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Maine Public Utilities Commission

Annual Report on Electric Restructuring

December 23, 1999

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TABLE OF CONTENTS

I. INTRODUCTION	5
II. STANDARD OFFER SERVICE	5
III. CUSTOMER EDUCATION	8
Electric Choice Consumer Education Program.....	8
Bill Unbundling.....	9
IV. MEGA-CASES – REVENUE REQUIREMENT, STRANDED COST AND RATE DESIGN.....	9
Central Maine Power Company.....	10
Bangor Hydro-Electric Company	11
Maine Public Service Company	11
Consumer-Owned Utilities	11
Jurisdiction of Transmission Rates.....	12
V. COMPETITIVE ELECTRICITY PROVIDER LICENSING	12
VI. DIVESTITURE	13
VII. RULEMAKING ACTIVITIES	13
Chapter 301 – Standard Offer Service	14
Chapter 304 – Standards of Conduct for Transmission and Distribution Utilities and Affiliated Competitive Electricity Providers.....	14
Chapter 305 – Licensing Requirements, Enforcement and Consumer Protection for Competitive Electricity Providers.....	14
Chapter 306 – Uniform Information Disclosure and Informational Filing Requirements	14
Chapter 307 – Sale of Capacity and Energy; Extensions for Divestiture of Assets	15
Chapter 311 – Eligible Resource Portfolio Requirement	15

Chapter 321 – Load Obligation and Settlement Calculations for Competitive Providers of Electricity	15
Chapter 322 – Metering, Billing, Collections and Enrollment Interactions Among Transmission and Distribution Utilities and Competitive Electricity Providers	15
Chapter 323 – Electronic Business Transactions Standards	16
Chapter 380 – Energy Conservation Programs by Electric Transmission and Distribution Utilities	16
Remaining Rulemaking Activities	16
VIII. WORKING GROUPS	17
Standard Form Contract Working Group	17
Electronic Business Transactions (EBT) Working Group	17
Standard Offer Information Working Group	17
IX. OTHER RESTRUCTURING ACTIVITIES	18
Low-Income Program	18
Do-Not-Call List	18
Provider Training	18
Web Site	19
T&D Utility Implementation Tasks	19
X. WHOLESALE AND TRANSMISSION ISSUES	19
ISO-NE and FERC	19
Northern Maine Independent System Administrator	21
New Generation Plants	21
Resource Portfolio Requirement	22
Market Power in Northern Maine	22

XI. EXPENSES OF AFFILIATED MARKETING	23
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XII. CONCLUSION.....	24
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Appendix A

Appendix B

Appendix C

Annual Report on Electric Restructuring

Report to the Joint Standing Committee of the Legislature On Actions Taken by the Commission Pursuant to 35-A M.R.S.A. § 3217¹

I. INTRODUCTION

During its 1997 session, the Legislature enacted comprehensive legislation to restructure Maine's electric utility industry (the Restructuring Act). P.L. 1997, ch. 316 (codified at 35-A M.R.S.A. § 3201-3217). 35-A M.R.S.A. § 3217(1) states in part:

1. **Annual restructuring report.** On December 31st of each calendar year, the commission shall submit to the joint standing committee of the Legislature having jurisdiction over utility matters a report describing the commission's activities in carrying out the requirements of this chapter and the activities relating to changes in the regulation of electric utilities in other states.

During 1999, the Public Utilities Commission (Commission) completed most of the tasks necessary to implement electric industry restructuring on March 1, 2000. It approved divestiture of transmission and distribution (T&D) utility generating assets, procured standard offer service, set the principles governing T&D utility rates, adopted rules governing restructuring, continued the state's consumer education program, licensed competitive electricity providers, and contributed to regional wholesale and transmission decisions. This report describes these activities.

II. STANDARD OFFER SERVICE

During 1999, the Commission and the consumer-owned utilities conducted the nation's first bidding processes to obtain retail standard offer service for all customers in the State. The process was carried out pursuant to Chapter 301 of the Commission's rules, which was approved with amendments in the 1999 legislative session. The Commission conducted the bidding process in the three investor-owned utility service territories, and the consumer-owned utilities conducted the process in their territories. The Commission hired consultants to provide advice and ensure impartiality.

On August 2, 1999, the Commission issued three Requests for Bids (RFBs) to provide service in the investor-owned utility territories. In the subsequent two months, the Commission entertained questions from potential bidders, which

¹ Copies of documents referred to in this report are available on request or from the Commission's web page (www.state.me.us/mpuc).

were answered in writing. Questions and answers were placed on an accessible web site.

On October 1, 1999, providers submitted their proposals. In each service territory, separate bids were submitted for each of the standard offer rate classes, namely, residential and small non-residential customers, medium non-residential customers, and large non-residential customers. Commission staff and its consultant evaluated bids for conformance with the RFB requirements and sought clarification when necessary. In addition, staff determined the level of each bid using methods described in the RFB and the rule, to determine the lowest bids for each rate class in each territory.

Some bids did not conform to RFB requirements; these bids were rejected. From the remaining bids, the Commission determined that WPS Energy Services, Inc. submitted the lowest bid prices in all three standard offer rate classes in Maine Public Service Company's (MPS) territory. All higher bids were examined to determine if additional bidders could be accepted while maintaining the minimal price increase specified by the rule. Based on the rule's terms, the Commission identified Energy Atlantic as a second provider for 20% of the medium non-residential class.

Staff further determined that no conforming bids existed for certain of Central Maine Power Company's (CMP) and Bangor Hydro-Electric's (BHE) classes. In classes where bids existed, bid prices were significantly higher than those submitted for service in MPS territory.

The Commission decided that these bids were too high for two reasons. First, in a fully functioning market, it is unlikely that prices in New England would be substantially higher than in the Maritimes area that contains MPS. Second, the Commission had determined that it will maintain stable or reduced rates to consumers when retail access begins. In some instances, accepting the bid prices would have made rate stability extremely difficult to attain.

The Commission subsequently conducted a second bid process in CMP's and BHE's service territories, changing some conditions and setting guidelines for acceptable rate levels. The second bid process resulted in the Commission's choosing a bid from Energy Atlantic for CMP's residential and small non-residential rate class. This bid was combined with a bid from Engage Energy US., L.P. for the output from CMP's undivested generating assets. The Commission accepted the Energy Atlantic bid for a 2-year period. It rejected all bids for CMP's medium and large non-residential classes and for all BHE's classes because these bids were non-conforming or above the specified acceptable rate levels. The Commission set the rates for CMP's medium and large non-residential customers equal to the winning bid price for CMP's residential and small non-residential customers. It set an identical rate for all three classes in BHE's service territory, at a level somewhat higher than in the

other service territories. The Commission directed the utilities to procure generation for the remaining rate classes as allowed by the rule. The Commission reached its conclusion after weighing the impact on customer rates, likely supplier response, and the uncertainty of future wholesale markets.

The Commission believes that there are four possible reasons the bid prices in CMP and BHE territory were so high as to not be in the public interest. First, ISO-NE wholesale markets are immature. Second, wholesale market rules are changing, introducing significant risk to bidders. Third, spot market prices during the 1999 summer were extremely high and volatile. Finally, concurrent bid processes in New England drew market participants away from Maine. There may, of course, be other reasons. As discussed below, the Commission will explore with potential suppliers reasons for the results of the bid process.

As a result of the bid process, more than 80% of Maine's customers will have access to standard offer service that is provided directly by a retail provider. In this regard the process was successful and resulted in an attractive generation rate for the vast majority of Maine's electric consumers. In particular, the majority of Maine's smallest customers, who are most likely to defer shopping in the open market, will be served standard offer service by a retail provider chosen by bid.

Standard offer cent-per-kWh rates for the three investor-owned utilities are:

	BHE	CMP	MPS
Residential/small non-residential	.045	.04089	.042906
Medium non-residential	.045	.04089	.042549
Large non-residential	.045	.04089	.040038

After these decisions were made, the Commission met with BHE and CMP to determine the best way for the utilities to procure standard offer service for those classes for which all of the bids were rejected. The utilities and the Commission will continue to confer on purchase options. Should costs be significantly higher than offsetting revenues, the Commission may raise the price of standard offer service for CMP's medium and large non-residential classes and for BHE's customers to avoid incurring additional utility stranded costs.

During the same time frame, the consumer-owned utilities (COUs) received bids in their RFB processes.² Among these COUs, Houlton Water Company and Van Buren Light & Power accepted winning bidders. Kennebunk Light & Power, Fox

² Eastern Maine Electric Cooperative, Houlton Water Company, Kennebunk Light & Power District, Fox Islands Electric Cooperative, Swans Island Electric Cooperative, and Van Buren Light & Power District conducted RFBs.

Islands Electric Cooperative, and Madison Electric Works will retain existing contracts, and Swans Island Electric Cooperative will obtain standard offer service from the provider serving BHE.

III. CUSTOMER EDUCATION

Consumers must be informed about electric restructuring to make wise purchasing decisions, and informed consumers are important for the development of an efficient market and the success of restructuring. To this end, the Restructuring Act and Commission rules direct activities that will disseminate information to all customers through a variety of channels.

Electric Choice Consumer Education Program

During 1999, the Commission continued implementation of its electric restructuring consumer education program. The program, launched in 1998, satisfies the Restructuring Act's mandate that the PUC provide education about electric choice and the Commission's own desire to ensure that consumers are informed about upcoming changes in the industry before they make electricity supply purchasing decisions.

The education program provides information to residential, small commercial and municipal consumers. It is designed to increase consumer awareness of Electric Choice, facilitate informed decision-making, and provide an objective and credible source of information for consumers. The program uses a variety of complementary educational methods in an integrated fashion to reach the widest audiences. A broad-based public advisory panel is assisting the Commission in program design and implementation.

During 1999, the Commission completed the second phase of the program, which began with the introduction of itemized billing in January 1999. This phase included release of a new brochure on Electric Choice, creation of an Electric Choice information line and website for consumers, a press briefing and other media relations activity, and meetings with community leaders. In July, the Commission approved the comprehensive plan for the remainder of the program, developed by NL Partners and the advisory panel.

The Commission launched several additional components of its Electric Choice education program in the Fall. These components are designed to take advantage of heightened consumer interest as Electric Choice nears, and as standard offer rates become known. In November, the PUC began advertising on TV and radio and in newspapers to raise general awareness of restructuring. Several brochures addressing aspects of Electric Choice were developed for consumers, including brochures on small business issues, aggregation and renewable power sources. Outreach activities by selected community-based

organizations began in December. The Commission and staff continued to speak to groups across the state, and reached nearly 2,000 consumers in person at 88 locations. In early January 2000, the Commission will send reference guides on Electric Choice to all residential and small commercial customers in Maine.

Consumers seeking a brochure or other information may call the toll-free PUC Electric Choice Information Line at 1-877-PUC-FACT (1-877-782-3228) or visit the PUC Electric Choice website at www.pucfact.com.

Bill Unbundling

Beginning in January 1999, all utilities' bills displayed unbundled charges as required by the Restructuring Act (§ 3213) and the subsequent Commission rule governing unbundled billing (Chapter 309). Throughout 1999, utilities have gathered information from customers' questions and from focus groups regarding the content and layout of the bill. In addition, the Commission adopted provisions regarding bill content and layout in Chapter 305. These provisions are designed to ensure that consumers receive adequate information to make informed choices on generation purchase and payment options. Utilities will revise the format of the current bills in response to customer feedback and Chapter 305.

IV. MEGA-CASES - REVENUE REQUIREMENT, STRANDED COST AND RATE DESIGN

During 1999, the Commission held an adjudicatory rate proceeding for each of the investor-owned electric utilities in Maine to implement the legislative directives in the Restructuring Act regarding the level and design of rates when retail access begins. Because, beginning on March 1, 2000, the supply component now reflected in electric rates will be subject to competition and only the T&D component will be subject to regulation as a utility service, the allowed revenues and rates for utilities in Maine must be unbundled. The Restructuring Act directed the Commission to determine the revenue requirements for each utility, including the level of generation-related stranded costs they will recover. Pursuant to the Restructuring Act, the Commission must also design the rates that utilities will charge for T&D service, including the rates for backup and standby service. 35-A M.R.S.A. §§ 3208, 3209.

These revenue requirement, stranded cost and rate design proceedings (so-called "mega-cases") are all now in their final phases. All of the elements necessary to calculate T&D rates, most notably separation of T&D from generation costs, sale value of utilities' generating assets, and sale value of utilities' purchased power entitlements, are now known. Consequently, utilities are able to file actual rates that they propose to charge for T&D service as of March 1, 2000. The Commission and the parties to the mega-cases will review

the utilities' proposals, and the Commission will set rates for T&D service in January or early February of 2000.

Central Maine Power Company

By Orders issued March 19, 1999 and June 22, 1999 in Docket No. 97-580, the Commission established the principles governing the level and design of T&D rates for CMP customers. In the CMP proceeding, which was the first mega-case to be completed. In that case, the Commission resolved many of the policy and technical issues that would also arise in the other utilities' cases. Among the major principles established were: treatment of the proceeds from the sale of CMP's generation assets to Florida Power and Light; the method for calculating and recovering stranded costs; the appropriate cost of capital and capital structure for a T&D utility; and the design of T&D rates for standby service.

In the CMP proceeding, the Commission adopted an overarching "no losers" principle that it has applied in the subsequent of BHE and MPS mega-cases. Specifically, the Commission found that no customer should be made *worse off* at the beginning of retail competition. Put another way, the Commission sought to ensure that, if a customer chose standard offer service, that customer's *total* rate would not be higher in March 2000 than it was in February 2000. The "no losers" principle has particular relevance to revenue allocation and rate design issues that must often be resolved based on assessing equity and other subjective criteria. The Commission adopted an approach whereby revenue allocation, rate design and rate options for T&D service to core customers will not significantly change concurrent with retail access. This approach will make the transition to retail competition easier for customers to understand and less likely to create dissatisfaction and controversy.

On December 10, 1999, CMP submitted its final-phase filing in Docket No. 97-580. The rates reflected in CMP's filing incorporate the Commission's decisions on each of the policy and technical matters resolved in prior phases of the case as well as data and information not previously available. CMP's filing also provides the customer bill impacts of its proposed T&D rates combined with the prices recently obtained and set for standard offer service in CMP's territory. While the final decreases will not be known until the case is concluded, this filing indicates that most CMP customers are likely to receive a rate decrease on March 1, 2000. The average decrease is likely to be in the range of 10%, though, under CMP's proposal, the range of decrease among customers is about 2% to about 15%. The Commission will determine T&D rates for CMP by early February.

Bangor Hydro-Electric Company

By Order dated November 24, 1999, the Commission resolved for BHE many policy and technical issues similar to those raised in the CMP case. On December 17, 1999, BHE submitted its final round of testimony and other material, including proposed rates for T&D service as of March 1, 2000. These rates incorporate the Commission's decisions in prior phases, as well as newly available data and information. The rates proposed by BHE in its filing, which reflect the actual sale price received for its purchased power entitlements, when combined with the standard offer price of 4.5 cents/kWh recently set by the Commission for BHE customers, are likely to maintain general rate stability. The Commission will determine T&D rates for BHE in early February.

Maine Public Service Company

On December 1, 1999 the Commission issued an Order approving a stipulation in MPS's mega-case. The stipulation resolved the revenue requirement, stranded cost and rate design issues raised in the case. Certain details about the rate calculations and other specific issues, such as the time period over which MPS's stranded costs should be recovered, remain to be considered in the final phase of the proceeding. MPS submitted its final phase filing in December, and the Commission will determine final rates by early February.

Consistent with the Commission's decisions for CMP and BHE, the MPS stipulation reflects the "no losers" principle. This principle is most evident in the way MPS's T&D revenue requirement and stranded costs are allocated among customers, and in the design of MPS's rate for standby service. Pursuant to the stipulation, MPS customers' total rates should be unchanged or lower in March 2000.

Consumer-Owned Utilities

During 1999, seven consumer-owned utilities (COUs) filed revenue requirements and rate design cases.³ With minor exceptions, stranded costs do not exist in COU territories because these utilities have not owned generating assets. These mega-cases will be completed and T&D rates will be determined by late January.

³ Eastern Maine Electric Cooperative, Houlton Water Company, Kennebunk Light & Power District, Fox Islands Electric Cooperative, Madison Electric Works, Swans Island Electric Cooperative, and Van Buren Light & Power District made filings. Matinicus Plantation and Monhegan are exempt from restructuring pursuant to P.L. 1999, ch. 398 § E-1 because they are islands disconnected from the mainland. Isle au Haut was granted exemption pursuant to 35-A M.R.S.A. § 3504, allowing exemption for utilities with fewer than 150 customers.

Because the COUs are owned and managed by their customers, and because their customers are accustomed to monthly rate changes that reflect purchased power costs, the Commission has considered relaxing the “no-losers” rule and permitting a more significant level of revenue re-allocation and rate design than will occur in the CMP, BHE or MPS territories.

Jurisdiction of Transmission Rates

In its Order in the CMP mega-case, the Commission concluded that the Federal Energy Regulatory Commission (FERC) had asserted jurisdiction over the rates, terms, and conditions of retail transmission service when a state implements a retail access program. As a result, the Commission initiated an investigation to examine the implications of FERC jurisdiction on Maine’s retail ratepayers.

Although the investigation is ongoing, it is now clear that the FERC will determine the revenue requirements, rates, and rate design associated with Maine utilities’ transmission facilities. As a consequence, the Commission must actively participate in future FERC proceedings to protect Maine’s public and ratepayer interests. The transmission service over which Maine will no longer have jurisdiction is a relatively small portion of the utilities’ revenue requirement – approximately 8.6% for CMP, 7.9% for BHE, and 7.7% for MPS.

Finally, the Commission has worked closely with the utilities to ensure that the transfer of jurisdiction will not negatively impact or confuse customers and will be invisible to all but the largest electric customers.

V. COMPETITIVE ELECTRICITY PROVIDER LICENSING

During 1999, the Commission established the requirements to become a licensed competitive electricity provider in Chapter 305. The rule sets financial and technical requirements for providers, creates consumer protection safeguards, and requires that providers comply with state rules such as the eligible portfolio requirement. Marketers, aggregators, and brokers must be licensed before offering to provide electricity or aggregate services to customers.

The statewide education program advises consumers to find out if a provider is licensed by checking the PUCFACT web page, where licensed providers are listed. Appendix A to this report contains the list of providers as seen on the web page. The web page differentiates between marketers who will sell retail electricity and aggregators or brokers.

As of December 23, 1999, there were 20 licensed providers. Ten are aggregators or brokers and ten are marketers selling electricity directly to consumers. Of the 20 providers, nine state that they will serve only large non-residential customers (those with load above 100 kW, a breakpoint that

determines the applicability of various consumer protections pursuant to Commission rules). Anecdotal evidence indicates that only marketers and aggregators who deal in the large customer market have been active thus far. There are two likely reasons for the lack of activity in the residential market. First, marketers waited until after standard offer prices were set to consider whether to compete in the residential market. Second, marketers throughout New England have recently slowed or withdrawn their activities in the residential market. It is too early to determine what the level of market activity will be in March 2000 and how soon activity in various markets will develop.

VI. DIVESTITURE

The Restructuring Act requires that CMP, BHE and MPS divest their power plants. 35-A M.R.S.A. § 3203(1). During 1999, the plants of each of these utilities were sold to new owners. CMP contracted to sell its hydroelectric, fossil and biomass plants to FPL Energy Maine, Inc. in 1998 for \$858 million. In November 1998, however, FPL filed a lawsuit in Federal District Court in New York to void the contract, but the Court ruled against FPL, and CMP and FPL closed the transaction in April 1999. In February 1999, the Commission authorized the sale of BHE's hydroelectric and fossil generation plants and certain transmission and development rights to PP&L Global, Inc. In May and July 1999, BHE finalized the sale to PP&L Global for \$89 million. In April 1999, the Commission authorized MPS to sell its hydroelectric and fossil power plants to WPS Power Development, Inc. for \$37.4 million. MPS closed the transaction in June 1999.

CMP, BHE and MPS have also sold their contractual entitlements to electric power from qualifying facilities, and CMP has sold its contractual entitlement to power from Hydro-Quebec and its entitlement to power from non-divested nuclear generating plants. These entitlements were sold for a 2-year period beginning March 1, 2000, and will be periodically resold as required by the Restructuring Act and Chapter 307 of the Commission rules. CMP's entitlements were purchased by two different companies: Engage Energy US, L.P. and Select Energy, Inc. BHE's entitlements were purchased by Morgan Stanley Capital Group, Inc. MPS's entitlements were purchased by WPS Energy Services, Inc. The revenue from these entitlement sales, as well as the proceeds from the asset sales that were completed during 1999, will directly benefit ratepayers by reducing stranded costs.

VII. RULEMAKING ACTIVITIES

During 1999, the Commission completed and finally adopted all rules necessary to implement electric restructuring. All the electric restructuring rules are listed in Appendix B. The following section summarizes the rulemaking activities that

took place in 1999, and indicates the legislative authority for the rule and our docket number (to guide access to further information).

Chapter 301 – Standard Offer Service

The Commission adopted amendments to its standard offer rule pursuant to Resolves 1999, ch. 37 (Docket No. 98-576, June 29, 1999). These amendments established separate standard offer classes, reduced the duration of the initial standard offer period, assigned responsibility for uncollectibles, and allowed for utilities to arrange for service in the event of the absence of satisfactory bids.

Chapter 304 – Standards of Conduct for Transmission and Distribution Utilities and Affiliated Competitive Electricity Providers

The Commission adopted its final rule governing the standards of conduct between transmission and distribution utilities and affiliated competitive electricity providers with changes required by Resolves 1999, ch. 36 and Public Law 1999, ch. 398, sec. G-5 (Docket No. 98-457, Sept. 28, 1999 and June 29, 1999). These changes include a requirement that utilities not subsidize the business of its affiliated competitive provider, an increase in the maximum administrative penalty for violations of the rule, a provision allowing for the disgorgement of profits, and the addition of language clarifying that the rule does not inhibit utilities' pricing flexibility.

Chapter 305 – Licensing Requirements, Enforcement and Consumer Protection for Competitive Electricity Providers

Early in the year, the Commission adopted its final rule establishing licensing criteria and procedures, annual reporting requirements, enforcement provisions and consumer protection standards for the competitive provision of generation services (Docket No. 98-608, Feb. 3, 1999). As directed by the Act, the consumer protection provisions contain a "do-not-call" list and a 5-day right of rescission. The rule also contains provisions designed to prevent "slamming."

Chapter 306 – Uniform Information Disclosure and Informational Filing Requirements

The Commission adopted its final rule requiring competitive providers to send their customers disclosure labels with information on price, resource mix, and air emissions (Docket No. 98-708, June 29, 1999). The labels are required to be in a uniform format so that customers can easily make comparisons among competitive providers. As directed by Resolves 1999, ch. 34, the labels must be provided to customers four times each year. Additionally, the rule requires competitive providers to file with the Commission their generally available rates, terms and conditions. This will allow the Commission to monitor the retail market and provide information to customers.

Chapter 307 – Sale of Capacity and Energy; Extensions for Divestiture of Assets

The Commission adopted its final rule governing the sale of energy and capacity from non-divested generation assets (primarily Qualifying Facility contracts). The rule also contains procedures for a utility to request an extension of the deadline for divesting its generation assets (Docket No. 98-824, Sept. 28, 1999, June 29, 1999). Pursuant to Resolves 1999, ch. 38 and Public Law 1999, ch. 398, sec. N-2, the rule contains a provision regarding purchaser recourse against utilities, defines on-peak periods, requires utilities to provide certain information to bidders, and defines standards for granting extensions of the divestiture deadline.

Chapter 311 – Eligible Resource Portfolio Requirement

In June 1999, the Commission adopted a final rule establishing the requirements, standards, and verification procedures for Maine's eligible resource portfolio requirement (Docket No. 98-619, Sept. 28, 1999). As directed by Resolves 1999, ch. 47 and Public Law 1999, ch. 398, §§ 1-4, the final rule changed the "renewable" resource portfolio requirements to an "eligible" resource portfolio requirement, modified the definition of renewable resource to be consistent with the applicable statute, added a definition of "efficient resources," and included a provision regarding representations by a provider that it exceeds the 30% requirement.

Chapter 321 – Load Obligation and Settlement Calculations for Competitive Providers of Electricity

This Chapter governs the calculation of competitive provider load obligations for purposes of retail settlements. The Commission initially adopted this rule in October 1998, but as a result of ongoing efforts to implement industry restructuring, in October 1999, the Commission initiated a rulemaking to consider amendments (Docket No. 99-721). In December 1999, the Commission adopted several amendments primarily for clarity and consistency.

Chapter 322 – Metering, Billing, Collections and Enrollment Interactions Among Transmission and Distribution Utilities and Competitive Electricity Providers

In March 1998, the Commission adopted this rule governing the relationship among utilities and competitive providers with respect to metering, billing, collections and customer enrollments (Docket No. 98-810). As a result of the ongoing efforts to implement restructuring, the Commission initiated a rulemaking to consider various amendments to Chapter 322 (Docket No. 99-659). In December 1999, the Commission adopted several amendments. The

Commission modified the customer authorization provision regarding usage data consistent with legislation enacted last session, P.L. 1999, ch. 237, altered the provision on allocations of partial payment consistent with the legislative prohibition on disconnection for non-payment of competitive provider bills, 35-A M.R.S.A. § 3203(4), and simplified the review process of contracts between utilities and competitive providers.

Chapter 323 – Electronic Business Transactions Standards

On November 2, 1999, the Commission adopted a rule to govern standards for electronic business transactions between utilities and competitive providers (Docket No. 99-468). These standards establish procedures, electronic protocols, and data formats for the huge volume of data that must be routinely and regularly transferred electronically among utilities and competitive providers.

Chapter 380 – Energy Conservation Programs by Electric Transmission and Distribution Utilities

In January 1999, the Commission provisionally adopted a rule governing the process for transmission and distribution utilities to implement energy conservation programs after the initiation of industry restructuring (Docket No. 97-591). In its last session, the Legislature rejected the rule, and amended the restructuring statute as it relates to energy conservation.

The amended statute directs the State Planning Office (SPO) to develop, coordinate and oversee statewide conservation programs. P.L. 1999, ch. 336. To that end, SPO hired an employee to coordinate the planning effort. SPO anticipates that program plans will be completed during 2000 and that implementation will begin during late 2000 or early 2001. In addition, the Commission adopted Chapter 380, which establishes the funding levels and assessment mechanism to implement the revised energy conservation legislation.

Remaining Rulemaking Activities

Three rulemaking activities remain. First, some rules are being re-opened to revise non-substantive conditions discovered to be unworkable or inconsistent as the rule was implemented. Second, Chapter 810, governing standards for credit and collection programs for residential customers, and Chapter 860, governing disconnection and deposit regulations for nonresidential customers, will be re-written to incorporate revisions made necessary or desirable by electric restructuring. Finally, the proceeding to implement competitive billing and metering pursuant to M.R.S.A. 35-A § 3202(4) will begin in 2000, conclude by March 1, 2001, and be implemented by March 1, 2002.

VIII. WORKING GROUPS

To conduct some of its implementation responsibilities through a less formal process, the Commission convened several working groups in which all interested persons were invited to participate. These stakeholder groups were effective in producing results that were generally supported by the participating entities. They are discussed below.

Standard Form Contract Working Group

In March 1999, the Commission established a statewide working group to develop standard form contracts and associated terms, conditions and charges that would govern the relationship between T&D utilities and competitive providers. The working group presented the Commission with draft standard contracts, including a separate standard contract for competitive providers and standard offer providers, as well as utility-specific exhibits. The Commission adopted the contracts with minor modifications.

Electronic Business Transactions (EBT) Working Group

Implementing the electronic methods of transferring thousands of data items between a T&D utility and a competitive provider is a complex task for both entities. During 1998, the Commission convened a statewide working group to develop recommendations for procedures, electronic protocols, and data formats to be used when transferring this data after implementation of retail access. The Working Group filed its recommended EBT standards in February 1999. The Commission examined and adopted EBT standards through a rulemaking process, and all technical documents were placed on an accessible web site. In addition, utilities began carrying out testing procedures with competitive providers, as required by the standards, to ensure that data exchange will occur accurately after restructuring begins. The EBT Working Group continues to meet to identify and resolve necessary revisions to the EBT Standards.

Standard Offer Information Working Group

In 1998, the Commission initiated a statewide working group to examine the scope and content of information that utilities would provide to standard offer bidders and actual providers on an ongoing basis. During 1999, the Working Group filed its recommendations. The Commission adopted the Working Group's report and directed utilities to provide information consistent with the report.

IX. OTHER RESTRUCTURING ACTIVITIES

Additional activities required by the restructuring process are described below.

Low-Income Program

The Restructuring Act requires the State to ensure adequate provision of financial assistance to meet the legitimate needs of consumers who are unable to pay their electricity bills. The Act further requires that those funds be collected by utilities at a rate set by the Commission. 35-A M.R.S.A. § 3214.

During the last session, the Legislature considered, but did not accept, a proposal to use divestiture tax income to fund low-income assistance.⁴ Subsequently, in June, the Commission convened the Low Income Task Force members to determine the most effective way to establish a needs-based, low-income assistance program for electric utility customers. The task force determined that both the utilities and the CAP agencies needed adequate lead-time to implement revisions to the current low-income programs. Furthermore, additional data, including knowledge of future T&D rates, are needed to develop an effective program. The task force agreed to complete the new program by early 2001, to be implemented by October 2001. In the meantime, the investor-owned utilities will continue to provide the same benefits as consumers would receive under the existing low-income assistance programs, and a consultant will gather the data necessary to design a new program.

Do-Not-Call List

The Restructuring Act requires that consumers have a way to avoid unwanted telemarketing calls. To this end, the Commission has established a Do-Not-Call procedure that is explained to competitive providers when they apply for a license. The procedure requires that the provider maintain its own do-not-call list and also access a well-established national list used by many industries. Customers may request to be placed on the provider's own list. Providers will explain the means by which the customer may contact the organization that manages the national list, upon request and in its Terms of Service. A provider must access both lists no less frequently than each month.

Provider Training

Since July 1999, the T&D utilities and Commission staff have offered monthly training sessions to potential competitive providers. This training is required before a provider may supply electricity to its customers. The training is given over a 2-day period and covers Maine's rules, business procedures between utilities and providers, and electronic data transfer mechanisms. To date, 65 individuals representing 32 competitive providers have attended training.

⁴ The bill has been carried over to the next session.

Web Site

The Commission has developed two easily accessible, user-friendly, targeted web sites – one for consumers and one for competitive providers.⁵ The competitive providers' site is part of the comprehensive Maine PUC website, which includes extensive details on the entire restructuring effort. The sites have been extensively advertised and allow their users to obtain up-to-date information quickly and directly.

T&D Utility Implementation Tasks

To successfully implement open access, utilities must make numerous changes to their computer systems. The billing and accounting systems must accommodate unbundled billing, the utility must be able to assign all customers to the correct provider, a load settlement system must be developed, and utilities must implement an electronic data interchange system to transfer data daily. Some states have found it necessary to postpone open access because these systems were not ready. The Commission has met with the utilities at regular intervals to monitor the progress and problems in these implementation efforts. Utilities appear likely to meet the March 1 deadline, but certain non-critical tasks may extend beyond that date. Utilities have developed contingency plans in those case.

X. WHOLESALE AND TRANSMISSION ISSUES

ISO-NE and FERC

The Restructuring Act requires the Commission to monitor events in the region pertaining to the development of an independent system operator, the management of competitive access to the regional transmission system, and the rights to negotiate potential contracts between buyers and sellers of electricity. 35-A M.R.S.A. § 3217(3). The Commission actively carried out this obligation during 1999. The Commission intervened and filed comments in several FERC proceedings, helped to shape market rules through participation in NEPOOL Committees, and worked collaboratively with regulators in other New England states to develop cohesive regulatory strategies for dealing with emerging market issues. Unusually warm weather in the summer of 1999 created pricing and reliability concerns that required Commission investigation.

Most utilities in New England belong to NEPOOL, which is referred to as a "tight power pool." This means that physically, the individual utilities' transmission and generation facilities, along with the facilities of competitive generators, are operated as though they are part of a single system. This long-standing

⁵ The consumer web site is www.pucfact.com and the supplier web site is www.state.me.us/mpuc/supplier.com.

arrangement originated as a means to improve system reliability; the NEPOOL Agreement provides the formal protocol and rules by which the NEPOOL members jointly operate. Federal initiatives to create more competitive wholesale markets, combined with efforts to create competitive retail markets by most New England states, have required a great many changes to the NEPOOL Agreement.

In response to New England-wide restructuring, during 1999, NEPOOL filed more changes to its rules and its Agreement than in any single prior year. The Commission participated in many of these proceedings, including filing comments on new bid-based market rules and changes to NEPOOL's governance structure and membership requirements.

In addition to NEPOOL's increased activity, the newly formed Independent System Operator of New England (ISO-NE) also made filings at the FERC in 1999. Record high temperatures in June caused New England's energy demand to soar and provided a serious test of newly implemented market rules. The test revealed some serious flaws in the rules, and corrective ISO filings were made quickly. The Commission met with ISO personnel on several occasions during the summer to investigate the shortages caused by the warm weather and the resulting price increases. The shortages, which almost created rolling blackout conditions throughout the region, demonstrated ISO's technical capability to manage the system and maintain electric reliability. The ISO's unilateral FERC filings to correct market problems and modify prices provided a demonstration of its independence from NEPOOL.

Over the course of the year, ISO-NE developed rules and procedures that increased its independence from NEPOOL. The two groups are, however, still closely linked through contractual obligation. The Commission will continue to advocate greater independence for ISO-NE.

NEPOOL is close to finalizing the details of a congestion pricing system that will prioritize generator access to the transmission system and provide economic signals for the location of new generators. The FERC requires NEPOOL to file the details of such a plan with the FERC by December 31, 1999. At least one year will be needed to implement the details of the plan which, when operational, should lead to more efficient competition throughout New England. The Commission has been involved in the negotiations on the congestion pricing system, and will participate in the related FERC proceedings and subsequent implementation discussions.

The Commission was instrumental in organizing a conference, attended by more than 400 people (including commissioners from the FERC and 14 states), to examine and compare the operations of the three northeast U.S. ISOs – New England, New York, and PJM (Pennsylvania, New Jersey, and Maryland). The

participating states are continuing their efforts to ensure reliability and enhance market operations throughout the region.

Continued monitoring of the wholesale markets will be necessary as participants in NEPOOL implement new systems and continue to fine tune details of their market rules. The Commission will continue its participation in both market areas with a goal of promoting truly competitive wholesale and retail markets.

Northern Maine Independent System Administrator

The northern part of the State is not directly connected to New England's electric grid. Northern Maine operates as part of the Maritimes Control area and receives power through transmission facilities owned by New Brunswick Power Company. As a result, developing a retail market in northern Maine presents unique challenges.

One of the primary obstacles to a retail market was the lack of a bulk power system administrator and retail settlements system. An independent entity was necessary to ensure the non-discriminatory treatment of transmission customers and participants in the wholesale electricity market in northern Maine. Accordingly, in December 1998, the Commission directed the four northern Maine utilities (MPS, Houlton Water Company, Van Buren Light & Power, and Eastern Maine Electric Cooperative) to develop a proposal for an independent system administrator and settlements system in their collective service areas. The Commission, New Brunswick Power Company, and other interested stakeholders participated.

In April 1999, the working group finalized its proposal for the creation of the Northern Maine Independent System Administrator (NMISA), along with market rules governing activity in the region. The NMISA will process all requests for reservation and scheduling of the northern Maine transmission system, develop and enforce market rules and operating procedures to ensure the integrity of daily and long-term calculations of transmission capacity availability, and oversee the development of market rules and operating procedures necessary to guarantee non-discriminatory markets for balancing energy and ancillary services. The NMISA was constituted as a non-profit corporation in March 1999, and was approved by FERC in November 1999. It is currently acting to implement the systems necessary for retail access to begin on March 1, 2000.

New Generation Plants

New generation facilities are planned throughout Maine and New England that will likely cause a significant impact on the wholesale and retail generation markets in Maine. If all currently planned facilities are built, the generating capacity from within Maine would increase by about 2,500 MWs.⁶ All these

⁶ Maine's total load is currently 1,700 MWs.

plants will be fueled by natural gas,⁷ a phenomenon made possible by the recent addition of two major pipelines through Maine. The existence of these plants should place downward pressure on the future market prices for generation, but may heighten concerns regarding transmission siting and eminent domain.

The plants currently planned in Maine are listed below. All are under construction except ANP Gorham.

<u>Plant</u>	<u>MWs</u>	<u>Location</u>
Calpine	520	Westbrook
Maine Independence	500	Veazie
Androscoggin Energy Center	157	Jay
Rumford Power Associates	265	Rumford
Bucksport Energy	174	Bucksport
ANP Gorham	850	Portland

Resource Portfolio Requirement

The Commission has monitored comments and actions of competitive providers to begin to learn the extent to which the eligible resource portfolio requirement (Chapter 311) impacts Maine's retail market. We cannot confirm any specific impact of the portfolio requirement on the price offered by standard offer bidders, or on the level of activity of competitive electricity suppliers in Maine. At least two major suppliers, however, have indicated that the requirement resulted in a higher bid price, or was a factor in the supplier declining to bid at all. During early 2000, the Commission intends to solicit information from bidders and some non-bidding providers regarding barriers to more widespread bidding or lower bid prices. In addition, CMP's and BHE's power procurement efforts will provide another source of insight into the portfolio requirement's impact. The Commission has agreed that the utilities should investigate power procurement prices and terms that will meet the provisions of the portfolio requirement, as well as prices and terms if the portfolio provisions need not be met. This investigation will yield another measure of the extent (if any) that the portfolio requirement hinders the development of a healthy retail market. The Commission will report to the Committee the information the Commission learns from these and any other sources.

Market Power in Northern Maine

Studies performed during 1998 raised concerns about market power concentration in northern Maine and the ability of customers to realize advantages from retail access. Some of these concerns have been resolved during 1999, but as the market develops, the Commission will explore what additional steps may be needed.

⁷ An additional, smaller wind generator is also planned.

The standard offer bidding process produced low enough prices to suggest that market power concentration did not exert undue upward pressure on the bids. In addition, New Brunswick Power Company revised its wheeling prices to eliminate a price differential between suppliers wheeling through New Brunswick and those wheeling out. New Brunswick also developed "tie line interruption service," which makes generation service available in Northern Maine when congestion on the MEPCO line prevents providers from importing generation. While these actions by New Brunswick may have lowered barriers that previously existed for providers wishing to serve Northern Maine, the standard offer bids did not display evidence that marketers from outside the Maritimes Control area will participate in the northern Maine market.

XI. EXPENSES OF AFFILIATED MARKETING

The Restructuring Act requires the Commission to provide an accounting of the Commission's actual and estimated future costs of implementing and enforcing the law governing the relationship between a T&D utility and an affiliated competitive provider, and the costs to transmission and distribution utilities in complying with those provisions. 35-A M.R.S.A. § 3217(1). 35-A M.R.S.A. § 3205 establishes the standards of conduct and marketing restrictions applicable to investor-owned utilities that market electric energy through an affiliated competitive provider. Chapter 304 of the Commission's Rules expands upon these standards and implements Section 3205.

At the end of 1998, CMP decided to abandon its retail marketing affiliate. This leaves MPS's subsidiary, Energy Atlantic, as the only affiliated competitive provider in the State. As a consequence, the Commission's cost of enforcing the affiliate standards of conduct in 1999 has been minimal. The Commission's activity in this regard has been limited to a review of MPS's compliance plan and periodic reports required pursuant to Chapter 304. At this time, it is impossible to estimate the Commission's future costs of enforcing the standards. Those costs will vary with the number and complexity of complaints received and investigated by the Commission. Finally, Chapter 304 requires annual audits to be conducted to determine compliance with the standards of conduct; it is unknown what these audits will cost.

The Commission asked MPS for an estimate of its costs to comply with the standards of conduct. MPS estimated its costs in 1999 to be approximately \$40,000. As with the Commission, MPS could not estimate costs associated with potential enforcement actions.

The subsection also directed the Commission to assess the effect of imposing these compliance costs on ratepayers and the potential effects of imposing the costs on shareholders of the utility. Based on utility estimates, the rate effect of

imposing these costs on ratepayers would likely not be substantial. It is more difficult to estimate the effect of imposing these costs on MPS's shareholders. MPS may be better able to make that assessment.

XII. CONCLUSION

The Commission acknowledges, and appreciates, the hard work and cooperative spirit shown by the Legislature, the utilities, the competitive electricity providers, the Public Advocate and other intervenors, and (especially) the Commission's own staff during 1999. Through their efforts, the Commission has been able to complete the work necessary to prepare Maine's electricity markets, and Maine consumers, for restructuring.

Much work lies ahead. During early 2000, the Commission will be finishing the various revenue requirements cases and establishing final T&D rates; providing additional information to consumers to help them prepare for the March 1 changes; and making any last-minute changes to our rules needed to ensure a smooth transition. Throughout 2000, the Commission will continue to explore areas where rules can be improved to bring more benefits to consumers. By working with market participants, utilities, consumers representatives, the Legislature, and regulators throughout New England and our Canadian neighbors, the Commission hopes to ensure that, when it comes to electricity markets in Maine, all Mainers can build on the foundation now in place.

APPENDIX A

Maine Electricity Suppliers

Competitive Electricity Providers Licensed by the Maine Public Utilities Commission

Electricity Suppliers in Maine may be licensed to provide one or more supply-related services, including those of electricity supplier, aggregator, and broker. Unless otherwise noted below, PUC-licensed suppliers are licensed to provide all three supply-related services.

ORGANIZATION	CONSUMER CONTACT	STATUS *	SERVICE AREAS **
AGF Direct Gas Sales & Servicing, Inc. d/b/a AGF Direct Energy	Roland LaPierre Vice President Sales/Marketing 1000 Elm Street, 12th Floor Manchester, NH 03101-1713 Tel: 800.296.6427 Fax: 603.668.0591 rlapierre@agfdirectgas.com	Application Docketed 12/06/99 Docket No. 1999-877 Under Review	----
Alternate Power Source, Inc.	Frederick W. Hoey Alternate Power Source, Inc. 400 Blue Hill Drive Suite 188 Westwood, MA 02090 Tel: 781.320.9737 Fax: 781.320.8904 Fhoey@alternatpower.com	License Granted 10/25/99 to serve large customers. Docket No. 1999-599	All
<u>E/PRO Engineering and Environmental Consulting, LLC</u>	Robert G. Letourneau, P.E. E/PRO Engineering and Environmental Consulting LLC 41 Anthony Avenue Augusta, ME 04330 Tel: 207.621.7000 Fax: 207.621.7001 rletourneau@eproconsulting.com	Application Docketed 12/16/99 Docket No. 1999-910 Under Review	---
Energy Atlantic, LLC	Calvin D. Deschene Energy Atlantic, LLC P.O. Box 1148 Presque Isle, ME 04769-1148 Tel: 877.367.4493 Fax: 207.764.4657	License Granted 5/10/99 to serve all customers. Docket No. 1999-237	All

Energy Options Consulting Group, LLC	Douglas Stevenson Energy Options Consulting Group, LLC Rt 1, Box 398 Wayne, ME 04284 Tel: 207.685.9005 Fax: 207.685.7369 dsteven@ctel.net	License Granted 6/2/99 to provide Aggregator/Broker services to all customers. Docket No. 1999-293	All
Energy Supply, Inc.	Kenneth Borneman 1 Old County Road. Veazie, Maine 04401 Tel: 207.942.8442 Fax: 207.942.8442 BornemanK@aol.com	License Granted 12/21/99 to provide Aggregator/Broker services to all customers. Docket No. 1999-780	All
Enron Energy Services, Inc.	Sharon Pohlmann Customer Service Enron Energy Services, Inc. 400 Metro Place North Dublin, OH 43017 Tel: 800.837.9584	License Granted 6/15/99 to serve large customers. Docket No. 1999-330	ISO-NE Area
FPL Energy Power Marketing, Inc.	John O'Rourke 700 Universe Blvd Juno Beach, FL 33408 Tel: 561.691.7259 Fax: 561.691.7309 john_o'rourke@fpl.com	License Granted 11/1/99 to serve large customers. Docket No. 1999-698	BHE, CMP, MPS
H.Q. Energy Services (U.S.), Inc.	Michael R. Godfrey Airport Office Park Building 5, 2nd Floor 345 Rouser Road Coraopolis, PA 15108 Tel: 412.262.2648 ext. 224 Fax: 412.262.2640 mgodfrey@sgi.net	License Granted 9/28/99 to serve large customers. Docket No. 1999-627	All

L.K. Goldfarb Associates, Inc.	Lynn K. Goldfarb L.K. Goldfarb Associates 50 Portland Pier Portland, Maine 04101 Tel: 207.828.8667 Fax: 207.773.2047 LKGOLD@AOL.COM	Application Docketed 11/02/99 Docket No. 1999-871 Under Review	----
Maine Electric Consumer Cooperative (MECC)	Mark Isaacson 50 Downeast Drive Yarmouth, ME 04096 Tel: 207.846.3991 misaac@maine.rr.com	License Granted 11/30/99 to Provide Aggregator/Broker Services to Large Customers Docket No. 1999-762	ISO-NE Area
Maine Health and Higher Educational Facilities d/b/a Maine PowerOptions	Stephen M. Gauthier Program Officer Maine PowerOptions 3 University Drive P.O. Box 2268 Augusta, ME 04338-2268 Tel: 207.621.0744 Fax: 207.623.5359 smg@mainebondbank.com	License Granted 4/6/99 to provide Aggregator/Broker services to all customers. Docket No. 1999-162	All
Maine Municipal Bond Bank d/b/a Maine PowerOptions	Stephen M. Gauthier Program Officer Maine PowerOptions 3 University Drive P.O. Box 2268 Augusta, ME 04338-2268 Tel: 207.621.0744 Fax: 207.623.5359 smg@mainebondbank.com	License Granted 6/29/99 to provide Aggregator/Broker services to all customers. Docket No. 1999-363	All
NewEnergy East, LLC	Campbell Hawkins 1000 Wilshire Blvd Suite 1900 Los Angeles, CA 90017 Tel: 888.825.0700 Fax: 213.614.8007 chawkins@newenergy.com	License Granted 12/13/99 to serve large customers. Docket No. 1999-809	All

PP&L Energy Plus Co., LLC	David J. Bonenberger Two North Ninth Street Allentown, PA 18101-1179 Tel: 610.774.7239 Tel: 877.EPLUSCO djbonenberger@papl.com	License Granted 10/12/99 to serve all customers. Docket No. 1999- 632	ISO-NE Area
The Proctor & Gamble Distributing Company	Michele A. Kidd Purchasing Group Manager The Proctor & Gamble Distributing Company 6060 Centerhill Road Cincinnati, OH 45224 Tel: 513.634.5575 Fax: 513.634.1633 kidd.ma@pg.com	Application Docketed 12/03/99 Docket No. 1999- 874 Under Review	----
Select Energy, Inc.	Margaret Howell Manager c/o Select Energy, Inc. Customer Inquiry Center 107 Selden Street Berlin, CT 06037 Tel: 888.810.5678 Fax: 860.665.6555 se-cic@selectenergy.com	License Granted 10/13/99 to serve all customers. Docket No. 1999- 614	All
SYNERNET, Inc. d/b/a PowerNet, Inc.	Jeffrey W. Laniewski Vice President Synernet, Inc. 222 St. John Street, Suite 329 Portland, ME 04102 Tel: 207.771.3445 Fax: 207.775.3415 jlaniewski@synernet.net	License Granted 5/18/99 to provide Aggregator/Broker services to large customers. Docket No. 1999- 269	BHE, CMP
Weil and Howe, Inc.	Gordon L. Weil Weil and Howe, Inc. P.O. Box 1990 Augusta, ME 04332-1990 Tel: 207.622.4406 Fax: 207.621.0069 info@weilnet.com	License Granted 5/18/99 to provide Aggregator/Broker services to large customers. Docket No. 1999- 251	All

WPS Energy Services, Inc.	Marc D. Hess WPS Energy Services, Inc. 677 Baeten Road Green Bay, WI 54304 Tel: 920.490.6083 Fax: 920.490.5994 mhess@wpsenergy.com	License Granted 11/4/99 to provide standard offer service only. Docket No. 1999-699	Maritimes Area
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* **Large Customers** are those with a demand greater than 100 kilowatts, generally industrial or larger commercial businesses.

** **SERVICE AREAS** means the service territory(s) of Maine Transmission and Distribution utilities ("distribution companies") in which the Commission has authorized a licensee to operate. Licenses can be granted for one or more individual distribution company (e.g., BHE, CMP) service territories, for the service territories of distribution companies in certain regions, or for the service territories of all distribution companies in the state.

There are two electric grid regions in Maine. The ISO-NE Area covers the western and southern portions of the state including the service areas of Bangor Hydro-Electric Co., Central Maine Power Co., Fox Islands Elec. Co-op., Kennebunk L&P, Madison Elec. Works, and Swans Island Elec. Co-op. The Maritimes Area covers the eastern and northern portions of the state including the service areas of Eastern Maine Elec. Co-op., Houlton W.C., Maine Public Service Co., and Van Buren L&P.

Customers in three other distribution company service territories are not participating in electric competition at this time. Two (Matinicus Plt. Elec. Co-op. and Monhegan Plt. Power Dist.) are not connected to the mainland power grid. Although part of the ISO-NE Area, the third, Isle au Haut Electric Co-op., is also not participating in the retail electric competition process.

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Page last updated: December 21, 1999

Appendix B

Commission Rules Related to Electric Restructuring

During 1999, the Commission completed the adoption of all rules necessary to implement electric restructuring. The electric restructuring rules are:

Chapter 301: Standard Offer Service

Chapter 302: Consumer Education Program: Electric Industry Restructuring

Chapter 303: Utility Employee Transition Benefits

Chapter 304: Standards of Conduct for Transmission and Distribution Utilities and Affiliated Competitive Electricity Providers

Chapter 305: Licensing Requirements, Annual Reporting, Enforcement and Consumer Protection Provisions for Competitive Provision of Electricity

Chapter 306: Uniform Information Disclosure and Informational Filing Requirements

Chapter 307: Sale of Capacity and Energy; Extensions for Divestiture of Assets

Chapter 309: Bill Unbundling and Illustrative Bills

Chapter 311: Eligible Resource Portfolio Requirement

Chapter 312: Voluntary Renewable Resource Research and Development Fund

Chapter 313: Customer Net Energy Billing

Chapter 321: Load Obligation and Settlement Calculations for Competitive Providers of Electricity

Chapter 322: Metering, Billing, Collections, and Enrollment Interactions Among Transmission and Distribution Utilities and Competitive Electricity Providers

Chapter 323: Electric Business Transactions Standards

Chapter 360: Cogeneration and Small Power Production

Chapter 380: Demand Side Energy Management Programs by Electric Utilities

Chapter 820: Utility Requirements for Non-Core Activities and Transactions Between Affiliates

Appendix C

35-A M.R.S.A. § 3217(1) directs the Commission to report on activities relating to changes in the regulation of electric utilities in other states. The Energy Information Administration maintains a website that describes the status of state electric restructuring efforts. The contents are too voluminous for this report, but may be accessed on (http://www.eia.doe.gov/electricity/chg_str/tab5rev.html).