMULATIVE SAVINGS

Cummulative Savings in Rates 1988 to 2015



## CONSULTANT COSTS



Office of the Public Advocate  
Staff Time  
By Utility Category & Project: FY 15

