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# **MAINE PUBLIC UTILITIES COMMISSION**

## **STAKEHOLDER GROUP REPORT ON NEW LINE EXTENSION CONSTRUCTION PRACTICES OF INVESTOR-OWNED T&D UTILITIES**

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2010

**Presented to the  
Utilities and Energy Committee  
February 22, 2010**

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## **I. INTRODUCTION AND BACKGROUND**

During the 2009 session, the Legislature enacted Resolve, Regarding new Utility Line Extension Construction. Resolve, 2009, ch. 69 (see Appendix C). The Resolve directed the Commission to convene a stakeholder group to study the practices of investor-owned transmission and distribution (T&D) utilities with respect to new utility line extension construction. The Resolve stated that the study must include, but is not limited to, an evaluation of how the utilities' line extension practices affect private line extension contractors and a review of the methodologies used to apportion line extension costs. The Resolve specifies that the study not include the actual rates and prices charged for line extensions.

The Resolve required the Commission to invite, at a minimum, representatives from the investor-owned T&D utilities, associations of builders and contractors, private line extension contractors and the Office of the Public Advocate to participate in the stakeholder group. Finally, the Resolve required the Commission to submit a report of the findings and recommendations of the stakeholder group to the Utilities and Energy Committee by February 15, 2010<sup>1</sup> and that the report must, at a minimum, include an assessment of any differences in the pricing or costing methodologies used by the investor-owned T&D utilities and recommendations to achieve a common standard operating procedure for line extension cost pricing or costing.

## **II. STAKEHOLDER GROUP'S PROCESS**

The Commission initiated the Stakeholder process through a Notice of Inquiry (NOI) issued in Docket No. 2009-273 on September 1, 2009. The NOI was sent to all persons that testified at the Legislature regarding L.D. 968, all T&D utilities, the Office of the Public Advocate (OPA), the Associated Builders and Contractors of Maine (ABC) and to everyone on the Commission's service list in Docket No. 2005-412, a Central Maine Power Company (CMP) line extension proceeding. The following entities responded to the NOI and participated in the Stakeholder group convened by the Commission:

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<sup>1</sup> The deadline was subsequently extended to February 22, 2010.

**Table 1**

<b>Stakeholder Group Participants</b>
CMP
Bangor Hydro-Electric Company (BHE)
Maine Public Service (MPS)
OPA
ABC
Hartt's Electric Service, Inc. (Hartt's Electric)
Winkumpaugh Line Construction (Winkumpaugh)
Enterprise Electric
Robert Bemis
Dirigo Electric Cooperative

The Stakeholder group met four times between September, 2009 and the end of December, 2009.<sup>2</sup> Subsequent to the last meeting, the group finalized the report by exchanging drafts and language via e-mail messages. Although the group discussed a wide array of line extension issues, this report includes specific reference only to those areas that the group, or some subset of the group, felt should be modified. The report provides the views of each subset of the group in Appendix B.

### **III. ISSUES CONSIDERED BY STAKEHOLDER GROUP**

As required by the Resolve, the group identified the line-extension practices and pricing methodologies of the three investor-owned T&D utilities (see Appendix A). As shown in Appendix A, many differences in the line-extension policy and practices exist between the three T&D utilities. The Stakeholder group considered the effect that these different utility practices have on private line extension contractors, to what degree common standard operating procedures should be implemented, and whether certain policies and practices should be modified. The group found that most of the differences in utilities' line extension practices were not problematic and there would be little or no benefit in attempting to standardize the policies. The areas of concern that were identified by some stakeholders are discussed below.

#### **A. Line-Extension Competition By Electric Utility Service Territory**

As shown in Table 2, a much larger proportion of the line extensions constructed in BHE's service territory are constructed by private contractors than in CMP's service territory.<sup>3</sup> The Stakeholder group had varying opinions regarding the

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<sup>2</sup> Outside of these four official meetings, stakeholders discussed certain pricing issues that were open issues in Docket No. 2005-412 at that time. The Commission Staff did not participate in these discussions.

<sup>3</sup> The stakeholder group did not attempt to explain the limited number of private line extension contractors operating in MPS's territory. However, according to MPS, its service territory averages less than 30 total line extensions per year and contractor interest is very low due to the limited profitability.

source of this difference and the history that may have led to these differences. Appendix B.1 provides the different viewpoints expressed by the stakeholders on this point.

**Table 2**

<b>Total Line Extensions Constructed</b>										
	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>
<b>CMP</b> Total LEs built (% built by contractors)	648 (6%)	1047 (4%)	1510 (6%)	1490 (8%)	1849 (10%)	1463 (11%)	1433 (14%)	995 (12%)	695 (13%)	569 (17%)
<b>BHE</b> Total LEs built (% built by contractors)	No data	No data	No data	No data	No data	504 (66%)	511 (60%)	453 (61%)	336 (63%)	No data
<b>MPS</b> Total LEs built (% built by contractors)	No data	No data	No data	No data	20 (5%)	28 (0%)	35 (0%)	24 (0%)	26 (0%)	21 (5%)

**B. Contribution In Aid of Construction (CIAC) Tax**

The CIAC tax adder is a tax imposed by the Internal Revenue Service which is triggered by a cash contribution or a contribution of property to a regulated public utility, such as when a line-extension, paid for by a customer, is then turned over to a T&D utility.<sup>4</sup> The utilities are required to include the contribution as income when received and can deduct the depreciation of the related property over the 21-year tax life. The CIAC tax adder is the net present value of these tax timing differences. The group noted that there were minor differences in the utilities' methodologies in applying the tax and did not reach consensus on the most appropriate method. Please see Appendix B.2 for the different views of the stakeholders on this point.

**C. Initial Contact Information**

The group reviewed the information provided to customers at the time of initial contact. There were differing opinions as to the amount of modification that should be made to the provided material. Please see Appendix B.3 for the different views of the group on this point. There was general agreement, however, that MPS's material should be modified to provide information more specific to line extensions. Pursuant to this input, MPS agreed to modify its material and posted the new material on its website.

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<sup>4</sup> If a customer opts to maintain ownership of their line extension, a CIAC tax is not incurred, unless or until ownership of that line is turned over to the utility. Because utilities do not construct privately-owned line extensions, all utility-constructed line extensions trigger a CIAC tax. However, line extensions constructed by private-line contractors that remain privately-owned do not trigger a CIAC tax.

#### D. Inspection Fees

Chapter 395, section 4, of the Commission's rules requires a private line contractor, or owner of a private line, to obtain a determination by a utility employee or a written certification by a registered professional engineer (PE) that the line is safe, prior to it being energized.<sup>5</sup> The group reviewed differences in the fees charged by the utilities for this inspection or certification. As noted in Appendix A, CMP does not currently charge for inspecting a private line. BHE charges \$100 per line extension, plus \$25 for each pole, manhole, pull hole, padwell or other structure beyond the first if it certifies the line and no charge if a PE provides written certification of the line. MPS charges \$250 per line for up to a 4-pole extension with an additional \$25 per additional pole if it completes the certification of the line and a flat fee of \$150 if it inspects the line but a registered PE certifies the line.

There was disagreement within the group about whether there should be a uniform approach among the utilities and what the appropriate policy should be. Please see Appendix B.4 for the different views of the stakeholder group on this point.

#### E. Who Should Be Allowed to Perform Make-Ready Work

Make-Ready work is the work necessary to connect the line-extension to existing utility infrastructure. Currently, CMP, BHE, and MPS do not allow private contractors to perform this work independently, although some private-line contractors are allowed to work within the utilities' energized space when functioning as a sub-contractor under the utilities' supervision. There were differing opinions within the group as to whether line extension contractors should be allowed to perform this work without utility supervision and to what degree this issue should be considered in the context of this proceeding. Please see Appendix B. 5 for the differing opinions on this point.

#### F. Telephone Contributions

In some areas, the cost of setting a new utility pole is shared between the electric and telephone utility. Depending on the location, this can mean that the telephone utility sets the pole and the electric utility provides a contribution or that the electric utility sets the pole and the telephone utility provides a contribution. As identified in Appendix A, the electric utilities treat these contributions differently. CMP and MPS exclude these contributions from their per-foot cost (instead, offsetting general rates with the contribution) but recognize them when calculating the line extension cost for jobs charged on a design-basis. The stakeholders did not raise any concerns with CMP and MPS's methods of treating these contributions.

BHE, however, currently includes these contributions in its per-foot price. Some of the stakeholders raised concerns with this approach, noting that it creates a

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<sup>5</sup> The rule also allows for certification from a person "licensed to certify electric distribution line extension construction by the Maine Office of Licensing and Registration or by another State agency designated by law." However, no such license currently exists.

competitive disadvantage for private line contractors. In its comments, BHE indicated that it intends to file a revision to its terms and conditions to remove these contributions from its per-foot charges.

G. Per-Foot Pricing vs. Design-based Pricing

By far the most controversial subject of the stakeholder group was the issue of line extension pricing by utilities. As shown in Appendix A, line extension pricing mechanisms vary by utility and by type of line extension. However, for single-phase, overhead line extensions, CMP, BHE, and MPS all use average, per-foot pricing. While BHE and MPS have priced their line extensions this way for many years, from 2000 to mid-2007 CMP priced its line extensions based on estimates developed for each individual job (design-based pricing). Beginning on July 1, 2007, CMP switched to per-foot pricing for its line extensions. This change has been examined, and heavily litigated, as part of MPUC Docket No. 2005-412. Please see Appendix B.6 for the different viewpoints expressed by the stakeholders, the most recent Commission Order issued in Docket No. 2005-412 that affirmed the continued use of per-foot pricing for CMP, as well as Hartt's Electric's Request for Reconsideration filed with the Commission on February 18, 2010.<sup>6</sup>

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<sup>6</sup> It should be noted that this Request for Reconsideration is an active issue in the litigation of Docket No. 20005-412 and is included at the request of Hartt's Electric. It has not been reviewed or discussed by the Stakeholder group and other stakeholders have not had an opportunity to respond to its contents.

<b>OH, Single-Phase Residential</b>	<b>CMP</b>	<b>BHE</b>	<b>MPS</b>
<b># feet free if utility constructed</b>	0 (except service drop and secondary-voltage extensions)	0 (except service drop)	300' free
<b># feet free if privately constructed</b>	0 (except service drop)	0 (except service drop)	MPS will refund amt. for 300'
<b>Current pricing</b>	Average based on historic blended average cost (residential & commercial)	Average based on theoretical average line	Average based on 2-yr. historic cost
<b>Tariffed rate</b>	Y (after compliance phase)	Y	N
<b>Paid</b>	100% upfront	100% upfront or option to finance over 10 years. Customer may be able to finance contractor-constructed cost, up to BHE cost	100% upfront
<b>Credits</b>	For additional customers, as described in Ch. 395	For additional customers, as described in Ch. 395	For additional customers, as described in Ch. 395
<b>MR costs if utility constructed</b>	Separate charge	Not charged	Extra charge but only if MR costs incurred
<b>MR costs if privately constructed</b>	Separate charge	Not charged	Extra charge but only if MR costs incurred
<b>CIAC tax if utility constructed</b>	Included in tariff rate	Added to tariff rate	Only charged on cost of length >2,000' (public ROW), 1,000' (private ROW)
<b>CIAC tax if privately constructed</b>	Based on contractor's charge to customer	Based on lesser of contractor's charge to customer or what BHE would have charged	Based on contractor's charge to customer
<b>Maintenance Charge</b>	If inaccessible by utility truck, 50% of actual costs forever	N	For length > 2,000' (public ROW) & 1,000' (private ROW) for 1 year.
<b>Telephone contribution included in cost</b>	N	Y	N
<b>Ledge</b>	Separate per pole/anchor charge. Billed after job is done for actual ledge that was encountered. CMP will energize prior to payment for ledge.	Separate per foot charge added to cost of job. Trued up to actuals after the job is complete. BHE attempts to include sufficient costs for ledge such that they can issue a refund rather than needing to seek additional funds.	Charge actual cost of ledge after job completion. Require ledge payment prior to energizing line.
<b>Trim</b>	Trim charge based on per-span estimate. Not trued up but actual usually close to estimate as trim work can be estimated relatively closely.	Separate per-foot charge based on estimate, then trued up to actuals if, for example, a customer does their own trim after the estimate is complete.	Trim by customer (MPS will help arrange to have done but does not trim except its own line @ take-off pole)
<b>Low-Income/EDR assistance</b>	Y	N	N
<b>Special Facilities/Charges</b>	"incremental costs...for extensions that require construction which would result in special costs ... not included in the average costs, such as crossing rivers and ponds, extending to an island, use of submarine cable, or other special conditions."	"required to cover the cost of specialized materials or equipment purchased or leased by the Company specifically to serve the Customer or Developer..."	"the incremental cost of any poles in excess of 40 feet and ...any special structures required for crossing bodies of water."



<b>OH, Single-Phase Development</b>	<b>CMP</b>	<b>BHE</b>	<b>MPS</b>
<b># feet free</b>	0	0	0 except 300' credit/meter for meters ready to activate at time of energize
<b># feet free if privately constructed</b>	0	0	0 except 300' credit/meter for meters ready to activate at time of energize
<b>Current pricing</b>	Design based	Average based on theoretical average line	Average based on 2-yr. historic cost
<b>Tariffed rate</b>	N	Y	N
<b>Paid</b>	100% upfront	100% upfront or option to finance over 10 years. Customer may be able to finance contractor-constructed cost, up to BHE cost	100% upfront
<b>Credits</b>	N	N	Refund for 300' free for each for add. customers for 5 yrs. or until fully refunded, whichever occurs first
<b>MR costs if utility constructed</b>	Design based	Not charged	Only if MR costs incurred
<b>MR costs if privately constructed</b>	Design based	Not charged	Only if MR costs incurred
<b>CIAC tax if utility constructed</b>	Based on utility cost	Added to tariff rate	Based on utility cost
<b>CIAC tax if privately constructed</b>	Based on contractor's charge to customer	Based on lesser of contractor's charge to customer or what BHE would have charged	Based on contractor's charge to customer
<b>Maintenance Charge</b>	If inaccessible by utility truck, 50% of actual costs forever	N	For full length for 1 yr.
<b>Telephone contribution included in cost</b>	Y	Y	N
<b>Ledge</b>	Separate charge for actual ledge costs, billed after job is complete. CMP will energize prior to payment for ledge.	Separate per foot charge added to cost of job. Trued up to actuals after the job is complete. BHE attempts to include sufficient costs for ledge such that they can issue a refund rather than needing to seek additional funds.	Charge actual cost of ledge after job completion. Require ledge payment prior to energizing line.
<b>Trim</b>	Trim charge based on per-span estimate. Not trued up but actual usually close to estimate as trim work can be estimated relatively closely.	Separate per-foot charge based on estimate, then trued up to actuals if, for example, a customer does their own trim after the estimate is complete.	Trim by customer (MPS will help arrange to have done but does not trim except its own line @ take-off pole)
<b>Low-Income/EDR assistance</b>	N	N	N
<b>Special Facilities/Charges</b>	Design based	"required to cover the cost of specialized materials or equipment purchased or leased by the Company specifically to serve the Customer or Developer..."	"the incremental cost of any poles in excess of 40 feet and ...any special structures required for crossing bodies of water."

<b>OH, Single-Phase Commercial</b>	<b>CMP</b>	<b>BHE</b>	<b>MPS</b>
# feet free	0 (except service drop and secondary-voltage extensions)	0 (except service drop)	300' free
# feet free if privately constructed	0 (except service drop)	0 (except service drop)	MPS will refund amt. for 300'
Current pricing	Average based on historic blended average cost (residential & commercial)	Average based on theoretical average line	Average based on 2-yr. historic cost
Tariffed rate	Y (after compliance phase)	Y	N
Paid	100% upfront	100% upfront or option to finance over 10 years. Customer may be able to finance contractor-constructed cost, up to BHE cost	100% upfront
Credits	For additional customers, as described in Ch. 395	For additional customers, as described in Ch. 395	For additional customers, as described in Ch. 395
MR costs if utility constructed	Separate charge	Not charged	Extra charge but only if MR costs incurred
MR costs if privately constructed	Separate charge	Not charged	Extra charge but only if MR costs incurred
CIAC tax if utility constructed	Included in tariff rate	Added to tariff rate	Only charged on cost of length >2,000' (public ROW), 1,000' (private ROW)
CIAC tax if privately constructed	Based on contractor's charge to customer	Based on lesser of contractor's charge to customer or what BHE would have charged	Based on contractor's charge to customer
Maintenance Charge	If unaccessible by utility truck, 50% of actual costs forever	N	For length > 2,000' (public ROW) & 1,000' (private ROW) for 1 year.
Telephone contribution included in cost	N	Y	N
Ledge	Separate per pole/anchor charge. Billed after job is done for actual ledge that was encountered. CMP will energize prior to payment for ledge.	Separate per foot charge added to cost of job. Trued up to actuals after the job is complete. BHE attempts to include sufficient costs for ledge such that they can issue a refund rather than needing to seek additional funds.	Charge actual cost of ledge after job completion. Require ledge payment prior to energizing line.
Trim	Trim charge based on per-span estimate. Not trued up but actual usually close to estimate as trim work can be estimated relatively closely.	Separate per-foot charge based on estimate, then trued up to actuals if, for example, a customer does their own trim after the estimate is complete.	Trim by customer (MPS will help arrange to have done but does not trim except its own line @ take-off pole).
Low-Income/EDR assistance	N	N	N
Special Facilities/Charges	Design based	"required to cover the cost of specialized materials or equipment purchased or leased by the Company specifically to serve the Customer or Developer..."	"the incremental cost of any poles in excess of 40 feet and ...any special structures required for crossing bodies of water."

<b>OH, Three-Phase</b>	<b>CMP*</b>	<b>BHE</b>	<b>MPS</b>
# feet free	0	0	0
# feet free if privately constructed	0	0	0
Current pricing	Design based	Average based on theoretical average line	Design based
Tariffed rate	N	Y	N
Paid	100% upfront	100% upfront or option to finance over 10 years. Customer may be able to finance contractor-constructed cost, up to BHE cost	100% upfront
Credits	For additional customers, as described in Ch. 395	For additional customers, as described in Ch. 395	For additional customers, as described in Ch. 395. Plus 10% of customer's actual delivery bill for 5 yrs. or until contribution fully refunded.
MR costs if utility constructed	Design based	Not charged	Only if MR costs incurred
MR costs if privately constructed	Design based	Not charged	Only if MR costs incurred
CIAC tax if utility constructed	Based on utility cost	Added to tariff rate	Based on utility cost
CIAC tax if privately constructed	Based on contractor's charge to customer	Based on lesser of contractor's charge to customer or what BHE would have charged	Based on contractor's charge to customer
Maintenance Charge	Make customer specific arrangements	N	N
Telephone contribution included in cost	Y	Y	Y
Ledge	Separate charge for actual ledge costs, billed after job is complete. CMP will energize prior to payment for ledge.	Separate per foot charge added to cost of job. Trued up to actuals after the job is complete. BHE attempts to include sufficient costs for ledge such that they can issue a refund rather than needing to seek additional funds.	Charge actual cost of ledge after job completion. Require ledge payment prior to energizing line.
Trim	Trim charge based on per-span estimate. Not trued up but actual usually close to estimate as trim work can be estimated relatively closely.	Separate per-foot charge based on estimate, then trued up to actuals if, for example, a customer does their own trim after the estimate is complete.	Trim by customer (MPS will help arrange to have done but does not trim except its own line @ take-off pole)
Low-Income/EDR assistance	N	N	Y
Special Facilities/Charges	Design based	"required to cover the cost of specialized materials or equipment purchased or leased by the Company specifically to serve the Customer or Developer..."	Design based

\* - For CMP, applies to URD 3-phase, as well.

<b>URD</b>	<b>CMP*</b>	<b>BHE</b>	<b>MPS</b>
# feet free	0	0	0
# feet free if privately constructed	0	0	0
Extra Charge for URD transformer	N	Y unless customer's load would require pad-mount transformer	Currently N for single-phase as there is no incremental cost relative to OH transformer. If there was an incremental cost, there would be a charge; N for 3-phase
Current pricing	Average based on average design cost	Design based with unit costs	Design based
Tariffed rate	Y (after compliance phase)	N	N
Paid	100% upfront	100% upfront	100% upfront
Credits	For additional customers, as described in Ch. 395	For additional customers as described in Ch. 395	For additional customers, as described in Ch. 395. Plus for 3-phase, 10% of customer's actual delivery bill for up to 5 yrs.
MR costs if utility constructed	separate charge	N	N
MR costs if privately constructed	separate charge	N	N
CIAC tax if utility constructed	included in tariff rate	Based on utility cost	Based on utility cost
CIAC tax if privately constructed	Based on contractor's charge to customer	Based on lesser of contractor's charge to customer or what BHE would have charged	Based on contractor's charge to customer
Maintenance Charge	If unaccessible by utility truck, 50% of actual costs forever	N	N
Telephone contribution included in cost	N/A	N/A	N/A
Ledge/Trim	N/A	N/A	N/A
Low-Income/EDR assistance	N	N	N for single phase. Y for polyphase.
Special Facilities/Charges	"incremental costs...for extensions that require construction which would result in special costs ... not included in the average costs, such as crossing rivers and ponds, extending to an island use of submarine cable, or other special conditions."	Design Based	Design based

\* - For CMP, applies to single-phase URD only. CMP 3-phase URD like 3-phase OH

<b>Other</b>	<b>CMP</b>	<b>BHE</b>	<b>MPS</b>
Secondary Line Extensions	No charge	Not generally considered line extension. If it is a line extension, only charge for incremental cost of wire above cost of service drop cost.	Same as primary
Maintenance of privately owned-lines	Charge actual cost.	Either actual cost or monthly service charge.	Only have 1, unenergized private line but would charge actual
<b>Inspection/Inspection Fees:</b>  Note: Chapter 395 Section 4(A) states that "[b]efore a line extension in a public or a private way is energized, the private line extension contractor or an owner of a line extension must obtain one of the determinations required by this section." The options provided are: 1) A T&D utility employee, required within 5 business days of the request (except in event of emergencies); 2) a registered PE. or (3) a person licensed to certify safety and compliance of line [no such license currently exists]	CMP does not charge for line inspections. CMP inspects even if PE has inspected. CMP does not "certify" the inspection.	BHE charges \$100 per extension plus \$25 for each pole, manhole, pull hole, padwell, or other structure beyond the first.  BHE requires all privately constructed primary lines over 600 volt to be inspected. BHE does not consider secondary lines (<600 volts) to be line extensions and considers them to be outside the scope of Ch. 395. BHE charges for inspection and "certifies" line unless a PE provides certification of line in which case BHE does not charge and does not certify the line.	MPS has tariffed rate that provides for \$250 inspection fee for upto a 4-pole extension and an additional \$25 per each pole beyond (if not inspected by PE) and \$150 (regardless of length if PE previously inspected. No inspection required for secondary lines.

## **Appendix B.1 -- Line-Extension Competition and Historical Differences by Electric Utility Service Territory**

### **i. BHE's View (supported by CMP)**

BHE's customers have had a long history of building private lines to extend electric service to their homes and businesses. Unlike CMP, prior to March 1990, BHE would not extend a Company-owned line more than 150 feet outside of the public right of way to provide service to an individual customer. An individual BHE customer needing an electric line extension beyond 150 feet onto their property or along a private road was required to build and maintain their own private line. When additional customers require service from one of these private lines, BHE would acquire the line up to the point where it serves more than one customer. Due to this long standing history of private line construction, there have been private line construction companies operating in BHE's service territory for some time and BHE's customers are familiar with having them build line extensions. In contrast, private-line contractors operating in CMP's service territory is a relatively new situation, as prior to 2000, CMP provided 300 feet free to customers, making it difficult for contractors to compete.<sup>7</sup>

BHE agrees with Winkumpagh's history (see below) with a few exceptions. Prior to being purchased by BHE in November 1987, the Stonington & Deer Isle Power Company, located in Deer Isle, Maine, was hired by Haskell Electric to run wire on private lines they built for BHE customers in the Blue Hill area. Stonington & Deer Isle Power Company ceased operation on November 27, 1987. This would indicate that Haskell Electric started private line construction activities sometime prior to the middle to late 1990's. In addition to the contractors mentioned by Winkumpagh, there was also Northern Line Construction, which operated in the Bangor area and Precision Pole and Hole which operated in the Corinth area.

### **ii. Winkumpagh's View (supported by Hartt's Electric, Enterprise Electric)**

In the early 1970's, Bud Morse (now owner of Winkumpagh) saw the need for a private company to set poles in the BHE Area. BHE was the only one who built power lines at that time. In the early 1980s, Phill Gott of Franklin bought an old digger truck and started building private lines. Around 1981, Mr. Morse was a night lineman for BHE in the Hancock county division. Phil Gott approached Mr. Morse to help him set poles. Mr. Morse declined. In 1983, Larry Billings and Mike Young started Winkumpagh Line Company and they approached Mr. Morse to train someone to do the work. Winkumpagh had also been awarded the bid for New England Telephone Co. In 1987, Winkumpagh started building private lines and sub divisions but the majority of Winkumpagh's work was New England Telephone Co. In the early 1990's, Winkumpagh lost the contract to another company, so it started to pursue private lines. In the middle 1990's, Winkumpagh found it hard to compete with BHE because BHE had a price per foot around five dollars which included ledge and trimming. Winkumpagh almost went out of business as it could not compete.

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<sup>7</sup> CMP reported a total of only 460 private line extensions constructed in its service territory between 1965 and 1999.

Knowing Winkumpaugh's cost, BHE must have lost money on its jobs and after a while BHE realized this and increased its price per foot.

In the middle to late 1990's, Al Haskell from Blue Hill started setting service poles in the Blue Hill area and about the same time Ralph Fowler of Franklin started setting poles. It is Winkumpaugh's recollection that B&B of Bangor and Dave Hart also started about that time. Other BHE men started setting poles on the weekend, but BHE put a stop to it. Early 2000, MCM of Hull Quarry, Mark Wright Columbia Falls, and Powerline of Bradley, Maine also started building lines.

It is Winkumpaugh's belief that until the middle 1990's, it was one of the only private contractors in the area.

## **Appendix B.2 -- Contribution in Aid of Construction (CIAC) Tax**

### **i. Majority View**

The majority of the group did not find the minor differences in the utilities' methodologies in calculating the tax to be an area of concern. Rather the majority of the group expressed concern related to private line contractors not having current information on the CIAC tax rate at any given time. Although this rate is in the utilities' tariffs, the Stakeholder group agreed it would be easier for customers and line-extension contractors if the current CIAC tax rate for each utility was listed on the utility's website. CMP, BHE, and MPS have added this information to their websites.

### **ii. Enterprise Electric's View**

Utilities should develop a "value" of the line extension and charge the CIAC tax based on that set value. This would ensure that line contractors do not lose a bid to the utilities by using the CIAC tax as a leverage tool.



## **Appendix B.3 – Initial Contact Information**

### **i. Majority View**

After reviewing the material provided to customers at the time of initial contact regarding a line extension, the majority of the group found CMP's and BHE's information to be similar and appropriate, but felt that MPS's material should be modified to provide more information specific to line extensions. As a result, MPS agreed to modify its material and posted the new material on its website.

### **ii. Hartt's Electric's View (Supported by Enterprise Electric)**

Private contractors should have an opportunity to review and have input into materials that directly affect the industry. In the past, the initial contact information provided by utilities has not been accurate or clear (CMP's was completely false and deceptive). The contractors have endured misleading and/or inaccurate initial contact information for some time. Since all of the information to date has been written by the utilities, Hartt's Electric and Enterprise Electric think it is reasonable to allow the group affected most by the language to have a say in its creation. Both CMP and BHE could better explain the options available to the consumers. Hartt's Electric and Enterprise Electric would like to see a clear, straight-forward, accurate initial contact information package be approved for all forms of information given to line-extension customers.

## **Appendix B.4 – Inspection Fees**

### **i. Hartt's Electric, Enterprise Electric, and CMP's Views**

CMP does not charge for line inspections. According to CMP, it eliminated this fee as part of its effort to simplify the line-extension process when it switched from design-based pricing to per-foot pricing for line extensions. In its view, the inspection is not a certification and simplification of the process was worth foregoing the previously-charged minimal fee.

Hartt's Electric and Enterprise Electric support this approach and argue that an inspection is part of service hook up so that requiring customers to pay for a second inspection is redundant. In addition, they suggest that even if a line is inspected and certified by a professional engineer (PE), the utilities will still need to inspect the line. In their view, since the utility has exclusive jurisdiction over energizing the line, the inspection fee should be incorporated into general rates just like inspections for service entrances.

### **ii. MPS and BHE's Views**

BHE and MPS believe their charges are appropriate and supportable. BHE and MPS note that a customer has the opportunity to hire a PE and that the inspection fee is cost-justified. According to MPS, if it certifies the line, it makes site visits during construction to verify pole depth, line tensions, as well as other items. If a PE certifies the line, then MPS only makes a single inspection to verify clearances prior to energizing.

BHE notes its disagreement with the suggestion that there should be no fee for inspecting a private line because "an inspection fee is included in the standard service drop." According to BHE, there is no cost for inspecting a private line included in the standard service drop and, in fact, most newly-installed service drops are not attached to line extensions at the time the line is energized. In addition, BHE objects to socializing the costs of the inspections over the general body of ratepayers, noting that doing so would be inconsistent with the cost-causer principals otherwise supported by private-line contractors. BHE notes that it is not charging to inspect private lines but rather to certify private lines as safe to connect and meeting the requirements of code. BHE does not charge a certification fee if that certification is provided by a registered PE. Finally, BHE notes that the professional engineering industry group should be allowed to comment prior to making any change that would require utilities to provide this service at no cost to the customer.

## **Appendix B.5 – Who Should Be Allowed to Perform Make-Ready Work**

### **i. Majority View**

CMP, BHE, and MPS do not allow private line extension contractors to work within their energized electric space except when working under the supervision of the utility. The majority of the stakeholders felt that the issue of who should be allowed to work on utility infrastructure and under what conditions is a broad topic and not specific to line extensions. Accordingly, the majority of the group felt this issue was outside the scope of the Resolve and should not be addressed as part of this process.

### **ii. Enterprise Electric's View**

Enterprise Electric raised a concern that the utilities do not allow line-extension contractors to perform this work when the contractor is building a private line but in instances where line extension contractors are working for the utility, they are allowed to perform this work. According to Enterprise Electric, if it is to compete on every project with utilities, then it needs the ability to construct the line and do the make-ready work. It suggests that while this may be a topic for later discussion, the issue definitely needs to be addressed. In its view, if companies are contracted to do storm outage work in times of need, they should be allowed to do the final connections to the lines when the customer is ready to energize their line. In addition, Enterprise Electric suggests that only one contractor should be involved with a line extension rather than trying to coordinate construction and make-ready work with two separate companies.

## **Appendix B.6 – Per-Foot Pricing vs. Design-Based Pricing**

### **i. CMP's View**

In considering the merits of any pricing methodology, it is important to look at it in the context of recent revisions to line extension policies in the State. This history starts in 2001 when the 120<sup>th</sup> Legislature enacted P.L. 2001, Ch. 201, An Act Concerning Private Line Extension, which is codified at 35-A M.R.S.A. § 314. Section 314 addressed several issues related to line extensions constructed by private line extension contractors. Section 314 required that the Commission develop a rule that:

- Establishes standards for line extension construction that are identical for utility employees and private line extension contractors unless there are compelling safety reasons to do otherwise;
- Establishes terms for transferring ownership of a line extension from a private owner to a T&D utility; and
- Establishes methods for apportioning the costs of a line extension among persons who receive service through the line.

Section 314 also required the Commission to examine whether minimum professional qualifications should be established for private line extension contractors.

In response to Section 314, the Commission initiated a Notice of Inquiry on July 31, 2001 in Docket No. 2001-461 and then issued a Notice of Rulemaking on October 23, 2001 in Docket No. 2001-701. The rulemaking proceeding resulted in a provisional rule that was adopted by Order dated January 29, 2002. Because this rule, Chapter 395, was a "major substantive" rule, it required legislative approval under 5 M.R.S.A. §§ 8071-8074. The Legislature approved the rule, subject to certain revisions, and Chapter 395 was finally adopted by Commission Order dated April 9, 2002. In adopting Chapter 395, the Commission identified three general principles inherent in the rule. The three principles are:

1. Competition for line extension construction may benefit customers by lowering costs.
2. Each business entity should compete based on its economic merits. The rule strives to eliminate barriers to competition and avoid subsidies. It also requires that all entities attain identical levels of safety and reliability.
3. Line extensions must be safe, regardless of who constructs or owns them.

On July 7, 2002, CMP filed extensive revisions to its line extension Terms and Conditions so that they would conform to the requirements of the recently adopted Chapter 395. Pursuant to numerous discussions with the Commission Staff, CMP made several changes and refilings. On June 17, 2003, the Commission issued an Order approving CMP's revised line extension Terms and Conditions in Docket No. 2002-342.

Subsequently, the Commission initiated Docket No. 2005-412 on July 1, 2005, as a result of a complaint filed pursuant to 35-A M.R.S.A. Section 302, signed by Robert A. Bemis and twelve other persons ("Complainants") requesting that the Commission investigate CMP's line extension policies, filed tariffs and terms and conditions on line extensions. The Complainants requested an investigation into three major areas of concern: (1) the length of time that it takes CMP to complete work related to line extensions; (2) the fairness of CMP's line extension pricing and trade practices relative to private contractors, and (3) the fairness of CMP's line extension pricing and trade practices relative to customers. After a preliminary inquiry into the merits of the complaint, on February 17, 2006, the Commission opened an investigation in that case to determine the reasonableness of CMP's practices related to single-phase line extensions. At that time, CMP's line extension terms and conditions, which were approved in 1999, had allowed CMP to charge a customer based on a design estimate of CMP's actual line extension costs. In comparison, at that time, BHE was using average cost per foot pricing for single phase residential line extensions.

In response to the complaint, CMP conducted an extensive review of its processes in delivering line extension services to customers to determine the best way to address the areas of concern. As a result of this review, CMP found that the past line extension process was too complicated, which caused customer and contractor confusion. The root cause of the problem related to design based pricing<sup>8</sup>, which complicated the process, was not customer friendly and added weeks to the process.

As a result of the findings, CMP proposed significant changes to its line extension processes and practices. These changes centered on simplifying the costing and billing practices to provide timely information to customers. CMP instituted flat-rate pricing for single phase line extensions on July 1, 2007. By doing so, CMP could provide an "up front" cost estimate, which helps customers evaluate their options with clear and predictable pricing. Flat rate pricing simplifies communications and reduces the number of weeks it takes to complete the line extension process.

Since implementing the new pricing approach, the number of line extension complaints at the Consumer Assistance Division has decreased dramatically. The flat-rate pricing mechanism has worked so well it has been incorporated into CMP's new service quality indicators under ARP 2008 which establish timeframes for CMP

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<sup>8</sup> Design based pricing consists of determining the price to charge the customer based upon an estimate of the cost of the job as designed and costed in CMP's work management system.

to perform certain portions of the line extension service process and ensure customer satisfaction with CMP's line extension process. See *Maine Public Utilities Commission, Investigation into Establishing a New Service Installation Service Quality Metric for CMP's ARP 2008*, Docket No. 2008-294, Order Approving Stipulation (March 31, 2009). It is clear in reviewing this history that the Commission has thoroughly and seriously examined the line extension process in Maine, especially with respect to CMP's service territory. Much progress has been made. To undo this progress and move away from flat rate pricing would be a mistake, particularly with respect to how it would affect customers. While it is true that the Commission has made competition in the construction of line extensions a key goal, the Commission has also clearly stated that the purpose of this competition is lower costs and better service to customers. Any decision regarding line extension methodologies should be customer-focused. As described below, Hartt's Electric (Dave McElvain) proposed pricing methodology would negatively impact customers.

Hartt's Electric's proposed methodology is a hybrid approach, which incorporates aspects of design-based pricing and flat rate pricing. This approach requires that a job be at least partially designed and the major elements input into a spreadsheet before a customer can receive an accurate estimate of the cost of a line extension. Hartt's Electric's approach also incorporates the use of average costs through the development of component prices for major aspects of a job. An example of a component price would be a pole, which would include, but not be limited to, the following items which costs would be averaged out over the entire Company:

- Average cost of a pole
- Average cost of hardware (pole top, insulator, nuts/bolts, etc)
- Average cost of installation labor
- Average cost of trucking
- Average cost of travel
- Overheads

This example clearly demonstrates that Hartt's Electric's approach would require the use of average costs to develop component prices, which would create the same types of "winners and losers" among line extension customers as does flat rate pricing. Under Hartt's Electric's approach, customers with simpler line extension jobs would be subsidizing those with more complicated jobs in the same manner as occurs with average per-foot pricing. This is especially perplexing, given that Hartt's Electric contends that the use of average costs by utilities in the line extension process has limited the ability of private contractors to compete for line extension jobs.

The most troubling aspect of Hartt's Electric's proposal is the level of confusion that it would cause for customers during the line extension service process. This approach would require utilities to give customers average per foot prices up front in the process, to be used strictly as a guide for comparison. If a customer wanted a billing estimate, the utility would then need to do a site visit to determine the necessary high-level components for the job. The use of two different

pricing methodologies (a per foot price up front over the phone as a guide and a component price in person for billing) is likely to cause a high degree of customer confusion and discontent, as the estimates could be very different. Such an approach would certainly complicate communications, as the utility would need to explain this inconsistency to customers.

Another factor that would complicate communications is use of “components” as opposed to “feet” in pricing. It is simple to explain to customers how to calculate the cost of line extension in dollars per foot. Explaining dollars per “component” is clearly more complicated, as the customer attempts to understand the components of the job and how they affect the overall cost. The use of component pricing would also result in a more complicated, less easy to understand bill for line extensions. It also will result in some customers arguing that their line extension can be built with less components than what CMP determines, causing additional issues in the line extensions service process.

The current flat rate pricing methodology is clearly the superior method for pricing line extensions from a customer service perspective. On the first call, the customer is given useful pricing information that will assist the customer in making decisions, such as selection of a route and deciding whether to choose the utility or a private contractor. Without a doubt, the current flat rate pricing structure is a simple and effective methodology for determining the cost of a line extension job, thereby providing customers with timely cost information and shortening the time it takes to complete and energize the line. With flat rate pricing, customers receive the benefits of clear and predictable pricing, with reduced and simpler communications necessary to complete the line extension process.

As noted above, Hartt’s Electric also contends that because the current flat rate pricing methodology charges customer based on average costs, it limits competition and creates subsidies among utility customers. Hartt’s Electric notes that customers with more difficult lines extension jobs are subsidized by those with easier jobs, creating winners and losers. However, as explained above, Hartt’s Electric’s proposal, which also would use average costs for establishing the various component prices and would have the exact same effect of which he complains, though maybe to a lesser degree.

Hartt’s Electric is correct that a flat per foot price is inherently an average cost. With any average cost pricing methodology, to the extent that the costs of serving any one customer are above the average, other customers pay more for service. However, this is true of all utility rates that are applicable to groups of customers. For example, it costs CMP more to provide service to customers in rural areas than in urban areas (such as Jackman vs. Portland), yet all similar customers pay the same tariffed rates. The use of average rates is widely accepted in the utility industry. The fact that a utility rate results in an individual customer not paying the exact amount that it costs to serve them should not form the basis for rejecting such a rate, including flat rate line extension prices.

Without a doubt, flat rate pricing provides significant benefits to CMP's customers. The ability of customers to compare accurate, up-front cost estimates from both CMP and private contractors is key component to the competitive markets that private line contractors seek. The current flat rate pricing methodology achieves that purpose. It also achieves a high rate of customer satisfaction, which should be paramount in any Commission decision. For all the reasons stated above, the existing flat rate pricing methodology is superior to the approach advocated Hartt's Electric.

**ii. BHE's View**

Average pricing provides many benefits over pricing line extensions on a "job by job" or "site by site" basis. Average per foot pricing offers predictability to the customer who often requires financing from private institutions. Average per foot pricing allows the company to provide pricing information in a timely manner. Average per foot pricing allows for the pricing of sites, such as undeveloped wooded land lacking driveways or site plans, where reliable site specific estimates cannot be provided.

In BHE's service territory, 63% of the line extensions built in 2008 were built by private line construction companies. Not 60% as quoted by the private line contractors. BHE questions the private line contractors' statement that BHE has the largest share of the line extension market. It is very likely that one of the private line contractors in this docket actually has a share of the market that exceeds BHE's 37%. With only a 37% share of the market, BHE is not dominating the market.

When the utility's average per foot pricing becomes stale, average pricing below actual utility cost will result. BHE is committed to maintaining average per foot pricing that reflects the company's current costs. The Company is committed to removing any subsidy that exists due to joint pole ownership contributions. BHE plans to file revisions to the company's line extension terms and conditions in 2010. The revisions will include the removal of telephone company contribution and any needed changes to the average per foot price due to increased cost. The Company plans to submit a price change mechanism similar to that used by MPS so that more timely annual cost adjustments can be made.

**iii. MPS's View**

MPS continues to support average cost per foot pricing. MPS's average costs per foot are reviewed annually and are averaged based on the total of solely-owned line extensions built over the two previous years. Once the calculations are completed, the rates are integrated into our customer information system and estimating tools.

**iv. Hartt's Electric's View**

Since Hartt's Electric just recently submitted its argument for merit based pricing to the Commission in case Docket No. 2005-412, it will submit that filing in



the stakeholders group as its position. The filing was obviously directed towards CMP but the fundamental arguments are applicable to BHE average cost methodology.

Hartt's Electric's Comments submitted December 23, 2009 in MPUC  
Docket No. 2005-412:

First I would like to point out the results of adopting a flat rate average cost approach. Since the Commission approved a contested Stipulation granting flat rate average costs to CMP, the private contractors have lost market share. The percentage of line extensions has dropped from a high of 14 % in 2005 to 13% in 2008.

CMP still receives the vast majority of all line extension construction jobs. The 13% is divided amongst the few dozen private contractors and electricians that perform line extensions. This suggests that individual contractors are receiving a fraction of a percent of the total line extension market with CMP receiving 87 % of the market.

I respectfully submit that allowing CMP to use Average Costs has limited the competitiveness of contractors to compete in a unique market place that allows a Regulated Public Utility to compete against privately held companies. My contention is that competing against a public Monopoly is challenging enough with the inherent advantages they hold as the public utility. Granting CMP further advantages of flat rate average pricing does not promote open and fair market competition.

Letting CMP simplify the estimating procedure with average costs only limits competition and sets subsidies for the rate payers. Consumers with more difficult jobs are subsidized by the consumers with easier jobs. This creates winners and losers amongst line extension customers depending upon the individual merits of each job.

As a private contractor I am limited to compete against jobs that are easier in nature while CMP is more likely to pick up the difficult jobs due to the averaging of the costs. This creates a market structure that is undeniably limited. This approach does not promote open and fair competition to the greatest extent possible as required by Chap. 395 rules. What we have is a severely limited field that is trying to overcome the arguably deceptive practices of CMP. The present and past practices of CMP using its position of authority to limit the market place has never been directly addressed or has any punishment ever been levied against them. What deterrent does CMP have to practice ethical and fair business practices when competing against the private contractors. To overcome these engrained practices we need every possible opportunity to reverse this long standing trend. Allowing competition to thrive will allow private contractors to slowly

capture a reasonable market share with the consumers ultimately being the beneficiary of that expanded market.

My proposal to the Commission for an Alternative method would be as follows:

1. Allow CMP to publish and convey to potential line extension customers an average per foot price for the different types of line extensions ( ie: overhead, underground ect.) To be used strictly as a guide for persons looking for some initial information for budgeting and or comparison with other options or methods. This could be a single average or a price range could be used to show the differences between higher and lower costs projects. This would allow for immediate preliminary information to be given to the consumer for initial planning purposes. This would only be a guide and not a binding quotation. Accurate estimates would only be given after a site visit (see number 2)

2. Should the consumer request a firm estimate than a site visit would be mandatory. The site visit would still require the customer to have the driveway installed and house foundation staked out, ect. as is now required. CMP would develop a streamlined estimating system that would use component pricing that a CMP planner would plug in the specific requirements of that job. The component prices could be in a computer program or even a printed spreadsheet. This would be a simplified accurate estimate based on the merits of each unique job. A typical job would be a planner staking out an overhead job and would look like this:

1200 feet of wire ----- 1200 x \$ xxx per foot  
110conductor  
5- 40 foot poles wi 15 kv hardware ----- 5 x \$ xxx per pole  
6 -anchors and guides ----- 6x \$ xxx per anchor  
and guide

The only difference between this component method and using a average cost per foot is using several multipliers for the specific components involved with the line extension, rather than one multiplier for the entire length of the project. These component prices would be updated yearly for accuracy. The results would be accurate estimates based on the actual site conditions with the costs being charged solely on the cost causer principal.

Each component price would include materials and labor. A simple multiplier would be used to add the component prices together and a fast, simple, accurate estimate would be prepared in minutes. Tree trim could be added on per span basis with three categories of

light, medium or heavy trim with an associated costs for each type based on the number of spans. Ledge would be treated as it now on a cost causer bases based on actual conditions of a per pole and anchor charge.

The same theory would apply for underground extensions and minor differences for items such as voltages, direct burial or conduit installations could easily be categorized. All different items would be categorized into the system so that whatever style and type of line extension is presented to the planner it would be easily applied in the field design and estimate.

The bottom line is a fast efficient estimating procedure can be made to give fast accurate estimates to the consumers. This would also promote competition in that all contenders for line extension jobs will be competing for a specific job based on the merits of that particular job and not the average of a years worth of CMP total line extension numbers. The premise that it takes to long to return an estimate to the customer should not be the bases for the current average cost approach, rather fix the estimating procedures and streamline that process and eliminate the unintentional result of limited competition that average costs produces. I firmly believe the open free market system approach out weighs any process or procedure claim that CMP makes in support of flat rate average costs methodologies. The consumers will benefit from open competition in price and service if this market is allowed to flourish. The current status of this market is reflected in the numbers 87 % vs. 13 %. This is a clear reflection of the current status of competition with CMP.

Inevitably, the current methodology of CMP will be compared to BHE Co.'s average cost per foot system that has been existence for a number of years. First, the numbers are very different than CMP's with private contractors garnishing approx. 60 % of the market share compared to BHE 's 40 %. While this may seem a major contrast to CMP's numbers I will point out that BHE still receives the majority share of the market. Again, a few dozen contractors and electricians split that 60 % amongst themselves. This leaves anyone contractor with only a few percent of the market. The reasons for this disparity between the Electrical Utilities is not rooted in pricing methodology, but company attitudes and long standing working relationship BHE has had with private contractors. Without question the relationship between eMP and private contractors has been difficult. To compare the two utilities and the pricing methodologies is not that simple, these two companies are run with a completely different mind set in regard to private contractors.

I would like to point out that now is a great time to implement such a program since the overall number of line extensions is less

than half of what it was at its peak: in 2004. (a high of 1649 down to 695 in 2009.) The dramatically lower numbers should mean that CMP personnel have the availability and time to institute such a system.

Although the Commission granted me this request, I would also like to point out that the recent order by the Commission to not have CMP charge for secondary line extensions seems contrary to previous Commission rulings and that of Legislative mandates. Removing what CMP has said is approximately 40 % of the total line extension market (secondary line extensions require poles and wire) and giving them as a free subsidy to the consumers goes against the cost causer principal. Cutting Private Contractors out of a large portion of market does not allow free and open competition to the greatest extent possible. I think the commission should review that item in particular, as I think it a subject not fully understood by all the parties involved in this case. This was certainly a step backwards from the recent history and direction of past policy.

In conclusion, The Commission has two choices, it can keep the status quo with CMP firmly entrenched with its monopoly over the line extension market or it can institute merit based pricing methodologies ( cost causer principal )that promote competition. I firmly believe in the free and open market philosophy with the consumers being the ultimate beneficiaries of lower prices and better customer service through competition. Thank you for your time and consideration.

Sincerely,  
David McElvain  
President, Hartt's Electric

Additionally, Hartt's Electric would like to add how average prices have affected competition with BHE and private contractors.

The history of BHE average costs per foot started in 1990 when BHE charged \$5.23 per foot, which included the cost to build the line extension plus tree trim and ledge costs. This price was based on 1988 data. For ten years, contractors competed against this average cost. While BHE held this price, overall costs for contractors rose significantly.

Contractors' prices went up substantially through this decade yet they still had to continue competing with BHE's 12 year-old pricing until 2000 (Docket No. 2000-78). Many contractors almost went out of business at the end of this pricing time line. The only jobs contractors could compete competitively on were simple jobs that did not include tree trim and ledge work. BHE received all the complicated jobs that included tree trim and ledge work.

In 2000, BHE finally filed for a new rate with the breakout of ledge and tree trim costs. Its cost for line extensions went up to \$5.19 per foot with tree trim and ledge separately priced using average costs. This price was in effect for seven years until the price was updated in 2007. Again, at the end of this period, private contractors were struggling to compete with BHE. Contractors' costs increased and BHE again was building lines well below actual costs.

Winkumpaugh and Hartt's Electric considered exiting this market due to unfair pricing. The uncertainties of this field keep contractors from investing in new equipment, hiring employees, and making any long range plans to expand their businesses in this limited market.

Hartt's Electric uses the same logic that BHE used in that case to support the contractors' views as to why average costs do not promote fair and open competition. BHE argued that having average costs that include widely varying prices hurt their ability to compete. The contractors agree with that philosophy and quote BHE from MPUC Docket No. 2000-78.

As a result, BHE tends to be asked to construct line extensions for a price that is below its actual cost of construction; However, BHE is not asked to construct line extensions in situations where its price exceeds the actual cost of construction.

This same philosophy applies to today's average costs method employed by both CMP and BHE. The wide swings in line extension construction costs are creating a limited field of competition. BHE's point in that case is exactly what the contractors would like to see taken one step further today: eliminate the disparities between what jobs are open to competition and jobs that are not.

Line construction varies in numerous ways: voltages, number of poles, types of underground systems, heavy tree trim vs. light tree trim. This leads to consumers subsidizing each other depending on which end of the spectrum their individual line extension falls. Line extension jobs can vary dramatically in actual costs while both CMP and BHE use average costs that do not reflect a realistic price. The only jobs that the utilities are accurate in estimating fall within a narrow band. Contractors, on the other hand, do not have the backing of the ratepayers and do not have the volume of line extensions to average their costs. Contractors have no choice but to price each job based on the merits of that job. The winner and loser scenario does not follow the cost causer principal or promote open and fair competition.

To summarize, BHE's system is not, and was not, an example of open and free competition. Many customers hired contractors for price and many hired contractors for other factors such as availability during construction boom periods. The wait time of months often conflicted with customers' construction schedules.

A simple estimating system and procedure instituted by the utilities would solve this issue, the results being more competition. The consumer would ultimately benefit from more options, service and competitive prices. The benefits of a streamlined estimating system out way any argument for procedural time savings from an average pricing methodology.

Hartt's Electric wants to make it very clear that the contractors do not want any pricing method or rule instituted that gives them any unfair advantage over any utility. What the contractors do ask is to have the opportunity to compete openly and fairly with any participant trying to secure line extension construction work.

**v. Enterprise Electric's View**

Enterprise Electric is in favor of design based pricing only. Its reluctance for giving out budget numbers based on per foot pricing is that if the job changes, and the price is higher, the customer will be angry. Enterprise Electric's states that given the short amount of time it takes to do a layout and estimate, it would prefer to give a proposal instead of a budget figure.

**vi. OPA's View**

We address pricing only with regard to CMP's practices which are the greatest source of controversy.

The OPA has supported, and continues to support, flat-rate pricing because it allows for pricing information to be provided to customers in a timely fashion. This method offers predictability to the customer and allows the customer to evaluate their pricing options in a timely manner.

CMP instituted flat-rate pricing for single-phase line extensions in July of 2007. This method was a change from CMP's prior practice of charging customers based on a "design" based estimate. The flat-rate pricing methodology was approved by the Commission in response to complaints regarding CMP's line extension policies including: (1) CMP's communications with customers, (2) length of time it took to complete a line extension, and (3) inconsistent billings and charges and the differing requirements imposed on line extensions built by private line contractors and those built by CMP. (CMP line extension case, MPUC Docket No. 2005-412).

After the adoption of flat-rate pricing, CMP agreed to implement reasonable timeframes within which it would provide line extensions to customers. (MPUC Docket No. 2008-294).

Although the OPA has supported flat-rate pricing, it has also expressed an overriding concern that this pricing be based on prices that reflect a utility's cost, given a reasonable margin of error to account for the fact that prices are not based on actual costs. While the OPA recognizes that "flat-rate" prices are by necessity "average" prices, it is important that some convergence is maintained between

“average” costs and actual costs. Without reliable and accurate data, average or flat rate pricing prices fall below utility costs, leading to customer charges that are not just and reasonable and also lead to an inability of private line contractors to compete with utility prices.

In the CMP line extension case, the OPA’s most recent recommendation to the Commission was that CMP’s flat-rate pricing must be carefully monitored to ensure accuracy. In addition, because of continued inaccuracies in CMP’s data, the OPA recommended that some consequence or penalty be imposed if CMP failed to achieve a reasonable level of accuracy. On February 8, 2010, the Commission issued an order noting that per-foot pricing had resolved many of the issues of customer confusion and customer service and decided not to adopt a more complex pricing methodology. At the same time, the Commission expressed concern regarding the continued inaccuracy of CMP’s average charges. The Commission ordered that CMP provide reports six months and twelve months after the February, 2010 order. If there continues to be a significant difference between actual line extension costs and amounts charged under the per-foot methodology, the Commission expressed a willingness to consider further action, including penalties as a means to provide further incentives to achieve accuracy. The OPA is in agreement with the Commission’s February, 2010 order. In addition, assuming a reasonable level of accuracy can be achieved in the next year, the Commission must continue its diligence in ensuring that accuracy going forward.

**vii. MPUC Order Docket No. 2005-412**

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2005-412

February 8, 2010

BOB BEMIS, ET AL  
Request for Commission Action to Investigate  
Central Maine Power's Acts and Practices  
Concerning its Line Extension Policies and  
Central Maine Power's Filed Tariffs and/or  
Terms and Conditions on Line Extensions

ORDER

REISHUS, Chairman; VAFIADES and CASHMAN, Commissioners

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**I. SUMMARY**

In this Order, we decide to maintain the per-foot pricing structure adopted for Central Maine Power Company's (CMP or the Company) single-phase line extensions.

**II. BACKGROUND**

On February 17, 2006, the Commission opened this investigation based on information received in a complaint signed by Robert Bemis and twelve other persons filed pursuant to 35-A M.R.S.A. § 1302 regarding alleged problems with CMP's line extension pricing and practices. CMP's line extension terms and conditions in place at the time and approved in 1999, allowed CMP to charge a customer based on an estimate of CMP's actual line extension costs. In opening the investigation, the Commission stated that the issues to be examined included CMP's communications with line extension customers, the length of time it takes to complete a line extension, inconsistent billings and charges, and the differing requirements imposed on line extensions built by private line contractors and those built by CMP.

On March 6, 2006, CMP responded to the order opening the investigation by proposing to adopt a fixed cost per foot and flat fee for make-ready (MR) work,<sup>9</sup> although the Company did not have an estimate of the charges at that time. CMP proposed to implement these changes in May 2006. On July 25, 2006, the Commission provided notice of this proceeding and an opportunity to intervene. The Public Advocate, Robert Bemis and Levesque Electrical, Inc., were granted intervenor status.

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<sup>9</sup> "Make ready" work is the work done to connect a new line extension to CMP's energized distribution system and is always performed by the utility. It does not include any costs associated with the transformer or service drop, however, as they are included in CMP's distribution rates and are not charged to individual customers.



On April 11, 2007, a stipulation was filed by the Public Advocate and CMP. Mr. Bemis and David McElvain of Hartt's Electrical Service, Inc.,<sup>10</sup> opposed the stipulation. The Commission held a hearing on the stipulation on April 27, 2007. During its deliberative session on April 30, 2007, the Commission determined that the primary contested issue was the inclusion of tree trimming costs in the per-foot charge and that substantial evidence was lacking to support that approach. The Commission directed the Hearing Examiner to seek additional information from the parties in support of the inclusion of tree trimming in the per-foot cost, either from the existing record or through the filing of additional factual information in an affidavit. On May 3, 2007, CMP filed the affidavit of Paul Dumais, and Mr. McElvain and Mr. Bemis filed comments.

The Commission reconvened its deliberations on May 4, 2007. The Commission did not approve the stipulation, but indicated that an agreement that did not include tree trimming in the per-foot charge would be acceptable. Also on May 4, 2007, the Attorney General filed a petition to intervene, expressing a concern that line extension construction be opened, as far as possible, to fair and equitable competition. The Hearing Examiner granted intervention on May 14, 2007, with the requirement that the Attorney General take the case in its current status.

On May 16, 2007, Mr. McElvain filed a stipulation signed by Mr. McElvain and Mr. Bemis. On May 24, 2007, CMP and the Public Advocate filed a modified stipulation.<sup>11</sup> On May 25, 2007, the Attorney General and Messrs. Bemis and McElvain made filings in opposition to the CMP/Public Advocate modified stipulation. The Public Advocate filed an opposition to the McElvain/Bemis stipulation. A principal difference between the two stipulations was that the CMP/Public Advocate modified stipulation had a flat pricing structure and the McElvain/Bemis stipulation provided for individual project pricing.

On May 29, 2007, the Commission deliberated the CMP/Public Advocate modified stipulation and the stipulation filed by Messrs. Bemis and McElvain. On June 8, 2007, the Commission issued an Order that approved the CMP/Public Advocate stipulation and rejected the McElvain/Bemis stipulation. *Order Approving Stipulation*, Docket No. 2005-412 (June 8, 2007).

On June 26, 2007, Messrs. Bemis and McElvain filed a request that the Commission reconsider its June 8<sup>th</sup> Order that approved the CMP/Public Advocate stipulation. The request to reconsider was based on two grounds: 1) that Messrs. Bemis and McElvain were denied a meaningful opportunity to participate in all communications concerning the stipulation negotiations; and 2) that the approved stipulation does not meet the requirements of the Commission's line extension rule (Chapter 395) or the Commission's prior rulings on line extensions. In an Order issued on July 23, 2007, the Commission decided to hold a hearing on the process issues and

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<sup>10</sup> Mr. McElvain participated in this case from the beginning, but never requested intervenor status. The Hearing Examiner granted such status on May 9, 2007.

<sup>11</sup> The only changes in the modified stipulation from the April 11th stipulation was the removal of tree trimming costs from the per-foot cost.

defer consideration of the substantive issues until after the process issues could be addressed.

On August 22, 2007, the Commission issued a Notice Regarding Settlement Proceedings stating, that in attempt to avoid continued protracted and costly litigation in the proceeding, it was providing an opportunity for the parties to enter into good faith negotiations to settle the issues (both process and substantive). To aid in this effort, the Commission engaged former Commissioner Stephen Diamond to act as settlement facilitator. The parties agreed to participate in these negotiations.

On September 20, 2007, CMP file a Revised Stipulation that would resolve the issues in the proceeding. The Revised Stipulation was signed by CMP, the Public Advocate, the Attorney General, Mr. McElvain and Enterprise Electric.<sup>12</sup> Mr. Bemis did not sign the agreement, but did not oppose it.<sup>13</sup>

The Revised Stipulation settled all process issues and maintained flat rate pricing for single phase line extensions with additional charges for MR work, trim and ledge costs. However, the price was increased from \$6.75 per foot in the earlier stipulation to \$8.10 per foot. The increase in the per foot charge reflected inflationary impacts on 2006 cost data, the removal of line extension jobs where the telephone companies set the poles, and removal of underground line extension jobs. The Revised Stipulation also excluded line extensions for developments and commercial customers from the flat price and provided that the costs of such projects will be based on individual design costs, rather than a predetermined flat rate. In addition, the Revised Stipulation provided for an independent audit of CMP's line extension costs with an opportunity for further discussion and litigation on the refinement of the line extension rates, after completion of the audit. The Revised Stipulation also allowed for parties to propose alternative pricing approaches, but placed the burden of proof on such parties. On October 1, 2007, the Commission issued an Order that approved the unopposed Revised Stipulation.

The Advisory Staff and the parties worked together on the selection of the auditor and there were a series of conferences with the auditor throughout the audit process.<sup>14</sup> The results of the audit were submitted on January 22, 2009. The audit found a serious underreporting in the actual costs of materials booked to the line extension jobs due primarily to the timing of booking the material costs into the accounting system relative to the completion of the work. The audit also found that CMP's actual labor cost tended

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<sup>12</sup> A representative from Enterprise Electric, Inc. participated in the settlement negotiations, but had not intervened in the proceeding. On September 21, 2007, Enterprise Electric submitted a late-filed petition to intervene. That petition was granted by procedural order issued on September 24, 2007.

<sup>13</sup> The only other party in the proceeding is Levesque Electrical Inc. A representative from Levesque Electrical did not participate in the negotiations and has presented no opposition or comment regarding the agreement. Earlier in the proceeding, the representative from Levesque Electrical indicated that Mr. McElvain could speak on behalf of Levesque Electrical.

<sup>14</sup> The Staff and the parties chose Williams Consulting, Inc. to conduct the audit.

to be higher than the estimated costs.<sup>15</sup> After the completion of the audit, a litigation schedule was established to resolve disputed issues and to set revised per-foot charges based on corrected and updated data.

In an Order issued on June 16, 2009, the Commission granted the request of Mr. McElvain to reopen this proceeding to consider the issue of alternatives to the per-foot charge methodology for pricing residential line extensions. The Order specified that the Commission will consider requests for the adoption of an alternative pricing methodology after it concludes the process of establishing the revised per-foot charges.<sup>16</sup>

On October 19, 2009, the Commission issued an Order that established the per foot charges at \$8.03 per foot for overhead extensions and \$10.49 per foot for underground extensions, both subject to an annual inflation adjustment and to changes in overhead rates, to be determined at the time of the compliance filing. Consistent with its June 16, 2009 Order, the Commission's October 19, 2009 Order allowed for parties to propose alternatives to the per-foot methodology for pricing line extensions. On November 5, 2009, CMP filed a request for reconsideration asking for a delay in implementation of the rate and that it not be required to file a "wires-only" rate as originally ordered. The Commission granted CMP's request for reconsideration on December 7, 2009. On November 9, 2009, Mr. McElvain requested the Commission adopt an alternative pricing methodology. The Hearing Examiner set a process for consideration of alternate pricing mechanisms that provided opportunity for written submission and a public hearing held on January 19, 2010. The Commission considered the proposed alternative pricing methodology at its deliberative session held on February 1, 2010.

### III. POSITIONS OF THE PARTIES

#### A. Mr. McElvain

Mr. McElvain commented that using average per-foot charges has limited the competitiveness of contractors and does not promote open and fair market competition. Mr. McElvain states that CMP still receives the vast majority of all line extension jobs (87% in 2008 compared to 86% in 2005). The per-foot methodology, according to Mr. McElvain limits competition because consumers with more difficult jobs are subsidized by consumers with easier jobs. At the hearing, Mr. McElvain stated that the primary problem with per-foot pricing in this case is that the prices are inaccurate

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<sup>15</sup> In comments on the audit report, CMP stated that the accounting discrepancies have been addressed through employee training and process improvements, including transferring responsibility for materials reporting to a newly hired supervisor in the materials management department. The supervisor has instituted new auditing procedures to verify that the costs are being reported correctly to jobs. CMP reported that during the period July 2007 through June 2008, the total costs of the materials reported to the job were within 5% of the estimated materials cost.

<sup>16</sup> In the same June 16<sup>th</sup> order, the Commission rejected as untimely an attempt by Mr. McElvain and Mr. Bemis to object to and nullify the Revised Stipulation. The Commission also rejected as lacking any justification a request by Mr. McElvain and Mr. Bemis to transfer this proceeding to Superior Court.

and understated and that the problem would be reduced if the average prices used by CMP were accurate.

In his written comment and during the hearing, Mr. McElvain proposed an alternative methodology whereby CMP would publish and convey line extension average per-foot charges strictly as a guide for people looking for initial information for budgeting and comparison purposes. For a firm estimate, there would be a mandatory site visit during which CMP would provide the firm estimate through average component prices (e.g., wire, poles, anchors and guides) based on the number and types of components associated with the job. Mr. McElvain stated that this method would provide more accurate estimates based on actual site conditions and is consistent with the cost-causer principal.

Finally, Mr. McElvain commented that the Commission should reverse its decision that CMP not charge for secondary line extensions. Mr. McElvain stated that this decision removes private contractors from a large portion of the market.

B. Mr. Bemis

Mr. Bemis did not file written comments, but at the hearing generally agreed with Mr. McElvain's concerns that average per-foot prices limits competition for line extensions jobs. Mr. Bemis also stated that competition against a utility would never be fair and, accordingly, the Commission should restrict the market share of CMP with respect to line extensions.

C. Central Maine Power Company

CMP commented that, as a result of the complaint that initiated this proceeding, it has adopted significant changes to its line extension processes and practices that have simplified the costing and billing practices to provide timely information to customers. By instituting flat-rate pricing, CMP is able to provide upfront cost estimates, which helps customers evaluate options with clear and predictable pricing. CMP added that flat-rate pricing simplifies communications and reduces the number of weeks it takes to complete the line extension process. CMP also stated that, since implementing the flat-rate methodology, the number of line extensions complaints at the Commission's Consumer Assistance Division has decreased dramatically. Because flat-rate pricing has been successful in addressing the concerns identified in the initial complaint, CMP stated that the Commission should not adopt a pricing methodology that would undo the progress made in this case.

CMP noted that Mr. McElvain's proposed methodology is a hybrid approach, which incorporates aspects of design-based pricing and flat-rate pricing. Although CMP agreed the approach could often provide a more accurate reflection of the actual cost than the per-foot approach would, it noted that the use of average costs in Mr. McElvain's proposals would create "winners and losers" as under flat-rate pricing. According to CMP, the most troubling aspect of Mr. McElvain's proposal is the level of confusion that it would cause for customers. CMP argued that giving customers average per-foot prices up front, to be used as a guide for comparison and then giving

them a different final price would likely cause a high degree of customer confusion and discontent, as the estimates could be very different from the actual prices.

D. Public Advocate

The Public Advocate supports flat-rate pricing rather than design based pricing, because it allows CMP to build line extension within reasonable periods of time, which was one of the major concerns that lead to the current proceeding. The Public Advocate indicated that flat-rate pricing for line extensions where actual costs are within 6% of the estimated cost is reasonable, but that new information provided by CMP raises concerns regarding whether actual costs are within a reasonable range of the estimated per-foot charges. Accordingly, the Public Advocate proposes that CMP not be allowed to recover actual costs that are above 6% of the estimated per foot charges.

Finally, the Public Advocate questioned the Commission's decision that CMP not charge for secondary line extensions. The Public Advocate stated that the decision ignores the "cost causer" principle and removes secondary line extensions from competition with private line contractors.

#### IV. DECISION

The primary issue presented to us in this phase of the proceeding is the pricing methodology for single phase line extensions. As stated above, the Commission accepted the per-foot pricing methodology when it approved the Revised Stipulation, but parties were allowed to propose alternatives after the completion of the audit. For the reasons discussed below, we decide to maintain the per-foot pricing methodology for CMP's line extensions.

Although we understand Mr. McElvain's and Mr. Bemis's view that average cost pricing can have a negative impact on competition, we must remain mindful of the problems that were the original cause of this investigation. Among these problems were customer confusion regarding an overly complex and inconsistent line extension process and substantial delays in the completion of line extensions. It appears that these problems have been resolved as a result of CMP's adoption of per-foot pricing.<sup>17</sup> For these reasons, we hesitant to adopt a more complex approach.

In addition, it is unclear whether Mr. McElvain's hybrid approach, that would use average costs for components of the line extension construction process, would solve the competitive issues that derive from the use of average costs. However, it would likely cause significant customer confusion and dissatisfaction in the event that the initial estimate based on CMP's average per-foot costs differs significantly from the customer's actual cost based on the average cost of the components.<sup>18</sup>

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<sup>17</sup> For example, the number of line extension complaints at our Consumer Assistance Division has dramatically decreased since moving to per-foot pricing.

<sup>18</sup> We also decline to adopt, for several reasons, the suggestion by Mr. Bemis at the hearing that the Commission limit CMP's line extension market share. First, it is unclear that we have the legal authority to do so. Second, it is unclear how the process of limiting market share would work in practice. Finally,

It also appears to us that the per-foot pricing methodology itself is not the major factor concerning line extension competition in CMP's service territory. For example, Bangor Hydro-Electric Company (BHE) has per-foot pricing which in nearly all circumstances is lower than CMP's<sup>19</sup> and over 60% of the line extensions in its service territory are constructed by private line contractors (compared to 13% in CMP's territory). Rather, we conclude that the accuracy of the average charges is the essential issue. CMP has provided information that its 2008 actual line extension costs were significantly greater than the per-foot prices used in 2008. As noted by CMP during the hearing, there were a variety of contributing factors to this discrepancy, many of which were addressed in our October 19, 2009 Order. Therefore, the difference between actual costs and the per-foot prices can be expected to be reduced over time. Additionally, it appears, based on CMP's recently filed annual report on line extension activity (filed on February 4, 2010 in Docket No. 1999-042), that the 2009 difference between actual costs and prices was substantially less than in 2008. The report also suggests that private line contractors captured approximately 20% of the single-phase residential line extension jobs in 2009.

Nevertheless, given the importance of having accurate cost information, we will require CMP to provide us reports six months and 12 months after the date of this Order. The reports must include an accounting of CMP actual line extension costs and the amounts charged under the per-foot pricing methodology. If there is a significant difference, we may take action such as limiting the amount of actual costs that CMP may recover (as suggested by the Public Advocate).

The remaining issue is whether the Commission should revise the portion of its October 19, 2009 Order to require CMP to charge for secondary line extensions. We decline to do so at this time. CMP has indicated that it will no longer construct secondary line extensions. Such construction will be replaced by service drops and, if a line extension is required, CMP will construct a primary line extension. We will, however, direct CMP to include in the two reports required above information on any secondary line extension that have been constructed. In the event these reports show that CMP is constructing secondary line extension, we will revisit the pricing issues.

Dated at Hallowell, Maine, this 8<sup>th</sup> day of February, 2010.

BY ORDER OF THE COMMISSION

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Karen Geraghty  
Administrative Director

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such action could well hurt consumers if CMP's costs are less than the private line contractors' cost. In this circumstance, although CMP would have less market share and there might be more competition, the cost to consumers would increase overall.

<sup>19</sup> Because BHE's pricing includes the make-ready cost in the per-foot price, CMP's make-ready charge must be included into the average for CMP to get an accurate price comparison. At current prices, BHE's price does not become higher than CMP's until the length of the line-extension is over 2,500 feet long.

COMMISSIONERS VOTING FOR: Reishus  
Vafiades  
Cashman

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 21 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.



viii. **Hartt's Electric Request for Reconsideration (Docket No. 2005-412)**

**HARTT'S ELECTRIC SERVICE, INC.**

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218 HODGDON ROAD  
LEVANT, ME. 04456

207-884-8795 OFFICE  
207-884-8515 FAX

February 17 , 2010

Karen Geraghty  
Administrative Director  
MPUC  
State House Station 18  
Augusta, ME. 04333

RE: Docket Number 2005-412  
Robert A. Bemis ET.AL., Request for Commission Action Into Central Maine  
Power's Acts and Practices Concerning its Line Extension Policies and Filed  
Tariffs and / or Terms and Conditions on Line Extensions.

Dear Ms. Geraghty,

Enclosed for filing on behalf David McElvain of Hartt's Electric Service, Inc. in  
the above-captioned matter A Request for Reconsideration of Order Dated February 8,  
2010.

Sincerely,

David McElvain  
President

cc: Service List via e-mail

**Docket 2005-412**

**Request for Consideration of Order**

I respectfully request the Commission reconsider the Order of February 8, 2010 based on the following information.

1. The methodology I proposed, and was subsequently denied, was characterized that it contained average prices that would result in winners and losers, much like CMP's current average per foot rate. While that is true, the component price would be far more accurate and would not include major price swings in the thousands of dollars range that the current CMP's job average approach now includes.

CMP's pricing methodology varies in the thousands of dollars on many similar length jobs and the component pricing ( hybrid ) approach would be accurate within a few hundred dollars. A difference that certainly makes or breaks competition. It is this degree of accuracy to the actual cost that separates these two approaches. Further consideration to the development of a fast and accurate estimating system needs to be considered. Estimating software is available that could certainly handle this type of construction.

2. In the Commission's decision a comparison of BHE's per foot rate and CMP's per foot rate was discussed. The Commission concluded that price was not a major factor in competition because BHE was lower than CMP in price in nearly all circumstances. This is factually incorrect.

BHE's per foot rate does not include the make ready costs, it comes from the body of rate payers. Actually when the phone company contribution is removed, as it is currently with CMP, the fair adjusted comparison of per foot rates is as follows:

CMP - per foot rate of \$ 8.03 includes CIAC tax  
BHE - per foot rate of \$ 9.16 does not include CIAC tax 21 %

The actual costs comparison excluding phone company contributions and the CIAC tax included is listed below. ( Note: BHE has indicated it is going to file a request to remove the phone company contribution in the stake holders group report. )

BHE price per foot \$ 11.08  
CMP price per foot \$ 8.03

The difference is over \$ 3.00 per foot in a equal comparison of actual costs. The Commission's decision was based in part on misinformation. Cost is a major factor leading to the current percentage of private construction in BHE territory.

( See the attached rate sheet from case 2007-194.)

3. The BHE line extension rate case docket # 2007-194 was approved by the commission using component pricing. The attached spreadsheet used to develop BHE per foot rate was done completely different than CMP per foot price.

CMP averaged all the jobs for a period of time and blend them together to obtain a per foot price. BHE averaged all the lengths of jobs from a period and built from the ground up an estimate based on this theoretical average length job example. The theoretical job was designed using standard overhead materials and labor. Component prices were then applied to make the \$ 9.16 per foot cost ( without CIAC tax. Add 21% to obtain \$ 11.08 )

The point to be made is that component prices can and have been applied and approved by the Commission in BHE's LE rate case. Using the spread sheet as an example shows that any qualified CMP planner could do a site visit , design the job and apply the design components into the spread sheet and a highly accurate estimate could be produced to the consumer within minutes on site in most cases.

Site visits are required by the planners of CMP to commence the LE process regardless of who builds the Line. Planners can measure and stake out a average job in a minimal amount of time. The average LE job is under 500 feet - that's two poles to layout. Apply the components to the spreadsheet and you have an accurate merit based estimate to the consumer. The point is no time is lost - the process is simple and competition is back to a level playing field and the consumers are not socializing LE rates.

The only remaining issue is what information to give to customers in advance of an actual site visit. I know of no trade or consumer who would expect or want a firm estimate prior to that professional making a site visit and producing an estimate based on the customers actual site conditions. No consumer expects quotes over the phone on an item that costs several thousand dollars. For example, I personally would not except a quote from a paving company for hot topping my driveway based on an average per foot cost based on all of the paving contractors previous jobs and never having the paving company look at my specific driveway.

The consumer's lack of knowledge of CMP standards and the unknown costs of tree trim and ledge costs leaves the requirement for site visit from a CMP planner necessary to receive a accurate estimate with the current average cost approach. The average LE customer has no way of knowing exactly what is required to meet the standards required by the utility and to apply that to the current per foot price. There would be no confusion to the customer when the accurate estimate is given to them on site based on actual site conditions.

4. The Commission argued that complaints have dropped significantly due to the new procedures and pricing. The number of complaints should drop when the overall number of line extensions has dropped by approximately 78% from 2005 to 2009. The other

factor for less complaints is CMP is under collecting actual LE costs by 2.6 million dollars from 2006-2009. Consumers who are purchasing LE under actual costs tend not to complain. I submit these are the factors reducing the number of complaints rather than average per foot pricing.

5. I was surprised on several levels that the commission used data not presented or afforded to the parties in the case to reach its decision. The data from docket # 99-042 was not available at the time of the deliberations and was only available to the OPA and the myself on February 17, 2010. There are several issues with this data and the validity of its conclusions used by the Commission in its decision.

CMP is required by Chap. 395 rules to collect and track for 20 years the cost of construction of line extensions built by private contractors for the purpose of reallocation of costs to the original owner of the LE and for calculating the CIAC tax once it is conveyed to CMP. This data is now being used to compare and analyze private contractors costs as shown on the spreadsheet published by CMP in docket 99-042. The invoices we are required to submit to CMP were never intended to be used for any other reason than to track those costs. CMP has taken this private information and compiled this data to track and compare CMP's costs with its competition. Publishing the average costs of private contractors is harmful to competition amongst private contractors. For example, when the private contractors formed our Association our attorney advised us repeatedly to never discuss prices when we gathered or talked to each other. The reason was to never appear to be price fixing or setting the market price unfairly. CMP has now published an average cost of private contractors that never should have been compiled or made public. I believe CMP was attempting to show a comparison of their price relative to the contractors price. Competitive markets prosper on each company striving to provide the best service and price possible to obtain market share, publishing an average gives competing companies a target price. CMP should not be allowed to compile such data that was never intended for that purpose and certainly not publish such information. This shows a serious lack of ethical judgement on CMP's part.

6. The Commission's decision to eliminate secondary line extension from competition and practice has consequences beyond the issues used to determine the Order.

Technically speaking and by definition secondary line extensions cannot be replaced by service drops as mentioned in the order. The fact that it is an extension means the service is over a 150 feet or it has a topographical reason for requiring an extension. For these reasons it is impossible to replace a secondary extension to a service drop. Otherwise it would have been categorized a service drop ( free service ) initially. This will lead to replacing them with high voltage primary extensions.

CMP claims in situations where secondary line extensions would be required that CMP will instead construct primary lines. Should this practice be used the costs to rate payers will escalate due to more transformers being used on line these extensions. Secondary

extension use transformers at the roadside that feed potentially multiple customers. The increased number of primary line extensions used to replace the secondary extensions will undoubtedly increase the number of transformers required to service the same number of customers prior to this new rule. Secondary line extension are a tool planners and engineers have long used in the electrical utility industry and to remove this widely accepted practice due to CMP's inability to provide accurate pricing is not a reasonable approach.

Removing secondary line extension is wrong on many levels including the loss of competition in this segment of the market, ( possibly as high as 40 % of the whole market) as well as burdening the consumer with more overall costs in the distribution rates.

In conclusion , I estimate CMP has under collected over 6 million dollars than its actual costs since 2000. In 2008 it appears CMP has under collected and rolled back to the rate payers more than the total dollar amount of line extensions constructed by all of the private contractors combined.

To allow CMP to continue its domination of the this market with the continued lack of accuracy of its LE pricing, coupled with the \$ 3.00 per foot difference less than a comparable utility, does not adhere to the Chap. 395 rules of open and fair competition and the cost causer principal.

Thank you for your time.

David McElvain  
president

9/12/2007									
BANGOR HYDRO-ELECTRIC COMPANY									
Development of Line Extension Rate									
COST PER FOOT FOR SINGLE PHASE									
(Calculated From 2007 Engineering Design Estimate Data using 2007 inventory costs									
For 720' Single Phase Line Construction)									
UNIT COSTS									
MATERIAL REQUIRED	ACCOUNT	MATERIAL	LABOR	MATERIAL	MAT. Q/H	LABOR	LABOR Q/H	TOTAL	
0 -35' Poles	364	\$143.98	\$168.75	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	
3 -40' Poles	364	\$286.73	\$180.81	\$860.19	\$84.80	\$542.44	\$870.30	\$2,337.53	
3 -10' Anchors	364	\$48.20	\$96.43	\$144.60	\$10.58	\$289.29	\$464.14	\$905.89	
3 -5/16" Anchor Guy	364	\$28.18	\$40.89	\$84.54	\$6.35	\$122.98	\$197.27	\$411.12	
2 -Pole Top Pins	364	\$9.24	\$14.46	\$18.48	\$1.39	\$28.92	\$46.40	\$85.18	
2 -Neutral Brackets	364	\$6.75	\$12.05	\$13.52	\$1.02	\$24.12	\$38.89	\$77.34	
1 -15 KV Deadends	365	\$23.13	\$31.34	\$23.13	\$1.74	\$31.34	\$50.28	\$108.49	
1 -Neutral Deadend	365	\$15.64	\$24.11	\$15.04	\$1.17	\$24.11	\$38.67	\$78.59	
2 -15 KV Insulators	365	\$3.17	\$2.41	\$8.34	\$0.48	\$4.82	\$7.74	\$18.38	
0 15KV corner	365	\$12.21	\$36.18	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	
0 Neut corner	365	\$12.41	\$26.52	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	
1440 -1/0 AAA C-B Cond	365	\$0.23	\$0.48	\$331.20	\$24.87	\$685.58	\$1,099.95	\$2,141.81	
Subtotals				\$1,487.84	\$112.47	\$1,753.58	\$2,813.44	\$6,177.14	
1 -Ledge Hole		N/A							
250 -Heavy Trimming		N/A							
Design/Work Package	4		24.03			\$96.12	\$114.04	\$210.16	
ROW (per easement)	4		24.03			\$96.12	\$114.04	\$210.16	
Permitting									
TOTAL								\$6,597.45	
Cost Per Foot								\$9.16	
IF SUBJECT TO JOINT OCCUPANCY									
Solely Owned Cost			\$6,597.45						
Less									
0 -35' Poles	364	\$433.00	\$0.00						
3 -40' Poles	364	\$515.00	\$1,545.00						
0 -10' Anchors	364	\$144.09	\$0.00						
1 -Trimming (50%)	365	\$0.00	\$0.00						
Total			\$5,052.45						
Cost Per Foot			\$7.02						

RESOLVE Chapter 69 LD 968, item 1, 124th Maine State Legislature  
Resolve, Regarding New Utility Line Extension Construction

**Resolve, Regarding New Utility Line Extension Construction**

**Sec. 1 New utility line extension construction. Resolved:** That the Public Utilities Commission shall convene a stakeholder group to study the practices of investor-owned transmission and distribution utilities with respect to new utility line extension construction, other than the actual rates and prices charged for line extensions. The study must include, but is not limited to, an evaluation of how the utilities' line extension practices affect private line extension contractors and a review of the methodologies used to apportion line extension costs. The commission shall, at a minimum, invite representatives from the following to participate in the stakeholder group: the investor-owned transmission and distribution utilities in the State, associations of builders and contractors, private line extension contractors and the Office of the Public Advocate; and be it further

**Sec. 2 Report; authority for legislation. Resolved:** That, no later than February 15, 2010, the Public Utilities Commission shall submit to the Joint Standing Committee on Utilities and Energy a report of the findings and recommendations of the stakeholder group under section 1. The report must include, but is not limited to, an assessment of any differences in the apportionment methodologies used by the investor-owned transmission and distribution utilities and recommendations to achieve a common standard operating procedure for line extension cost estimating. After receipt and review of the report, the committee is authorized to report out legislation to the Second Regular Session of the 124th Legislature, as necessary, to direct the Public Utilities Commission to amend its rules governing private line extensions pursuant to the Maine Revised Statutes, Title 35-A, section 314, subsection 5.