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**STATE OF MAINE  
PUBLIC ADVOCATE OFFICE**

**ANNUAL REPORT  
JULY 1, 2005 TO JUNE 30, 2006**



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STEPHEN G. WARD  
PUBLIC ADVOCATE

July 21, 2006

Senator Philip L. Bartlett II, Senate Chair  
Representative Lawrence Bliss  
Committee on Utilities and Energy  
122<sup>nd</sup> Maine Legislature  
100 State House Station  
Augusta, Maine 04333

Dear Senator Bartlett and Representative Bliss,

Pursuant to 35-A M.R.S.A. Section 1702(6), the Public Advocate is obligated to submit by August 1 each year an annual report detailing the accomplishments of the office during the previous fiscal year. I enclose for your review the Annual Report of the Public Advocate Office for the year concluding June 30, 2006. As has been the case in recent years, dollars saved ratepayers due to OPA interventions at FERC, the PUC and elsewhere in FY 06 outweighed all dollars in the OPA budget. In fact, on average since FY 01, more than seven dollars have been saved due to OPA interventions for every dollar in the Office's annual budget.

Please do not hesitate to contact me with any questions concerning the FY 06 Annual Report for the Public Advocate Office.

Sincerely,

Stephen G. Ward  
Public Advocate

Attachment: OPA Annual Report FY 05/06

cc: Utilities & Energy Committee  
Beth Nagusky, EIS  
Jon Clark, OPLA

Dick Davies, OOG  
Charles Pray, SNSA  
Steven Rowe, AG Office



PRINTED ON RECYCLED PAPER

July 21, 2006

**Table of Contents**

	<u>Page</u>
A. Introduction: Savings for Ratepayers in 2005-2006	1
B. Advocating for Utility Consumers in Maine Since 1982	2
C. Dealing with Customer Complaints, Consumer Education and the Legislature	4
D. Electricity Cases at the Maine PUC and FERC	6
1. Negotiations with Central Maine Power over an ARP Extension	6
2. Central Maine Power Line Extension Complaints	8
3. Over-recovery of CMP Charges for Line Extensions	9
4. Special Rate Contract: Bath Iron Works and CMP	9
5. Bangor Hydro-Electric Rate Design Case	9
6. Special Rate Contract: University of Maine and BHE	10
7. Special Rate Contract: Lincoln Pulp and Tissue and BHE	10
8. Maine Public Service Distribution Rate Case	10
9. Maine Public Service Transmission Line Case	11
10. Maine Electric Consumers Coalition, 1995 to 2006	11
11. Renewable Resources Stakeholder Group	12
12. PUC Review of Efficiency Maine's Programs	12
13. Energy Resources Council	12
14. Miscellaneous: "Pay As You Save" Discussions	12
15. NASUCA Meeting on Regional Greenhouse Gas Initiative Issues	13

16.	LD 2041 Notice of Inquiry	13
17.	Regional: MPS and EMEC Reservation Payments to New Brunswick Power	13
18.	Regional: Northern Maine Independent System Administrator Board Meetings	14
19.	FERC: CMP Transmission Case	14
20.	National: Comments at the IRS on Deferred Tax Issues	14
21.	National: North American Electricity Reliability Council	14
22.	FERC: Locational Installed Capacity Issues	15
23.	FERC: NASUCA Comments	15
E.	Telecommunications at the FCC, Maine PUC and Elsewhere	15
1.	Verizon's Merger with MCI	15
2.	Verizon's Alternative Form of Regulation Case at the PUC	16
3.	Restrictions on Verizon's Ability to Market Long-Distance Services	16
4.	Line-Sharing Case at the PUC	17
5.	Ratepayer Complaints Concerning Privacy Violations by Verizon	17
6.	Possible Sale of Verizon's Properties in Maine	17
7.	Saco River Telephone/Pine Tree Telephone Rate Cases	18
8.	Public Interest Payphone Proceedings at the PUC	18
9.	National: NASUCA Comments on Universal Service Fund Eligibility	19
10.	US Cellular ETC Application	19
11.	Competitive Providers: Oxford Networks Case at the PUC	19
12.	Broadband Access Infrastructure Issues	20

13.	Wireless Service Quality Issues	20
F.	Natural Gas Cases at FERC and the Maine PUC	22
1.	Maritimes and Northeast Pipeline's Case at the PUC	22
2.	PUC Cost of Gas Adjustment Cases	22
3.	Interstate Agreements on Allocating Capacity Costs	22
G.	Water District and Water Company Cases	23
1.	Fryeburg Water Company	24
2.	Vinalhaven Water District	24
3.	Gardiner Water District	24
4.	Calais Water District	24
5.	Lisbon Water Department	24
6.	Harrison Water District	25
7.	Howland Water Department	25
8.	Limestone Sewer and Water District	25
9.	Winterport Water District	25
10.	Wiscasset Water District Disputes with Bath Water District	26
11.	Bingham Water District	26
12.	Aqua Maine Rate Cases	26
13.	North Jay Water District	27
H.	Nuclear Issues	27
1.	Allocation of Maine Yankee Oversight Fees	27
2.	FERC Settlement: Maine Yankee Incentive Payment	28

3.	Clean-up of Maine Yankee Site in Wiscasset	28
4.	Removal of Spent Nuclear Fuel From New England	29
I.	Railroad Service Quality Issues	29
1.	Meetings with Shippers	29
2.	Railroad Shipper Survey	29

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### **Attachments**

Attachment A, Summary of Ratepayer Savings, 1982 to 2006 .....	30
Attachment B, Performance Indicators: Newsletter Mailings .....	36
Attachment C, Performance Indicators: PUC/FERC Filings/Complaints .....	37
Attachment D, OPA Testimony/Successes: 2 <sup>nd</sup> Regular Session .....	38
Attachment E, OPA Speaking Engagements, FY 06 .....	41
Attachment F, Public Advocate Staff Time by Project .....	42
Attachment G, March 7, 2006 Letter to Citizens' Monitoring Report .....	44
Attachment H, Railroad Service Quality Report .....	50



## Annual Report - July 1, 2005 through June 30, 2006

### A. Introduction: Savings for Ratepayers in 2005-2006

Between July 2005 and June 2006 the Public Advocate Office scored several meaningful victories for Maine's utility consumers. These included:

- securing a reduction of \$994,000 in electric rates for Maine Public Service customers in Aroostook as a result of a negotiated Stipulation incorporating a series of adjustments to MPS' rate increase request that no other party to the case had proposed;
- securing a reduction of \$254,740 in electric rates for Bangor Hydro-Electric customers as a result of a negotiated settlement of BHE's 2006 Alternative Rate Plan adjustment where no other non-utility party actively litigated the case;
- blocking requests from Eastern Maine Electric Coop and from Maine Public Service that ratepayers pay for the New Brunswick portion of a new tie line between Canada and the U.S;
- reducing the Maine share of a FERC-required incentive bonus for Maine Yankee's completion of its decommissioning with minimal worker exposure, injury and cost in the amount of \$400,000; and
- reducing the amount of water utility rate increases in a number of small water district and Aqua-Maine cases where the OPA was the principle non-utility party, in the amount of \$174,201.

As a result of these efforts, rates for Maine consumers were set at annual levels that we estimate to be at least \$1,822,941 lower than they would have been in the absence of our advocacy. These savings when added to our previous efforts over the prior 24 years generate a total savings of \$247 million, as described in greater detail in Attachment A. This \$247 million total includes both litigated outcomes involving no other party as well as multi-party settlements, which the Office successfully negotiated with other intervenors. Cumulative savings over the last 24 years are presented on page 4 of Attachment A.

July 21, 2006

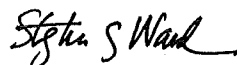
Dear Consumer,

It is both a privilege and responsibility to have served as Maine's Public Advocate over the past 19 years during contentious times in the nation's telecommunications, energy and utility sectors. I have the good fortune of working with a highly experienced staff (three lawyers, an economist and three skilled support personnel) whose combined service for the OPA totals an impressive 121 years.

We do our utmost to respond to the needs of Maine's utility consumers. Do not hesitate to contact the Office ~ electronically, by mail, in-person at our Hallowell office or over the telephone at 287-2445 ~ if we can help you, your family or business with a utility problem, controversy or choice.

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

Sincerely,



Stephen G. Ward  
Public Advocate



## Annual Report - July 1, 2005 through June 30, 2006

### B. Advocating for Utility Consumers in Maine Since 1982

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

In the year ending June 2006, the Office focused on tasks, initiatives and proceedings in Maine to a greater extent than in recent years. This focus on in-state activity was the result of a number of intersecting factors: our involvement at the Maine Legislature in a session involving numerous telecommunications and energy bills; a major rate case for Verizon, and significant cases for Maine Public Service and Central Maine Power; and our participation in two gubernatorial initiatives seeking to improve wireless telephone coverage and penetration of high-speed Internet technologies in Maine. Notwithstanding these constraints, Office staff continued to be active on the national scene in 2005/2006 but to a lesser extent than in past years.

#### SHARE OF STAFF TIME DEVOTED TO REGIONAL PROJECTS

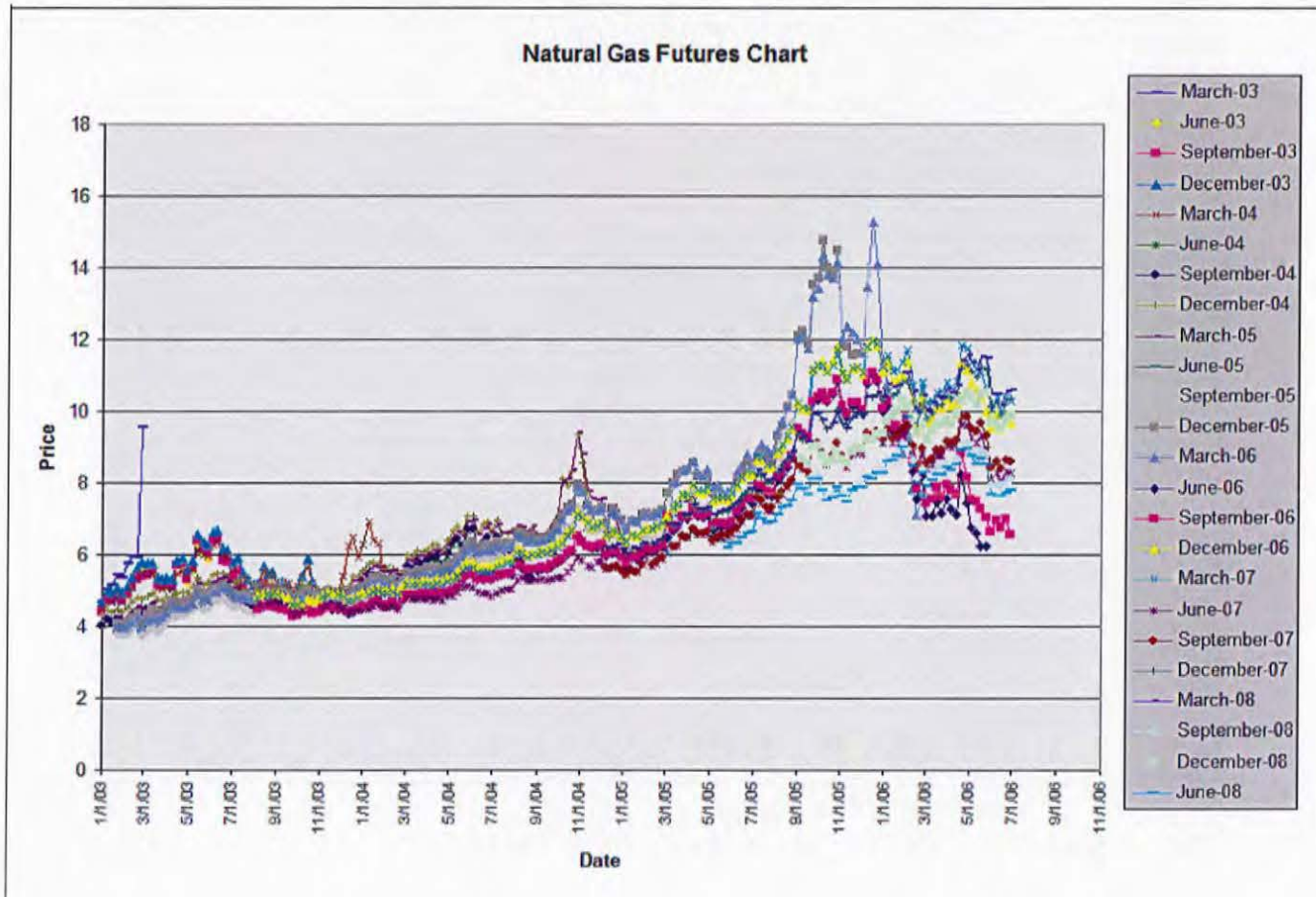
	2001	2002	2003	2004	2005	2006
A. Federal/regional advocacy % of staff direct time	6%	13%	17%	24%	9%	11%
B. Maine-based in-state advocacy % of staff direct time	94%	87%	83%	76%	91%	89%

Public Advocate Ward continues to serve as a member of the North American Electric Reliability Council (NERC) and its Standards Authorization Committee and on the Executive Committee of the National Association of State Utility Consumer Advocates (NASUCA) - the national lobbying arm for 45 consumer advocate agencies in 42 states and the District of Columbia. The Office also has secured Maine's membership on the Retail Electric Quadrant of the North American Energy Standards Board (NAESB), the standard-setting body for commercial protocols in the nation's energy markets. Senior Office staff has also pursued important roles beyond Maine's borders. Senior Counsel Wayne Jortner currently serves as Treasurer for the Universal Service Administrative Company (USAC), overseeing the collection and allocation of \$7 billion in federal surcharges supporting low-income, telemedicine, library Internet and related programs. Senior Counsel Eric Bryant has represented the office regularly before the Northern Maine Independent System Administrator (NMISA), at New England Power Pool (NEPOOL) committee meetings and at the Federal Energy Regulatory Commission (FERC).

During 2005/2006, Maine continued to be one of the nation's leaders in the extent of competition among electricity providers for medium and large business customers. 88% of CMP's industrial load was supplied by one of Maine's 30 licensed competitive providers, while the comparable number for Maine Public Service was 90% in June 2006. Adding in smaller customers in other parts of the state causes the total of statewide load that was served by competitive providers in June 2006 to exceed 35%. For commercial customers who wish to shop for their own supply, there is an active retail market for electricity in Maine. Its health has been brought into question by turmoil in wholesale electric markets. Wholesale electricity has become increasingly expensive in New

## Annual Report - July 1, 2005 through June 30, 2006

England over the past year, bringing distress to many businesses and residential customers. Natural gas has tripled in price over the past three years and further increases are likely, at least until new liquefied natural gas supplies come to market. The volatility of electricity markets in New England is best depicted by the following chart showing forward contracts for natural gas – the commodity on which power generators rely during most periods of the year.



In the case of telecommunications markets in Maine, there continued to be an abundance of competitive options for long-distance service in 2005/2006 but in the case of local telephone service the opposite: a restriction of competition. This restriction was the result of two events: the FCC's elimination of a regulatory program (UNEP) that had enabled Verizon's competitors to inexpensively lease components of Verizon's network, and the merger of Verizon nationally with one of its biggest competitors for local service, MCI. We currently estimate that Verizon's share of the market for local telephone service in Maine exceeds 90% - a very dominant position indeed at near-monopoly levels for local service. During the fiscal year ending June 30, the Office generated a number of publications in an effort to inform the public about our mission. These publications are summarized below.



## Annual Report - July 1, 2005 through June 30, 2006

### Public Advocate Publications: July 2005 to July 2006

1. July 14, 2005: "Public Advocate Office Staffers to Hold Individual Phone 'Tune-Up Sessions' at the Maine Mall on July 20," Press Release
2. August 3, 2005: "State, Federal and Local Regulatory Policies: Potential Burdens and Benefits Presentation," for the Broadband Access Infrastructure Board, report
3. September 15, 2005: "Public Advocate Witnesses Urge That Verizon/MCI Merger be Approved - if at all - With Major Conditions That Promote Competition and Broadband Deployment," Press Release
4. September 22, 2005: Harvard Energy Policy Group, "Overview of Electric Ratemaking in Maine," speech
5. October 21, 2005: "Making the Connection: RGGI Nine-State Collaboration on CO<sub>2</sub> Cap-and-Trade," speech
6. October 31, 2005: "Public Advocate Office, Government Evaluation Act Report"
7. November 2005: Electricity Guide, Volume 11, "The Energy Picture: How Does it Affect Electricity Rates?," newsletter
8. January 18, 2006: "Public Advocate has Asked the PUC to Reduce Verizon Local Rates by \$8 per Month Under the Current AFOR Statute," Press Release
9. January 26, 2006: "Support the PUC's Rule Requiring Coinless Public Telephones," Press Release
10. February 2006: Ratewatchers Telecom Guide, Volume 17, newsletter
11. February 1, 2006: "PUC Approved Proposal of the Public Advocate for a 50% Increase in Funding for Assistance to Low-Income Electric Customers," Press Release
12. March 1, 2006: "Annual Report on Railroad Service Quality in Maine," submitted to the co-chairs of the Transportation and Utilities and Energy Committees of the Maine Legislature, report
13. April 2006: Electricity Guide, Volume 12, "Standard Offer Increase for CMP and BHE Customers," newsletter
14. April 21, 2006: Bangor Daily Op-Ed with Matthew Davis, "A Step Toward Maine's Clean Energy Failure", op-ed
15. May 9, 2006: Kennebec Journal Op-Ed, "ISO-New England has a big effect on you but do you know what it is?," op-ed
16. July 3, 2006: Providence Journal Op-Ed, "Is FCC Rewarding Bell's Cooperation?," op-ed

### **C. Dealing with Customer Complaints, Consumer Education and the Legislature**

In FY 2005, the Office regularly interacted with individual customers who contacted us with concerns or complaints about utility service. We also prepared and mailed newsletters on telephone and electric options to more than 41,000 consumers in the 12-month period ending in June 2006. In the case of individual customer complaints, the Office addressed more than 7,400 complaints or requests for information during FY 2006. This total includes contacts with legislators during the 122nd Second Session and written testimony on individual bills during that session. Please see Attachments B and C for monthly detail on the frequency of newsletter mailings and on customer/legislator contacts.

## **Annual Report - July 1, 2005 through June 30, 2006**

As has been the case in prior years, the Office keeps track of those bills introduced during each legislative session and of our success in influencing debate on each bill. In 2005 the Office submitted written testimony on 12 bills in the Second Session of the 122nd Legislature. With respect to the bills on which the Office took a formal position, our recommendation corresponded to the final outcome in the Legislature on 8 occasions, or 67 % of the time. Attachment D presents a listing of all the bills we tracked during the First Regular Session and the disposition of each bill we testified on.

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

As shown on Attachment E, the Office also has been quite active in responding to requests for speakers on utility-related topics. Eleven of these informational talks took place in Maine at locations as diverse as a Maine Global Climate Change Conference at USM and the Lion's Club in Gardiner. Attachment F provides a breakout of staff time for all eight OPA staff (exclusive of the Nuclear Safety Advisor) by project over the past fiscal year.

### **Regional and National Meetings and Conferences: FY 06**

1. North American Electric Reliability Council (Denver, CO; Houston, TX; Phoenix, AZ)  
September 28-30, 2005; January 9-10, 2006; March 9-11, 2006  
Stephen Ward
2. Independent System Operator - NE (Marlborough, MA, Boston, MA, Burlington, VT, Sturbridge, MA) October 17, 2005; October 28, 2005; April 19, 2006; April 27, 2006; May 17, 2006  
Stephen Ward, Eric Bryant, William Black
3. National Association of State Utility Consumer Advocates (Palm Springs, CA; Washington, D.C.; Memphis, TN)  
November 12-16, 2005; April 26-28, 2006; June 11-15, 2006  
Stephen Ward, Patty Moody, Mary Campbell, Ronald Norton
4. Regional Greenhouse Gas Initiative Stakeholder Group (Boston, MA; Hartford, CT; NYC, NY)  
September 21, 2005; May 2, 2006; May 31, 2006  
Stephen Ward
5. Railroad Freight Shippers (Portsmouth, NH)  
July 19, 2005  
Stephen Ward, Eric Bryant
6. Northeast Energy Efficiency Partnership (Boston, MA)  
May 16-17, 2006  
Ronald Norton
7. Northern Utilities/NH PUC/MPUC (Portsmouth, NH, Portland, ME)  
September 19; October 4; October 11; October 24; November 1; November 10, 2005  
Portland, ME  
Stephen Ward, Ronald Norton
8. New Hampshire PUC/Fryeburg Water Company (Fryeburg, ME; Concord, NH)  
July 19, 2005; October 26, 2005; January 10, 2006; January 23, 2006  
William Black

## **Annual Report - July 1, 2005 through June 30, 2006**

9. Universal Service Administrative Company (Washington, D.C.)  
July 18-19, 2005  
Wayne Jortner
10. Risk Evaluation Conference (Chicago, IL)  
November 8-10, 2005  
Ronald Norton
11. Decommissioning Plant Coalition (Boston, MA)  
September 1, 2005; December 6, 2005; March 15, 2006  
Stephen Ward, Charles Pray
12. Nuclear Waste Strategy Coalition and Nuclear Waste Conferences (Las Vegas, NV; Washington, DC, Atlantic City, NJ)  
July 27-29, 2005; September 16-21, 2005; March 27-29, 2006; April 30-May 5, 2006; May 9-12, 2006; June 19-23, 2006  
Charles Pray
13. Northern Maine Independent System Administrator (Houlton, ME; Bangor, ME)  
August 30, 2005; October 18, 2005; December 13, 2005; April 24, 2006;  
June 20, 2006  
Eric Bryant, Stephen Ward
14. Harvard Energy Policy Group (Cambridge, MA)  
September 21, 2005  
Stephen Ward
15. University of Maine (Orono, ME)  
October 5, 2005  
Stephen Ward
16. Maine Community Action Program Directors (Bangor, ME)  
February 14, 2006  
Stephen Ward
17. Maine Global Climate Change Conference (Portland, ME)  
May 10, 2006  
Stephen Ward
18. New England Governors Conference (Boston, MA)  
March 17, 2006  
Charles Pray

### **D. Electricity Cases at the Maine PUC and FERC**

#### **1. Negotiations with Central Maine Power over an ARP Extension**

In September the OPA was approached by Central Maine Power (CMP) to discuss a negotiated extension of CMP's current seven-year Alternative Rate Plan (ARP) for an additional two or three years. Such an extension - if agreed to - would be preceded by an examination of CMP's earnings, expenses and revenues. CMP agreed as well to respond to all discovery requests, to include other parties as potential negotiators at a future date and to consider the possibility of future price reductions for distribution service. We met three times in November with CMP and Energy East officials for further discussions of a negotiated extension of CMP's current ARP and to discuss CMP's responses to OPA discovery. With the assistance of OPA consultants from Exeter Associates on accounting and sales forecast issues, we then prepared a counter-offer to CMP's November 17 proposal.

## **Annual Report - July 1, 2005 through June 30, 2006**

On December 2 we reached an agreement in principle with CMP on a number of price concessions in exchange for an extension of the current Alternative Rate Plan by three years from 2007 to 2010. The concessions included: 1) an additional .5% annual amount added to the 2.75% inflation offset for July, 2006, 2) a \$2.2 million increase in benefits payable to qualifying low-income customers under CMP's Electricity Lifeline Program; 3) CMP's agreement to invest an additional \$25 million in distribution system upgrades in the 2005-2010 period beyond current budgets and 4) CMP's agreement to promote efficiency measures, rather than energy consumption, in the winter peak and summer peak periods. On December 22, CMP and the OPA presented the ARP Extension Stipulation to the PUC Commissioners and PUC Staff. AARP, Kennebec Valley CAP, Coastal Economic Development, the Industrial Energy Consumer Group, the Independent Energy Producers of Maine and Maine Equal Justice Partners intervened in the case and all took a position in general support of the settlement. On January 6 the PUC accepted oral argument from the interested parties and an Oral Examiner's Report on four threshold questions of procedure and the following week adopted an exceedingly deliberate schedule for processing the CMP/OPA settlement with a final PUC decision not scheduled until May 31 - more than 6 months after the stipulation was originally filed on December 7.

We filed comments in January urging the PUC to move quickly in its consideration of increased benefits for eligible participants in the various low-income discount programs operated by T&D utilities across the state. Having negotiated a 50% increase in funding for the CMP program, we recommended that the PUC take up other utilities' program benefit amounts individually as rate cases arise, noting that Maine Public Service has already filed a request for a rate increase. We noted that there had been no increase in the low-income discount benefit amount since 2000 despite a doubling of Standard Offer costs over the same period.

On February 1 the PUC singled out for approval one provision of the CMP/OPA/IECG Stipulation: increased funding for CMP's low-income electricity discount program. Approval meant that 10,000 customers in CMP's current program year received a retroactive benefit of \$91 on average for customers below 75% of poverty and \$26 for customers above 75% of poverty who are eligible for LIHEAP assistance. Additionally, 5,306 customers became eligible under the new program guidelines who weren't eligible previously for any benefit at all. The benefit increase was implemented promptly so that qualifying households could actually receive assistance during the 2005/2006 heating season. At discovery and technical conferences in February and March, the PUC Staff and its accounting/sales forecast consultant questioned CMP and Energy East witness about aspects of the three-year ARP extension that we negotiated and filed in December.

On April 28, the PUC Staff released its Bench Analysis urging rejection of the remaining provisions of the agreement - notwithstanding the \$2 million reduction in rates proposed for July 1 this year - due to a belief that CMP's electricity sales will be more robust than CMP had forecast and that CMP would therefore "overearn" by some \$45 to 90 million over three years. We disagreed with the Staff's optimism about robust electricity sales in view of the effects of high energy prices and federal LICAP charges in reducing CMP's retail sales. On May 19 we filed our 40-page Comments rebutting the MPUC Staff's Bench Analysis and its recommendation that the PUC reject the 3-year ARP extension. Key among the points made in our Comments was the assertion that both CMP and the MPUC Staff over-forecasted the likely growth in electricity sales through 2010, by ignoring recent run-ups in electric (and natural gas) prices that tended to suppress

## **Annual Report - July 1, 2005 through June 30, 2006**

consumption and will continue to do so through 2010. Our sales forecast expert estimates that CMP's sales projections are overstated by three to four percent through the 2007 to 2010 period. In fact, CMP's sales of electricity for the first four months of 2006 averaged 4% below projections, due to higher energy prices, for the January to April 2006 period.

On May 24 the PUC held a public witness hearing at Portland High School for comment from the general public on the OPA/CMP/ICEG Stipulation. Thirteen witnesses testified, all in favor of the ARP Extension agreement. Speakers represented themselves in two cases, businesses in seven cases, the Maine Chamber and Business Alliance in two cases and environmental organizations (NRCM and Environment Maine) in two cases. There was no testimony in opposition and no testimony from legislators at the public hearing.

The PUC conducted an evidentiary hearing on May 25 on the ARP Extension Stipulation that concluded with oral argument and presentations by CMP, ICEG, IEPM and the OPA. At the hearing the stipulating parties agreed at the hearing to three additional concessions in order to generate final PUC approval of the Stipulation: CMP agreed to seek no deferral of additional grid reliability investments but instead to accept their recovery in annual ARP adjustments, subject to the \$3 million annual floor on "Mandated Costs." CMP agreed to a symmetrical treatment of loss/excess earnings when return on equity are below or above a predetermined bandwidth around the authorized return, by cancelling any 50% sharing of losses with ratepayers. Finally, the ICEG's proposed that the PUC open a separate proceeding to consider in some detail the effect of revenue reconciliation on CMP's special rate contract program.

At final deliberations on June 6, the Commissioners agreed that an additional \$40 million reduction in CMP's rates would be necessary in order to justify approval of a 3-year ARP extension, as proposed. Given previous rate concessions for 2006 in the Stipulation (in the \$6 million area), CMP was not inclined to go further and on June 8 the three stipulating parties (OPA, CMP and ICEG) signed a letter requesting that the case be terminated and the Stipulation be deemed withdrawn. This outcome meant that, instead of the current ARP expiring in December 2010 as the stipulating parties had proposed, it will expire in December 31, 2007 following a major rate case in 2007 that will re-set CMP's rates. In our view that rate case stands a real chance of increasing CMP's distribution rates (rather than reducing them by .5% as the ARP Extension Stipulation proposed) due to the prospect of lagging electricity sales and a faltering economy in 2007. That rate case will also coincide with a major rate case for Bangor Hydro in 2007 prior to termination of its ARP on December 31, 2007.

### **2. Central Maine Power Line Extension Complaints**

Beginning in October 2005, we began work on a major complaint case at the PUC questioning the manner in which CMP deals with line extension requests from residential customers. The complaint of ten disgruntled CMP customers alleged that CMP has been inconsistent in its pricing, slow in response to requests, overcharged for various fees and services and is unfair to private contractors who compete for line extension business. Following a discovery conference in November, the PUC decided to open a full investigation of CMP's failure to process line extensions efficiently with customers and its failure to work cooperatively with private line



## Annual Report - July 1, 2005 through June 30, 2006

contractors. By year-end the PUC Hearing examiner had scheduled formal testimony from CMP to be filed in mid-July for a full exploration of the issues in this case.

### 3. Over-recovery of CMP Charges for Line Extensions

In a parallel case involving how CMP bills line extension customers for overhead costs, we challenged CMP's decision to double the "profit adder" portion of its overhead costs. A subsequent investigation has revealed that CMP is double-recovering a portion of these costs from line extension customers. In late June 2006, the Commission decided that CMP must refund up to 10% of the cost of a new line extension to all customers that paid for new hook-ups going back to 2000. The "profit adder" (5% from 2000 to February 2004, and 10% thereafter) did not compensate CMP for any identifiable costs associated with CMP-built line extensions and were not therefore a reasonable charge, according to the PUC. The Commission also prohibited the adder from being imposed on new hook-ups on a going-forward basis. As much as \$2 million dollars will be returned to line extension customers as a result of this decision.

### 4. Special Rate Contract: Bath Iron Works and CMP

We participated in April at a technical conference concerning CMP's discount electricity contract with BIW. CMP and BIW came to terms over a contract discount that requires PUC approval to take effect. The proposed contract provides for the elimination of all stranded cost payments by BIW, representing a 50% reduction in BIW's electric bill annually. Electricity is a relatively minor portion of BIW's operating budget, at 3%, but BIW believes the reduction would be useful in enabling BIW's workforce to outlast the decline in shipbuilding orders before the first DDX ship begins construction.

As desirable as this objective is, the proposal raised a number of questions that were the focus of questioning at a May 4 technical conference. These questions dealt with the fact that all previous special rate contracts in Maine included an element missing from this one: a showing that in the absence of a rate discount, the customer would cease consuming electricity, due to self-generation, relocation or bankruptcy. In this case, CMP and BIW merely argued that BIW is more likely to get additional DDX orders if it can demonstrate that its operating costs are lower. However, such a claim could be made by virtually any business in the state seeking a lowering of its electricity rate. The second issue that arose at the technical conference was the possibility of enhanced Efficiency Maine programming at BIW enabling the yard to cut its power bill prior to the arrival of the first DDX order. By year-end CMP and BIW had taken no further action in amending the proposal to respond to these concerns so, effectively it was dead.

### 5. Bangor Hydro-Electric Rate Design Case

In March, the OPA filed discovery questions in a Bangor Hydro proceeding that proposed to shift all non-residential billings from a usage-sensitive format to a demand pricing format determined by that customer's highest annual electricity demand. BHE contends that, unless such a change is made, it will be too easy for large customers to leave the grid, requiring small customers to bear the full burden of stranded costs. BHE proposed a phase-in over several years, recognizing that many commercial/industrial customers (in the vicinity of 60%) will face successive increases in their

## **Annual Report - July 1, 2005 through June 30, 2006**

monthly bills under this approach. Bangor Hydro seeks to avoid losing customers whose choice of self-generation is made easier by relatively low demand charges and relatively high energy charges in the current ratemaking format. At year-end, this contentious proceeding was moving toward a litigated outcome with the IECG, Bangor Gas and Penobscot Energy Recovery Company vigorously opposing the BHE proposal on the grounds that it imposed an impermissible "exit fee" that is prohibited by statute. Insofar as the proposal will not apply to residential customers, we have so far adopted a position of neutrality in this case. Hearings are set for September 2006.

### **6. Special Rate Contract: University of Maine and BHE**

In early 2006, UMO and Bangor Hydro reached agreement on a three-year special contract for a discounted delivery price. In anticipation of a hearing requested by the Commission, the parties amended this agreement so that it is now a two-year deal with BHE having the option for a third year. Bangor Hydro hopes to continue to supply all of UMO's electricity so that UMO does not resort to a self generation option. By year-end the PUC had approved the amended agreement.

### **7. Special Rate Contract: Lincoln Pulp and Tissue and BHE**

The OPA participated in a PUC proceeding that focused on Bangor Hydro's special rate contract with Lincoln and Constellation Energy's provision of Standard Offer service for Lincoln's power supply requirements. We undertook negotiations with Lincoln and BHE over the terms of a stipulated resolution of the opt-out fee issues and BHE's ongoing contract relationship with Lincoln Pulp and Tissue. On April 11, we came to final terms with Bangor Hydro, Constellation Energy and Lincoln Pulp & Tissue to enable Lincoln to install a new paper machine, exit the Standard Offer without paying a \$1.6 million penalty for early departure and satisfy the various covenants of its credit agreements. The agreement took the form of a new special contract relationship between BHE and Lincoln which the PUC approved in late April, 2006.

### **8. Maine Public Service Distribution Rate Case**

In March Maine Public Service filed a request for a 10% increase in distribution rates totaling \$3.24 million. The case focused on MPS' purchase of an Oracle computer system with capacity (and costs) that appeared disproportionate to ratepayer benefits and, as well, MPS' relationship to the Maine and Maritimes holding company that also uses the Oracle system. Other significant issues included MPS' costs of capital and the costs of its compliance with federal Sarbanes Oxley requirements. We prepared testimony for filing by three OPA witnesses in this case and conducted extensive discovery. We completed the discovery phase of this rate case in April. In fact, we were the only party in the case to do so, apart from oral data requests at hearings. In June Eric Bryant handled negotiations for the OPA with Maine Public Service and the MPUC Staff over the size and terms of the electric rate increase in Aroostook County. MPS subsequently revised the rate request down to \$2.15 million.

The OPA reached a final agreement on June 21 with Maine Public Service and the other parties in this case to an increase in distribution rates of \$1.75 million, in contrast to MPS' original \$3.24 million request. Maine Public agreed as well to a collaborative discussion of changes in its low-income discount program for HEAP-eligible customers and to annual reporting on service quality

## **Annual Report - July 1, 2005 through June 30, 2006**

measurements that are similar to the SQI indices in use for CMP and Bangor Hydro. The agreed-to increase results in a 10.6% increase in residential distribution rates or a 3.8% increase in residential rates overall.

### **9. Maine Public Service Transmission Line Case**

In July 2005 we addressed a complex range of issues associated with a MPS proposal for a new transmission line. The case focused on electricity reliability in Aroostook County, the Loring Bio-Energy proposal in Limestone and the likelihood of existing renewable generators being able to meet future electric demand. We concluded, based on our consultants' advice, that the existing biomass generators plus the new wind project at Mars Hill, reactivated diesel generators at Presque Isle and a proposed 500 MW wind project in the St. John Valley will be sufficient to assure adequate capacity. We therefore opposed MPS' request for a Certificate of Public Convenience and Necessity for a new tie-line to New Brunswick. In September, the PUC Commissioners adopted our advice and unanimously rejected Maine Public's request for approval of a new transmission connection from Limestone to the New Brunswick system. That decision was based on their determination that, for the foreseeable future, there was no reliability problem in Maine Public's system that requires new transmission investments.

### **10. Maine Electric Consumers Coalition, 1995 to 2006**

We continued meeting on a monthly basis this year with representatives of a number of statewide organizations for discussions of consumer aspects of electric restructuring. In the past year, membership has included representatives of: Independent Energy Producers of Maine, Maine Council of Churches, Maine Council of Senior Citizens, the Industrial Energy Consumer Group, Competitive Energy Services, Ridgewood Renewable, Energy Options, Maine League of Women Voters, AARP, Maine Energy Investment Corporation, the OPA and private citizens. Foremost on the agenda was discussion of pending legislation at the Utilities Committee of the Maine Legislature, followed by an exchange of views on the long-term significance of recent price increases. For dates of meetings and Coalition membership, see below. The Coalition has been active at the Legislature and at the PUC on electric issues since 1995 with essentially the same membership. It celebrates its eleventh anniversary in October 2005.

#### **Meetings of the Maine Electric Consumer Coalition**

1. September 12, 2005 at OPA Office in Hallowell
2. October 7, 2005 at OPA Office in Hallowell
3. November 8, 2005 at OPA Office in Hallowell
4. December 15, 2005 at OPA Office in Hallowell
5. January 20, 2006 at OPA Office in Hallowell
6. February 17, 2006 at OPA Office in Hallowell
7. March 13, 2006 at OPA Office in Hallowell
8. April 10, 2006 at OPA Office in Hallowell
9. May 15, 2006 at OPA Office in Hallowell
10. June 5, 2006 at OPA Office in Hallowell

Attendance has ranged from 6 to 11 attendees per meeting representing as many as 10 statewide organizations or state entities.

## **Annual Report - July 1, 2005 through June 30, 2006**

### **11. Renewable Resources Stakeholder Group**

During the July through December period, we participated in a 20-member Renewable Resources Stakeholder Group, led by Beth Nagusky, for consideration of renewable power resources in Maine and possible public policy initiatives pertaining to them. The group's meetings focused on the Regional Greenhouse Gas Initiative, wind power development in Maine and a PUC proposal for 5 to 15 year contracts with electric generation that is intended to dampen the volatility of short-term energy prices. The group made progress in developing a common knowledge base and ultimately reached a set of near-consensus conclusions on changes in renewable policy that were forwarded to the Utilities Committee of the Legislature in report form.

### **12. PUC Review of Efficiency Maine's Programs**

In connection with the PUC's in-house review and evaluation, we engaged Optimal Energy of Bristol, Vermont to conduct an evaluation of the Efficiency Maine conservation effort. Optimal Energy ranked Efficiency Maine relative to comparable entities (with bigger budgets) in New York, Connecticut, Massachusetts, Long Island and Vermont and concluded that Efficiency Maine is well-managed but can benefit from a re-targeted portfolio of efficiency measures. In October the PUC conducted a full-day conference at the University of Maine at Augusta on how to improve Maine's delivery of electricity conservation programs in Maine. The program included presentations from conservation experts from California, Wisconsin and Massachusetts that were thoughtful and provocative.

The PUC ultimately left Efficiency Maine's program design undisturbed and will be returning to the Maine Legislature in 2007 for further discussions of its budget.

### **13. Energy Resources Council**

Throughout the year, the members of the Energy Resources Council met monthly for discussions at the State Planning Office on energy-related activities within Maine government. Led by Beth Nagusky, participants included representatives from the Departments of Administration and Financial Services, Transportation, Conservation, DEP, the PUC, the State Planning Office and the Public Advocate.

### **14. Miscellaneous: "Pay As You Save" Discussions**

In April and subsequently, the OPA participated with the PUC and the Department of Energy Independence and Security in conference calls with proponents of "PAYS." PAYS is a technique for promoting electricity conservation in which electric utilities bill on a monthly basis for the capital cost of conservation measures until they are entirely paid for. Under these arrangements, the participating customer receives a lowered power bill without having to finance the efficiency measure. Although inconclusive, the discussions generated a better understanding of the pros and cons of PAYS programming.

## **Annual Report - July 1, 2005 through June 30, 2006**

### **15. NASUCA Meeting on Regional Greenhouse Gas Initiative Issues**

At the request of the Natural Resources Defense Council, Public Advocate Ward co-sponsored a one-day, educational workshop at NRDC's offices in New York at which consumer advocates and assistant attorneys general from Maryland, New Jersey, New York, Pennsylvania, Massachusetts and other states in the RGGI region considered the issues associated with RGGI affecting ratepayers. The Regional Greenhouse Gas Initiative has been adopted by the governors of seven states from Delaware to Maine and is now undergoing scoping sessions for rulemakings in each participating state. This multi-state initiative proposes a cap-and-trade program for greenhouse gasses generated at power plant sites in the region.

### **16. LD 2041 Notice of Inquiry**

In response to a comment deadline of July 10, we began at year-end preparing our responses to 110 questions posed by the PUC for implementing LD 2041, "An Act to Enhance Maine's Energy Independence and Security." The Notice of Inquiry focused on policy issues and alternatives for implementing newly-enacted legislation. The legislation granted the PUC power to arrange for long-term contracts designed to reduce price volatility, reduce peak demand and promote renewable resources.

### **17. Regional: MPS and EMEC Reservation Payments to New Brunswick Power**

In planning for the transmission link to Bangor Hydro's new tie-line, New Brunswick Power requested a \$810,000 annual reservation fee from Maine Public Service for 25 years and a similar payment by Eastern Maine Electric Cooperative. During July and August, parties to the MPS and EMEC cases discussed opportunities for eliminating transmission "seams" (and reducing wholesale power costs) in Northern Maine, in conjunction with these reservation requests. Participating in the discussions were: the PUC Staff, Houlton Water District, Maine Public Service, Eastern Maine Electric Cooperative, WPS Energy, the Northern Maine Independent System Administrator, Loring Bio-Energy, Bangor Hydro and our office. All non-utility parties opposed the reservation requests in the context of Maine Public's request for PUC approval of a 35 megawatt reservation on the New Brunswick transmission system for 25 years. We filed a Brief at the PUC in opposition to these proposals. The Agreements embody New Brunswick's unusual method for financing construction of their portion of this international line (Bangor Hydro's line was permitted by the PUC last summer).

In September the PUC formally rejected the utility requests for these reservation payments, accepting the OPA recommendation in this matter. We argued that New Brunswick Power has already approved funding for the line, so New Brunswick is proceeding with construction whether these Reservation Agreements are approved or not. If the PUC had approved them, it also is our view that northern Maine ratepayers would bear a disproportionate share of the cost burden for this line and that a more equitable allocation should have been proposed.

## **Annual Report - July 1, 2005 through June 30, 2006**

### **18. Regional: Northern Maine Independent System Administrator Board Meetings**

Throughout the year, OPA Staff attended NMISA Board meetings in Bangor, as observers and participants, during its consideration of how best to undertake the reliability planning and transmission approval functions that the Maine PUC (and FERC) want NMISA to take on for Aroostook and Washington counties. The Board was regularly successful in reaching consensus on a series of specific proposals for performing these functions.

### **19. FERC: CMP Transmission Case**

In August we intervened in the annual CMP transmission rate case at FERC and protested CMP's unilateral decision to reallocate 99% of costs for its dispatch center to its transmission rate, while simultaneously leaving distribution charges unchanged. In October the multiple parties to CMP's filings at FERC for adjustment in its transmission rates negotiated over the terms of a possible settlement. The negotiating parties included CMP, MPUC, Madison Electric, Kennebunk Light and Power District, Fox Islands Coop and our office. The group agreed on a phase-in of CMP's proposal to shift cost recovery for its control center in Augusta from MPUC's jurisdictional retail rates to FERC jurisdictional transmission rates. FERC approved this settlement at year-end. Along with the PUC Staff we reached agreement on a corresponding \$2.1 million reduction in CMP's distribution rates, which took effect (with carrying charges) in March 2006.

### **20. National: Comments at the IRS on Deferred Tax Issues**

In March we filed joint comments, with the Pennsylvania Office of Consumer Advocate, in the proceeding at the Internal Revenue Service in Washington considering whether to allow tax deferral amounts collected on utility generators that were sold during restructuring to be flowed through to ratepayers, as a credit. We have supported this position in prior IRS proceedings and in testimony on Capitol Hill because ratepayers of Bangor Hydro and Maine Public Service originally paid for the taxes in question and should benefit in lowered rates from the sale of the assets. In the case of Central Maine Power, we negotiated a settlement of this issue in 1999 that resulted in 50% of the deferred tax benefit being flowed through in lowered rates. A pending IRS rulemaking may decide this issue in a manner that could confer a significant benefit on Bangor Hydro and Maine Public ratepayers if it has a retroactive effect. That is because in prior PUC proceedings, this issue was reserved for future consideration for both utilities.

### **21. National: North American Electricity Reliability Council**

As an elected member representing residential customers at the North American Electricity Reliability Council (NERC), Public Advocate Ward attended meetings of the Standards Authorization Committee at several locations in 2005/2006. The SAC group witnessed the transformation of NERC from an industry group promoting voluntary reliability standards to a regulatory body enforcing mandatory standards. The SAC oversees the process for adopting these mandatory reliability standards and puts final proposals out to vote for NERC's membership.

## **Annual Report - July 1, 2005 through June 30, 2006**

### **22. FERC: Locational Installed Capacity Issues**

During 2005/2006 ISO-New England succeeded in receiving FERC approval for a new surcharge designed to encourage the construction of new generation capacity in New England. Along with the PUC, we have consistently opposed this concept as both costly and untargeted. In July 2005 we were successful in getting more than 25 Congressional representatives to sign on to a letter to FERC calling for delay in the implementation of LICAP. In March 2006 we filed joint comments with the Maine PUC opposing the LICAP settlement that formally was filed at FERC on March 6. The comments pointed to the expense of transition-period charges, the complete absence of record evidence in their support and the absence of adequate locational elements in the Forward Capacity Market that is proposed to get underway in 2010. We now expect that the transition-period charges by themselves will push residential electric rates up by \$.006/kWh and industrial rates by \$.01/kWh. At year-end, we were cooperating with Maine PUC Staff on the preparation of a request that FERC reconsider its LICAP order.

### **23. FERC: NASUCA Comments**

Over the course of the year ending June 2006, we undertook a number of comments at FERC on behalf of NASUCA, and its 45 member offices. In September we contributed comments by NASUCA in a FERC rulemaking pursuant to the Energy Act of 2005 that established mandatory reliability standards. In November, we filed comments at FERC on behalf of NASUCA in response to a Notice of Investigation with a series of questions concerning the relative success of electricity competition in wholesale and retail markets. We also contributed comments on behalf of the Maine OPA individually in the same docket.

## **E. Telecommunications at the FCC, Maine PUC and Elsewhere**

### **1. Verizon's Merger with MCI**

In response to Verizon's request for PUC approval of a merger with MCI, we filed testimony of three experts on September 9. OPA consultant Tom Sexton and OPA economist Ron Norton prepared testimony documenting Verizon and MCI's 90% share of local telephone service in their service territories in Maine. OPA consultant Bob Loube of Arlington, Virginia prepared testimony supporting conditions on the merger that will make broadband deployment in Maine more likely. On October 25, we filed a 52-page brief explaining how the proposed merger will further concentrate market power in Verizon's service area to an unacceptable degree. We recommended that the Commission not approve the merger unless Verizon and MCI agreed to accept thirteen specific conditions to mitigate the resulting harm to competition and to protect Verizon customers. On November 15 the PUC approved the merger of Verizon and MCI but declined to adopt any of the conditions on that merger that we had proposed in our brief. Instead the Commission required Verizon (a) to report on a specific schedule, on an exchange-by-exchange basis, for availability of DSL, (b) to make DSL service available even to customers who took local services from a competitor, and (c) to make certain concessions to ensure that landline and Internet competitors do



## **Annual Report - July 1, 2005 through June 30, 2006**

not suffer immediate harm due to the merger. Also, the Commission ordered Verizon to file quarterly reports that provide an estimate of the savings to Verizon-Maine generated by the merger.

### **2. Verizon's Alternative Form of Regulation Case at the PUC**

In 2005 the Public Utilities Commission responded to a remand order issued by the Law Court and opened an two-stage investigation of whether Verizon should be regulated under a new Alternative Form of Regulation (AFOR). The first phase (Phase I) of the investigation involves a review to determine whether Verizon is receiving excess earnings under its current rates. (This case represents the first in-depth look at Verizon's costs and revenues since 1995.) In Phase II of the investigation the Commission is determining the design of a new AFOR and service quality index (SQI) for Verizon. During the summer and fall of 2005 the parties to this proceeding -- Verizon, the Public Advocate, and the American Association of Retired Persons (AARP) -- engaged in extensive discovery. In January 2006, the OPA filed testimony from three consultants rebutting Verizon's claims in the AFOR case at the PUC. Collectively, the OPA consultants called for a \$46 million reduction in local rates that would represent a savings of \$100 per year for every Verizon residential customer subscribing to premium local service. In April we filed the testimony of four OPA witnesses: Stephen Hill on cost of capital, William Dunkel on Verizon's depreciation rates, Bob Loube on competition for Verizon's local service; and Tom Catlin on accounting/ratemaking operations and on the revised (\$5.00) decrease to local rates. In May we participated in an all-day technical conference at the Commission at which the Commission Staff asked questions about the positions taken by Verizon witnesses and by Public Advocate and AARP witnesses concerning the various revenue-requirement issues now in dispute. At the end of a long discussion, the Commission permitted Verizon to file a further round of testimony not anticipated by the existing schedule. Verizon made that filing on May 26 and the opposing parties were granted the opportunity to respond either orally or in writing. At year-end the parties were preparing for negotiations on July 11, 13, 19 and 20, and hearings on August 30 and 31. The Public Advocate submitted a written settlement offer and Verizon asked for an additional four weeks to respond to that offer.

### **3. Restrictions on Verizon's Ability to Market Long-Distance Services**

At the request of the PUC Commissioners during oral argument in August, we attempted to negotiate with Verizon a mutually acceptable agreement governing how customers requesting local phone service can receive marketing information from Verizon for long-distance service. After making two unsuccessful efforts to resolve these issues through negotiation, we reported in March to the PUC Hearing Examiner that further negotiation efforts would not be useful and that the Examiner should proceed to the final Report in this litigated case. In June we filed our Exceptions to the Examiner's recommendation that Verizon henceforth face no restrictions on its ability to market long-distance services to customers seeking connection for local service.

Our position for retaining the existing marketing restrictions was due to the fact that less than 30% of telephone customers in Maine, in Verizon's territory, take long-distance service from a non-Verizon competitor compared to much higher levels (in excess of 50%) in other states. Until Verizon's market share falls, we believed it appropriate for the PUC to retain the existing restriction on over-the-phone marketing of long-distance services to customers seeking local

## **Annual Report - July 1, 2005 through June 30, 2006**

service. At year-end the PUC adopted the Examiner's recommendation and rejected these arguments.

### **4. Line-Sharing Case at the PUC**

In January the OPA filed its brief rebutting Verizon's claims that the PUC lacks any authority to order Verizon to lease a portion of its lines for competitive broadband access. As expected, Verizon's reply brief reiterated the same arguments. At year-end, the PUC had not ruled on the arguments in this case, filed earlier by Verizon or by the pro-competition parties, including the OPA.

### **5. Ratepayer Complaints Concerning Privacy Violations by Verizon**

In May 2006 a group of Verizon customers asked the PUC to open an investigation as to whether Verizon has cooperated with the NSA in the surveillance of the phone network traffic and phone records of Maine customers. The OPA intervened, as did the MCLU, based on the privacy protections for customers required by Maine's telephone statute. Verizon filed comments arguing that the Commission should not investigate because Verizon is legally barred from providing any information concerning its alleged cooperation with the NSA program. Verizon argued implausibly that the "state secrets" privilege applies to private companies like itself. Responding to requests by the petitioners and the OPA, the Commission set June 12 as the date for responses to Verizon's motion to dismiss. Accordingly, on June 12 we filed our comments in response to Verizon's request that the PUC dismiss the pending petition for a PUC investigation of privacy violations. We recommended that the PUC open a formal investigation, deny Verizon's request for dismissal and focus on the issues that are not barred by claims of "state secrets" privilege. We submitted follow-up comments on June 30 arguing that neither federal statutes nor the "state secrets" privilege prevent the Commission from obtaining the information necessary to pursue the investigation. At year-end, the Commission was in the process of deciding whether to open the investigation requested by Verizon customers -- and by the Public Advocate. The issues in the case remained unresolved.

### **6. Possible Sale of Verizon's Properties in Maine**

In May Verizon notified its employees in Maine, New Hampshire and Vermont that it was considering selling its properties in those states. No definite buyer (or set of buyers) has emerged but the disclosure confirmed rumors that have been widespread for years. The prospect of such a sale has aroused concerns on the part of Verizon's unionized work force and consumer advocates.



## Annual Report - July 1, 2005 through June 30, 2006

**“Telephone Tune-Up Clinic” at the Maine Mall:** On July 20 six OPA staff met with phone customers all day in a workshop where we spotted savings for individual customers and provided advice about lower-cost long-distance, local, Internet access, wireless and calling card options. All told, we met individually with 44 customers and also received both TV and radio coverage for the workshop.



### 7. Saco River Telephone/Pine Tree Telephone Rate/AFOR Cases

In the fall of 2005, the Public Advocate participated in a series of technical conferences and negotiations involving the Saco River Telephone Company and Pine Tree Telephone Company. Our consultant on revenue requirement issues provided an analysis that showed that each of those companies had excess earnings for the prior year. Both companies expressed concern that they were losing telephone customers (access lines) due to cable competition. In December, the OPA and the two companies filed a stipulation at the PUC that adopted a pricing flexibility and “rate limit” plan for two rural telephone companies because of the competitive effort from Time-Warner’s cable telephone business. Having reviewed the revenue requirement for each company, we agreed to a wider calling area adjustment that will have the effect of reducing each companies’ earnings. At the same time, the companies were given pricing flexibility for various services and the ability to reduce their local rates if that became necessary to confront a competitive threat.

### 8. Public Interest Payphone Proceedings at the PUC

On October the PUC initiated a rulemaking for implementing legislation enacted last spring creating a Public Interest Payphone (PIP) program for Maine. These payphones are to receive support from Maine’s Universal Service Fund in the total amount of \$50,000 in order to ensure that access to emergency services is available in locations across the state that are critical to public health and safety. In order to generate interest in a February 9 hearing at the PUC on the Public Interest Payphone rulemaking, we contacted rape crisis center personnel, Pine Tree Legal, municipal general assistance offices, and other people who recognize the value of access to a public phone in emergency or public welfare situations.

In October and February we filed comments in the PUC rulemaking for PIP. We generally supported the PUC’s final rules for creating PIP phones in 50 locations in Maine with some minor

## **Annual Report - July 1, 2005 through June 30, 2006**

qualifications. At year-end the PUC released application forms for identifying PIP locations across the State.

### **9. National: NASUCA Comments on Universal Service Fund Eligibility**

On March 27, NASUCA filed comments proposing two alternative methods for allocating federal Universal Service Funds to non-rural carriers, such as Verizon/Maine. Currently each Verizon subscriber receives a 27¢ credit on monthly phone bills as a result of \$1.5 million in USF funding that is provided to Verizon/Maine. The NASUCA comments (which we helped draft) were designed to maintain that level of federal support for Verizon/Maine, or conceivably to increase the level to the former \$8 million amount that had been provided in 2000-2003.

### **10. US Cellular ETC Application**

In July 2005, the OPA signed a partial stipulation with US Cellular agreeing to its designation as an Eligible Telecommunications Carrier (ETC), pending litigation of several remaining issues. Upon designation, US Cellular became eligible to receive millions of dollars in federal high cost fund support, allowing incremental investment in wireless service for Maine's rural areas. We subsequently reached a final agreement with Telephone Association of Maine and U.S. Cellular on the terms and conditions concerning U.S. Cellular's eligibility for receipt of federal Universal Service Funds. Among its provisions, the Stipulation provided that US Cellular will annually report to the PUC on 1) the amount of universal service funds (USF) received for the previous year, 2) investments made that year which would not have been made but for the ETC designation, 3) the proposed disposition of USF funds for the next 2 year period and 4) a goals statement in which US Cellular will explain network expansion goals for the next 3-year period (indicating areas US Cellular selected which take into account the information on the OPA's dead zone map). The Stipulation also provided that US Cellular will continue to make tower space available to competitors on commercially reasonable terms. It further provided that US Cellular must provide, at no charge, tower space in Maine to public safety agencies. US Cellular agreed to continue to do this and will report annually to the PUC on any such requests and US Cellular responses. Finally, the Stipulation required the applicability of certain PUC consumer protection rules and requires certain marketing of the company's basic service plan to Maine customers.

### **11. Competitive Providers: Oxford Networks Case at the PUC**

In February we began our involvement in a case asserting an anti-competitive posture on Verizon's part to requests for access to its telephone poles by competitors like Oxford Networks of Lewiston. In February three of our staff traveled to Oxford Networks and reviewed the complaints by Oxford about Verizon's pole attachment policies. The review included consideration of Verizon's policies on "boxing" and of Verizon claims about priority of location on the pole.

In June Paulina Collins participated in two days of hearings at the PUC in this case on behalf of the OPA. Expert testimony focused on whether Verizon has operated in a competitively-neutral fashion in the ways in which it allocates pole space to telephone competitors like Oxford Networks. Seven witnesses, including the OPA's engineering and telecommunications consultant, testified



## **Annual Report - July 1, 2005 through June 30, 2006**

during the two days of hearings. At year-end the parties were preparing briefs for a final PUC decision in this case.

### **12. Broadband Access Infrastructure Issues**

As a result of an Executive Order, Governor Baldacci put into motion in 2005 an ambitious effort to improve both cellphone and broadband coverage in Maine. In August, September and October, Public Advocate Ward participated in meetings of a sub-group of the Broadband Infrastructure Board that is focussed on regulatory burdens and opportunities. The group met on September 27 to work on options for legislation that could facilitate faster deployment of broadband to underserved portions of Maine by 2010. The Broadband Infrastructure Board made formal recommendations in a draft report that was finalized November 28 and is available at [www.maine.gov/mpuc/broadband/index.htm](http://www.maine.gov/mpuc/broadband/index.htm). That report also called for the creation of an oversight agency (the Advanced Technology Authority) in order to provide incentives and financial support for expansion projects bringing broadband Internet access to unserved portions of Maine. The 34-page draft report proposed to fund these projects as well as demonstration projects for the estimated 14% of Maine households who lack any access to broadband infrastructure (be it cable TV, wireless or telephone-based). The report proposed reliance on federal funding for new infrastructure from the USDA/Rural Utilities Service as well as a mix of tax credits and direct state funding. Possible sources of state funding include state bonding or debt service secured through rate surcharges. The Broadband Access Infrastructure Board also urged that steps be taken to increase public awareness of broadband technologies and the benefits that flow from their use. It is expected that these efforts can be privately funded but coordinated by the oversight agency.

Finally a “PK-20 Telecommunications and Infrastructure Board Draft Report” was submitted on November 17. It proposed creation of an oversight entity, possibly of Cabinet level stature, responsible for coordinating high-volume, high-speed Internet connections for government entities and academic institutions for overseeing an RFP process for repricing the delivery of Internet services to Maine government, comparable to the effort taken years ago that established Verizon’s ATM investments in Maine. The “PK-20 Board” also proposed that \$15 million be invested in municipal networks for providing broadband service locally in numerous communities in Maine.

These recommendations were considered by the Legislature in the 112<sup>th</sup> Second Session and were ultimately embodied in legislation enacted in May for effectiveness in August, 2006. That legislation (LD 2080) is entitled “An Act to Accelerate Private Investment in Maine’s Wireless and Broadband Infrastructure.”

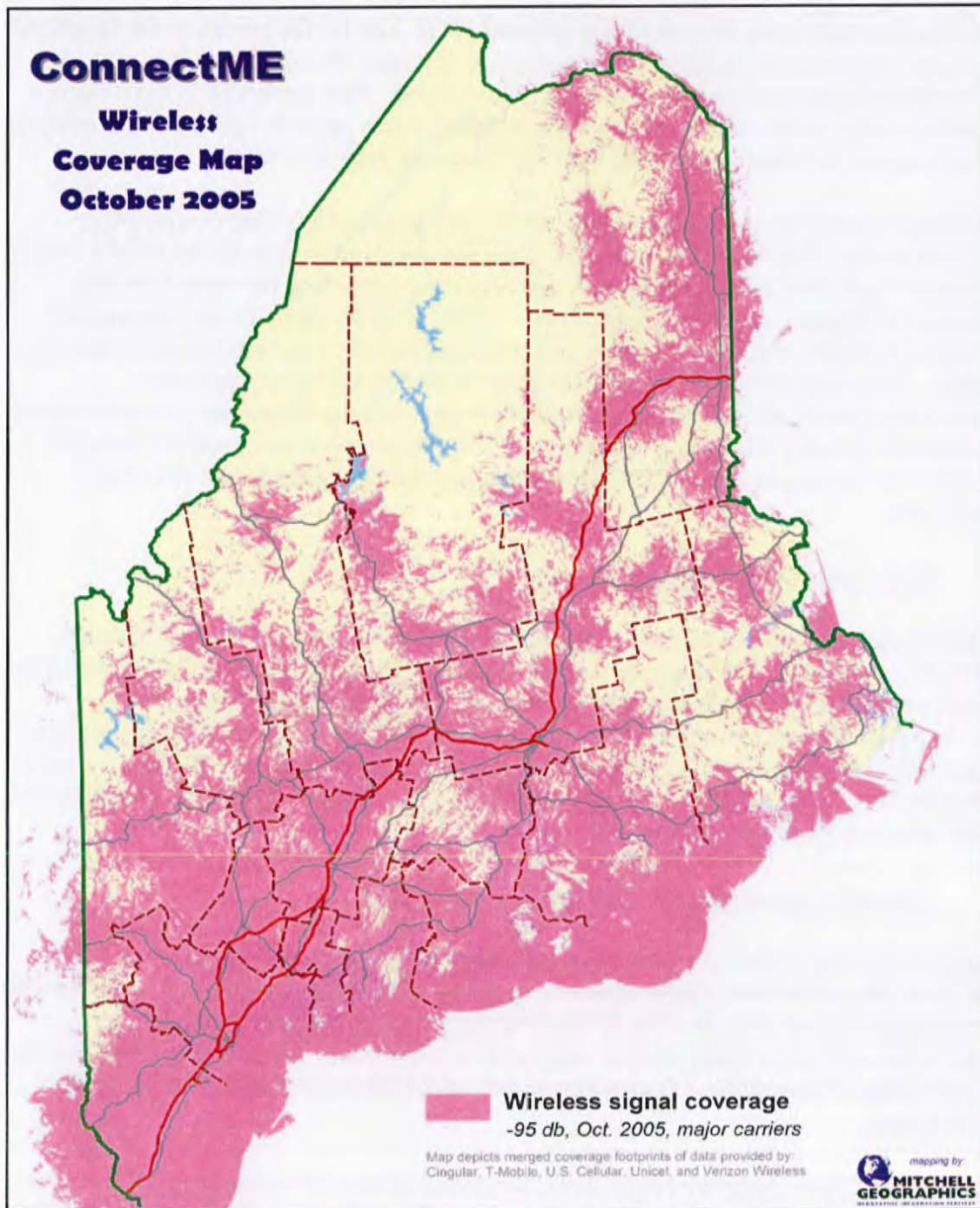
### **13. Wireless Service Quality Issues**

The Public Advocate also participated in a Wireless Infrastructure project as the second piece of the Governor’s ConnectME initiative. That effort generated a final report with recommendations (accessible at [www.maine.gov/MPUC/broadband/activities/telecom\\_infra\\_steering.htm](http://www.maine.gov/MPUC/broadband/activities/telecom_infra_steering.htm)), dated November 18, 2005. That report established an estimate of \$55 million as the cost to build out wireless infrastructure in unserved portions of Maine (based on the estimated need for 162 new towers or rooftop transmitters). It also proposed the creation of an Advanced Technology Authority to oversee the build-out of new wireless infrastructure and to award funds for such



## Annual Report - July 1, 2005 through June 30, 2006

infrastructure by means of moral obligation bonds. Finally, it proposed the use of a standardized state lease so that wireless providers could take advantage of low-cost or no-cost leasing opportunities at state-owned facilities. The 67-page report specifically considered -- and rejected -- the potential use of the public safety communications network for the build-out of wireless infrastructure. The report was accompanied by publication of a map of the state showing served and unserved portions using negative 95 decibels as the measure of minimum wireless signal strength; see below.



**F. Natural Gas Cases at FERC and the Maine PUC**

1. Maritimes and Northeast Pipeline's Case at the PUC

In July, 2005 Maritimes and Northeast Pipelines filed a settlement at FERC that received the explicit support (or non-opposition) of all Maine parties to the Maritimes rate case, except Hydro Quebec. Both International Paper and the Public Advocate signed on as "Supporting Participants" due to Maritimes' agreement to an annual \$750,000 credit for Maine customers that will benefit the Bucksport mill and reduce retail rates in Maine generally. On July 19, the parties to the Maritimes rate case at FERC filed comments formally supporting or opposing the settlement that we had joined. Only PNGTS (a competing pipeline) and Hydro-Quebec filed comments in opposition -- primarily based on discomfort with language in the settlement that could be interpreted as limiting parties' rights to argue for zoned rates in the next FERC rate case for Maritimes.

On May 15, 2006, we received word that FERC had finally approved last year's multi-party settlement. As a result, \$750,000 in payments for 2006 was received in June by the OPA's trustee for this settlement fund, David Rolka of Rhoads and Sinon in Harrisburg, the same firm that already manages the Maine Universal Service Fund. The \$750,000 will be divided up annually among end-users in Maine who use Maritimes and Northeast natural gas, based on their pro-rata shares of usage. More than 90% of the fund is likely to be shared among IP Bucksport, Independence Veazie and Calpine Westbrook/Androscoggin, with the remainder going to Bangor Gas, Maine Natural Gas and Northern Utilities. The \$750,000 program will continue through December, 2009, amounting to a \$3.2 million reduction in pipeline gas prices for wholesale customers in Maine.

2. PUC Cost of Gas Adjustment Cases

We intervened in August, 2005 in the cost of gas adjustment case in which Northern Utilities sought a 17% increase in its residential gas charges. We also filed comments on the Maine Natural Gas and Bangor Gas cases that requested updates in those companies' annual cost of gas adjustment. In light of the extraordinary increases in natural gas charges from interstate pipelines, these increases are both unfortunate and unavoidable under current Maine law. Finally, we filed responses by our consultant from Exeter Associates in the proceeding looking at the stranded cost responsibility of transportation-only gas customers.

3. Interstate Agreements on Allocating Capacity Costs

Throughout the Fall, 2005 Public Advocate Ward participated in negotiation sessions in Portsmouth, New Hampshire that sought solutions to the problem of how to allocate capacity costs for Northern's pipeline contracts. In New Hampshire these costs are allocated to gas suppliers/marketers who serve transportation load while in Maine they are not. The result is a shift of capacity costs from Maine to New Hampshire and from transportation load in Maine to firm retail load, in Maine.

A group consisting of New Hampshire regulators, Northern Utilities, the Maine and New Hampshire OPA's and gas marketers achieved an arrangement that was the focus of a four-hour



## **Annual Report - July 1, 2005 through June 30, 2006**

PUC hearing. The Stipulation allocated capacity costs pertaining to transportation-only customers between Northern's divisions in Maine and New Hampshire, required Northern to prepare a Least-Cost Gas Supply Plan and placed on transportation-only customers an obligation of paying Northern for 50% of their capacity requirements. The Maine PUC accepted this Stipulation in January, as did the New Hampshire PUC.

### **G. Water District and Water Company Cases**

#### **1. Fryeburg Water Company**

Throughout the year, the OPA was heavily involved in efforts to address problems associated with the Fryeburg Water Company, concerning its operations in New Hampshire, its involvement with Poland Springs and the formation of a water district in Fryeburg. In July 2005, Deputy Public Advocate Black attended a meeting in Fryeburg of the Fryeburg Water Resources Committee, a committee appointed by the selectmen to consider the offer of the owners of the Fryeburg Water Company to sell its assets to the newly-authorized Water District. The Committee decided to select an engineer to review the Water Company's comprehensive facilities plan. Following a public hearing on January 17, the citizens of Fryeburg endorsed the formation of the district which was approved by the Legislature during the Second Regular Session.

Also in January, we participated in a pre-hearing conference at the New Hampshire PUC investigation into the status of a municipal water district in Fryeburg, Maine, and the Water Company's efforts to transfer its New Hampshire assets to Pennichuck Water Works. At the end of the conference, the NH Staff and parties established a procedural schedule that required Fryeburg Water to submit monthly reports on those issues. The New Hampshire PUC conducted a follow-up case conference on May 3 at which the New Hampshire Commission expressed concern about the rusty water that the Fryeburg Water Company continues to deliver to its customers in East Conway, New Hampshire and West Fryeburg, Maine. At the conclusion of the conference the New Hampshire Commission asked the non-Water Company parties to put together a list of steps the Water Company should be required to take in order to provide clean water. At the beginning of July 2006, the New Hampshire Commission indicated that it will direct the Water Company to replace the transmission pipe between Fryeburg and East Conway, instead of drilling a new well.

In June 2006, we filed a letter at the Maine PUC that contained exhibits showing that the Water Company had excess earnings for the years 2004, 2005 and 2006. In response, the Maine Commission issued a procedural order asking the Company to confirm those overearnings, to explain why a rate decrease had not been filed and to discuss financing issues with respect to the construction of a new transmission pipe. At the end of June the Water Company filed its response, claiming that it expects its sales-for-resale revenues to drop off because Poland Springs Bottling Company may no longer buy from the Water Company's affiliate. At the end of the fiscal year these issues remain unresolved.

#### **2. Vinalhaven Water District**

In November 2005, we participated in a technical conference with Vinalhaven Water District. At issue was the language used in the Water District's current system development charge. This case

## **Annual Report - July 1, 2005 through June 30, 2006**

involved a ten-person complaint about the fact that the \$3,000 system development charge is being charged to existing customers when the enabling statute suggests otherwise. At the conference parties presented proposed "definitions" of terms in the tariff - - in order to clarify the application of the charge. We participated in a negotiation session in February concerning the re-formation of the system development charge adopted by the Water District. Our participation consisted of a six-point statement of position, e-mailed to the parties, and later agreed to by the Water District and its trustees. At the end of May 2006, the trustees of the Water District were meeting to discuss the one issue that remains in the proceeding: i.e., whether the system development charge should contain an exemption for prior customers who were connected to the Vinalhaven Water District as early as 1978 or whether the exemption should be limited to connections that existed in 1993. At the conclusion of the fiscal year these issues were unresolved.

### **3. Gardiner Water District**

At the request of a group of Water District customers, we reviewed the proposed consolidation of the Gardiner Public Works Department with the Gardiner Water District and the City's wastewater treatment plant. We participated in a technical conference that reviewed several studies and financial spreadsheets that analyze the costs and benefits of the proposed consolidation. We were concerned that, from the point of the Water District and its customers, the savings generated by the consolidation will not cover its costs. The consolidation plan ultimately was abandoned because the Selectmen in Gardiner voted to accept the recommendations against consolidation.

### **4. Calais Water District**

We filed a stipulation at the PUC in October that concluded its investigation of the 38% rate increase proposed by the Calais Water Department. The rate increase was before the Commission as a result of a petition filed by Calais customers. The customers were concerned about the size and timing of the increase, and about the rusty, dirty water that comes into their homes. After a technical conference and a public hearing in Calais, we negotiated a Stipulation with the Water Department. We succeeded in making a small downward adjustment to their filing. Furthermore, because the Water Department didn't have to pay interest on its new debt until mid-2006, the Water Department agreed to our suggestion that the rate increase be implemented in two steps -- meaning that the increase effective October 1 was only 20%.

### **5. Lisbon Water Department**

We participated in a technical conference and a "public witness" hearing at the Lisbon Town Offices. Lisbon Water Department had originally requested to increase its revenues by \$255,090, or 49%. After the hearing, the Water Department presented an updated filing showing that it might legitimately have requested a revenue increase of approximately \$290,000, even after accepting several downward adjustments recommended by the Public Advocate. On November 4, we participated in a conference call with Water Department representatives and the PUC Staff. In that call we agreed that the simplest way to resolve the case would be to request that the Commission lift its existing suspension order and allow the revenue increase go into effect as originally proposed.

## **Annual Report - July 1, 2005 through June 30, 2006**

### **6. Harrison Water District**

In December we intervened in the Commission's investigation of the 41% rate increase proposed for the customers of the Harrison Water District. We exchanged information with the lead petitioner -- a former District trustee who was one of the founders of the Water District and who is now concerned about the propriety of the request for increased rates. We conferred with the PUC Staff on January 6, and agreed that, because the Water District accountant must work on income tax returns, the Commission would propose that the case be closed without the new rates going into effect. The Water District was asked to file a Section 307 rate case when its accountant has time to respond to discovery needs in the rate case. In May 2006, the Water District submitted its revised filing reducing its request for an increase to the level of \$23,666.

### **7. Howland Water Department**

On December 9, we responded to requests for assistance in reviewing the 33% rate increase proposed by the Howland Water Department, providing copies of the Department's annual reports and of its rate filing to Howland businessmen who were concerned about the effect that the increase will have on the local community. After several telephone conversations with the person who was proposing to be a lead commissioner, and after dropping case materials off during a visit to Howland, we had a more detailed discussion with the Water Department's customers. Ultimately, the customers chose not to file a request that the Commission investigate the Water Department's proposed rate increase.

### **8. Limestone Sewer and Water District**

In December, we traveled to Limestone in order to participate in a technical conference, and in an evening public hearing, in the PUC's investigation of the 38% increase proposed for the water customers of the Limestone Sewer & Water District. After the hearing for customers, the parties scheduled a negotiation session in order to resolve the case. Finally in February, we participated in a final technical conference in the case involving the Water District's request for a 39% rate increase and changes in depreciation rates. A stipulation was filed in March that the PUC ultimately approved.

### **9. Winterport Water District**

We participated in three technical conferences in December with the Staff and representatives of the Winterport Water District. The parties reviewed the Water District's re-formulated income statement and listened to the District's arguments about why it needed a 30% rate increase even though its construction projects will not be completed until late 2006. Many of the problems in this case stem from the fact that over the past four years the District has had five different people doing its books. As a result, some of the District's expense numbers were not credible. The parties agreed to consider a stipulation and talk again on December 19<sup>th</sup> in order to determine if we could agree on specific adjustments to be made to the District's re-formulated filing. After a technical conference and negotiation session held at the PUC, the parties crafted another stipulation that made a slight reduction in the size of the proposed increase and addressed the water service, bookkeeping, and customer satisfaction issues that had arisen in the course of the proceeding.

## **Annual Report - July 1, 2005 through June 30, 2006**

### **10. Wiscasset Water District Disputes with Bath Water District**

In January, we began our participation in a case in which the two Water Districts are at odds over whether the Bath District has an obligation to continue to provide water to Wiscasset. After the hearing, the Public Advocate's staff took the lead in a back-and-forth negotiation between the two districts, acting as a mediator. By early afternoon, the dispute was close to resolution. On April 11, Bill Black and Ron Norton successfully mediated a seemingly intractable dispute between the water districts. However, by mid-April the two water districts found themselves disagreeing on the term of the contract that they had agreed to sign. Therefore, in early July 2006, Ron Norton and Bill Black again met in Bath with representatives of the two water districts. At this second mediation, a more detailed agreement was drawn up, one that addressed both the term of the agreement and the respective obligations if the Bath Water District found that it needed to expand its pumping capacity. At the close of this report, the two water districts were drafting the final contract for supply of water.

### **11. Bingham Water District**

In March, two members of the Public Advocate staff traveled to Bingham to participate in a two-hour technical conference and thereafter in the public hearing held by the Commission on the 24% rate increase proposed by the Bingham Water District. At the technical conference, the Water District agreed that its proposed increase was overstated by approximately \$7,000, but pointed out that it had failed to include health insurance costs in the amount of \$3,000. At the public hearing that followed, customers raised concerns about the following issues: a) the slow installation of water meters; b) the effect of the 24% increase on the cost of fire hydrants (and thereby on Town property taxes), c) the increasing size of water bills, despite reduced usage, and d) the expenditure of \$20,000 for a new building. Because the Water District's employees were present, the customers did not raise another key issue -- i.e., the recent increases to the salaries of District employees. Following the public hearing, customers contacted our office and the Commission to complain about the salary increases and the size of the proposed rate increase. Other issue involved the effective date of the increase and whether the increase for metered customers should be billed in advance or in arrears. In June, we filed a Stipulation in the rate case. The Stipulation results in an increase of 15.9%, as compared to the 24% increase originally requested by the Water District. The Stipulation was signed by each of three customer-intervenors who participated in the case.

### **12. Aqua Maine Rate Cases**

In December, we met with representatives of Aqua Maine (which owns nine separate water divisions in Maine and is part of an international water utility) and the PUC Staff. The discussion involved the Company's proposal to increase the rates that it charges for "service establishment," disconnections and other non-recurring work. Also discussed was the fact that Aqua Maine anticipated rate increases in January and February for five of its nine divisions. Processing those cases was more difficult than usual because approximately 22% of Aqua Maine's overhead are common costs (insurance, pensions and benefits, etc.) incurred by Aqua Maine's corporate headquarters in Rockport. Hence, the Commission must establish a separate proceeding to examine the size, and allocation, of those corporate overhead costs. In February, we participated in the pre-hearing conference for the proceeding in which five Aqua Maine cases are now

## **Annual Report - July 1, 2005 through June 30, 2006**

consolidated. Three of those cases -- Skowhegan, Millinocket, and Camden & Rockland -- involve proposed rate increases. The other two cases involve a reallocation of common costs and the introduction of certain new fees. Aqua Maine agreed to update its rate filings by March 3<sup>rd</sup> and respond to discovery in the cases. In May, we participated in a technical conference involving rate increases proposed by the Greenville and Bucksport divisions of the Aqua-Maine water company. The Commission Staff proposed that, after discovery is completed, the two cases be folded into the settlement discussions that are already proceeding for five other Aqua Maine cases -- three divisional rate cases, and two cases involving the changes in Aqua-Maine's terms and conditions, and increases in one-time fees.

Ultimately, in mid-June 2006, the Public Advocate and the Water Company came to an agreement that resulted in stipulations in each of the seven cases, and those stipulations were approved by the Commission in mid-July.

### **13. North Jay Water District**

At year-end, Bill Black and Ron Norton were addressing a number of issues associated with the 11% increase proposed by the North Jay Water District. The District's rate filing has problems due to a number of miscalculations. The Water District was asked to provide several additional documents to be followed by a conference with the petitioners and the Water District's representatives.

In July 2006, after reviewing the District's responses to oral data requests, our analysis showed that the various downward adjustment that we proposed to the Water District's pro forma expenses were outweighed by several mistakes that appeared in the District's estimates of its pro forma revenues. Therefore, we recommended that the Commission permit the tariff sheets originally filed by the Water District to go into effect, as filed on October 1, 2006.

## **H. Nuclear Issues**

### **1. Allocation of Maine Yankee Oversight Fees**

As a result of enactment of new legislation implementing the settlement of Maine Yankee's 2004 FERC rate case, the Public Advocate now plays a key role in the downsizing of Maine Yankee oversight now that the site is fully decommissioned. Under the terms of LD 1342, the Public Advocate is responsible for ensuring that the total of State charges for activities at Maine Yankee do not exceed \$360,000 through August 2008 and \$190,000 thereafter. These totals are expected to be adequate to provide financial support for the State's Health and Environmental Testing Lab (where soil and water samples are analyzed for contamination), for security purposes and for environmental monitoring. The totals are supplemented by a \$500,000 agreement for Maine Yankee's payment for groundwater monitoring over the 2006 to 2011 period and covering all remediation expenses determined by the Department of Environmental Protection (DEP) to be necessary under the Federal Resource Conservation and Recovery Act.

The inter-agency group working on the allocation of oversight fees paid annually by Maine Yankee met in August 2005 and reached consensus on these allocations. Effective September 2005, the

## **Annual Report - July 1, 2005 through June 30, 2006**

\$360,000 amount was distributed among Maine State Police (16%), the State Nuclear Safety Advisor (38%), DHHS and the State Nuclear Safety Inspector (40%), and DEP(16%). Effective September 2006, this amount was allocated assuring acceptable funding to Maine State Police (16%), the Nuclear Safety Advisor, DHHS at the Nuclear Safety Inspector, and DEP (33.8%). Neither Maine Emergency Management Agency (MEMA) nor the OPA received any funds as a result of these allocations in 2005 and 2006.

### **2. FERC Settlement: Maine Yankee Incentive Payment**

In October, we worked with the PUC and Maine Yankee on the proper calculation of a “bonus payment” (as required by a 1998 FERC Settlement) for Maine Yankee’s completion of decommissioning under-budget, with minimal levels of worker exposure to radiation and minimal work injury. Along with the PUC Staff, we reached an agreement in December with Maine Yankee that will set the amount of a FERC-approved incentive payment. Under the terms of the 1998 settlement, Maine Yankee is eligible for receipt of 10% of the saving beyond the first \$10 million of savings relative to the expected decommissioning cost of \$446 million. Maine Yankee initially requested fully \$2.2 million as its incentive payment based on 10% of a \$22.3 million savings total. In January 2006, we finalized the terms on the amount of \$1.4 million as a one-time incentive payment, resulting in a savings for ratepayers of \$800,000 which was approved subsequently by FERC.

### **3. Clean-up of Maine Yankee Site in Wiscasset**

The State Nuclear Safety Inspector worked with State Nuclear Safety Advisor Charlie Pray and Bureau of Health personnel over the past year to complete the State’s radiological survey of the decommissioned Maine Yankee power plant site in Wiscasset. State verification that soil samples have contamination levels below Maine’s statutory standard was completed but no further soil samplings will occur. As a result, Maine Yankee’s application for surrender of its NRC license could go forward, as the final chapter in Maine Yankee’s saga. Public Advocate Ward met with representatives from the DHHS Radiological Control Program to discuss their funding requirements for completing confirmatory studies verifying that Maine Yankee completed its site clean-up last year in a manner that fulfilled Maine’s standards. It appears that this work can be completed by end-of-Summer 2006 but further results may be forthcoming from groundwater monitoring and “Hard-to-Detect/Transuranic” sampling that could add additional expense. The Public Advocate worked with DHHS personnel, the State Nuclear Safety Inspector and Charlie Pray to ensure funding is adequate for these purposes, from Maine Yankee fees and other sources.

The OPA received a visit and a letter in February 2006 from the Citizens Monitoring Network in Mid-Coast Maine which for many years has been concerned about residual contamination at Maine Yankee. Replying to their concerns about inadequate State oversight and funding, the Public Advocate prepared a response providing assurance that a thoughtful and adequately funded State oversight process is now in place, a copy of which is attached as Appendix G to this report.

## **Annual Report - July 1, 2005 through June 30, 2006**

### **4. Removal of Spent Nuclear Fuel From New England**

On a quarterly basis over the past two years, Public Advocate Ward and the State Nuclear Safety Advisor Charles Pray attended meetings of government and industry personnel working on the removal of spent nuclear fuel from decommissioned nuclear power plants in New England along with representatives from Maine Yankee, Connecticut Yankee, Yankee Rowe and from the Connecticut and Massachusetts AG's offices, Massachusetts PUC and Governor's Office. The group has made progress in finalizing a plan for mobilizing support for transporting of spent fuel out-of-region.

At these meetings, the Yankee companies' trial counsel also reported on the Court of Claim's litigation in which the trial concluded in August 2004. The prospects appear good for the Yankee companies prevailing in that case with a damage award based on actual costs on constructing spent fuel installations at Wiscasset, Haddam Neck with final briefs in this case in December 2004. However, no damage award is possible before late 2006 at the earliest due to delays at the Court of Claims.

### **I. Railroad Service Quality Issues**

#### **1. Meetings with Shippers**

Following up on meetings with the Northeast Railroad Consumers Association in Portsmouth in June and July 2005, the OPA Staff met in August with DOT personnel to discuss the OPA's new responsibility for measuring the quality of freight service by Maine's five railroads.

#### **2. Railroad Shipper Survey**

The Office finalized a survey instrument and mailed it to freight customers of railroads in Maine, soliciting the input from interested parties. We sent out 112 surveys on September 28, 107 in December, and 107 in February, 2006, receiving a 30%, 34% and 30% response respectively. A survey for the Second Quarter of 2006 was underway at year-end. The OPA's first annual report on Railroad Service Quality is attached as Appendix H to the report.



# Annual Report - July 1, 2005 through June 30, 2006

ATTACHMENT A

Page 1 of 6

## Summary of Ratepayer Savings, 1982 to 2006 Attributable to Public Advocate Interventions

1.	FY 06	Maine Public Service rate case, reduction in final outcome attributable to testimony of OPA witnesses on issues not pursued by any other intervenor	\$ 994,000
*		Bangor Hydro ARP Adjustment, a .46% reduction from BHE's original request where the OPA was the only non-utility litigant	\$ 254,740
*		Maine Yankee incentive case at FERC, 50% share of reduction in final payment attributable to success in multi-party negotiations	\$ 400,000
*		Various water utility cases where the OPA was the only non-utility party	\$ 174,201
2.	FY 05	Maine Yankee incentive case at FERC, 50% share of reduction in final payment attributable to success in multi-party negotiations	\$ 400,000
*		Central Maine Power Stranded Cost Case, 25% of the reduction resulting from the agreed-to 3-year levelization of stranded costs due to a 4-party stipulation	\$ 5,552,023
*		Maritimes and Northeast FERC Case, a negotiated discount of \$750,000 annually for Maine users of natural gas in a fund to be administered by the Public Advocate	\$ 750,000
*		Bangor Hydro-Electric Stranded Cost Case, a \$158,259 reduction resulting from an agreement to adopt lowered cost of equity component of carrying charges when the Public Advocate was the only party to file testimony	\$ 158,259
3.	FY 04		
*		Central Maine Power ARP Adjustment, a one-year benefit of \$1.33 million in lower rates due to the PUC's adoption of our arguments opposing a retroactive inflation adjustment sought by CMP	\$ 1,330,000
*		Maine Public Service Stranded Costs, a \$6.5 million reduction in amounts deferred for recovery over 2004 to 2008 due to our consultant's testimony with no other parties active in this case	\$ 6,500,000
*		Maine Public Service Distribution Rates, 50% of the difference between MPS's overall increase request of \$1.7 million and the final result of \$940,000	\$ 380,000
4.	FY 03		
*		Central Maine Power ARP Adjustment, a 7.82% reduction in distribution rates resulted from a 2001 settlement to which the OPA was the only non-utility litigant and which justifies a 50% share of this reduction	\$ 9,361,552

# Annual Report - July 1, 2005 through June 30, 2006

ATTACHMENT A  
Page 2 of 6

*		Verizon Sales Taxation Adjustment, at our instigation, Maine eliminated in February 2003 sales tax on a federal portion of Verizon's bills generating \$342,000 savings annually	\$ 342,000
*		Assorted Water Rate Case Savings, the OPA realized savings in rates of \$83,000 in a series of water district rate cases in 2002-2003	\$ 83,000
5.	FY 02		
*		Stranded Cost Cases (MPS, BHE, CMP), Maine Yankee's in-state owners agreed to flow back to ratepayers the credit received from Maine Yankee's insurer when the plant ceased operations	\$ 4,654,000
*		Bangor Hydro Rate Case, BHE's rate increase request was Plan which we withdrawn by BHE in conjunction with a 6-year Alternative Rate negotiated for the 2002-2008 period	\$ 6,400,000
*		Telephone Rate Cases, lowered levels of local phone rates for Tidewater Telecom and Lincolnville Telephone as a result of negotiated settlements	\$ 557,000
6.	FY 01		
*		Maine Yankee Prudence Settlement (FERC/PUC), two in-state owners of Maine Yankee, CMP and BHE, agreed to acknowledge the increased value of Maine Yankee output in wholesale markets by agreeing to a reduction in recoverable stranded costs	\$ 14,200,000
7.	FY 00		
*		CMP T&D Rate Case, Phase II, stranded cost reduction from excess earnings in stipulated resolution accepted by PUC on 2/24/00 ??	\$ 20,000,000
*		Bangor Hydro T&D Rate Case, reduction in final PUC order on items where the only litigant challenging BHE's rate request was OPA	\$ 9,500,000
8.	FY 99		
*		CMP T&D Rate Case, Phase I, reduction in final PUC order on items where the only litigant challenging CMP's rate request was OPA	\$ 28,000,000
*		Maine Yankee Rate Case/Prudence Review (FERC), settlement of decommissioning case resulted in a \$19 million reduction of wholesale charges, 50% to be flowed-through to CMP, BHE, MPS. Also potential \$41 million reduction in stranded costs billed by MPS through 2008.	\$ 9,500,000
9.	FY 97		
*		Consumers Maine Water Rate Case, \$8,000 reduction in final rate increase awards for Bucksport and Hartland where no other party filed testimony	\$ 8,000
10.	FY 95		
*		NYNEX Rate Case, \$16.6 million reduction based on items proposed by no other party and adopted by PUC in final order	\$ 16,600,000

# Annual Report - July 1, 2005 through June 30, 2006

ATTACHMENT A  
Page 3 of 6

11.	FY 91		
*		Bangor Hydro Rate Case, \$800,000 in lowered rates based on items by no other party and adopted by PUC on final order	\$ 800,000
12.	FY 90		
*		CMP Rate Case, \$4 million reduction based on recommendations not duplicated by any other party which were adopted in the final order	\$ 4,000,000
13.	FY 89		
*		New England Telephone Settlement, \$5 million reduction in intra-state where magnitude would have been less without our participation	\$ 500,000
*		CMP Rate Case, only party to file for motion to exclude CMP's late filed attrition testimony, motion granted 12/22/89	\$ 35,000,000
*		Isle au Haut, instrumental in bringing telephone service to island	NA
14.	FY 88 and prior		
*		Bangor Hydro Rate Case, provided sole rate of return testimony	\$ 2,000,000
*		Maine Yankee Rate Case, (FERC), successfully proposed equity return at 11.9% and flowthrough of \$1.5 million settlement with Westinghouse	\$ 750,000
*		Portland Pipeline Cases, successfully intervened at FERC, PUC, DOE	NA
*		Natural Energy Board (Canada) for approval of new gas supplies	
*		Seabrook Cases, negotiated agreement for \$85 million write-off by CMP and for PUC and FERC approval of sale of Seabrook shares	NA
*		CMP Conservation Programs, worked closely with CMP, PUC and OER for design of new industrial and residential conservation programs	NA
*		Rate Cases: Maine Public Service, 1982 - litigated	\$ 2,000,000
		Eastern Maine Electric Coop. 1983 - litigated	\$ 200,000
		New England Telephone 1983 - litigated	\$ 10,000,000
		New England Telephone 1984 - stipulated	\$ 20,000,000
		Northern Utilities, 1981 - stipulated	\$ 100,000
		Northern Utilities, 1983 - stipulated	\$ 1,000,000
		Central Maine Power Co., 1982 - litigated	\$ 5,000,000
		Central Maine Power Co., 1984 - stipulated	\$ 10,000,000
		Central Maine Power Co., 1986 - stipulated	\$ 20,000,000
15.	Total FY 89-FY 06, excluding settlements		\$ 95,580,000
16.	Total FY 89-FY 06, Including Settlements		\$ 175,998,773
17.	Prior Savings, including settlements, FY 82-FY 88		\$ 71,050,000
18.	Total, excluding settlements, FY 82-FY 06		\$ 114,780,000
19.	Total, Including Settlements, FY 82-FY 06		\$ 247,048,773

**Return on Ratepayer Investment: FY 00 - FY 06**

	1. Ratepayer Savings Claimed	2. OPA Budget	3. ROI (1 ÷ 2)
FY 99/00	\$29,500,000	\$1,277,060	2310%
FY 00/01	\$14,200,000	\$1,368,147	1038%
FY 01/02	\$11,610,000	\$1,654,927	702%
FY 02/03	\$9,786,552	\$1,550,577	631%
FY 03/04	\$8,210,000	\$1,621,539	506%
FY 04/05	\$6,460,282	\$1,724,686	375%
FY 05/06	\$1,822,941	\$1,519,663	120%
7 year averages/totals	\$81,589,775	\$10,716,599	761%

Over the past seven years, ratepayer savings as claimed by the OPA came to more than seven times the OPA annual budget on average; for every dollar in the OPA budget over the period FY 00 to FY 05, \$7.61 was claimed as ratepayer savings due to the efforts of OPA Staff over the same period.

**2005/2006 Ratepayer Savings Attributable  
To OPA Intervention in Water Cases**

**2005-416: Lisbon Water Department**

Rates were implemented as filed by the Department.

**0 savings**

**2005-612: Bingham Water District**

The District proposed an increase of \$38, 596.

The stipulated rate increase was \$25,740.

**\$13,126 savings**

**2005-452 Calais Water Department**

The Department proposed an increase of \$187,078 effective on 10/1/05. The stipulated rate increase involved a two step increase of approximately \$100,000 on 10/1/05 and 87,303 on 4/1/06, resulting in a one-time savings of 6/12 \* \$87,303.

**\$43,652 savings**

**2005-604 Harrison Water District**

The District initially filed for an increase of \$51,918. Subsequent to our intervention identifying numerous issues with the initial filing, the district withdrew its request and later refilled under Docket No. 2006-317 for an increase of \$23,666.

**\$28,852 savings**

**2005-468 Limestone Water and Sewer District**

The District initially filed for an increase of \$256,404.

The Stipulation, which was approved by the Commission, allowed for an increase of \$248,075.

**\$8,329 savings**

**2005-417 Winterport Water District**

The District initially filed for an increase of \$50,348.

The Stipulation, which was approved by the Commission, allowed for an increase of \$49,798.

**\$550 savings**

**2005-790 Aqua Maine, Inc. Camden/Rockland**

The Company initially filed for an increase of \$192,228.

The Stipulation, which was approved by the Commission, allowed for an increase of \$136,409.

**\$55,819 savings**

**2006-17 Aqua Maine, Inc. Skowhegan**

The Company initially filed for an increase of \$162,629.

The Stipulation, which was approved by the Commission, allowed for an increase of \$146,374.

**\$16,255 savings**

**Annual Report - July 1, 2005 through June 30, 2006**

ATTACHMENT A  
Page 6 of 6

**2006-21 Aqua Maine, Inc. Millinocket**

The Company initially filed for a Step One increase of \$105,809.  
The Stipulation, which was approved by the Commission,  
allowed for a Step One increase of \$101,028.

**\$4,781 savings**

The Company initially filed for a Step Two increase of \$37,874.  
The Stipulation, which was approved by the Commission,  
allowed for a Step Two increase of \$37,938.

**- \$64 savings**

**2006-163 Aqua Maine, Inc. Greenville**

The Company initially filed for an increase of \$46,284.  
The Stipulation, which was approved by the Commission,  
allowed for an increase of \$43,957.

**\$2,327 savings**

**2006-162 Aqua Maine, Inc. Bucksport**

The Company initially filed for an increase of \$42,255.  
The Stipulation, which was approved by the Commission,  
allowed for an increase of \$41,681.

**\$574 savings**

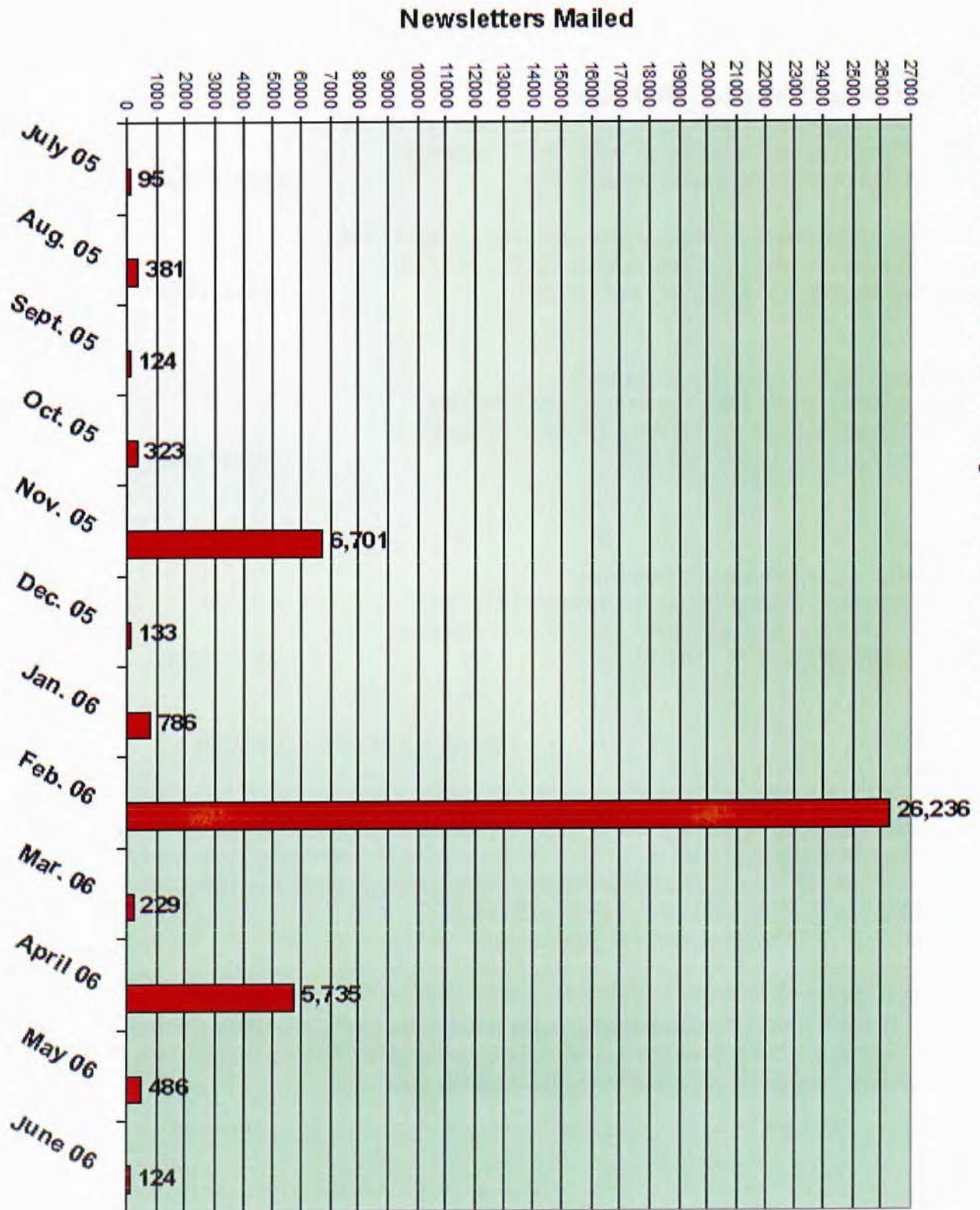
**TOTAL SAVINGS    \$174,201**

It is important to recognize that the \$174,201 represents savings for one year and is a conservative estimate of total rate payer savings. Most of these savings are recurring on an annual basis until the next rate case, which may reasonably be expected to not occur for at least three years. The savings of \$43,652 in the Calais case were one time savings.  
Hence, \$130,549 resides in the recurring category.

It might also be worth acknowledging our role in resolving the dispute between the Bath Water and Wiscasset Water Districts. Hopefully, the ink will dry on the negotiated contract in late July 2006. The negotiated contract most certainly avoids considerable legal fees for both Districts and their ratepayers that would have resulted from a court case.



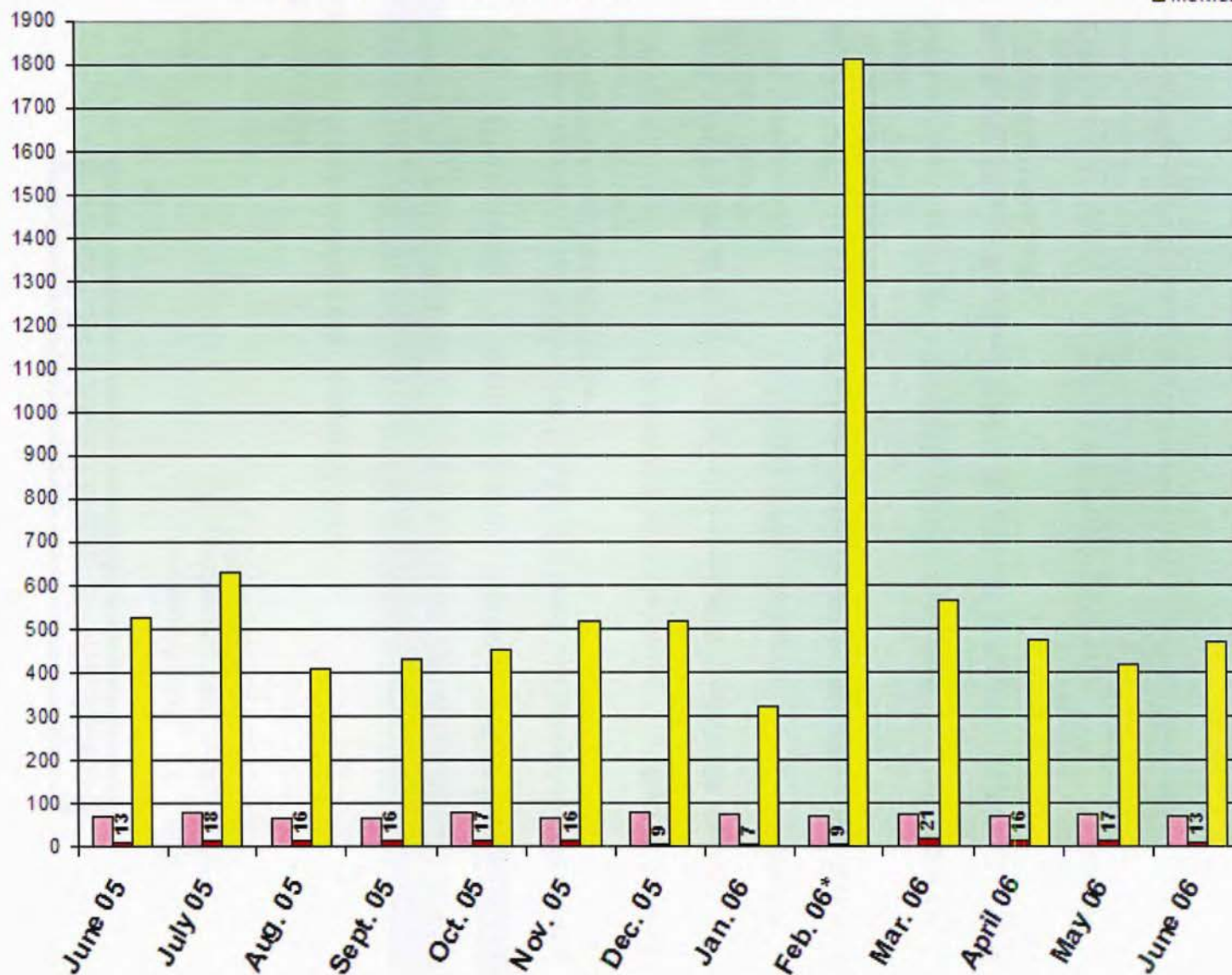
Performance Indicators July 05 to June 06



ATTACHMENT C

## Performance Indicators - June 05 to July 06

- PU C/FERC Cases
- Filings
- Individual Complaints



**122nd LEGISLATURE, 2<sup>nd</sup> SESSION**

OPA position adopted: 8 67%

OPA position rejected: 4 33%

Bills OPA testified on: 12 100%

**LD# Bill Title**

Effective date of non-emergency bills: August 23, 2006.

**0637 An Act to Allow Qualified Health Centers to Obtain Telecommunications Education Access Funding**

Sponsor: Bliss

OPA position: oppose Committee action: Carryover **ONTP Resolve ch. 141**

**0891 An Act to Authorize a General Fund Bond Issue to Fight Global Warming through Energy Conservation**

Sponsor: Strimling

OPA position: n/a Committee action: Carryover **died at Approp**

**1065 An Act to Promote Economic Development and Sustainable Energy**

Sponsor: Brennan

OPA position: supp't Committee action: Carryover **ONTP**

**1440 An Act to Encourage the Implementation of High-speed Internet Access in Rural and Isolated Areas**

Sponsor: Pingree

OPA position: initial sup't Committee action: Carryover **ONTP**

**1675 An Act to Make a Standard Alternative Form of Regulation Available to Rural Telephone Companies.**

Sponsor:

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

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**1829 An Act to Allow for Access to Digital Phone Service for Customers in Rural Areas**

Sponsor: Robinson

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

*Concept draft*



**1858 An Act to Improve Cell Phone Service in the State**

Sponsor: Thomas

OPA position: nf/na

Committee action:

**ONTP**

**1897 An Act to Protect Maine's Electricity Consumers**

Sponsor: Brautigam

OPA position: support

Committee action: **OTPA**

**Resolve ch. 187**

*Would require Maine T&D's to withdraw from ISO if ordered to by PUC upon showing that rps can't be protected.*

**1905 An Act to Conserve Energy in Maine Homes**

*Appr.* Sponsor: Fletcher

OPA position: n/a

Committee action: **ONTP**

*Establishes Maine Weatherization Assistance program (MSHA) funded by restoring \$7.5M to MSHA that would otherwise go to General Fund.*

**1913 An Act to Designate the Dept of Health and Human Services as the Sole Entity Entitled to Use the 2-1-1 Telephone Number**

Sponsor: Gerzofsky

OPA position: n/a

Committee action:

**ONTP**

**1931 An Act to Encourage Energy Independence for Maine**

Sponsor: Bartlett

OPA position: support

Committee action: **OTPA**

**PL 569**

*Increase wires chg for DSM to 3 mils (support)*

*require PUC to develop decoupling program for T&Ds (oppose);*

*require PUC to seek DOE waiver for boiler and furnace standards. (Neutral)*

**2018 An Act to Allow Consolidation of the Winterport Sewerage District and the Winterport Water District To Create Incentives For Consumers To Pay Water Bills**

Sponsor: Kaelin

OPA position: support

Committee action: **OTPA**

**P&S ch. 50**

**2019 An Act to Amend the Charter of the Kennebunk Light & Power District**

Sponsor: Babbidge

OPA position: n/a

Committee action: **OTPA**

**P&S ch. 46**

*Raises debt limit.*

**2041 An Act to Enhance Maine's Energy Independence and Security (Gov)**

Sponsor: Fletcher

OPA position: supp't

Committee action: **OTPA**

**PL 677**

*Long-term contracts(T&D)/new renewables*

*T&D Backstop for contract*

*Appliance standards*

**2038 An Act to Protect the Privacy of Cell Phone Users**

Sponsor: Brautigam

OPA position: supp't

Committee action: **OTPA**

**PL 582**

**2080 An Act to Accelerate Private Investment in Maine's Wireless and Broadband Infrastructure. (Gov's bill: Connect ME)**

Sponsor: Pingree

OPA position: supp't Committee action:

**OTPA**

**PL 665**

**LRs**

**3130 LR - Committee Bill**

**An Act to Promote Renewable Electricity Generation**

Sponsor:

OPA position: support

Committee action: **ONTP**

**3180 LR- Committee Bill**

**An Act Regarding Energy Efficiency Standards for Residential Rental Properties**

Sponsor:

OPA position: n/a

Committee action: OTP OTPA ONTP

**Annual Report - July 1, 2005 through June 30, 2006**

**ATTACHMENT E**

**Speaking Engagements: July 2005 to June 2006**

**A. Stephen Ward**

- July 22, 2005, WKIT, Bangor, radio interview
- September 22, 2005, Harvard Energy Policy Group, Cambridge, MA  
“Overview of Electric Restructuring in Maine”
- October 5, 2005, Bangor Daily News, Editorial Board
- October 21, 2005, Global Warming Conference, Augusta, ME, speaker and  
panel moderator
- October 26, 2005, Portland Press Herald, Editorial Board
- October 27, 2005, WVOM, Bangor, radio interview
- January 25, 2006, WVOM, Bangor, radio interview
- February 6, 2006, Gardiner Lions Club, Gardiner, ME
- May 10, 2006, Maine Global Climate Change Conference, Portland, ME, panel  
moderator
- June 12, 2006, National Association of State Utility Consumer Advocates,  
Memphis, TN, panel moderator, “Aligning the Incentives for electric  
Utilities - Decoupling and its Alternatives”

**B. William Black**

- January 10, 2006, Fryeburg, ME “Pros and Cons of Creating a Water District”
- January 17, 2006, Fryeburg, ME “Mechanics of Creating a Water District”
- April 27, 2006, Sanford High School, Sanford, ME, telephone clinic
- June 14, 2006, Telephone Association of Maine, Rockport, ME “State Forum:  
Deregulation Pros and Cons”

**D. Ronald Norton**

- July 2, 2005, International Federation of Operational Research Societies,  
Honolulu, HI “Data Envelopment Analysis in Electric Industry Rate  
Cases”
- November 15, 2005, University of Maine at Augusta, Public Administration  
curriculum, presentation on public utility regulation

**E. Multiple Staff**

- July 20, 2005, telephone clinic, Maine Mall, South

# Annual Report - July 1, 2005 through June 30, 2006

ATTACHMENT F

Page 1 of 2

## Public Advocate Staff Time, by Utility Category and Project: FY 06

<b>A. Electricity</b>			100.0%	2835.5	40.5%
1. Federal	538.0		19.0%		
NASUCA/Congress	110.5				
ISO-NE	60.0				
FERC	285.0				
NERC	82.5				
2. State	1985.5		70.0%		
PUC	1597.0				
Legislation	182.0				
Coalition	67.5				
Policy	49.0				
Gov.'s Initiative	90.0				
3. Other	312.0		11.0%		
Newsletter	169.0				
Public Speaking	21.0				
Admin./Electric	51.0				
Complaints	71.0				
<b>B. Telephone</b>			100.0%	2300.5	32.9%
1. Federal	118.5		5.2%		
FCC	47.0				
NASUCA/Congress	71.5				
2. State	1464.0		63.6%		
PUC	1309.5				
Legislation	48.5				
Telephone Groups	15.0				
Policy	21.0				
Gov.'s Initiative	70.0				
3. Other	718.0		31.2%		
Newsletter	172.5				
Public Speaking	16.5				
Admin./Telephone	128.5				
Complaints	386.5				
Training	14.0				
<b>C. Water</b>			100.0%	1175.6	16.8%
1. Federal	8.5		0.7%		
NASUCA/Congress	8.5				
2. State	1098.6		93.5%		
PUC	1018.6				
Complaints	78.0				
Policy	2.0				
3. Other	68.5		5.8%		
Public Speaking	9.0				
Admin./Water	59.5				



**Annual Report - July 1, 2005 through June 30, 2006**

ATTACHMENT F  
Page 2 of 2

**Public Advocate Staff Time, by Utility Category and Project: FY 06 (Con't.)**

<b>D. Natural Gas</b>			100.0%	408.5	5.8%
1. Federal	54.5	13.3%			
FERC	54.5				
2. State	343.5	84.1%			
PUC	343.5				
3. Other	10.5	2.6%			
Admin./Gas	10.5				
<b>E. Railroad Freight Service</b>			100.0%	199.5	2.9%
1. State	31.0	15.5%			
Advocacy	15.5				
Policy	4.0				
DOT	1.5				
Gov.'s Initiative	1.0				
Legislation	8.0				
Newsletter	1.0				
2. Other	168.5	84.5%			
Public Speaking	5.0				
Complaints	3.0				
Admin./Railroad	160.5				
<b>F. Nuclear Oversight</b>			100.0%	76.5	1.1%
1. Federal	13.5	17.6%			
NRC	1.0				
Policy	12.5				
2. State	63.0	82.4%			
Governor's Initiative	4.0				
Complaints	11.0				
Admin./Nuclear	48.0				
<b>G. GRAND TOTAL</b>	<b>6996.1</b>	<b>Hours</b>			<b>100.0%</b>

**Annual Report - July 1, 2005 through June 30, 2006**

ATTACHMENT G

Page 1 of 6



JOHN ELIAS BALDACCI  
GOVERNOR

STATE OF MAINE  
EXECUTIVE DEPARTMENT  
PUBLIC ADVOCATE OFFICE  
112 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0112

STEPHEN G. WARD  
PUBLIC ADVOCATE

March 7, 2006

Ms. Maria Glen Holt  
Ms. Elizabeth King  
Mr. David Hall  
Citizens Monitoring Network  
40 Robinson St.  
Bath, ME 04530

Dear Ms. Holt, Ms. King and Mr. Hall,

Following up on our meeting at the Public Advocate's Office on February 16 and in response to the letters you delivered to me then, dated February 14 and 15, I am writing in reply. At that meeting, I distributed the Bureau of Budget forms for allocating the State agency assessments in FY06 and FY07 (attached). It was a pleasure to see the three of you again and to be aware of your continued vigilance on behalf of Maine's citizens and environment.

I want to respond to what I understand to be your primary concerns. These pertain to State of Maine oversight of Maine Yankee clean-up activities and of the Independent Spent Fuel Storage Installation (ISFSI) at Bailey Point. From your two letters, I have identified the following concerns to which I will respond individually:

- 1) You believe that there may be a greater cause for concern today than in the Spring of 2005, when you testified before the Utilities and Energy Committee on LD 1342,<sup>1</sup> that State oversight may be insufficiently funded or inadequately monitored;
- 2) You are concerned that funds earmarked for Maine Yankee may have been spent for activities unrelated to clean-up, monitoring or security requirements at the Bailey Point site;
- 3) You question whether there is an adequate plan in place for funding these activities in the second half of the biennium, presumably FY07 ending June 30, 2007;
- 4) You are concerned that the State Nuclear Safety Inspector may not have sufficient funding to complete the confirmatory studies currently underway that evaluate the adequacy of Maine Yankee's final site survey;

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<sup>1</sup> LD 1342, "An Act Reducing Oversight Expense for Decommissioning Nuclear Power Plants to Benefit Electric Ratepayers."

- 5) You object to the lack of provision for State oversight following the completion of decommissioning; and
- 6) You are concerned that opportunities may be overlooked for funding the state Nuclear Safety Inspector position after all confirmatory studies are completed.

As you may know, I certainly appreciate the dedication of the Citizens Monitoring Network and the sincerity of your concerns. You may recall that in the 1980's I gathered dose level information on behalf of the Network at my home in Newcastle and reported the results monthly.

I will turn to each of the above issues in turn.

A. Greater Concern Today Regarding Maine's Efforts.

Beginning in the spring of 2005, as directed by LD 1342, I have convened a series of meetings with State agency personnel to allocate the annual funding levels established by that legislation among State programs. As I reported to the Utilities Committee chairs in a letter dated November 29, that process concluded with an allocation of the \$270,000 payment for FY06 with \$64,908 going to the State Nuclear Safety Inspector for ten months of that year and \$79,073 for the twelve months in FY07. These amounts were identified by the Bureau of the Budget as final for FY06 but subject to revision for FY07 when discussions among the affected agencies reconvene in the summer of 2006.

In short, a budgeting process is in place that will address the various requirements of State agency oversight on an annual basis. I am not aware today of facts that would generate a greater cause of concern regarding the adequacy of State oversight, compared with a year ago, despite regular contact with DEP, DHHS, SNSA, State Police and SNSI personnel regarding these efforts. As I'm sure you know, I take my responsibilities seriously as the person charged with ensuring a fair allocation of Maine Yankee fees among state personnel. At this point, no findings have been brought to my attention that contradict Maine Yankee's claim that it has completed a clean-up in compliance with applicable law.

There are substantial resources already in place (and in reserve), addressing these issues that are managed or overseen at the Public Advocate Office. These include the contract with DeNuke Contractor Services of Oak Ridge Tennessee (with a \$49,471 unspent balance currently) for soil sampling and analyses pertaining to Maine Yankee's final state survey, and a second \$20,000 contract with Sam Krajewski for compiling confirmatory survey reports and doing field work at Bailey Point.<sup>2</sup> Both contracts are managed by the OPA and coordinate directly with the work of the State Nuclear Safety Inspector. Because of my personal involvement in these arrangements,

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<sup>2</sup> In fact, the Krajewski contract has been amended by an additional \$15,000 in order to ensure that the State Nuclear Safety Inspector has adequate back-up in the field.

I disagree that there is an increased cause for concern today, compared with 2005, over the extent of State oversight.

B. Funds Used For Unrelated Purposes

Funds currently are being expended in full compliance with the expectations of the State agencies, as well as the Bureau of the Budget, when the FY06 allocation was established in August 2005. No funds have been transferred to unrelated accounts. There are activities that are currently receiving funds under the multi-agency agreement of August 2005 that, of their nature, do not pertain exclusively to contamination levels at Maine Yankee but these are activities which would not go forward at all in the absence of the agreement. These include the \$25,000 allocation to the Health and Environmental Testing Lab at DHHS in FY06 and FY07 and the \$47,500 allocation to the State Police Tactical Team in FY06. DHHS' Health and Environmental Testing Lab handles a wide variety of functions and responds to requests for radiological testing of water and soil samples for a large number of sources, not merely from Bailey Point. However, historically since the early 1990's, it has been the Maine Yankee assessment that has supported much of the radiological work at the DHHS Lab. The lab has maintained a higher level of quality, compared with private contractors. In the absence of this \$25,000 allocation, it is likely that DHHS would be compelled to close or severely curtail the functionality of the radiochemistry lab and exclusively rely on contracts with private-sector labs. This is not a desirable outcome in any respect, according to DHHS personnel.

In the case of the FY06 and FY07 allocations to the State Police Tactical Team, there is a different problem. Those allocations presumed approval of a dedicated position to serve as a full-time liaison for Maine Yankee-related security issues within the Department of Public Safety and with MEMA. The full-time position would perform training and liaison functions for an incident at Bailey Point resulting from a security breach caused by armed intruders. However, the Governor (and ultimately, the Legislature) did not authorize creation of this new position in the FY06 Budget. Efforts to secure authorization for a dedicated position will continue in the context of FY07 Budget planning this summer. But for the time being, the \$47,500 allocation for FY06 has been redirected to a secondary - but still important - purpose relating to the State Police Tactical Team. That purpose is updating the weapons and associated equipment that the tactical team would use in responding to a terrorist incident at the Maine Yankee site. Of course, updated weapons and equipment could also be put to use in a tactical team intervention at any other terrorist target in Maine. However, an effective and successful response to a terrorist intrusion at Bailey Point does require the replacement of out-of-calibration scopes, worn barrel rifling on assault weapons and other improvements to tactical team equipment.<sup>3</sup>

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<sup>3</sup> With respect to the budget allocation, in FY07 and subsequently, it remains to be seen whether further expenditures on security resources are appropriate when balanced against other agency oversight priorities. This will depend to some important degree on whether the Maine Yankee security liaison position is included in the FY07 State Budget.

C. Adequacy of the State Plan for Maine Yankee Oversight.

The plan that is in place is designed to accomplish two purposes: 1) to verify and confirm Maine Yankee's assertion that the non-ISFSI portions of the site can be released for unrestricted use - consistent with 4 millirem/10 millirem clean-up standard called for in State law; and 2) provide necessary support for a Tactical Team counter-response to any security breach at Maine Yankee. The second point is discussed above and will be further addressed each summer as the following year's allocation of Maine Yankee assessments is discussed and determined. With respect to the first point, the assessments supporting confirmatory clean-up work, site sampling and groundwater monitoring are sufficient only if no detectable levels of radiological contamination are found that exceed permissible State standards. In the event that excess contamination levels are detected, all parties to the FERC settlement accept the necessity of seeking further funding from Maine Yankee to rectify the problem. The current \$360,000 assessment, in short, is adequate to fund a plan that verifies that Maine Yankee did in fact satisfy applicable state and federal requirements. If State soil or water sample testing establishes that this is not the case, then the State will turn to Maine Yankee and its owners for additional funding.

It should be noted that there is a \$500,000 project underway at DEP, with the assistance of DHHS, the SNSA and SNSI, for a five-year program of radiological groundwater monitoring at locations distributed throughout the Maine Yankee site. The \$500,000 is designed to cover the actual costs of drilling wells and monitoring samples. After FY 07, this groundwater monitoring program will continue for another three years at least, with results to be analyzed by DHHS personnel. In addition, the EPA may provide federal support for the sampling of "Hard-to-Detect/Transuranic" isotopes which is expected to get underway in FY 06.<sup>4</sup> In the case of both groundwater monitoring and "Hard-to-Detect/Transuranic" sampling, any findings of excess contamination will lead directly to requests to Maine Yankee for funding the necessary remediation and site clean-up.

In FY07, the current assessment allocations will be adjusted based on priorities and needs as known in August 2006. According to a time-line prepared by the State Nuclear Safety Inspector, all activities with one exception will be completed in FY07 (again assuming that there are no contamination level results exceeding the 4 milirem/10 milirem standard). The one exception is the SNSI's desire to complete, as of September 2007, the archiving of all documents and databases that pertain to his confirmatory survey work.

I can assure you that all agency personnel who have been involved in the annual Maine Yankee assessment process take very seriously the importance of completing an independent

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<sup>4</sup> It is expected that a portion of the FY07 \$360,000 assessment total will be assigned for spot testing of "Hard-to-Detect/Transuranics." Again, if this effort generates results that exceed applicable standards, the State will be in immediate contact with Maine Yankee.



analysis of site clean-up at Bailey Point in a timely and credible manner. If funding priorities emerge for FY07 that currently are not anticipated, they certainly will be addressed in the course of the August 2006 discussions.

D. Adequacy of Funding for SNSI Studies

Your concern about whether the Safety Inspector is certain to have enough funding to complete (and archive) all confirmatory studies is a concern that I share. The FY06 assessment amounts for the SNSI of \$62,744 and, in FY07, of \$76,437 were established based on a number of assumptions made in August 2006, all of which will be reviewed over time: a) DHHS' Radiation Control Program will make available additional funding within the program's budget; b) the DeNuke and Sam Krajewski contracts will provide adequate field support in completing soil sample testing; c) weather conditions for on-site field work at Bailey Island will not create delay; and d) no test results will establish contamination levels in excess of the 4 milirem/10 milirem standard. It is premature, in my opinion, to state that the assessment funding is insufficient. However, all of these factors will receive consideration in FY06 and FY07.

As I stated at our February 16 meeting, however, if it turns out that insufficient funds exist to enable Pat Dostie to complete the confirmatory studies in FY07 that are now underway, I will commit funds from the Public Advocate's general budget to make this possible or, if necessary, seek from the Governor additional funding for this purpose.

E. Absence of State Funding for Post-Decommissioning Oversight.

Actually, the 2004 FERC settlement does commit Maine Yankee to provide a reduced level of funding for State agency oversight beginning in 2008, at \$170,000.<sup>5</sup> This reduced level of funding continues indefinitely or at least as long as Maine Yankee retains an NRC license for the ISFSI. The \$170,000 amount is expected to confront significant demands, from State Police security requirements, to SNSI oversight or funding of the DHHS' Health and Environmental Testing Lab. However, there is no question that funds in the amount of \$170,000 will be received annually from Maine for general oversight purposes. It also is the case that the 2004 FERC settlement binds the State agencies that signed the settlement (the OPA and Maine PUC) but does not necessarily bind any other agency, the Governor or the Legislature. It is possible that the Utilities and Energy Committee could consider in the upcoming 123<sup>rd</sup> legislative session requests for new assessments on Maine Yankee to deal with needs that were not known during the negotiation of the 2004 FERC settlement or that were not adequately addressed in that settlement.

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<sup>5</sup> Maine Yankee Atomic Power Company, FERC Docket ER04-55-000, July 8, 2004 Stipulation, page 16 Offer of Settlement, Section II(B)(3)(ii): "...the Maine Agencies agree to use their best efforts to limit State assessments to Maine Yankee to no more than \$360,000 annual for the period September 1, 2005 through August 31, 2008 and \$170,000 annually thereafter."

F. Missed Opportunities for SNSI Funding.

As should be evident from the foregoing portions of this letter, there is considerable flexibility built into the annual assessment allocation process. There are funds currently in reserve that are available to meet future needs and there could be additional resources available within existing DHHS or Public Advocate budgets that can be deployed if necessary. There also remains the possibility of future action by the Governor or the Legislature if unmet needs persist that were not addressed properly in the 2004 FERC settlement. I can anticipate the possibility of Maine ratepayers and General Fund taxpayers supporting over many years a monitoring effort at Maine Yankee and, as well, the possibility that Maine Yankee could be required to bear the burden of remediation expense in the event that their 1998 - 2005 clean-up turns out to have been inadequate or substandard. In all of these respects, there may be multiple long-term sources of funding for the State Nuclear Safety function beyond FY08. On the other hand, the confirmatory studies are still in their early stages so we simply do not know today what the SNSI funding requirement ultimately will be.

I hope these comments address your concerns. Please don't hesitate to contact me if further information would be desirable.

All best wishes,



Stephen G. Ward,  
Public Advocate

SGW/dt  
Attachment

cc: Senator Philip Bartlett, II  
Representative Lawrence Bliss  
Jay Hyland, DHHS  
David Littell, DEP  
Charles Pray, SNSA  
Eric Howes, Maine Yankee

Senator Arthur Mayo, III  
Dick Davies, OOG  
Pat Dostie, SNSI  
Bill Snedeker, State Police  
Clough Toppan, DHHS  
Jon Clark, OPLA

Annual Report - July 1, 2005 through June 30, 2006

  
JOHN ELIAS BALDACCI  
GOVERNOR

STATE OF MAINE  
EXECUTIVE DEPARTMENT  
PUBLIC ADVOCATE OFFICE  
112 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0112

ATTACHMENT H  
Page 1 of 11

STEPHEN G. WARD  
PUBLIC ADVOCATE

March 1, 2006, Corrected

Senator Philip L. Bartlett II, Senate Chair  
Representative Lawrence Bliss, House Chair  
Joint Standing Committee on Utilities and Energy  
122<sup>nd</sup> Maine Legislature  
100 State House Station  
Augusta, Maine 04333

Senator Dennis Damon, Senate Chair  
Representative Boyd Marley, House Chair  
Committee on Transportation  
122<sup>nd</sup> Maine Legislature  
100 State House Station  
Augusta, Maine 04333

RE: Annual Railroad Service Quality Report

Dear Senators Bartlett and Damon and Representatives Bliss and Marley,

In compliance with the recently-enacted provisions of Section 1711 of Title 35-A and the reporting requirement established by Section 1711(6), we hereby forward for the review of the Utilities and Energy Committee and of the Transportation Committee the first annual Railroad Service Quality Report. This service quality report presents information generated by two successive quarterly surveys of freight shippers in Maine and the 70 responses that the surveys elicited. Because the provisions of Section 1711 took effect in September 2005, there have been only two surveys undertaken to date, as of September 28, 2005 and December 22, 2005.

Thank you for the opportunity of providing information about how freight shippers evaluate the adequacy of railroad service in Maine. I am available to respond to questions from Committee members at your convenience.

Respectfully submitted,



Stephen G. Ward  
Public Advocate

cc: Sen. Scott W. Cowger

Sen. Carol Weston

PHONE: (207) 287-2445 (Voice)

Stephen.G.Ward@maine.gov (e-mail)  
<http://www.maine.gov/meopa>

FAX: (207) 287-4317  
FAX: (207) 287-4300

**Annual Report - July 1, 2005 through June 30, 2006**

ATTACHMENT H

Page 2 of 11

Rep. Herbert Adams  
Rep. Christopher W. Babbidge  
Rep. Kenneth C. Fletcher  
Rep. Philip A. Curtis  
Rep. Everett W. McLeod, Sr.  
Sen. Christine R. Savage  
Rep. Rosaire "Ross" Paradis, Jr.  
Rep. George W. Hogan, Sr.  
Rep. Terrence P. McKenney  
Rep. William P. Browne  
Linda Lockhart, Preti, Flaherty  
Rob Elder, DOT

Rep. Peter L. Rines  
Rep. John R. Brautigam  
Rep. Maitland E. Richardson  
Rep. Stacey Allen Fitts  
Sen. Bill Diamond  
Rep. Charles D. Fisher  
Rep. Sonya G. Sampson  
Rep. Edward J. Mazurek2  
Rep. Ronald F. Collins  
Rep. Douglas A. Thomas  
Dick Davies, OOG  
Steve Hudson, Hudson, Hudson & Co.

Report of the Public Advocate on Railroad Service Quality  
3<sup>rd</sup> and 4<sup>th</sup> Quarters 2005

**A. INTRODUCTION**

Under recently-enacted provisions of Maine Law, the Public Advocate's Office is required annually to submit, no later than the first Monday in February, an annual report with the following information:

- A. A summary of railroad freight service quality data collected under subsection 2 and any actions taken pursuant to subsection 3;
- B. An evaluation of the effectiveness of any actions taken under subsection 3 and the need for the authority granted under that subsection, together with any recommendations for modifications to that authority; and
- C. An accounting of expenditures from the fund, prospective funding needs and any recommendations for changes in funding levels. (35-A M.R.S.A. Section 1711(6))

Subsection 2 of the law reads as follows:

- 2. **Tracking service quality.** The Public Advocate shall collect data on the quality of railroad freight service in this State. The Public Advocate may conduct surveys or employ other methods to gather information provided on a voluntary basis by shippers. The Public Advocate shall collect and organize the data in accordance with a performance matrix designed to measure service quality. The Public Advocate shall consult with the Department of Transportation and with shippers in developing the performance matrix. On a schedule mutually acceptable to the Public Advocate and the department, the Public Advocate shall provide to the department regular reports on the quality of railroad freight service based on data collected pursuant to this subsection. The Public Advocate shall report the data in a manner that is consistent with subsection 4. Reports provided pursuant to this subsection are public records.

Subsection 3 of the law reads as follows:

- 3. **Authority to take certain actions.** In order to enhance and promote railroad freight service quality in this State the Public Advocate may:
  - A. Provide information to federal, regional and state agencies, groups and organization and monitor federal and state regulatory actions of interest to Maine shippers;



- B. Provide advice and assistance to shippers;
- C. With the consent of the parties, facilitate or mediate railroad freight service disputes; and
- D. Take any other appropriate actions consistent with the purposes of this section.

The law also provides, at Section 4, for the treatment as confidential information any survey response that would reveal the identity of a shipper and, at Section 4, for a \$20,000 transfer from the Department of Transportation to cover all costs associated with these new responsibilities.

## B. SURVEY METHODOLOGY

The Public Advocate staff sent out 112 surveys in September and 107 surveys in December to businesses in Maine that regularly ship freight on railroads doing business in Maine. The survey questions on each occasion were identical and consisted of the following questions:

In the 3-month period ending December 31, 2005, please identify how many events in the following categories occurred, by railroad. Please identify each railroad by initials in one or both of the columns below, selecting from the following: EMR (Eastern Maine RR), SMO/MER (Maine Eastern RR), MMA (Montreal Maine & Atlantic RR), NBSR (New Brunswick Southern RR), SLAR (St Lawrence and Atlantic RR), GRS/ST (Guilford Rail System/Springfield Terminal):

	Railroad <u>  X  </u>	Railroad <u>  Y  </u>
1. <u>Late placements/on-time placements</u>		
• Number of on-time placements (occurring on the date for which ordered), of in-bound loads or cars released by shipper	<u>          </u>	<u>          </u>
• Number of late placements	<u>          </u>	<u>          </u>
• Average number of days late (total number of late days divided by total late placements)	<u>          </u>	<u>          </u>
2. <u>Cars requested/cars rejected by customer</u>		
• Number of empty cars requested in quarter	<u>          </u>	<u>          </u>
• Number of empty cars actually delivered	<u>          </u>	<u>          </u>
• Number of empties rejected for any reason	<u>          </u>	<u>          </u>
• Number of full cars requested in quarter	<u>          </u>	<u>          </u>

**Annual Report - July 1, 2005 through June 30, 2006**

ATTACHMENT H  
Page 5 of 11

- Number of full cars actually picked up or delivered \_\_\_\_\_
- Number of times service was requested and not provided at all (as opposed to delayed) \_\_\_\_\_
- 3. Number of complaints
  - Number of individual complaints regarding service problems in Maine, other than a request for a switch or a car \_\_\_\_\_
  - Number of contacts with personnel of a Maine railroad concerning service problems \_\_\_\_\_
- 4. Other comments \_\_\_\_\_

These questions and the survey format generally resulted from consultations between the Public Advocate and his staff and individual freight shippers who comprised an informal association of rail consumers. The Public Advocate also consulted with the Office of Freight Transportation at Maine's Department of Transportation. Meetings with individual freight shippers occurred in Portland on June 23 and in Portsmouth on July 19, 2005.

The surveys identified four railroads (Eastern Maine Railroad, Montreal Maine and Atlantic, New Brunswick Southern, St. Lawrence and Atlantic and Guilford/Springfield Terminal) in the first quarterly survey. By inadvertent omission, a fifth railroad providing shortrail service on Maine-owned tracks from Brunswick to Rockland - Maine Eastern Railroad - was not included in the first survey (3<sup>rd</sup> Quarter 2005) but was included in the second (4<sup>th</sup> Quarter 2005). All five railroads will be covered in subsequent quarterly surveys.

**C. SURVEY RESULTS**

The survey instrument itself is attached as Attachment III, page 5 and is preceded by letters to shippers introducing the surveys and requesting responses (Attachment III, pages 1 through 4). A tabular presentation of "Survey Results: 3<sup>rd</sup> Quarter 2005" is found at Attachment II, pages 1 and 2 while "Survey Results: 4<sup>th</sup> Quarter 2005" is presented as Attachment II, pages 3 and 4.

A matrix presenting survey results for all five railroads doing business in Maine for the 3<sup>rd</sup> and 4<sup>th</sup> Quarters, 2005 is found at Attachment I, page 2 and an overall summary of survey highlights is presented as Attachment I, page 1.

## Annual Report - July 1, 2005 through June 30, 2006

### ATTACHMENT H

Page 6 of 11

Overall, Guilford/Springfield Terminal ranked poorest of all railroads surveyed in the 3<sup>rd</sup> and 4<sup>th</sup> Quarter of 2005, ranking lowest in five categories. Montreal Maine and Atlantic ranked lowest in two categories.

In addition to the statistical information presented in Attachments I and II, the survey results also incorporated written comments about individual railroads. All individual comments have been redacted to remove information that could identify the business providing the comments in compliance with subsection 4 of Section 1711 and its requirement of anonymity for survey respondents.<sup>6</sup>

The following is a brief compilation of noteworthy comments about individual railroads. We should emphasize that this survey effort has just begun and the initial responses of survey respondents may not fully capture public sentiment about the adequacy of service quality or comparative performance of freight railroads. It is equally true that, while the survey response rate at 32% has been robust, there conceivably are many shippers with strong opinions about service performance (positive or negative) who have yet to respond to a Public Advocate quarterly survey.

Here is a selection of verbatim comments concerning Montreal Maine and Atlantic Railroad:

- I've had excellent co-operation with this RR since I took over as manager of \_\_\_\_\_ 1 1/2 years ago.
- Not many problems during this 3-month period. Generally problems occur November-March.
- We have no issues, good communication with MMA at the \_\_\_\_\_ and on the ground. Bob Thomas does a great job working with us to keep us informed and address issues. We hope to expand our use of their service.
- No problems or complaints.
- Had problems with bill of lading and proper billing terms.
- MMA service fair to good. Has trouble with large, steady volumes. Poor winter engines and snow plowing ability.

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<sup>6</sup> 4. **Protection of persons supplying information; confidentiality.** In order to encourage shippers to provide information to the Public Advocate under this section, the Public Advocate shall institute procedures to preserve the anonymity of shippers that provide railroad freight service quality information to the Public Advocate. Those portions of records obtained or kept by the Public Advocate pursuant to this section that the Public Advocate determines would reveal the identity of a shipper that provides information to the public under this section are confidential and are not public records pursuant to Title 1, Section 402, subsection 3, paragraph B. If the Public Advocate determines that disclosure of information that would reveal the identity of a shipper would assist the Public Advocate in achieving the purposes of this section, the Public Advocate shall, prior to the disclosure, notify the affected shipper to allow the shipper to discuss the proposed disclosure. If the affected shipper objects to the disclosure of the information, the Public Advocate may not disclose the information.

**Annual Report - July 1, 2005 through June 30, 2006**

ATTACHMENT H

Page 7 of 11

- They have been late getting cars to us at times and we have had to ship trucks [for] which the freight is high. MMARR is very quick to charge demurrage but very slow at times on service which has caused us to use trucks which charge higher in freight thanks to the RR. But we have to pay it to keep our customers supplied. It cost us 4,350 to ship 60 tons by truck which is 3 loads compared to \$1,900 by rail which hauls 78 to 90 tons of \_\_\_\_\_. In my opinion we shouldn't have to pay demurrage at all if the railroad can't deliver service to us.
- MMA is not prepared to deal with snow storms - NO service during week of December 26-31 due to storm!! MMA has many engine failures which prevent service.
- They place and we load. No late placements. No cars rejected. No complaints.
- No complaints.
- Getting cars from Canada is always a delay and paperwork takes 7 days sometimes.

Here is a selection of verbatim comments concerning St. Lawrence and Atlantic Railroad:

- It's the CN Railroad we have issues with. We receive approximately 6 boxcars per year that arrive late. The bulk cars are fine.
- Has provided excellent service.
- This is for 2 warehouses in \_\_\_\_\_.
- Has been doing a great job this year.
- Intermodal equipment availability is a continuing issue.
- Does a great job and I am a big customer of theirs.
- Wintertime efficiency is the major issue.
- We only receive full cars and they come in on a timely manner in the summer, the winter is a different story.

The largest number of comments concerned Guilford Rail System/Springfield Terminal. Here is a selection of verbatim comments concerning Guilford:

- This service was very poor beginning early December through end of year holidays -- as far as inbound commodities we don't keep problem/issue documentation. Materials such as \_\_\_\_\_ and \_\_\_\_\_ are delivered to \_\_\_\_\_ from Portland. These moves are under the direct control of Guilford. All other commodities come from a variety of areas around the country. Over the course of the last several months our inbound commodities service has worsened. We have reverted to spending quite a bit of time tracking commodities on a daily basis and have daily interaction with personnel from ST to coordinate efforts and prioritize needs. Problem began Thanksgiving holiday 2005 and has lasted through January 2006. We are finally getting back into what I hope is better service and consistent deliveries. The movement of commodities via the railroad efficiently and effectively is absolute critical to Maine's economic infrastructure. I am hopeful that industries may some

**Annual Report - July 1, 2005 through June 30, 2006**

**ATTACHMENT H**

Page 8 of 11

- day consider locating and expending in; the State of Maine if rail service is improved.
- ST service: poor, cannot count on service. Moves seem to be unpredictable. Requested cars that come late.
- We could increase our \_\_\_\_\_ traffic from 200 carloads per year to 500 with improved service. Cars are hung up on the ST in Portland, Lowell, Deerfield. The equipment or personnel - hurting Maine economy.
- Do not track personnel problems with this RR because it would be daily effort and also do not track the complaints on switching since this is a daily concern/issue. Other problems include: 1/car delays in both directions: excessive dwell in ST yards; multiple derailments affects company shipments; inconsistent service impacting facility operating efficiency; bad ordered repair delays; billing/routing errors.
- On no service/late service days we still had crews scheduled 23/7. We have lost customers with poor service. We have \_\_\_\_\_ locations in separate cities that are \_\_\_\_\_ served by GRT/ST. At location \_\_\_\_\_ rail service we requested \_\_\_\_\_ for the 3 month period (28 late placements of \_\_\_\_\_ requested). Rail service we requested \_\_\_\_\_ placements and 4 were late placements.
- We were off loading on average on 12 bulk railcars of \_\_\_\_\_ per week, plus one carload of \_\_\_\_\_ each week during our peak seasons. We relied heavily on GRT for timely service or just plain service for that matter, however; the problems and excuses were too great to track. I tried to track problems with their performance but I found I was wasting way too much of my time on phone calls and spreadsheets as their problems continued and were never addressed. On many occasions our production lines were nearly stopped because of a lack of materials to produce due to GRT's broken promises! There were way too many examples to cite. Our company made the decision to discontinue the use of railcars because of the issues and we have been transporting our \_\_\_\_\_ by \_\_\_\_\_ truck from our supplier in \_\_\_\_\_. We have been using this method of transport for the past \_\_\_\_\_ months or so and it has proven to be more reliable and a better fit for our needs. We do currently receive \_\_\_\_\_ of \_\_\_\_\_ every \_\_\_\_\_ weeks only because of logistics issues, and still the service is not reliable for this product. It is unfortunate that we have a nice rail spur entering our property with \_\_\_\_\_ service lines and \_\_\_\_\_ unloading stations for railcars that is going unused.
- Inconsistent service, unreliable service during this period.

**Annual Report - July 1, 2005 through June 30, 2006**

ATTACHMENT H

Page 9 of 11

- The advent of the \_\_\_\_\_ has impacted our location and setting of cars has been even more sporadic since that service began. During my time in transportation management we had countless meetings with senior representatives of ST to attempt to create a standard operating procedure and to this date none exists. To say the least, ST has costs our Companies uncountable hours of lost labor, production time, unsatisfied customers, and ultimately reduced our ability to do business. It is our understanding that the railroads serving the \_\_\_\_\_ area are regulated and protected by the Interstate Commerce Act and as such are also expected to deliver a reasonable delivery service. My sense of ST Co. is that their needs come 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> and the paying customer will be served later. I hope the data collection effort will motivate a quality improvement in rail service. Years of pleading has not worked.
- Due to inability to move or place cars, we have had to cancel plans to expand our business by rail in Maine.
- All service by GRS is good.
- \_\_\_\_\_ railcars had to be delivered into a warehouse, off loaded and trucked to destination. As far as inbound commodities, we don't have problems. Over the course of the last 2 months, inbound commodity service has been surprisingly good. Still keep higher inventory levels than we really need due to past service issues. If we go through the 2005/2006 winter with current service levels ... we'll probably consider easing back a bit on our inventory. Thanks for keeping this process going. Management at ST is aware of the survey and I believe it keeps the pressure on them. Movement of commodities via the RR efficiently and effectively is absolutely critical to Maine's economic infrastructure. Am hopeful that industries may someday consider locating or expanding in the State of Maine if rail service is improved.
- All is well.
- Transit times are good until they hit \_\_\_\_\_ yard. Then everything comes to a standstill. Same excuses are used, "no manpower, no equipment, no overtime allowed." Sr. management sit in Billerica, MA and tell you over the phone they are trying to improve. Until they put senior managers in So. Portland, ME they will never improve.
- These complaints all pertain to a group of cars shipped out. ST is not reading bill of lading properly when they say PREPAID - they bill anyways!
- Too many late placements to count on GRS/ST.
- Would utilize rail much more if switching and sets were prompt.
- \_\_\_\_\_ delays in both directions, excessive \_\_\_\_\_ in railroad yard; inconsistent service impacting mill efficiency; bad order repair delays; billing.
- Notable GRS/ST improvement in 4<sup>th</sup> quarter 05.



**D. OTHER REPORTING PROVISIONS**

Section 1711(3) provides authority for the Public Advocate to take certain actions “in order to enhance and promote railroad freight service quality in this State.” Those actions include providing assistance to shippers, mediating freight service disputes (when the parties consent) and monitoring federal and state regulatory actions of interest to Maine. During the period following effectiveness of these new provisions (September 17, 2005), the Public Advocate has not undertaken any action other than conducting the two quarterly surveys that are the subject of this report.

Section 1711(6)c authorizes the Public Advocate to be compensated for efforts regarding railroad service quality by means of an annual transfer of \$20,000 from the Department of Transportation. This transfer is expected to occur in the fourth quarter of the State fiscal year 2006. According to OPA timesheets, OPA personnel spent 75.5 hours on railroad service-related issues in the six months ending December 31, 2005. These efforts corresponded to 1.4% of all office hours during that period booked to an area of office responsibility. Other areas of office responsibility are electric, telephone, natural gas, radioactive waste and water utility advocacy.

**E. CONCLUSION**

The Public Advocate welcomes input and suggestions about how we may more effectively undertake the responsibilities given to us pursuant to Section 1711. Thank you for the opportunity of serving the people of the State and freight shippers relying on railroads doing business in Maine.

**CORRECTED**  
**Attachment 1, pg. 1 of 2**

**A. Survey Highlights**

- 1) Guilford/Springfield Terminal ranks poorest of all railroads surveyed in five categories for the last six months of calendar 2005 (3<sup>rd</sup> and 4<sup>th</sup> Quarters):
  - a) number of complaints by shippers about service problems
  - b) number of contacts from customers about service problems
  - c) the average number of days that placements were late
  - d) the number of empty cars rejected as unsuitable by shippers; and
  - e) the number of cars requested by shippers but never delivered
- 2) Guilford/Springfield Terminal ranks best in one category in the last six months of calendar 2005 (3<sup>rd</sup> and 4<sup>th</sup> Quarters): “full cars actually picked up/delivered out of cars requested”
- 3) Montreal Maine and Atlantic ranks poorest of all railroads surveyed in three categories for the last six months of calendar 2005 (3<sup>rd</sup> and 4<sup>th</sup> Quarters):
  - a) the percentage of late placements out of all cars delivered
  - b) the percentage of empty cars delivered out of cars requested
  - c) the percentage of full cars actually picked up out of cars requested
- 4) St Lawrence & Atlantic ranks best in two categories in the last six months of calendar 2005 (3<sup>rd</sup> and 4<sup>th</sup> Quarters): “late placements out of total placements,” and “empty cars delivered out of total cars requested”

**B. Notes**

- 1) The response rate for the 3<sup>rd</sup> Quarter survey was 30.3% out of 112 surveys mailed; the response rate for the 4<sup>th</sup> Quarter survey was 34% out of 107 surveys mailed. All surveys went to shippers located in the State of Maine who rely on one or more railroads doing business in Maine.
- 2) Narrative comments submitted in both surveys primarily focused on two railroads: Guilford/Springfield Terminal (23 out of 49), and Montreal Maine and Atlantic (16 out of 49). Comments were both favorable and unfavorable. In the 4<sup>th</sup> Quarter, many comments focused on weather-related disruptions.