

MAINE STATE LEGISLATURE

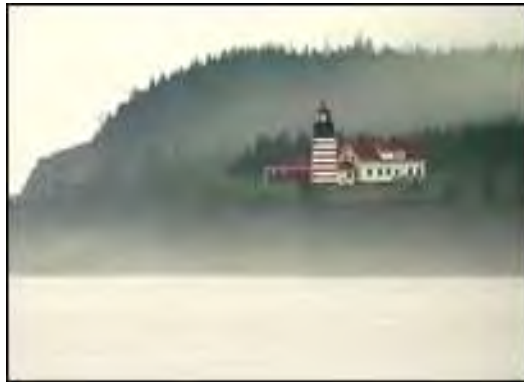
The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

**STATE OF MAINE
PUBLIC ADVOCATE OFFICE**

**ANNUAL REPORT
JULY 1, 2003 TO JUNE 30, 2004**



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

Located: 103 Water St., 3rd Floor
Hallowell, ME 04347
Tel. 207-287-2445
Fax 207-287-4317
Email: Stephen.G.Ward@maine.gov
URL: www.maine.gov/meopa

TABLE OF CONTENTS

	<u>Page</u>
A. Introduction: Savings for Ratepayers in 2003-2004	1
B. Advocating for Utility Consumers in Maine Since 1982	2
C. Dealing with Customer Complaints, Consumer Education and the Legislature	5
D. Summary of Major Cases	6

Attachments

A. Summary of Ratepayer Savings, 1982 to 2004	24
B. Performance Indicators – Newsletter Mailings	28
C. Performance Indicators – Customer Contacts	29
D. Legislation, 121 st Legislature, Second Session	30
E. Speaking Engagements – FY 04	34
F. Regional and National Meetings and Conferences	35
G. Public Advocate Staffing Summary	37

A. Introduction: Savings for Ratepayers in 2003-2004

Between July 2003 and June 2004 the Public Advocate Office scored several meaningful victories for Maine's utility consumer. These included:

- a reduction in the “stranded costs” collected by Maine Public Service Company from its customers over the next four years in the present-value amount of \$6.5 million, due entirely to the testimony of our consultant;
- a reduction from Maine Public Service’s original request for a distribution rate increase of \$1.7 million that resulted from a stipulated agreement for an overall increase of only \$940,000. This difference of \$760,000 resulted, at least in part, from our advocacy-justifying a 50% share of that total, or \$380,000; and
- a reduction in Central Maine Power’s distribution rate due to adoption by the Public Utility Commission (PUC) of our arguments opposing CMP’s retroactive adjustment of past inflation rates, resulting in a one-year benefit of \$1.33 million, or through December 2007 a savings in rates for all CMP customers of \$4.7 million.

As a result of these efforts, rates for Maine consumers were set at annual levels that we estimate to be \$8,210,000 lower than they would have been in the absence of our advocacy. This \$8 million savings in annual rates compares favorably with the Office’s annual budget of \$1.5 million, yielding a return on investment for consumers of more than \$5 for every dollar in our annual budget. These savings when added to our previous efforts over the prior 22 years generate a total savings of \$238 million, as described in greater detail in Attachment A. This \$238 million total includes both litigated outcomes involving no other party as well as multi-party settlements, which the Office successfully negotiated with other interveners. Cumulative savings over the last 22 years are presented on page 4 of Attachment A.

July 19, 2004

Dear Consumer,

It is a real privilege and responsibility to serve as Maine’s Public Advocate during these contentious times in the nation’s telecommunications, energy and utility sectors. I have the good fortune of working with a highly experienced staff (three lawyers, an economist and three skilled support personnel) whose combined service for the OPA totals an impressive 107 years.

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

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

Sincerely,
Stephen Ward
Public Advocate

B. Advocating for Utility Consumers in Maine Since 1982

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

In the year completed in June 2004, the Office continued to expand its focus from in-state proceedings at the Maine PUC and at Maine’s Legislature to regional settings like New England’s electric grid operator, ISO-New England, New England’s Power Pool, NEPOOL, and – in Washington DC – the Federal Regulatory Commission and the Federal Communications Commission. This continues a trend in pursuing opportunities for lowered prices for electricity or telecommunications service that increasingly in recent years has taken Office staff out of Maine. The following figures capture this trend in the three most recent fiscal years.

SHARE OF STAFF TIME DEVOTED TO REGIONAL PROJECTS

	2001	2002	2003	2004
A. federal/regional advocacy % of staff direct time	6%	13%	17%	24%
B. Maine-based in-state advocacy % of staff direct time	94%	87%	83%	76%

The shift from the regulation of monopolies to the interaction of market forces often carries with it as much disruption as promise for many retail consumers in Maine. However, it unquestionably has compelled the Public Advocate Office to pursue opportunities outside of Maine’s borders for ratepayer savings or improvements in service to Maine consumers.

Public Advocate Ward continues to serve as a member of the North American Electric Reliability Council (NERC) and its Market Interface Committee and on the Executive Committee of the National Association of State Utility Consumer Advocates (NASUCA) - the national lobbying arm for 43 consumer advocate agencies in 40 states and the District of Columbia. The Office also has secured Maine’s membership on the Retail Electric Quadrant of the North American Energy Standards Board (NAESB), the fledgling standard-setting body for commercial protocols in the nation’s energy markets. Senior office staff also have pursued important roles beyond Maine’s borders. Senior Counsel Wayne Jortner currently serves as Treasurer for the Universal Service Administrative Company (USAC), overseeing the collection and allocation of \$6 billion in federal surcharges supporting low-income, telemedicine, library Internet and related programs. During 2003-04 Senior Counsel Eric Bryant has represented the office regularly before the Northern Maine Independent System Administrator (NMISA), at NEPOOL committee meetings and in 2003-04 at the Federal Energy Regulatory Commission.

This shift in location where our advocacy takes place reflects both the fragility of New England's experiment with deregulated electricity sales and the increasing availability of unregulated alternatives to landline telephone service. It is not yet clear whether these trends toward privatized electricity and telecommunications services will in time demonstrate the characteristics of well-functioning markets. In particular, in the case of electricity supply prices, there is considerable uncertainty about the prices that will become available in March 2005 for residential and small business Standard Offer Service when the current three-year contracts expire in CMP's and Bangor Hydro's territories. As a general matter, CMP's residential customers who currently pay 11.6¢ per kWh are substantially better off than they were prior to electricity restructuring in 2000 when they were paying 13.1¢ per kWh. However, it is by no means clear whether these savings will persist into 2006 after the current Standard Offer contracts expire. Prior to that date, the PUC will be reviewing recommendations as how best to mitigate the potential volatility of Standard Offer rates in the future and still preserve an affordable supply of Standard Offer electricity.

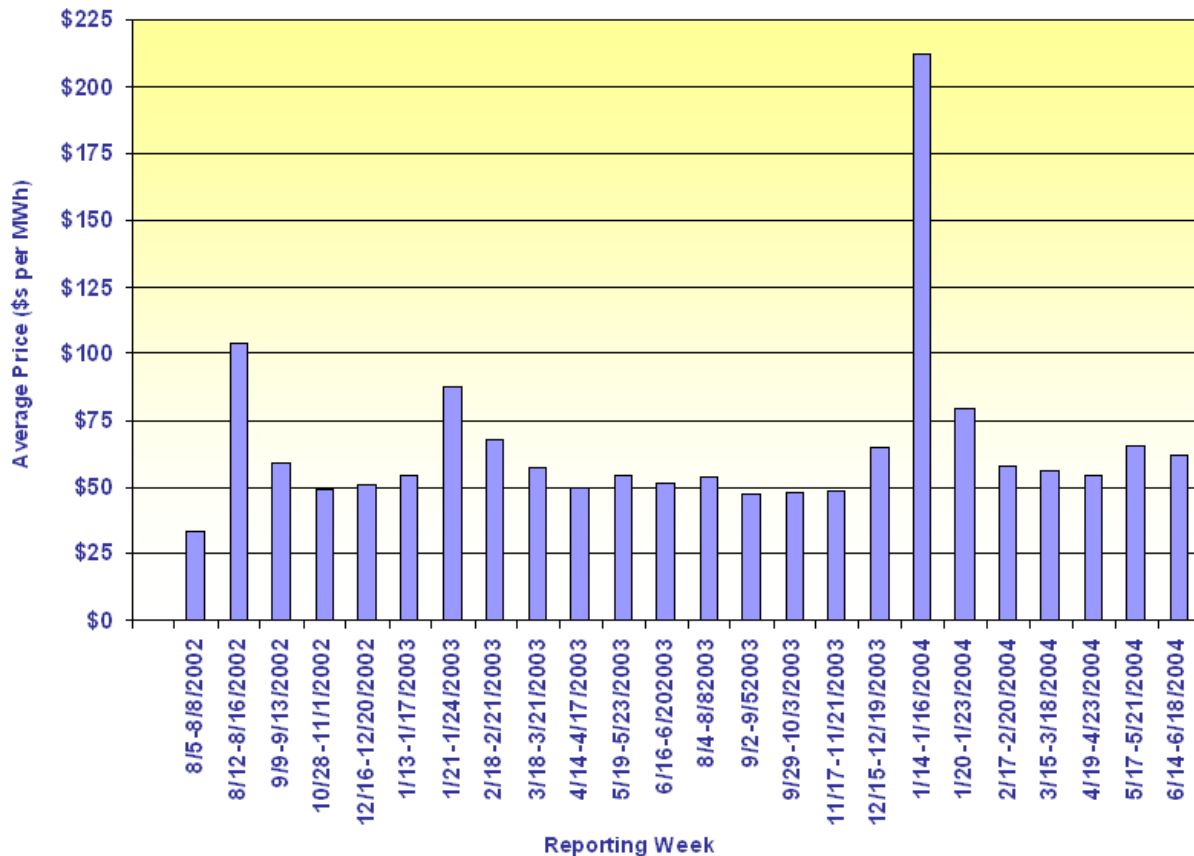
During the fiscal year ending June 30, the Office generated a number of publications in an effort to inform the public about our mission. These publications are summarized below.

Public Advocate Publications: July 2003 to June 2004

1. July 22, 2003: Letter to the Editor, Kennebec Journal, "The Benefits of the Newly-Created Energy Independence Position Within Maine Government"
2. July 2003: Ratewatcher Phone Guide, Volume 12
3. August 2003: Press Release, "Public Advocate and AARP Jointly Announce their Appeal to the Maine Supreme Court of the PUC's Verizon Decision"
4. September 2003: Op Ed Piece: "The Public Advocate Still Fighting to Overturn a Rate Increase for Verizon that Costs More than \$14 Million Annually"
5. January 2004: Ratewatcher Telecom Guide, Volume 13
6. March 2004: Electricity Guide, Volume 8
7. May 2004: Press Release, "Public Advocate and NASUCA jointly seek FCC Order Prohibiting Telephone Surcharges at the Whim of Phone Companies"
8. June 2004: Ratewatcher Telecom Guide, Volume 14
9. June 25, 2004: Press Release, "PUC Adopts Public Advocate Recommendation for \$4.6 million in Savings for CMP Ratepayers"

During 2003/2004, Maine continued to be one of the nation’s leaders in the extent of competition among electricity providers for medium and large business customers. 89% of CMP’s industrial load was supplied by one of Maine’s 41 licensed competitive providers, while the comparable number for Maine Public Service was 93% in June 2004. Adding in smaller customers in other parts of the state causes the total of statewide load that was served by competitive providers in June 2004 to exceed 35%. For those customers who wish to shop for their own supply, there is an active and healthy retail market for electricity in Maine. During the past year wholesale prices for electricity have been volatile and generally trended upward, as shown in the following chart: “Wholesale Electric Prices in New England.” This upward trend in wholesale electric prices is likely to continue due to underlying increases in the price for natural gas - a key fuel for generators of electricity in the region. It is this upward pressure on wholesale prices that makes the expiration in March 2005 of Maine’s Standard Offer contracts a real question mark for residential customers in Maine.

WHOLESALE ELECTRIC PRICES IN NEW ENGLAND



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

In FY 2004, the Office regularly interacted with individual customers who contacted us with concerns or complaints about utility service. We also prepared and mailed newsletters on telephone and electric options to more than 68,000 consumers in the 12-month period ending in June 2004. In the case of individual customer complaints, the Office addressed more than 3,480 complaints or requests for information during FY 2004. This total includes, as well, contacts with legislators during the 121st Regular Session and written testimony on individual bills during that session. Please see Attachments B and C for monthly detail on the frequency of newsletter mailings and on customer/legislator contacts.

As has been the case in prior years, the Office keeps track of those bills introduced during each legislative session and of our success in influencing debate on each bill. In 2004 the Office submitted written testimony on twelve bills in the 121st Session. With respect to the twelve bills on which the Office took a formal position, our recommendation corresponded to the final outcome in the Legislature on nine occasions, or 75% of the time. Attachment D presents a listing of all the bills we tracked during the First Regular Session and the disposition of each bill we testified on.

In FY 2004 the Office also undertook a form of customer outreach event that was quite new: a “Telephone Clinic” at the Maine Mall in South Portland on July 7, to which we invited consumers to sit down with OPA Staff for a one-on-one review of their most recent phone bill. As shown below, more than 80 individuals came to the South Portland Clinic, with phone bills in hand, to take advantage of this opportunity. A similar event at the Auburn Mall on March 10, 2004 drew nearly 100 customers. A return visit to the Maine Mall on July 14, 2004 is now planned.



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

As shown on Attachment E, the Office also has been quite active in responding to requests for speakers on utility-related topics. Twelve of these informational talks took place in Maine at locations as diverse as a NMISA meeting in Calais and the First Parish Church in Freeport and the University of Maine in Augusta. Finally, Attachment F provides detail about the extent and focus of travel to out-of-state locations by OPA personnel (in conjunction with regional or national advocacy at FERC, the FCC, ISO-New England, NASUCA and other out-of-state settings) and Attachment G provides a breakout of staff time for all eight OPA staff (exclusive of the Nuclear Safety Advisor) by project over the past fiscal year.

D. Summary of Major Cases

1. Electricity Cases at the PUC and FERC

a. Maine Public Service Company: Northern Maine

- **Maine Public Service ARP Negotiations:** In a series of meetings that began in August 2003, the Office met with the PUC Staff, Maine Public Service personnel and industrial customers to review Maine Public's request for a \$1.2 million increase in distribution rates, to be followed annually by successive 3% increases. We opposed this proposal as needlessly expensive and, instead, calculated as necessary a decrease in MPS rates of \$400,000.

After substantial negotiations, we reached final agreement in September. As a result of our agreement MPS's distribution rates increased by just over \$811,000 (not including an amount necessary to lock in low interest rates on long-term debt, which raised the overall increase to \$940,000). This stipulated rate increase was considerably smaller than the \$1.7 million increase originally sought by MPS. As originally proposed, this new rate was a starting point in a seven-year alternative rate plan (ARP). However, Maine Public chose not to pursue any multi-year rate plan, at this time.

The rate change approximated a 3% increase in retail delivery service but permitted MPS to lock in long-term debt costs at all-time low levels. This will represent a major benefit, over time, for MPS' customers in the form of lower retail rates.

For information about MPS, go to www.MainePublicService.com.

- **Maine Public Service Stranded Cost Case:** We filed testimony on December 11 in Maine Public's stranded cost proceeding examining costs "stranded" in the transition to electricity competition. Our consultant identified adjustments to Maine Public Service's stranded cost revenue requirement representing a 5% reduction. Jointly with Maine Public Service and the PUC Staff, we sought a negotiated settlement of Maine Public's stranded cost rates through December 2006. Two major issues confronted the negotiators: the regulatory treatment of tax benefits associated with the power generators that Maine Public sold in 1999; and the proper calculation of carrying charges on Wheelabrator/Sherman charges that have been deferred for

recovery. Both issues involved substantial sums of ratepayer payment and represented major challenges in reaching a negotiated outcome in this case.

We ultimately came to terms in January with MPS on a series of adjustments to stranded cost recovery as filed by Maine Public. Rates will not change at all but amounts to be deferred for future collection were to be reduced by 2008 in a present-value amount equaling \$6.5 million. Because it was our consultant who identified this issue and argued for the agreed-to accounting treatment, we believe we can legitimately take credit for a \$6.5 reduction in future MPS stranded cost recovery. There were no other intervenors in this case.

For general information about Maine's Public Utilities Commission, go to www.maine.gov/mpuc.

- **FERC Settlement on Maine Public's Transmission Rates/Refunds:** We came to terms in March on a comprehensive FERC settlement with Maine Public Service Company involving seven offsetting adjustments in transmission rates for effectiveness this July. The net effect of all seven adjustments is a \$55,000 increase in total transmission rates – an insignificant level of increase for this \$10 million company.
- **Northern Maine ISA Board Meeting.** Periodically in 2003/2004, Eric Bryant and Stephen Ward attended meetings of the Board of Directors of the Northern Maine Independent System Administrator. At the June 2004 meeting, Maine Public Service made a presentation on how it planned to deal with reliability concerns associated with various contingencies, and the likelihood that the Wheelabrator/Sherman biomass generator will cease to operate after its contract expires in December 2006. MPS plans to file this year at the PUC for a certificate of public convenience and necessity to construct a new 138 KV transmission line between Limestone and Grand Falls, New Brunswick.

For further information about NMISA, go to www.NMISA.com.

b. Bangor Hydro-Electric Company: Eastern Maine

- **Bangor Hydro FERC Cases in 2003 and 2004:** A series of conference calls culminated in October in an agreement between Bangor Hydro, the PUC Staff, the IECG, our office and various wholesale customers on the magnitude of changes in its annual FERC OATT rate for wholesale electricity transmission. The rate remained close to prior levels, with the same return on equity, but with side agreements on discounted wheeling charges for individual customers in Bangor Hydro's service territory. These negotiations over BHE's annual transmission rate, however, hit a snag when BHE refused to accommodate the joint request from the Maine PUC, the IECG and the Public Advocate that \$800,000 in incentive payments made by Brascan to BHE for early completion of the Millinocket line be reflected in rates as a revenue windfall. BHE's initial position was to retain 100% of this payment for the sole benefit of BHE's owner, Emera.

Subsequent to settlement of the 2003 FERC case, we continued discussions with Bangor Hydro and the Maine PUC Staff over the appropriate ratemaking treatment of this \$800,000 credit that Brascan paid to BHE. Ultimately, the parties agreed to our suggestion that a \$100,000 amount should be credited to ratepayers because that is the amount of insurance deductible ratepayers must bear for storm maintenance and repair before Brascan assumes any liability for such costs. This \$100,000 credit was incorporated in the 2004 BHE rate adjustment at FERC.

For further information about the Federal Energy Regulatory Commission, go to www.ferc.gov.

- **Bangor Hydro Proposal for New Transmission Line to Canada:** In December, Public Advocate Ward met with Ray Robinson, Bangor Hydro's COO, to discuss the current status of BHE's proposal for a second tie-line to New Brunswick. A DEP application is not likely before mid-summer 2004 but BHE is considering filing its PUC application for a Certificate of Public Convenience and Necessity prior to DEP filing. They have narrowed their selection of routes to two alternatives (the Stud Mill Road through Washington County ending near Baileyville or, alternatively, the MEPCO right-of-way to Route 6 - also ending near Baileyville) but have not made a final choice. Although Bangor Hydro has not yet picked a preferred route for that line, Public Advocate Ward has stated his conceptual support for the project based on its benefits for bringing low-cost supply to Aroostook County and creating new markets to the north for indigenous generators in Maine.

For general information about Bangor Hydro-Electric Company, go to www.bhe.com.

- **BHE ARP 2004 Case:** In April 2004 we met with Bangor Hydro for discussion of its annual ARP adjustment for July 2004 and challenged their decision to incorporate in that ARP adjustment cost recovery for a series of routine wind and rain storms in 2003. We took the position that BHE's base rates already incorporate cost recovery for routine weather events. Staff at the MPUC joined in this objection. While we were willing to discuss our disagreement over this proposition with BHE, we argued that the ARP agreement contemplated double-recovery for routine costs of storm restoration: in base rates and, additionally, in annual ARP adjustments.

The negotiators ultimately adopted language from the PUC Staff limiting ARP recovery for storm-related costs to major weather events and those for which there has been an emergency declaration for BHE's service territory. The final settlement of the Bangor Hydro's rate adjustment for July 1, 2004 resulted in rates going down for distribution service by 2.44%. This represents a savings of \$615,000 from rates originally filed by BHE, primarily attributable to our advocacy in this case, over the cost of service restoration after routine storms.

- **Negotiations Over Electric Supply for Lincoln Pulp and Tissue:** In 2004 the formerly-shuttered paper mill in Lincoln reopened under new ownership. We participated in negotiations in May involving Bangor Hydro, Sprague Energy, the

PUC and Lincoln Pulp and Tissue over the rate for electricity supply and delivery that will apply to new consumption at the Lincoln mill. These negotiations have been made more complex as a result of Sprague Energy's resale of any prior electric supply contract for the previous owner of the Lincoln mill whose price was highly favorable, at 4.3¢ kWh, compared with today's 6¢ energy in the short-term marketplace. It also was not clear how a \$1.2 million payment dispute between BHE and Sprague was to be resolved - if at all - in time for a successful mill re-start. With a commendable degree of cooperativeness, the various parties put aside their numerous differences and succeeded in negotiating an unusual arrangement in which BHE ratepayers will provide the guarantee that enables Lincoln Pulp & Tissue to receive a below-market power rate at the Lincoln mill for the next ten months, while Bangor-Hydro's disagreements with Sprague for the prior power supply arrangement were also resolved.

c. **Central Maine Power Company: Eastern and Southern Maine**

- **CMP ARP Adjustment for July 2004:** In May 2004 we reached a comprehensive agreement with CMP and other parties on all issues concerning CMP's July 1 adjustment to distribution rates under the Alternative Rate Plan, with one major exception. We reserved for written argument and Commission review CMP's requested treatment of a change in the Federal Bureau of Economic Assessment numbers for the Gross Domestic Product with which the parties disagreed regarding its proper treatment in the ARP formula. In our brief filed May 17, we argued against CMP's request for retroactive recoupment of dollar amounts corresponding to "under recoveries" attributable to the Department of Labor's correction of Producer Price Index statistics for 1994 through 2004. We contended that such retroactive correction of ARP collections is not authorized under the terms of the ARP stipulation. In June the Public Utilities Commission issued an order that accepted our arguments and rejected a rate increase request by CMP, sparing ratepayers an increase that would have amounted to \$1.3 million this year and a total of \$4.6 million between now and the end of 2007. The overall result meant an overall rate decrease for CMP customers, beginning July 1, of \$7.00 per year for an average residential customer that would not likely have occurred in the absence of our advocacy.
- **York Transmission Case:** In August 2003, the Commission approved an agreement among numerous parties to this case, allowing CMP to proceed with its permitting and construction of a new transmission line connecting a substation in Eliot with one in York Beach, thereby improving transmission capacity in the area. This was a hard-fought case that demonstrated the value of the 10-person complaint. Citizens were unable to get information from CMP early in the process, and, by using a 10-person complaint, were able to bring the utility before the Commission and get those questions answered. Other signatories to this agreement include the towns of York, Kittery and Eliot, the York Conservation Commission and several local individuals. The new transmission line was needed in part because of capacity problems caused by peak summer weekend demand at local restaurants, hotel and other businesses.

For general information about Central Maine Power Company, go to www.cmpco.com.

d. Retail Electric Issues: Statewide

- **PUC Investigation of a Standard Offer Portfolio Approach:** In March 2004 we requested that the PUC open an investigation into Standard Offer format options. The PUC complied with our request, agreeing that going to the wholesale electric market for 100% of Standard Offer load at one point in time poses real risks of price volatility. Accordingly in April 2004 we filed a report from Synapse Energy Economics endorsing a portfolio approach for Maine's Standard Offer program. Synapse proposes a "ladder" of Standard Offer contracts of five-year terms, each expiring in one-year intervals, potentially to be supplemented by at least one ten-year contract with a new renewable supplier. This "ladder" recommendation for a long-term contract for new renewable supply is consistent with the recommendation of the Utilities Committee in its unanimous approval of an amendment to LD 1929 that directs the PUC to consider renewable purchases when prices are competitive with other fuels, overall price volatility will be minimized and price risk will thereby be hedged.

On April 30 the PUC conducted a hearing on alternative formats for Maine's Standard Offer for residential electricity customers. The hearing attracted substantial interest with representatives appearing for AARP, Constellation Energy, Duke Energy, IECG, CMP and the Independent Energy Producers of Maine. The PUC appears receptive to transitioning to a Standard Offer format that relies on several multi-year supply contracts rather than merely one. In May we filed a joint statement with AARP's Maine chapter endorsing general guidelines the PUC should consider if it proceeds with a multi-contract portfolio approach for minimizing price volatility in Maine's Standard Offer program. The investigation was still underway at year-end. The PUC must select new Standard Offer contractors for CMP and BHE's residential customers for service beginning March 1, 2005.

- **Efficiency Maine Bid Processes:** In 2003 and 2004, the Public Advocate participated in two bid processes for the PUC's Efficiency Maine Program and helped evaluate responses to the PUC's RFP for Residential Lighting Program marketing services and for commercial rebate programs. The Public Advocate had participated in these bid ranking processes at the request of the PUC's "Efficiency Maine" program manager.

For further information about "Efficiency Maine," go to www.energymaine.com.

- **Consumer Coalition Comments on Draft Energy Report:** As a member of the Maine Electric Consumers Coalition, Public Advocate Ward attended a hearing in November at which the Energy Resources Council heard comments on the draft Energy Resources Council plan and report, along with representatives of the Natural Resources Council of Maine, AARP, Coalition for Sensible Energy, Constellation Power and the Industry Energy Consumers Group. The Coalition prepared written

comments on the draft report for submission to the Energy Resources Council. The Coalition was strongly supportive of the energy conservation and renewables sections of the report but was less satisfied with the discussion of transportation opportunities which received less attention in the Energy Resources Council study.

For information about Maine's Energy Resources Council, go to www.maineenergyinfo.com.

- **Consumer Coalition:** Throughout the year, representatives of eight statewide organizations ranging from the Natural Resources Council of Maine to the Industrial Energy Consumer Group met for a discussion of energy-related issues, including participation in the DEP's Global Climate Change Working Group process, pending appliance efficiency legislation and the PUC's Standard Offer program. (See box shown below for dates and locations of Coalition meetings)

**Joint Meetings of the Maine Electric Consumers Coalition
and the Maine Energy Efficiency Coalition**

1. July 14, 2003 at Captain Cote's in Augusta
2. August 4, 2003 at Captain Cote's in Augusta
3. September 15, 2003 at Captain Cote's in Augusta
4. October 20, 2003 at Captain Cote's in Augusta
5. November 5, 2003 at NRCM in Augusta
6. November 14, 2003 at Captain Cote's in Augusta
7. December 15, 2003 at Captain Cote's Augusta
8. January 22, 2004 at OPA in Hallowell
9. February 25, 2004 at OPA in Hallowell
10. March 11, 2004 at OPA in Hallowell
11. April 14, 2004 at OPA in Hallowell
12. May 5, 2004 at OPA in Hallowell

Attendance has ranged from 7 to 24 attendees per meeting representing from 7 to 16 organizations. Membership typically includes: AARP, the Industrial Energy Group, Natural Resources Council of Maine, Maine Council of Senior Citizens, Independent Energy Producers of Maine, Chewonki Foundation, Maine Council of Churches and the OPA.

e. Wholesale Electric Issues: New England Region

- **Regional Greenhouse Gas Initiative:** In meetings in March, May and June 2004, Public Advocate Ward participated in a dialogue among electric industry stakeholders in the Northeast over the most effective ways of addressing global warming to comply with the New England Governors/Canadian Premiers' goals for climate

change. The Regional Greenhouse Gas Initiative (RGGI) is an advisory group for environmental and utility regulators in the Northeast region who intend to promulgate a set of climate change rules by April 2005. Ward serves on the group's stakeholder panel, representing end-users from Pennsylvania to Maine, and on the Computer Modeling Stakeholder Sub-group. The final RGGI report is expected to be completed in the Spring of 2005.

For information about RGGI, go to www.rggi.org.

- **Opposition at FERC to ISO-NE Proposal for RTO Formation:** Although we didn't participate individually in the debate over ISO-New England's terms for formation of a Regional Transmission Organization (RTO), our office did join with counterparts in Connecticut, Massachusetts and New Hampshire in a press event in October 2003 challenging the need for, and value of, "incentive" payments to transmission owners that ISO-NE has proposed. The transmission owners, who comprise 20% of the NEPOOL membership, have been adamant in their support of the RTO "incentive" payments, estimated at \$20 to \$70 million annually. We see no good reason to increase electric rates in order to induce transmission owners to consent to centralized dispatch in the region since centralized dispatch has existed since 1972. This issue is now pending before FERC in separate administrative proceedings while other terms and conditions of the RTO are separately addressed.

In November 2003, we filed joint comments and a protest with respect to ISO-New England's request for RTO status. We undertook these comments jointly with the New Hampshire Office of Consumer Advocate, the Massachusetts Attorney General and the Connecticut Office of Consumer Counsel.

In April 2004, we participated in a settlement conference at FERC in Washington at which the transmission owners in New England and numerous public parties expressed disagreement over the transmission owner's request for a 12.8% return on equity plus 1.5% in "premium incentives." The public entities have proposed a base equity level of 10.2%, so it appears unlikely that this case will be resolved through negotiation. This is particularly the case due to numerous parties that have stated their desire to appeal any final FERC order to the Federal Court of Appeals.

For general information about ISO-NE, go to www.iso-ne.com.

- **Other FERC Filings:** We joined with the Maine PUC in a filing in April at FERC protesting Rhode Island's request at FERC for "socializing" across New England the costs of burying underground transmission lines for a new high voltage tie in that state. FERC ultimately rejected the Rhode Island request that other New England customers assume the costs of a Rhode Island beautification project. In a related matter, we joined with the Maine PUC, the Rhode Island PUC and a number of other parties in September 2003 in answering objections from the Connecticut PUC to our opposition at FERC to the "socialization" of transmission upgrades in Southwest Connecticut.

f. North America Electric Reliability Council: national issues

- **Northeast Blackout:** As a member of NERC’s Market Committee, Public Advocate Ward attended a quarterly meeting of the nation’s electric grid operators in Minneapolis in September 2003. In January, Ward attended NERC meetings in Orlando at which the root causes of the Northeast Blackout were discussed. Three root causes were identified as precipitating the August 14 Blackout, along with system deficiencies involving a T&D utility (First Energy of Ohio), the local ISO (Midwest ISO) and an adjacent RTO (PJM). The specific root causes were identified as: 1) First Energy’s failure to trim trees, some as old as fourteen years and as big as twelve inches in diameter, in three transmission corridors which caused those transmission lines to fail; 2) the absence or failure of key management tools such as system-wide visual displays, alarm systems and data transfer systems and; 3) the need for regular and rigorous training for control-room operators and reliability coordinators.

All of these root causes had previously been identified both in NERC’s examination of a California Blackout in 2001 and of a New York blackout in the 1990’s. The fact that each of these deficiencies has recurred underscores the importance of increased attention at FERC and Congress on making NERC’s reliability standards mandatory, rather than purely voluntary. We have actively endorsed the adoption in Congress of mandatory requirements for reliability compliance by electric utilities that is featured in the pending Energy Bill in Congress. Until utilities face penalties for failing to fulfill NERC standards, we see the potential of further grid disruptions.

The good news emerging from NERC’s review and investigation is that new transmission investment by itself is not needed to correct the management deficiencies that were the root causes of the Blackout. Consequently NERC’s review provides no direct support for claims from the federal Department of Energy and EPRI that costly new investments in grid improvements (\$100 billion per DOE, \$300 billion per EPRI) is necessary to remedy the Blackout’s causes.

For more information about the North American Electric Reliability Council, go to www.nerc.com.

2. Telecommunications Cases at the PUC and the FCC

a. Verizon-Maine: statewide local and long-distance service

- **Verizon-Maine -- Reduction of Instate Access Charges:** In January 2004 we filed comments in the Commission’s investigation of Verizon’s proposal to reduce its in-state access rates, as required by the Access Parity Statute (35-A M.R.S.A. § 7101-B). We urged the Commission not to allow Verizon to increase its basic rates to compensate for upcoming reductions in access rates. We suggested that the AFOR Order does not require “exogenous” treatment of the reductions of this small magnitude and suggested that increases to basic rates would not be appropriate in the absence of a review of all aspects of Verizon’s revenue requirement. In June we

asked the PUC to reconsider its final order which authorized a rate increase despite this recommendation.

For general information about Verizon, go to www.verizon.com.

- **Verizon-Maine - Marketing Issues:** In November we submitted comments opposing Verizon's request that the Commission lift the restrictions that bar Verizon - with its 90% share of the local-service market -- from marketing its in-state toll service to customers who call requesting local-service. We also raised an issue about whether letters in support of the Petition for Reconsideration recently sent to the Commission by non-parties were violations of the Commission's own rules prohibiting such communications. The PUC subsequently adopted our recommendation (joined by the PUC staff) and rejected Verizon's strenuous arguments for relaxing the current prohibition against marketing long-distance services to customers who call up requesting local service. The PUC majority agreed with us that, in view of Verizon's virtual monopoly over local phone service, they have in effect a captive audience when they are contacted by new customers for local service.

Following Verizon's appeal of the PUC's November order, we filed a brief at the Law Court in support of the PUC's decision to prohibit Verizon from marketing its long distance plans when customers call up requesting local phone service. On June 9, Wayne Jortner presented the OPA rationale for upholding the PUC order, in oral argument at the Maine Supreme Court. We joined the PUC in defending this restriction, which has been in place for nearly ten years as a result of a Verizon settlement approved by the PUC.

- **Verizon's Line Sharing Under the Federal Communications Commission's Triennial Review Order:** In March 2004 we filed a brief at the PUC, jointly with two Internet and Competitive Local Exchange Carriers, arguing that the Commission should preserve line sharing as an unbundled network element in the State of Maine. Line sharing has been indispensable in allowing the affordable expansion of high-speed Internet service throughout rural areas in Maine. We argued that, even if the FCC's recent Triennial Review Order allows Verizon to phase-out line sharing, there is independent state authority to preserve it under a different section of the federal Telecommunications Act of 1996.

For information about the Federal Communications Commission, go to www.fcc.gov.

- **\$1.78/mo Verizon Increase - Law Court Appeal:** In August 2003, we filed a Notice of Appeal for the PUC Order denying our request that the Commission reduce Verizon's local rates by \$1.78, to be consistent with a prior Law Court opinion in February 2003 vacating the order that granted that \$1.78 increase. We argued that Verizon's customers are suffering irreparable harm due to the PUC's refusal to void the \$1.78 monthly increase and filed a motion with the Chief Justice requesting that she order the PUC to rescind that increase immediately.

In August we also presented an Offer of Proof at the PUC indicating what our witnesses would assert in re-opened proceedings over the magnitude of any needed increase in Verizon's local rates if the \$1.78 monthly increase were to be vacated by the PUC. Our finance witnesses asserted that Verizon's overall cost of capital would be 8.7 to 8.9% with equity returns in the 10.5 to 10.875% area. Our accounting expert identified seven areas of necessary adjustment that have the effect of reducing Verizon's revenue requirement, including a \$6.7 million reduction associated with lowered costs of capital. Finally, our cost allocation expert provided a proffer of testimony indicating that the costs of providing local phone service have declined for Verizon over the past decade. Based on all of these arguments, we argued the PUC could reduce or eliminate altogether the \$1.78/month local rate increase that took effect in June 2001 for business and residential customers.

In September, notwithstanding our Offer of Proof, the PUC released a written order terminating any further review of Verizon's local rates and summarily re-instated the Alternative Form of Regulation (AFOR) that was originally adopted in June 2001. These decisions do not, in our opinion, necessarily square either with the Law Court's directive in its February 2003 order asking the PUC to verify that AFOR rates will be no higher than the result of traditional ratemaking, or with the Legislature's decision this Spring not to formally require a PUC review of AFOR ratemaking because of PUC assurances that one was underway.

On September 15, the Chief Justice rejected our Motion to Stay Verizon's \$1.78 increase in rates, saying that the PUC had discretion to leave that June 2001 increase in place.

- **Second Verizon Appeal:** In October we filed a second Notice of Appeal to the Law Court of the PUC's decision of September 25. That decision terminated any review of Verizon's local rates based on the "impossibility" of demonstrating that rates will be lower under Verizon's current AFOR than they would have been under a traditional rate case format. As with the prior appeal, we were joined in our arguments by AARP. We simultaneously finalized with Verizon and the PUC a stipulation for the dismissal (without prejudice) of our first Law Court appeal, on the grounds that it was made moot by the PUC's September 25 decision.

In December we filed a brief at the Maine Supreme Court in support of our appeal of the PUC's September decision to reinstate the AFOR for Verizon. Our arguments involved questions about the Commission's procedure, its failure to hold a hearing and to take evidence, and its interpretation of the AFOR statute. In February 2004 we filed our Reply Brief in that appeal. Oral argument at the Law Court took place in May and a final decision in this case is expected before the end of 2004.

- **Termination of Telephone Service by OneStar:** OneStar, a local and long-distance phone company serving thousands of Maine customers (including many towns and school systems) ran into financial difficulties in November 2003 and failed to make timely payment to Verizon, upon which it relies to provide service. As a result Verizon interrupted OneStar's long distance service and Verizon terminated

OneStar's ability to provide local dial tone. Both our office and the PUC worked to notify OneStar customers of the need to change carriers immediately. We also suggested a new rule governing service abandonment, which the PUC currently developed in order to prevent a recurrence of this extremely unfortunate situation.

b. FCC Decisions: national issues

- **Recommended Decision of Federal-State Joint Board on Universal Service:** In March, the Federal-State Joint Board on Universal Service issued its long-awaited recommended decision concerning the manner in which federal universal service subsidies are collected from and disbursed to telephone companies across the country. Our office was one of the principal drafters of the comments filed by the National Association of State Utility Consumer Advocates (NASUCA) in this FCC proceeding. The federal Joint Board adopted nearly all of our recommendations and liberally cited to our comments. Among other things, the decision recommends that Universal Service support be limited to only one access line per customer and that carriers should not be designated as eligible for support unless various public interest tests are met.

For more information about the FCC's Joint Board, go to www.fcc.gov/wcb/universal_service/JointBoard/welcome.html.

- **U.S. Court of Appeals – D.C. Circuit Decision Vacating FCC's Order Concerning Competitive Rules:** In March, the Federal Court of Appeals for the DC Circuit vacated the FCC's recent order that determined the extent to which competitive local telephone companies will have access to the networks of large telephone companies like Verizon. The Court generally sided with the big telephone companies in restricting such access, vacating the FCC's delegation of certain issues to the states, and remanding for new findings on various issues. The Court also took the extraordinary step of dismissing the arguments of consumers that were advanced by NASUCA, on the theory that NASUCA didn't establish that it represented consumers' interests in federal court. In our view, this decision represents a large step backward in the context of a very confused and uncertain environment in the telecom industry. This case is now on appeal to the US Supreme Court.

c. Other Telephone Issues: local, hearing-impaired and prison pay phone service

- **Maine Mall and Auburn Mall "Telephone Bill Clinic":** On July 7, 2003 we had a successful session at the Maine Mall at which five OPA Staff reviewed more than 80 phone bills with customers who waited in line for advice about how to reduce their telephone costs. In all instances we were able to find potential savings opportunities for the customers who brought their bills to the clinic. We benefited from coverage from three TV outlets; a large number of customers came because of same-day coverage. At a similar event at the Auburn Mall on March 12, more than 100 phone customers waited in line to go over their household phone costs with us and, in virtually all cases, were able to reduce their bills substantially – primarily as a result

of switching from high cost long-distance providers to lower-cost resellers. A July 14, 2004 event is now planned for the Maine Mall in South Portland.

- **FairPoint Rate Cases -- Management Service Fees:** FairPoint Telephone filed a request in July 2003 to increase its basic local rates by \$6.7 million for its companies in Maine. Through one of our witnesses we proposed to reduce rates by \$2.4 million based on adjustments for the management service fees charged by the FairPoint parent company to its Maine affiliates. FairPoint strongly contested our adjustment. We held extensive negotiations in anticipation of hearings in this case, scheduled for August 18 and 19. In August, we reached an agreement in principle with FairPoint, owner of five local exchange carriers operating in Belfast, Sidney, China, Standish, Fort Kent and Island Falls, to settle the rate increase request. The agreement results from FairPoint accepting our settlement position for a modest level of increase at \$604,000.

For more information go to, www.northlandtelco.com/about-us.htm.

- **Telecommunications Relay Service:** In November we started a series of conversations with Hamilton Relay Service about the selection of Hamilton Relay as the provider of relay services for hearing-impaired customers in Maine for the next three years, starting in March 2004. After reviewing presentations made by four relay providers, the Advisory Council to the Maine Relay Service selected Hamilton Relay as the best candidate to be the next relay provider, replacing AT&T Relay Services, which has provided relay service in Maine since 1991. Working with Verizon, the independent telephone companies and the PUC, Deputy Public Advocate Black also negotiated with Hamilton in order to obtain relay services for the next three years at a reasonable rate.
- **Testimony at Corrections Commission:** In November, Public Advocate Ward offered testimony before a legislative Commission on Improvements to Corrections noting the wisdom of the Department's consideration of alternatives to contracts with phone companies that jack up charges for collect calls from inmates in order to secure funding from the same phone companies for recreation facilities. To its credit, Maine's Department of Corrections has been actively exploring with us alternatives to this practice. In February, Senior Council Wayne Jortner met with the Department of Corrections' technology officer to discuss mutual cost-saving goals that might be achieved by a new RFP seeking telecommunications services associated with inmate calling. We hope that, other than eliminating the Department's revenue source from with inmate phone contracts, various steps can be taken to reduce the high costs of calls by inmates. The high costs of collect calls are borne by inmate families who often are in no position to pay inflated charges, as high as 70¢ per minute.

3. Natural Gas and Water Utilities: locations throughout Maine

- **Northern Utilities Billing Complaints Investigation:** In January 2004, we finalized a settlement with Northern Utilities, after a lengthy PUC investigation of Northern's billing practices. Under Northern's prior system, many customers experienced long

periods of inaccurately estimated bills. Under the terms of this settlement, Northern agreed to compensate eligible affected customers with bill credits and make numerous improvements to its billing and meter reading systems.

For general information about Northern Utilities, go to www.northernutilities.com.

- **Management Audit of Northern Utilities:** We signed a stipulation in February, along with Northern Utilities, settling all of the issues associated with the Commission's management audit of Maine's largest gas distribution utility. For the first time, Northern will be subject to precise service quality requirements, and associated penalties, if it fails to meet those requirements. This agreement is expected to substantially diminish past problems in billing, call-center, and other customer service performance by Northern.
- **New Gas Supply Contract for Northern Utilities:** In October, Public Advocate staff has been actively involved in negotiations with Northern's affiliate Granite State Gas Transmission (both Granite and Northern are owned by NiSource, based in Indiana), in connection with a new 5-year contract for Northern's natural gas pipeline capacity. Northern relies on the Granite pipeline capacity for the vast majority of its gas supply on its system serving the Portland and Lewiston areas. Fortunately, we expect to secure higher quantities of gas at lower unit prices as a result of decreases in Granite's cost of service.
- **Consumers Maine Water Company - Freeport Division:** In September 2003 the Freeport Division of Consumers Maine Water Company sought a "second-step" rate increase to recover the costs of obtaining the Freeport Planning Board approval for, and constructing, a second well in Freeport. Together with the town, we presented a proposal that would reduce the amount of the second-step increase proposed by CMWC-Freeport. The Water Company originally sought to increase its rates by 16.4% in order to cover the costs of constructing, and obtaining Planning Board approval for its second well in Freeport. Our negotiated agreement limited the amount of investment that would be permitted into rate base (only \$360,000 of a \$505,000 investment) and limited the rate increase to 12%.

For more information about CMWC, go to www.aquaamerica.com.

- **Consumers Maine Water Company -- Kezar Falls Division:** In December 2003, we negotiated a settlement in the rate case in which the Kezar Falls Division had sought a 23% increase to cover the costs of a significant number of improvements to its transmission system. The Company had asked for an increase of approximately \$56,000. Adjusting for reduced rate case expenses and reduced return-on-equity, the Company agreed to an increase of \$54,000.
- **Calais Water Department:** In October 2003, we signed a stipulation with the Calais Water Department which had been seeking to increase its residential rates by 41%. After traveling to Calais for a public hearing on the rate increase, we negotiated with the Calais Water Department and reduced the proposed increase by \$9,600. The

stipulation also contains provisions that address concerns about the keeping of time-records keeping by employees who work both for the City and the Water Department, and about the recently developing water quality issues.

- **Passamaquoddy Water District:** Also in October, the Commission approved a stipulation that we negotiated with the Passamaquoddy Water District and two intervenors, including the Passamaquoddy Tribe. Under the terms of the stipulation, the proposed revenue requirement was reduced by \$10,000 and an across-the-board rate increase of 18% was put into effect, rather than the 50% increase that would have been paid by last-block ratepayers (such as the Passamaquoddy Tribe).
- **Biddeford & Saco Water Company:** In December 2003, the Commission approved a Stipulation that we negotiated with the Biddeford & Saco Water Company. The Water Company had requested a rate increase of approximately 11%. We had reviewed the filing and, after recommending a number of adjustments, we signed a stipulation with the Company in which it reduced its request by \$47,000 and agreed to a stated return-on-equity of 9.7%.

For more information, go to www.biddefordsacowater.com.

- **Fryeburg Water Company - Prospective New Lease:** Fryeburg Water Company presently leases one of its two production wells to its affiliate company which, in turn, sells large volumes of spring water to the Poland Spring Bottling Company. In March 2004 the Bottling Company was considering the purchase of Pure Mountain Springs. If that purchase were to take place, the Water Company and the Bottling Company would then negotiate a new lease that ultimately will have to be submitted to the Public Utilities Commission for approval. We sent a letter to the Water Company proposing a series of terms and conditions that might be included in the new lease to make sure that it is “in the interests of both ratepayers and shareholders” -- the general standard that the Commission applies when it reviews such leases.

The conditions suggested involve the ratepayers’ interest: (1) in a continuing access to a safe and reliable water supply; and (2) in keeping water rates reasonably low. We suggested that the lease be structured so that the Water Company’s shareholders and ratepayers will share in the benefits generated by the change in business relationship. Finally, we suggested that the Water Company should agree to develop a comprehensive plan that identifies and prioritizes improvements needed to its infrastructure.

- **Fryeburg Water Company - Sale of Water for Transport:** In April, 2004 we sent a letter to the Commission requesting that it advise the Department of Human Services to renew the authorization that permits Pure Mountain Spring to transport water out of Fryeburg. Because there now are concerns in Fryeburg about the effect that withdrawals will have on the adequacy of the water supply, and because other entities are applying to withdraw water, we urged that the authorization be renewed only upon three conditions i.e.: (a) that the authorization not be transferable; (b) that the authorization be for a period of less than two years; and (c) that Pure Mountain

Springs share the monitoring data that it is collecting from its 27 local monitoring wells.

For more information about Poland Springs, go to www.polandsprings.com.

- **Fryeburg Water Company -- Investigations:** At year end, the Fryeburg Water Company is the subject of investigations by both the Maine PUC and the New Hampshire PUC. In the Maine proceeding, the Commission has been asked to investigate the Company's rates and the reliability of its operations. The New Hampshire PUC is investigating the poor quality of the water that Fryeburg Water delivers to its customers (across the border) in East Conway, New Hampshire. In June, Bill Black attended a hearing at the New Hampshire PUC in which the New Hampshire Staff and parties put pressure on the Water Company to find either a new source of supply or a new transmission pipe to serve the Company's seventy customers in New Hampshire. The Company hired a Cumberland engineering firm to plan construction and was starting to look for federal and state grant money to pay for construction. Construction of a new water source in New Hampshire might not take place until 2005. Meetings in the investigation by the Maine PUC are to get underway in July 2004.

4. Miscellaneous Consumer Advocacy

- **Consumers Energy Council of America:** Public Advocate Ward was appointed as one of 40 members of an industry roundtable discussing transmission investment in the electric industry. The roundtable is being sponsored by CECA, with assistance and support from the Department of Energy, Edison Electric Institute, American Public Power, NARUC and NASUCA. The group's first plenary meeting was in February 2003 with a final report expected in December.

For more information about CECA, go to www.cecarf.org.

- **Survey of Citizens Contacting the Office in 2003:** We have finished tabulating the responses to a "Customer Survey" that we mailed out in the form of a postcard to 36,000 people who contacted the Office in 2003. The commentators were exceedingly favorable with respect to the promptness of responses and the courtesy of the staff. As important, more than 84% rated their experience contacting the office as good or excellent. (See box on the next page) Interestingly, commentators also reported on average spending more for home heat than for electricity and more for electricity than telephone service.

2004 Survey Results

More than 4,400 Mainers responded to our postcard survey in March 2004 in which we asked for an evaluation of the office's performance, and for information about telephone and electricity use.

The results were quite encouraging:

- 84% of the responders (3,361 individuals) rated the service they had received from the Office as "good" or "excellent";
- 80% of responders (3,358 individuals) rated the Office's response "as quick as expected" or "quicker than expected"; and
- 99% (or 2,375 individuals) rated the OPA staff as "excellent" or "good" for being courteous and knowledgeable.

Additionally 80% of responders had changed their long-distance telephone provider in the last three years and fully 60% spent \$10 or more on phone service each month.

- **Universal Service Administrative Company:** Wayne Jortner currently serves as a board member and Treasurer of the \$6 billion federal entity administering the Universal Service Fund attended quarterly meetings in January 2004 in Washington. The Board and the FCC Chairman, Michael Powell, approved the appointment of a new CEO for USAC in January – Lisa Zania. Lisa was formerly the assistant to current FCC Commissioner Jonathan Adelstein.

For more information, go to www.universalservice.org.

- **NASUCA:** Steve Ward stepped down in November 2003 as the President of the National Association of State Utility Consumer Advocates, a position which he assumed in March 2000. NASUCA has a membership consisting of 43 offices in 40 states and the District of Columbia which have been designated as that state's consumers advocate in utility matters.

For more information, go to www.nasuca.org.

5. Radioactive Waste and Maine Yankee-Related Issues

- **FERC Decommissioning Case for Maine Yankee:** In October we filed our intervention in the rate case at FERC in which Maine Yankee had requested a \$3 million increase in wholesale rates to cover expenses at Wiscasset through 2008. We hired an expert accounting witness as well as expert witnesses who addressed how prudently Maine Yankee has managed the decommissioning process since 1997. By

the end of June 2004, all active parties in the FERC rate case for Maine Yankee were circulating signature pages preparatory to the final filing of the FERC settlement in July. The agreement established a modest reduction in Maine Yankee's wholesale rate from the levels currently in effect. It also included Maine Yankee's pledge to bring no new spent nuclear fuel to the Wiscasset site and to provide 90 days notice prior to any filing for the transfer of its NRC license for the spent nuclear fuel facility to a third-party. The agreement placed a cap of \$500,000 on Maine Yankee's groundwater monitoring expenditures in compliance with the 1999 state law governing nuclear power plant cleanup, as long as monitoring wells detect no contamination in excess of 2 mrem (the NRC maximum is 25 mrem). Additionally the FERC settlement incorporated by reference a detailed agreement between DEP, DHS and Maine Yankee establishing the technical protocol for groundwater monitoring. We anticipate no opposition at FERC to this comprehensive settlement.

For more information, go to www.maineyankee.com.

- **Maine Yankee Fees and Assessments:** The June 2004 settlement incorporated an agreement that establishes the maximum level of fees to be paid by Maine Yankee to DHS, DEP, Maine State Police, the State Nuclear Safety Advisor and State Nuclear Safety Inspector through 2008 and thereafter. This agreement is independent of negotiations also underway for ensuring compliance with RCRA clean-up requirements and for fulfilling groundwater monitoring requirements of State law. Currently at \$830,000, the total level of payable assessments will drop as of September 2005 to \$360,000 in anticipation of the effectiveness of legislation in the 122nd Session to terminate the State Nuclear Safety Inspector position and phase-down fees for the Health and Environmental Testing Lab at DHS. It is expected that Charles Pray's State Nuclear Safety Advisor position will terminate in September 2008 at a time when the Maine Yankee site will consist only of spent nuclear fuel in dry casks, awaiting delivery to DOE's disposal repository. Due to MEMA's success in attracting Homeland Security funding, it has been possible to reduce the Maine Yankee-related costs of State Police, MEMA and DMR oversight drastically.
- **Texas Compact Withdrawal:** In April we passed the second anniversary since Maine's withdrawal from the Texas Low-Level Radioactive Waste Compact was signed as emergency legislation on April 5, 2002. Under the terms of the Compact agreement, a member State's cancellation of its membership takes effect two years from the effective date of withdrawal legislation. We therefore have now added an additional defense to any claim Texas might make for Maine's payment of \$12.5 million in Compact facility fees: 1) Maine is no longer a Compact member state and is not liable for claims made after the date that its withdrawal took effect; 2) any payment of \$12.5 million was due sixty days from Congressional ratification of the Compact in 1998 and now is barred by Texas' three year statute of limitations on civil claims; 3) the agreement negotiated by the Governors of the three Compact member states in 1997 effectively supercedes any requirement for immediate payment of \$12.5 million; and 4) Maine has no obligation to pay because Texas has not performed any of its obligations as the host state for a radioactive waste disposal facility.

For each of these reasons, there are grounds for confidence that Maine will never have to pay the \$12.5 million facility fee that the Compact drafters originally contemplated and which Vermont paid last year.

- **Spent Fuel Working Group:** In meetings held quarterly in Boston throughout the year, Public Advocate Ward continued to push for permanently shipping out of New England spent fuel from three nuclear units that are completing decommissioning. The “Yankee Atomic” group consists of industry, regulatory and political people from Maine, Connecticut and Massachusetts, including representatives from Maine Yankee, Connecticut Yankee and Yankee Rowe. Nuclear Safety Advisor Charles Pray joined Public Advocate Ward for these meetings.

State Nuclear Safety Advisor Position Transferred to OPA

In the fall of 2003, Governor Baldacci approved the transfer of the State’s high-level advisor on radioactive waste and nuclear power issues from the State Planning Office to the Office of Public Advocate, given the extensive work that both the Advisor and the Public Advocate do on Maine Yankee-related issues. Governor Baldacci at that time also filled the vacancy in the Advisor position by appointing Charles Pray of Millinocket, former Maine Senate President and, from 1994 to 2002, served in a senior position in the Office of Congressional and Intergovernmental Affairs at the Department of Energy in Washington.

The Safety Advisor filed with the Legislature his 2004 Annual Report on February 15, 2004 with information about his activities. That report is available on the Advisor’s web site at www.state.me.us/meopa/Nuclear%20Advisor%20Office.htm.

- **Advisory Commission on Radioactive Waste and Decommissioning:** This legislative and stakeholder oversight group met in October and at that meeting Public Advocate Ward discussed the Texas Compact controversy, and the Maine Yankee rate case at FERC. Mr. Ward also discussed the replacement of Paula Craighead, as State Nuclear Safety Advisor, by Charles Pray, whom Ward introduced to the Advisory Commission members at that meeting.

For more information, go to www.state.me.us/dhs/eng/rad/hp_acorw.htm.

**Summary of Ratepayer Savings, 1982 to 2004
Attributable to Public Advocate Interventions**

1. FY 04
 - Central Maine Power ARP Adjustment, a one-year benefit of \$1.33 million \$ 1,330,000
in lower rates due to the PUC's adoption of our arguments opposing a retroactive inflation adjustment sought by CMP
 - Maine Public Service Stranded Costs, a \$6.5 million reduction in amounts \$ 6,500,000
deferred for recovery over 2004 to 2008 due to our consultant's testimony with no other parties active in this case
 - Maine Public Service Distribution Rates, 50% of the difference between \$ 380,000
MPS's overall increase request of \$1.7 million and the final result of \$940,000

2. FY 03
 - Central Maine Power ARP Adjustment, a 7.82% reduction in distribution \$ 9,361,552
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
 - Verizon Sales Taxation Adjustment, at our instigation, Maine eliminated \$ 342,000
in February 2003 sales tax on a federal portion of Verizon's bills generating \$342,000 savings annually
 - Assorted Water Rate Case Savings, the OPA realized savings in rates \$ 83,000
of \$83,000 in a series of water district rate cases in 2002-2003.

3. FY 02
 - Stranded Cost Cases (MPS, BHE, CMP), Maine Yankee's in-state owners \$ 4,654,000
agreed to flow back to ratepayers the credit received from Maine Yankee's insurer when the plant ceased operations
 - Bangor Hydro Rate Case, BHE's rate increase request was withdrawn by \$ 6,400,000
BHE in conjunction with a 6-year Alternative Rate Plan which we negotiated for the 2002-2008 period
 - Telephone Rate Cases, lowered levels of local phone rates for Tidewater \$ 557,000
Telecom and Lincolnville Telephone as a result of negotiated settlements

4. FY 01
 - Maine Yankee Prudence Settlement (FERC/PUC), two in-state owners of \$ 14,200,000
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

5. 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

6. 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

7. 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

8. 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

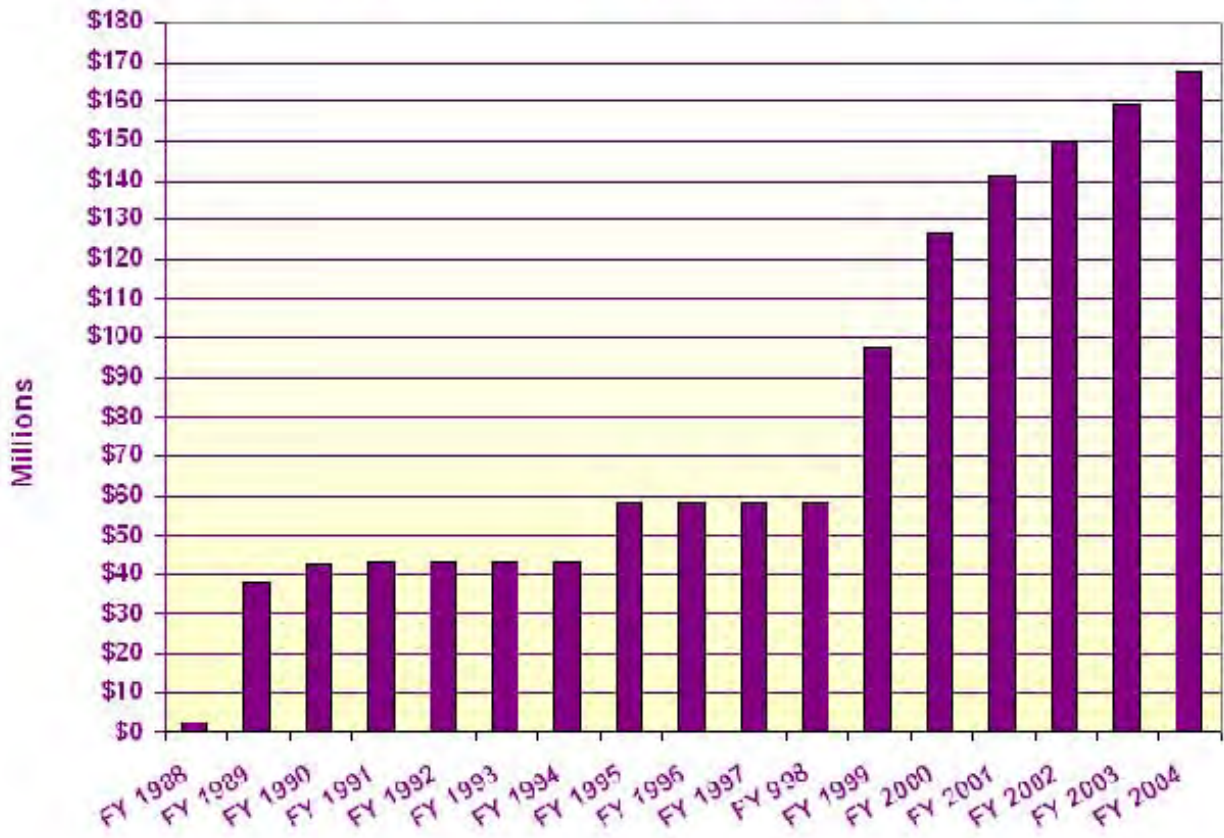
9. FY 91
 - Bangor Hydro Rate Case, \$800,000 in lowered rates based on items by no other party and adopted by PUC on final order \$ 800,000

10. 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

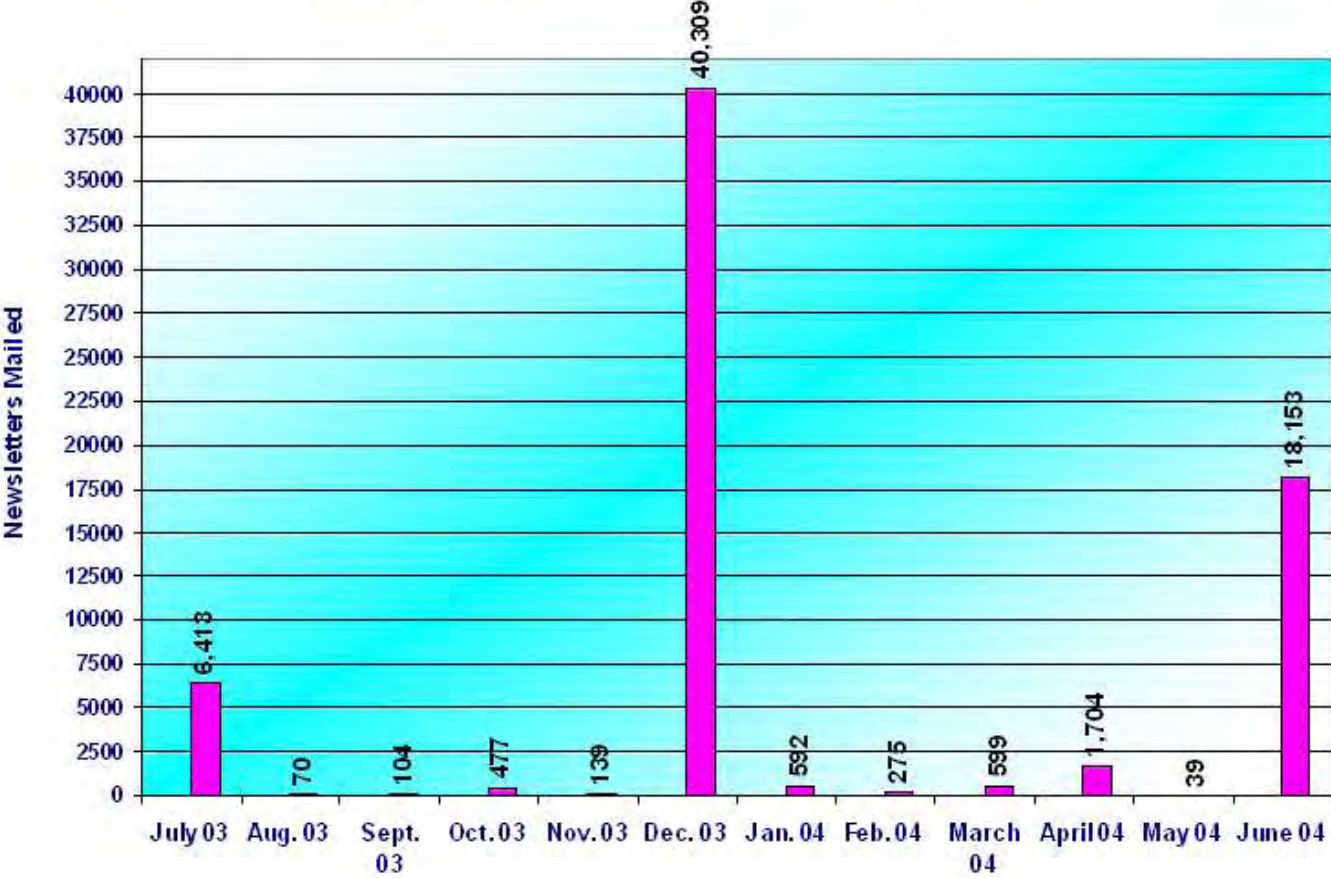
11. FY 89
 - New England Telephone Settlement, \$5 million reduction in intra-state where magnitude would have been less without our participation \$ 500,000
 - CMP Rate Case, only party to file for motion to exclude CMP's late filed attrition testimony, motion granted 12/22/89 \$ 35,000,000
 - Isle au Haut, instrumental in bringing telephone service to island NA

12. FY 88 and prior	
• <u>Bangor Hydro Rate Case</u> , provided sole rate of return testimony	\$ 2,000,000
• <u>Maine Yankee Rate Case</u> , (FERC), successfully proposed equity return at 11.9% and flowthrough of \$1.5 million settlement with Westinghouse	\$ 750,000
• <u>Portland Pipeline Cases</u> , successfully intervened at FERC, PUC, DOE Natural Energy Board (Canada) for approval of new gas supplies	NA
• <u>Seabrook Cases</u> , negotiated agreement for \$85 million write-off by CMP and for PUC and FERC approval of sale of Seabrook shares	NA
• <u>CMP Conservation Programs</u> , worked closely with CMP, PUC and OER for design of new industrial and residential conservation programs	NA
• <u>Rate Cases: Maine Public Service</u> , 1982 - litigated	\$ 2,000,000
Eastern Maine Electric Coop. 1983 - litigated	\$ 200,000
New England Telephone 1983 - litigated	\$ 10,000,000
New England Telephone 1984 - stipulated	\$ 20,000,000
Northern Utilities, 1981 - stipulated	\$ 100,000
Northern Utilities, 1983 - stipulated	\$ 1,000,000
Central Maine Power Co., 1982 - litigated	\$ 5,000,000
Central Maine Power Co., 1984 - stipulated	\$ 10,000,000
Central Maine Power Co., 1986 - stipulated	\$ 20,000,000
13. Total FY 89-FY 04, excluding settlements	\$ 95,580,000
14. <u>Total FY 89-FY 04, Including Settlements</u>	\$ 167,715,550
15. Prior Savings, including settlements, FY 82-FY 88	\$ 71,050,000
16. Total, excluding settlements, FY 82-FY 04	\$ 114,780,000
17. Total, Including Settlements, FY 82-FY 04	\$ 238,765,550

Cummulative Savings in Rates 1988 to 2004



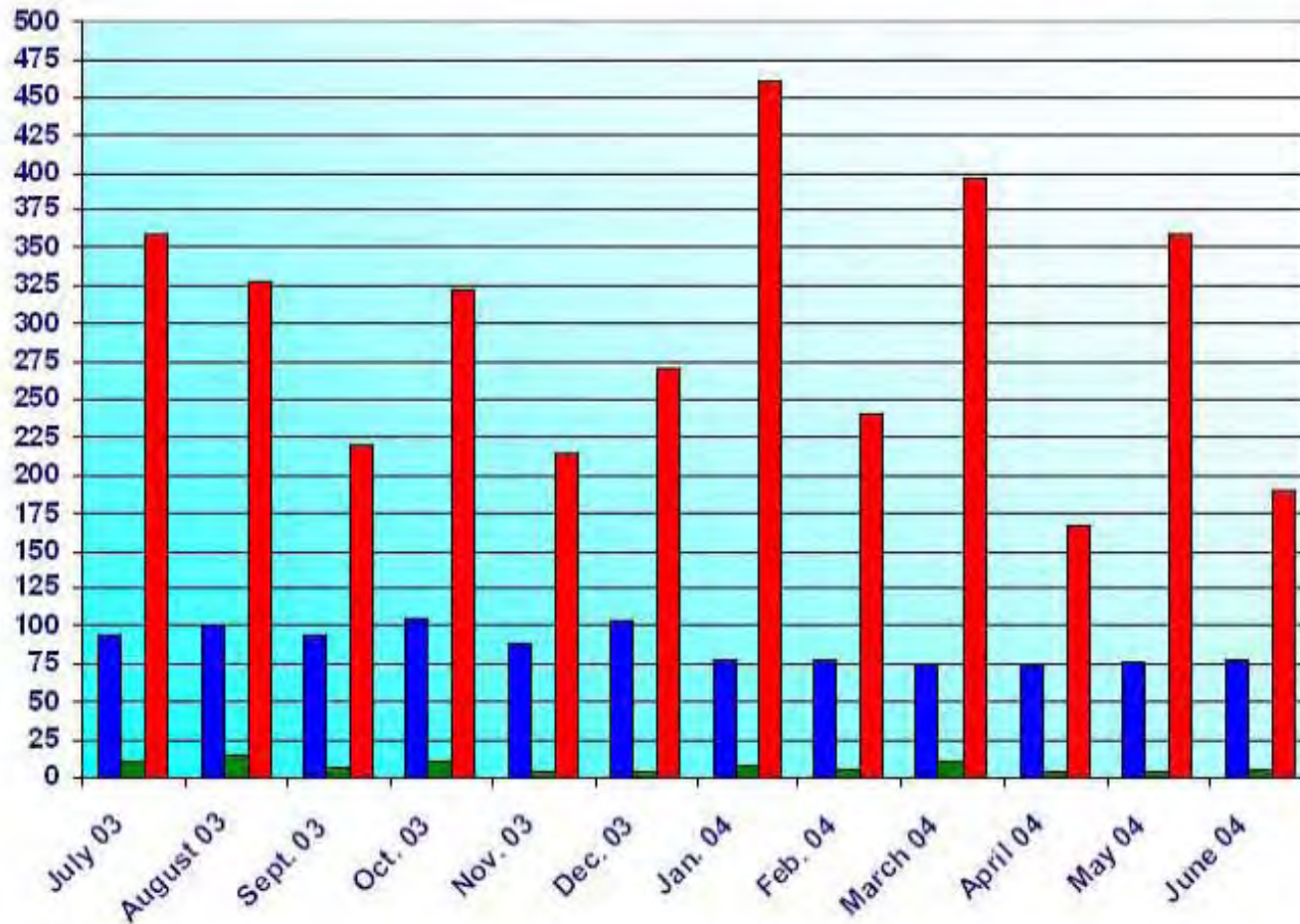
July 2003 through June 2004 Performance Indicators



ATTACHMENT B

PERFORMANCE INDICATORS - JULY 03 - JUNE 04

PUC/FERC Cas es
 Filings
 Individual Complaints



ATTACHMENT C

121st LEGISLATURE, 2nd SESSION

OPA position adopted: 9 75%
OPA position rejected: 3 25%
Bills OPA testified on: 12 100%

LD# Bill Title

(if underlined, OPA is Governor's "lead agency")

0222 An Act Providing for Regulation of the Cable Television Industry by the Public Utilities Commission

Sponsor: Gerzofsky

OPA position: oppose Committee action: HELD OVER **ONTP (div rpt)**

0547 An Act to Increase Bill Reductions for Electricity Customers in Maine (OPA)

Sponsor: Hall

Increases DSM wires charge to \$.0025.

OPA position: support Committee action: (issues preserved in 669) Held Over

ONTP (div rpt)

0639 An Act to Ensure Accurate Electric Rates for the Ski Industry

Sponsor: McGlocklin

OPA position: nf/na Committee action: HELD OVER

ONTP

0671 An Act to Facilitate the Development of Cost-effective Distributed Electricity Generation in the State

Sponsor: Hall

Strengthens role of DG in the state by providing regulatory framework, increasing attractiveness of net metering, etc.

OPA position: support Committee action: HELD OVER **OTPA (div rpt) PL 555**

0962 An Act to Consolidate the Advocacies of the Various State Agencies into an Executive Department and Establish the Office of Inspector General (concept)

Sponsor: Bunker

OPA position: nf/na Committee action: HELD OVER

Filed/dead

**1672 An Act To Amend the Charter of the Dover and Foxcroft Water District
(EMERGENCY)**

Sponsor: Annis

OPA position: none Committee action: OTPA

P&S 39

1692 An Act to Enhance Pine Tree Development Zones

Sponsor: Hall

Exempts from the obligation to pay stranded costs businesses that are certified as Pine Tree Dev Zone business.

OPA position: nf/na Committee action: OTPA

PL 610

1711 An Act to Require That a Directory Listing of a Commercial Toll-free Number Include an Address

Sponsor: Stanley

OPA position: oppose Committee action: **ONTP**

1730 An Act to Create the Position of Director of Energy Programs at the PUC

Sponsor: Bliss

OPA position: n/a Committee action: OTPA

PL 606

1740 An Act to Make Electricity Provider Do-not-call Requirements Consistent with State and Federal Requirements

Sponsor: Bliss

OPA position: support Committee action:

ONTP*

*language moved to 1741 and adopted

1741 An Act to Amend the Information Disclosure Requirements of Some CEPs

Sponsor: Bliss

OPA position: support Committee action: OTPA

PL 558

1750 An Act to Improve the Ability of Water Utilities To Maintain a Contingency Allowance

Sponsor: Bliss

OPA position: oppose as written, support if changed. Bill reported out with our suggested changes. Committee action: OTPA

PL 529

1751 An Act to Create Consistency between State and Federal Telephone Consumer Protection Laws

Sponsor: Bliss

OPA position: support Committee action: OTP

PL 530

1819 An Act to Implement the Recommendations of the Study Group to Examine an Emergency Alert Notification System for Deaf and Hard-of-hearing Individuals

Sponsor: Edmonds

OPA position: n/a Committee action: OTPA

PL 553

1846 Resolve, Regarding Legislative Review of Portions of Chapter 895: Underground Facility Damage Prevention Requirements, a Major Substantive Rule of the PUC

Sponsor: Bliss

OPA position: n/a Committee action: OTPA
Resolve 127

1866 An Act to [Mt. Desert Water District]

Sponsor: Koffman
OPA position: n/a Committee action:
withdrawn/**ONTP**

1889 Resolve, Directing Public Utilities Commission to implement universal rural broadband Internet access statewide.

Sponsor:

OPA position: support Committee action:

ONTP

1929 An Act to Promote Economic Development in the State by Encouraging the Production of Electricity from Renewable and Indigenous Resources

Sponsor: Lundeen

OPA position: support Committee action: OTPA

PL 665

1948 An Act Relating to Energy-related Building Standards

Sponsor: committee bill

OPA position: n/a Committee action: OTPA

PL 645

1949 An Act Relating to Certain Energy Responsibilities of the PUC

Sponsor: committee bill

OPA position: n/a Committee action: OTPA

PL 644

Speaking Engagements; July 1, 2003 to June 30, 2004

A. Stephen Ward

August 4, 2003 **AARP**, Joint Press Conference, Portland, ME
 September 16, 2003 **Bangor Daily News Editorial Board**, Bangor, ME
 September 25, 2003 **Portland Press Herald Editorial Board**, Portland, ME
 September 29, 2003 **Governor's Conference on Affordable Housing**, panelist, Augusta, ME
 November 6, 2003 **AARP, State Advocacy Team**, Augusta, ME
 November 17, 2003 **National Association of State Utility Consumer Advocates**, Atlanta, GA, panel
 November 20, 2003 **Channel 6 "207"**, Program, Portland, ME
 March 3, 2004 **Consumer Energy Council of America**, Washington, DC
 April 2, 2004 **Regional Greenhouse Gas Institute**, panel, New York City
 April 27, 2004 **Northern Maine Independent Systems Administrator, Annual Meeting**, Calais, ME
 May 20, 2004 **Regional Greenhouse Gas Institute**, panel, Boston, MA
 June 15, 2004 **National Association of State Utility Consumer Advocates**, panel, Austin, TX
 June 24, 2004 **Regional Greenhouse Gas Institute**, panel in New York City

B. Ron Norton

May 4, 2004 **Boston College Seminar Speaker**, Boston, MA
 May 17, 2004 **DEA Panelist**, Banff, Alberta, Canada
 June 17, 2004 **TAM Conference**, Panelist, Rockport, ME

C. Wayne Jortner

September 25, 2003 **Freeport Community Group**, First Parish Church, Freeport, ME
 May 7, 2004 **University of Maine Augusta**, Economics Class, Augusta, ME
 May 20, 2004 **Cotton Mill Apartments**, Hallowell, ME
 June 3, 2004 **Maine Telecommunications Users Group**, panel, Nobleboro, ME

**Regional and National Meetings and Conferences
July 1, 2003 to June 30, 2004**

1. **Federal Energy Regulatory Commission** (Maine Yankee Rate Case, ISO-NE Cases)
(Washington, DC)
February 9-10, March 4, April 16
Stephen Ward, Eric Bryant
2. **Northern Maine Independent System Administrator** (Bangor and Calais)
October 21, 2003, February 17, April 27, June 22, 2004: Stephen Ward, Eric Bryant
3. **ISO-New England and Regional FERC meetings** (Springfield and various locations)
August 21, 28, November 12, 2003, January 14, 26, March 5, May 14, 2004:
Stephen Ward, Eric Bryant, William Black
4. **North American Electricity Reliability Council/North American Energy Standards Board** (Philadelphia, PA, Minneapolis, MN, Orlando, FL)
August 6-8, September 4-5, 2003, January 12-14, 2004: Stephen Ward
5. **National Association of State Utility Consumer Advocates** (Atlanta, GA, Washington, DC and Austin, TX)
November 16-19, 2003, March 29-30, June 13-16, 2004: Stephen Ward, Patty Moody, Mary Campbell, Eric Bryant, Ron Norton, Wayne Jortner
6. **Universal Service Administrative Corporation** (various locations)
July 21-24, October 19-22, November 12-14, 2003, January 26-28, April 19-20, 2004: Wayne Jortner
7. **Decommissioning Plant Coalition** (Boston, MA)
November 7, December 1, 2003, January 21, March 1, June 1, 2004: Stephen Ward, Charles Pray
8. **Miscellaneous**
Stephen Ward: **City Council, District of Columbia Testimony**, Washington, DC – July 11, 2003
Decommissioning Plant Coalition, Boston, MA – November 7, December 1, 2003, January 21, June 1, 2004
Consumer Energy Council of America, Washington, DC – March 2-3, 2004
Regional Greenhouse Gas Institute, New York, NY - April 2, Boston, MA - May 20, New York - NY June 24, 2004
Wayne Jortner: **Northern Utilities Meeting**, Portsmouth, NH – September 26, 2003
Patty Moody: **Research Associates Workshop**, Columbia, SC – October 27, 2003

Ron Norton: **DEA Workshop**, Washington, DC – August 18-19, 2003
 SURFA, Washington, DC – April 22-23, 2004,
 DEA Conference, Banff, Alberta, Canada – May 17-18, 2004
 KEMA – FERC Transmission Conf., Washington, DC – June 11,
 2004

William Black: **NH PUC Case Conference**, Concord, NH – May 9, 2004
Charles Pray: **Council of State Governments**, Chicago, IL – December 2003
 Nuclear Waste Transportation Summit, Washington, DC – March
 8, 2004
 National Conference of State Legislators, Las Vegas, NV – May 10-
 13, 2004
 Maine Congressional Delegation, Yucca Mt. Tour, Las Vegas, NV –
 May 10-13-2004
 Nuclear Waste Task Force, Newark, DE – June 1-3, 2004

Public Advocate Staffing Summary
2003/2004

		<u>% of direct hours</u>
1. <u>Federal</u>		24%
Congress	4	
NASUCA	440.5	
FCC	410	
ISO-NE	196	
FERC	<u>226.5</u>	
TOTAL HOURS	1277.0	
2. <u>Electric Cases</u>		
PUC	1152.0	26%
Hearings	137.0	
Coalition	<u>144.5</u>	
TOTAL HOURS	1433.5	
3. <u>Telephone Cases</u>		
PUC	<u>1075</u>	20%
TOTAL HOURS	1075	
4. <u>Natural Gas Cases</u>		
PUC	<u>516</u>	10%
TOTAL HOURS	516	
5. <u>Water Cases</u>		
PUC	<u>687.5</u>	13%
TOTAL HOURS	687.5	
6. <u>Policy Issues</u>		
General	<u>148</u>	3%
TOTAL HOURS	148	
7. <u>Low-Level Radioactive Waste/Maine Yankee</u>		
Nuclear Issues	<u>290</u>	5%
TOTAL HOURS	290	
8. <u>Administrative and Other</u>		
Public Speaking	43	
Consumer Complaints	767	
Training	192	
Administration (vacation, sick leave)	<u>7339.5</u>	
TOTAL HOURS	8341.5	
9. <u>Overall Total</u>	13768.5	
10. <u>Direct Hours, without Administration</u>	5427.0	100%