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# **STATE OF MAINE PUBLIC ADVOCATE OFFICE**

## **ANNUAL REPORT JULY 1, 2006 TO JUNE 30, 2007**



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**Cover Photo by Chessie Johnson - The Easternmost Town, Lubec, ME**

## Annual Report - July 1, 2006 through June 30, 2007

### A. INTRODUCTION: SAVINGS FOR RATEPAYERS IN 2006-2007

For the fiscal year ended June 30, 2007 the Public Advocate Office achieved several noteworthy successes in advancing and protecting the interests of Maine's utility customers. Among these were:

- The finding by the Commission Staff, in an Examiner's Report, that Verizon has over-earnings of over \$32.4 million. At year-end the Commission had not made a decision as to whether to accept all the recommendations in the Examiner's Report. In addition, the Commission was considering a Stipulation that postponed consideration of the Examiner's Report until the first quarter of calendar year 2008.
- Reducing the amount of water utility rate increases by \$214,183 in a number of small water districts and companies where the Public Advocate Office was the principle non-utility party.

As a result of these and other efforts by the staff of the Public Advocate Office, the rates paid by Maine consumers were set by the Public Utilities Commission ("PUC") at annual levels that we estimate to be at least \$32.6 million lower than they would have been in the absence of our advocacy. These savings, when added to our previous efforts over the prior 25 years, reflect a total savings of \$279.6 million, as described in greater detail in Attachment A. This \$279.6 million total includes both litigated outcomes and multi-party settlements.

July 31, 2007

Dear Maine consumer of utility services,

I have just recently been appointed Maine's Public Advocate by Governor John E. Baldacci to replace Steve Ward who has retired after 20+ years of excellent service to Maine people. I am honored to have the opportunity to serve you, and excited to be given this responsibility. I can report that the small staff in our Office (four highly experienced lawyers and three skilled support personnel) do an amazing job fighting for the interests of Maine's consumers.

We will continue to do our best to respond to the needs of Maine's utility consumers. If we can assist you, your family or your business with a utility problem, do not hesitate to contact our Office – electronically, by mail, in-person at our Hallowell office, or by telephone at 287-2445.

Sincerely,



Richard S. Davies  
Public Advocate



**B. ADVOCATING FOR UTILITY CONSUMERS IN MAINE SINCE 1982**

The Public Advocate Office began operations 25 years ago, charged by the Legislature with the responsibility for representing the interests of consumers in utility-related proceedings before the PUC, the Maine Legislature, federal agencies, and state courts. In the past quarter century the Office has set as its top two goals the lowering of utility bills for consumers and improving the quality of service provided by utilities. These goals have not changed over the years, but the tasks we perform to achieve these goals have evolved.

In the period covered by this report the Office focused primarily on tasks, initiatives and proceedings taking place in Maine. There was a sizable increase in the number of utility related bills introduced at the Maine Legislature. We worked intensively on a Verizon rate case with the result that the PUC staff made a finding that Verizon is over-collecting from its Maine customers by an estimated \$32.4 million annually. Two major electric utilities filed rate cases in which we have intervened and Verizon proposed to transfer its northern New England landlines and service territory to FairPoint Communications, Inc. Also in June of 2007 Energy East, parent company of Central Maine Power, announced that it had agreed to be acquired by Iberdrola, a Spanish energy company. These major new cases are in addition to more than six dozen active cases at the Maine PUC in which the Office is a party.

The office has also been active before the Federal Communications Commission ("FCC") and the Federal Energy Regulatory Commission ("FERC"), and involved in regional, national and international matters affecting Maine consumers' interests. For example, Richard Davies, the new Public Advocate, has been named by Governor John E. Baldacci as Maine's Joint Representative in carrying out a Memorandum of Understanding ("MOU") with Premier Shawn Graham of New Brunswick on electricity interconnections. A Phase One Report on implementing the provisions of the MOU was jointly issued by Maine's and New Brunswick's Joint Representatives in late June 2007.

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

	2001	2002	2003	2004	2005	2006	2007
A. Federal/regional advocacy % of staff direct time	6%	13%	17%	24%	9%	11%	7%
B. Maine-based in-state advocacy % of staff direct time	94%	87%	83%	76%	91%	89%	93%

Members of the Public Advocate Office staff sit on several boards and commissions at national and regional levels, including 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 Counsel Wayne Jortner serves as Treasurer for the Universal Service Administrative Company (USAC), overseeing the collection and allocation of \$7 billion in federal surcharges supporting improved access to telecommunications services in unserved or underserved areas of the United States. 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 FERC.

During 2006/2007 a debate over whether "electric restructuring" has been a success or a failure in Maine commenced, with strong arguments being advanced on both sides of the issue. The issue was debated in the Legislature via several bills submitted during the 2007 session. The bills proposed to allow Maine's transmission and distribution ("T&D") electric utilities to re-enter the electricity generating business.

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These utilities were required to sell their generating assets as part of Maine's Electrical Industry Restructuring Act passed in the late 1990's. The Public Advocate Office testified before the Maine Legislature's Utilities and Energy Committee on the issue. The office noted that although it is difficult to separate the effects of restructuring from the effects of price increases for natural gas and oil during the same period it is still significant that Maine's electricity price was 60% higher than the national average in 1999, when Maine's electric restructuring law took effect, but was only 39% higher in 2006. During this seven year period, using the average residential retail price of electricity in Maine in 1999 as the point of comparison, the average Maine electricity price was lower in 2000, 2002, 2003, and 2004 than it was in 1999. For 2001 the average price was slightly higher and the average price was higher in 2005 and 2006. At the end of 2006, the average residential retail price for electricity was 14.47 cents per kilowatt-hour, just 1.4 cents per kilowatt-hour, or 11%, higher than the average price 7 years before. Much of this increase can be attributed to higher natural gas and oil prices that occurred. In a November 2006 article in *Public Utilities Fortnightly*, a reputable information source on the electricity industry, the following quote appeared: "In 2005, when oil prices increased 135% and natural gas prices rose 210%, production/procurement costs rose only 5.6%. Indeed, if restructured states had used the fuel-cost adjustment pass-through common in states with traditional rate regulation, rates would have been 15% higher."

The issue of the success or failure of electric restructuring has not yet been resolved, and we expect to see it revisited again during the coming twelve months. No one likes paying more than necessary for an essential commodity like electricity, and our mission is to keep electricity prices in Maine as low as possible, but some of the factors that drive electricity prices in Maine may be beyond our control in the short term. In this case, we work to create the conditions that will bring Maine more ability to control, or at least influence, these factors. You can expect state policymakers to focus a great deal of attention on the issue of lowering electricity prices during the next year.

In the case of telecommunications markets in Maine, the proposed purchase of Verizon's northern New England landline assets and service territory by FairPoint Communications has become the biggest issue facing Maine utility regulators in many years, perhaps ever. Verizon, the surviving company after a series of telecommunications mergers that started when New England Telephone was merged into Nynex, announced last year that it was putting its landline assets in Maine, New Hampshire and Vermont on the market. They reached an agreement with a small telecommunications holding company, FairPoint Communications, which already owns several small Maine telephone companies, to undertake a complicated transaction which will result in Verizon's landline assets and service territory in Maine, New Hampshire and Vermont being sold to a newly-created company called Spinco which will be owned by Verizon shareholders, and this new company will then be merged into FairPoint.

Because Verizon is, by far, the largest telephone company in Maine, and other telephone companies utilize Verizon's network to carry calls originating or terminating in their territories, this proposal affects virtually all users of landline telephone service in Maine. As a result there are a large number of intervenors in the PUC case (Docket # 2007-67) where the decision will be made whether to approve the petition from Verizon and FairPoint to allow this transaction to take place, with or without conditions, or whether to reject their application. The Office of Public Advocate is one of the intervenors in this case, with two attorneys from our staff and four OPA consultants deeply involved in examining the proposal. We are nearing the end of the data and information gathering phase of the case, and will be analyzing the information provided by Verizon and FairPoint (sometimes grudgingly) in preparation for a series of hearings before Public Utilities Commission staff where, through witness testimony under oath and cross examination of witnesses by the intervenors, the information and data can be tested and evaluated by the PUC commissioners and staff. Once our office is satisfied that we have a complete understanding of the pluses and minuses of Verizon/FairPoint proposal, we will make our recommendations to the PUC as to



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whether the proposal ought to be approved and under what conditions, or should be rejected. The PUC is expected to render their decision in late 2007 or early 2008.

Another significant telecommunications case, looking at whether Verizon has been over-collecting more than is required to produce the revenues necessary to provide service to Maine customers, has been going on for seven years and has been taken to the Maine Supreme Judicial Court by the Office of Public Advocate not once, but twice. On both occasions our office prevailed in court, and the Court sent the issue back to the Maine Public Utilities Commission with guidance on what the PUC needed to do to comply with state law. The PUC's response in the first instance was insufficient to comply with the law, and our office appealed their failure to comply fully. The Court's second decision reaffirmed the OPA's position and again ordered the PUC to carry out their duty under the law.

This spring the PUC hearing examiner in this case (Docket No. 2005-155) issued his report, which made findings about Verizon's revenues including a finding that Verizon is over-collecting from its Maine customers by an estimated \$32.4 million annually. This is a huge victory for our office, and for the Verizon customers who have been overcharged by Verizon for a number of years. The PUC is scheduled to deliberate this report, and the "exceptions" to it which are being submitted by the parties, later this year and to decide what actions should be taken, going forward, to bring Verizon's revenues in line with their revenue needs.

### **Public Advocate Publications: July 2006 to June 2007**

1. October 2006: Ratewatcher Telecom Guide, Volume 18, newsletter
2. October 2, 2006: "Ratewatcher Telecom Guide Has New Design, Packed With More Money-Saving Information Than Ever," Press Release
3. October 23, 2006: "The More Things Change, the More They Stay the Same - for Nuclear Power," op-ed Kennebec Journal
4. November 2006: Electric Guide, Volume 13, "Complaining Pays Off - Refunds Ordered to CMP Line Extension Customers," newsletter
5. November 21, 2006: Choices, Ideas for Shared Prosperity, Volume XII, Number 6, Maine Center for Economic Policy, "Regional Greenhouse Gas Initiative Up for Debate," newsletter
6. December 11, 2006: "Maine Public Advocate Stephen Ward Suggests that Telephone Customers Claim Refund of Federal Telephone Tax," Press Release
7. December 20, 2006: "Public Advocate Office Asks for New Locations for Cellphone "Dead Zone" Map," Press Release
8. January 26, 2007: "Public Advocate Has Asked the PUC to Reduce Verizon's Local Rates by \$8 Per Month Under the Current AFOR Statute," Press Release
9. April 3, 2007: "Sam's Club AT&T Calling Card Rate Increased by 200% for Instate Calls," Press Release
10. May 1, 2007: "Maine Public Advocate Releases a New Expanded 20-Page Ratewatcher Telecom Guide - Free of Charge to Maine Residents," Press Release
11. May 9, 2007: "Public Advocate Reaction to the Maine PUC's Decision to Reduce Verizon-Maine Revenues by \$32.4 Million Annually," Press Release
12. May 13 & 15, 2007: "Public Advocate Office Staffers to Hold Telephone Clinic at the Auburn Mall on May 16th, 2007," Advertisement
13. May 2007: Ratewatcher Telecom Guide, Volume 19, newsletter
14. June 28, 2007: "New 'Soft Dial Tone' Policy May Require E911 Service on Most Disconnected Telephone Lines," Press Release

**C. DEALING WITH CUSTOMER COMPLAINTS, CONSUMER EDUCATION  
AND THE LEGISLATURE**

In fiscal year 2006-07, the Office regularly interacted with individual customers who contacted us with concerns or complaints about utility service. We addressed more than 13,243 complaints or requests for information. This total includes contacts with legislators and written testimony on individual bills during the First Session of the 123<sup>rd</sup> Legislature. We also prepared and mailed newsletters on telephone and electric options to more than 63,216 consumers. Please see Attachment B and C for monthly details on the frequency of newsletter mailings and on customer/legislator contacts.

As has been the case in prior years, the Office keeps track of those bills introduced during each legislative session and of our success in influencing debate on each bill. The Office submitted written testimony on 41 bills in the First Session of the 123<sup>rd</sup> Legislature. With respect to the bills on which the Office took a formal position, our recommendations corresponded to the final outcome on 27 occasions, or 64% of the time. Attachment D presents a list of all the bills we tracked 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. See attachment E.

As shown on Attachment E, staff members attended Regional/Nationals Meetings and Conferences either as speakers or attendees. Attachment F provides a breakout of staff time for OPA staff (exclusive of the Nuclear Staff Advisor) by project over the past fiscal year.

**Regional and National Meetings and Conference: FY 06/07**

1. Universal Service Administrative Company (Washington, DC) July 23-26, 2006;  
Oct. 23-25, 2006; Jan. 22-25, 2007; April 22-25 2007  
Wayne Jortner
2. North American Electric Reliability Council, (Quebec, Canada; Tampa, FL)  
Sept. 27-29, 2006; Jan. 10-13, 2007  
Steve Ward
3. Keystone Center Meeting, (Washington, DC) Sept. 10-13, 2006;  
Nov. 28-30, 2006  
Steve Ward
4. Independent System Operator – NE, (Boston, MA; Springfield, MA;  
Westborough, MA; Sturbridge, MA) Sept. 24-25, 2006; March 25-30,  
2007; May 1-4, 2007; May 15-16, 2007  
Bill Black
5. National Association of State Utility Consumer Advocates, (Miami, FL;  
Denver, CO\*) Nov. 12-15, 2006; June 9-13, 2007  
Steve Ward, Mary Campbell\*, Wayne Jortner, Patty Moody-D'Angelo\*,  
Bill Black
6. Richard Virginia Institute of Public Utilities, (Richmond, VA) Dec. 5-8, 2006  
Ron Norton
7. Hearing Multi-District Litigation, (Miami, FL) Jan. 24-25, 2007  
Bill Black
8. Take Back the Power Conference, (Washington, DC) Feb. 26, 2007  
Bill Black



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9. Northern Utilities Meeting, (Portsmouth, NH) August 2, 2006; April 13, 2007; May 10, 2007  
Wayne Jortner, Ron Norton, Steve Ward
10. New Brunswick Power Meeting, (Fredericton, NB Canada) June 18-19, 2007  
Dick Davies
11. New England Governor's Conference, (Prince Edward Island, Canada)  
June 25-26, 2007  
Dick Davies
12. Nuclear Management Conference, (Green Bay, WI) Sept. 12-15, 2006  
Charles Pray
13. Nuclear Waste Meeting, (Washington, DC) Nov. 28 – Dec. 1, 2006  
Charles Pray
14. Nuclear Waste Task Force, (Las Vegas, NV; Washington, DC) Dec. 5-8, 2006;  
March 18-22, 2007; April 29 – May 5, 2007; May 21-23, 2007  
Charles Pray
15. INMM Seminar, (Washington, DC) Jan. 16-20, 2007; April 24-26, 2007  
Charles Pray
16. Council of State Government Meeting, (Providence, RI; St. Louis, MO)  
June 4-7, 2007; June 26-28, 2007  
Charles Pray
17. Congressional Briefing, (Washington, DC) June 11-13, 2007  
Charles Pray
18. National Assoc. of State Utility Advocates – Consumer Protection Committee  
Monthly Multi-State Conference Calls  
Patty Moody-D'Angelo
19. National Assoc. of State Utility Advocates – Telecommunications Committee  
Monthly Multi-State Conference Calls  
Wayne Jortner
20. National Assoc. of State Utility Advocates – Executive Committee & Electric Committee  
Monthly Multi-State Conference Calls  
Steve Ward

### D. ELECTRICITY CASES AT THE MAINE PUC AND FERC

**1. BHE Rate Design:** In May, the Commission approved an uncontested Stipulation reached among all active parties in this case. This Stipulation resolves almost all the issues in what was an unusual and controversial case in which Bangor Hydro-Electric Company (BHE) sought changes to the demand charges to some of its larger customers in order to reduce the likelihood that these customers would install self-generation. For D class customers, all distribution charges will shift to demand charges over the course of the next six years. Previously some of these charges had been volumetric. Changes to stranded costs will be made equally across demand and energy charges. The demand ratchet for D-1 and D-2 customers will go from 75% to 50%, bringing it in line with the D-4 class. Transmission and sub-transmission customers will form a new rate class (T-1) with a fixed energy charge designed to collect the costs of Efficiency Maine, the PUC and Public Advocate assessments, the low income program and diesel and capacitor costs. An optional stand-by rate will be created for qualifying customers depending on their level of self-generation, and will include a 100% ratchet. Our involvement in this case was one of monitoring the proceedings, since residential rate design was not contained in BHE's petition. However, some parties suggested that a full rate-design proceeding involving all customers should occur, and since that would have implications for residential ratepayers, with possible rate increases, we stayed abreast of developments in the case. Eventually, however, as the focus remained on larger customers, our active involvement in the case subsided. We did represent the view that BHE proposal was inconsistent

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with the fundamental guarantee that was secured by the Electric Restructuring law: customers cannot be blocked from reducing or eliminating their consumption of electricity due to a utility billing surcharge or format.

**2. BHE Rate Case:** In January, Bangor Hydro filed for a \$1.4 million increase in its distribution rates to become effective in 2008. In April, we filed the testimony of our two experts who have recommended that BHE's distribution revenue requirement is approximately \$3.2 million less than it claims. In June, the Company filed its rebuttal and made a few concessions. On the whole, however, BHE continues to press for a slight rate increase. At year's end we had commenced negotiations which have a respectable chance of leading to a resolution of the case. The settlement discussions are focused on the distribution revenue requirement, but could also include discussion of a new Alternative Rate Plan (ARP). The case also involves a review, largely uncontroversial, of BHE's stranded cost revenue requirement.

**3. BHE – Hancock Tie Line:** In November, Bangor Hydro filed for a Certificate of Public Convenience and Necessity to reinforce its transmission system in the Hancock area, mostly concerning the construction of a new transmission line from Ellsworth to the Trenton-MDI causeway. The cost of the project is estimated to be \$21 million. The primary driver of the need for this line, according to Bangor officials, is the increasing demand for power in Bar Harbor and on MDI generally. We hired an engineering consultant who reviewed the filing, requested data and attended a technical conference. After reviewing the requested information, we agreed that there was a need for the line and that Bangor's proposal was reasonable. Subsequently, in a technical conference, the Staff's consultant questioned whether this need and a future projected need further down east could be met with a single generator and associated power lines. We agreed that the Company should investigate this possibility. At year's end, the Company was working on this investigation.

**4. BHE Affiliate Issues:** In February, Bangor Hydro Electric asked the Commission to approve a management services agreement and a professional services agreement that it has signed with its parent (Emera) and its affiliate (Nova Scotia Power). The one agreement would have EMERA providing and Bangor paying for services related to taxes, books and records, planning, finance and other professional services. The other agreement, structured similarly, involves professional services such as accounting, environmental, HR, IT and audit. Through negotiations, our concerns with this proposal were addressed with spending caps, ratemaking provisions and reporting obligations designed to ensure that costs associated with the proposal that end up in rates are reasonable in relation to the services acquired. These negotiations led to a stipulation with Bangor Hydro signed and filed in April. The Commission approved this Stipulation in May.

**5. CMP Rate Case:** In May, CMP filed a very complicated rate case and a proposal for a new Alternative Rate Plan (ARP). In its rate case CMP does not seek an increase in rates, but it is proposing two significant programs without which there would likely be a rate decrease. One program is a \$90 million plan to replace all of its existing meters with technologically advanced meters that would allow a variety of applications in areas such as outage response, and demand response. The Company is also proposing to increase the level of its vegetation management in order to reduce the number and duration of outages. This program would cost \$18 million annually. In exchange, CMP is offering to make its reliability requirements increasingly stringent over the next seven years.

CMP is also proposing a new seven year ARP with much lower productivity offsets than have been in force under the existing ARP, claiming that all the savings from its merger with Energy East have been achieved. We have hired five experts to examine the many issues of this case. At year's end, we were still in the initial discovery stage of the case and had not yet taken any substantive position on CMP's proposals.

**6. CMP Line Extension Complaint Case:** In July, CMP filed its testimony in an investigation resulting from a ten-person complaint concerning CMP's line extension practices. In direct response to the complaints from customers who came forward with stories about egregiously long waiting times to get a line built, the Company's testimony proposed sweeping changes to how it processes line extension requests, how it goes about working with customers to build line extensions, and how it prices line extensions. Further, CMP agreed to make customers aware during the first contact that customers have the option of hiring private contractors to build the line. CMP proposed to move from pricing a line extension based upon the estimated or "design" cost to a flat price per foot. The old method required one or more visits from a field planner before work could begin. This is what led, in large part, to the delays. A new flat price would be designed to eliminate the need for a field planner visit and shorten the time necessary to commence and complete construction.

In October, the Company filed further testimony. In November, we filed comments suggesting that the per-foot price should not include the cost of ledge removal and tree trimming both of which are necessary in only a certain percentage of line extensions. In January, the Company again filed a short piece of testimony further quantifying their per foot proposal. Subsequently, the parties commenced negotiations. A Stipulation signed by CMP and us, and supported by the advisory staff was filed in April. This Stipulation adopted a per foot price that included trim, but ledge removal was to be priced separately. The actual per foot price was arrived at through painstaking discovery and analysis by the Staff.

Two complainants who were active in the case and a party to the negotiations ultimately opposed the Stipulation. In a hearing on the contested stipulation they claimed that there should not be a per-foot cost at all since it worked to the disadvantage of the private contractors, and at the very least the trim cost should not be part of the per foot cost. The Commission (without Commissioner Adams who rescued himself, having represented the private contractors while in private practice) could not agree on the Stipulation, meaning it was not approved, but suspended deliberations to allow the stipulating parties an opportunity to address the numbers behind the per-foot cost and tree trimming. CMP was unable adequately to support the tree trim numbers, and ultimately agreed with us to price it separately. The two complainants opposed the revised Stipulation, which was nevertheless approved in June. A motion for reconsideration was filed by the Complainants in late June. Their request for relief, supported by the Attorney General who had been granted late intervenor status on separate grounds, was based on allegations that the stipulating parties violated PUC *ex parte* and other rules.

**7. CMP Saco Bay Transmission:** In August, CMP filed for a Certificate of Public Convenience and Necessity to reinforce its transmission system in the Saco Bay area, claiming that without reinforcement, there could be reliability problems in the near future. The need for the project is driven largely by the economic growth in the area's tourist trade. CMP has proposed to solve this need by rebuilding existing 34.5 kv single circuit lines so that they become 115 kv double circuit lines. There are many local residents who live near this line and are alarmed about the proposed 85 foot tall poles and the possible health effects caused by the lines (Electro-Magnetic Fields - EMFs – are generated around all wires and appliances that conduct electricity). The cost of CMP's proposal is \$21 million. We intervened and hired consultants to review the case, to ask for and review data. and to file testimony. In late February, we filed their testimony which said that there was need for the line, but that the need could be met with upgrades at 34.5kv for a little more than \$15 million. We also suggested that CMP had not adequately studied conservation and efficiency related alternatives that could eliminate or post-pone the need for the line. The Commission Staff filed a Bench Analysis that agreed there was a need in the area, and suggested that a single circuit 115 kv line may be sufficient, but that the Company had not sufficiently explored conservation and generation alternatives. In response, the Company filed rebuttal claiming that our cost estimates were wrong and that our proposed solution would cost slightly more than theirs. Following a request by CMP that it not be required to investigate generation, it was ordered by the Examiner to do so.

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At year's end, we were preparing for a technical conference to further dissect the Company's rebuttal case in preparation for our surrebuttal.

**8. CMP Stranded Cost Issues:** With regard to a discrete matter left over from CMP's March 2006 stranded cost filing, we filed a brief with the Commission in April opposing CMP's effort to make ratepayers pay for a mistake CMP made in administering a power purchase agreement. The mistake – failure to effectively terminate an automatically renewing agreement – had been the subject of a Superior Court action where the owner of the Lockwood Dam on the Kennebec in Waterville was able to obtain \$900,000 from CMP for the value of another year of the contract. CMP asked the Commission for that amount, plus about \$350,000 in litigation expenses to be in rates so it could recover them from ratepayers. We believe CMP's failures were imprudent and argued that the Commission should reject CMP's request. In June, the Hearing Examiner agreed with us and recommended that the Commission find that CMP imprudently administered its high priced power purchase contracts when it failed to take appropriate steps to terminate it. If adopted by the Commission, the decision would mean that CMP ratepayers would not have to pay the \$1.25 million cost attributable to CMP's mistakes. At year's end, it was unclear when the Commission would deliberate this matter.

In a separate proceeding, we entered into a Stipulation with CMP, supported by Commission Staff, setting new stranded cost rates (from its March 2007 filing) for the period beginning July 1, 2007. This agreement, approved by the Commission, resulted in a \$3.89M reduction in stranded cost revenues, or a 4% decrease in stranded cost rates.

**9. CMP Annual ARP Adjustment:** In June, the Commission approved a Stipulation we entered into with CMP (with the approval and participation of the Staff) that will allow a 1.64% distribution rate increase for CMP, the first increase under its seven year ARP (now in its seventh and final year). This Stipulation followed a brief period of discovery and negotiation. 2006 was the first year that CMP incurred a penalty under the service quality index ("SQI") contained in its ARP. The penalty was for failing to meet the outage frequency target in the SQI. The increase will be offset on July 1 with corresponding decreases in stranded costs and transmission, leading to an approximate 1% decrease in CMP's delivery charge.

**10. Maine Public Service – Low Income Rate:** As agreed in the Stipulation that resolved the recent rate case, we entered into negotiations with Maine Public Service and soon reached agreement concerning its low-income electric program. The current program provides credits to eligible customers after the heating season is over. The new program will provide the full amount of the credit as soon as the customer qualifies.

**11. Maine Public Service Stranded Cost Case:** In November, the Commission approved a Stipulation signed by Maine Public Service and us, and supported by the Staff, whereby MPS's stranded cost revenue requirement would rise slightly but would not affect rates. This is because of the long-term amortization of certain deferred charges from the Wheelabrator power plant in Sherman Mills. The approved Stipulation also contemplated full reconciliation of all sales and expense items so that there will no longer be any risk of MPS' overcollection of stranded costs in the event of an especially cool winter or warm summer. The parties also agreed to a full credit in rates for Maine Public's share of the Maine Yankee damage award due to DOE's breach of the 1978 spent fuel contract, once that award is received.

**12. Fox Island Electric Cooperative:** In November, the PUC approved a Stipulation between our office, the Fox Island Electric Cooperative (FIEC) and three ratepayers of the Cooperative. FIEC had filed for rate relief in order to reflect the costs of the installation of a new submarine cable and to more accurately reflect the proper allocation of costs among customer classes. According to the Cooperative, its cost-of-service study demonstrates that rates for the Peak Period Residential customer class are lower



than they should be. The approved Stipulation restructures its rates, adopts a higher minimum monthly charge for all classes and increases rates for the Peak Period Residential class. For the remaining classes of service, the rates for additional energy were reduced. Also, FIEC's overall rates were increased by 0.9% in order to maintain the minimum earnings ratio (TIER) contained in its loan covenants.

**13. Madison Electric - US Functional Foods:** This case involved the question of what are the risks and obligations incurred by a standard offer provider. Constellation won the bid to provide service to customers in the territory of Madison Electric Works (MEW). It thus became the provider for two standard offer rate classes, residential/small business and a category called Madison Paper Industries ("MPI"), referring to the large paper mill in town. MPI had a supply contract and was not currently taking standard offer service. Subsequent to the award of the standard offer contract to Constellation, US Functional Foods, now known as Backyard Farms (BF), began construction of its large greenhouse complex. BF is a large customer. In a case filed at the Commission, Constellation claims that it should not be required to serve BF under the small customer class since it made no provision for serving such a large customer at those rates. BF, MEW and our office responded that BF does not meet the definition under the MP customer class and that the standard offer provider bears the risk of customer migration onto or off of standard offer service. At year's end, the parties (not including our office) were attempting to negotiate a resolution in the case.

**14. Northern Maine Supply Rates:** In November, the PUC rejected bids for the residential standard offer service in Maine Public Service territory and declared that there was no meaningful competition in that area. It ordered the utility (MPS) to seek power contracts for energy supply for these customers. Subsequently, the PUC convened a meeting in Presque Isle to discuss possible action it could take following this rejection of all Standard Offer bids. We attended this meeting along with representatives from MPS, the consumer-owned utilities, the Northern Maine Independent System Administrator (NMISA), WPS, and industrial customers. The PUC decided to convene follow-up discussions in Augusta on December 13, 14 & 15. At stake in these discussions was how transmission investment that may be necessary for new wind projects in Aroostook County would be paid for, how more competitiveness may be encouraged and developed in NMISA's wholesale markets and whether NMISA needs to acquire capacity if so directed by the New Brunswick System Operator. Immediately following these meetings, the Commission decided to award the standard offer contract to WPS (the sole bidder) after all since the rates procured through the efforts of MPS were even higher. Also, following these meetings, two subgroups were created, one to develop a "wires" solution and the other to develop a "competition" proposal. Neither proposal has yet led to any concrete action. In June, the Commission sought comments on long-term and short-term solutions. Many parties filed comments, but few new ideas surfaced. The comments of the Public Advocate stressed the risk of taking action for the sake of action and encouraged caution and patience. There are several existing proposals that could affect the situation in Northern Maine. First, Loring Bio-Energy continues to refine its proposal to build a 50MW gas fired combined cycle generator at Loring. While this would provide more generation in the area, it is not clear why this would improve retail competition. Also, MPS and CMP have signed a Memorandum of Understanding to explore the construction of a transmission line that would directly connect northern and southern Maine, a concept that has existed for decades. This would expose the north directly to the ISO-New England energy markets, deemed to be workably competitive. The cost of that line, especially if it makes its way into transmission rates, has always been the impediment to its construction, and we continue to be skeptical for that reason.

**15. PUC Inquiry – Alternatives to ISO-NE:** We submitted written comments and attended a technical conferences in the PUC proceeding that is considering whether there are cost-effective alternatives to NEPOOL membership and ISO-NE involvement for Maine's electric utilities. We engaged Synapse Energy Economics to assist us in the analysis of the relevant issues. With their help, we forwarded to the PUC a four-page list of factors that deserve consideration in any analysis of the benefits of replacing ISO-

New England with a new grid management arrangement. The list resulted from consultations among some thirty parties participating in the PUC's Notice of Inquiry proceeding that is considering this question. With this input and that of other stakeholders, the PUC submitted its report on the issue to the Utilities and Energy Committee.

**16. Long-Term Contracting (PUC):** In July, we filed extensive Comments in the Maine PUC NOI regarding long-term contracting and portfolio management. In October, we filed comments criticizing the PUC's decision not to file a preliminary strategy outline as to how best to accomplish a long-range Resource Adequacy Plan for electricity in Maine, as required by LD 2041 when it was enacted last Spring. We also criticized the PUC's proposed rule for providing no useful detail on how it intended to undertake the actual planning function that the Resource Adequacy Plan calls for. At a hearing in November, we presented our criticisms of the PUC's draft rule for implementing LD 2041. We criticized the PUC for not responding to the Legislature's request for filing a preliminary procurement strategy by March 2007 and for rulemaking provisions that do not satisfy LD 2041's planning requirements. Joining in these recommendations and observations were the AARP and CMP, with whom we developed a proposed framework for portfolio management, consistent with LD 2041.

**17. PUC Inquiry On Conservation Issues:** Beginning in July, we worked with Optimal Energy in Vermont as a source for comments and advice on a PUC investigation into possible additional Efficiency Maine programs that could be launched in the event that additional funding became available. In September, we filed comments suggesting that Efficiency Maine should a) focus on lost opportunities rather than retrofits (until funding is significantly increased), b) consolidate commercial and industrial programs into a more integrated set of products and services, c) add a residential new construction program, and d) increase spending to capture cost-effective efficiency investments in pursuit of least-cost electric service for Maine. In February, we commented favorably on a proposed report from the Commission concerning Efficiency Maine, pointing out that the proposal would put Efficiency Maine in line with the efforts of other reputable efficiency and conservation providers and programs throughout the country.

## **E. TELECOMMUNICATIONS AT THE FCC, MAINE PUC AND ELSEWHERE**

**1. Verizon AFOR:** The Public Advocate had a series of meetings with Verizon, the PUC Staff and AARP exploring the possibility of negotiating a lower level of rates for local services, expanded DSL investment, and the terms and conditions for its alternative form of regulation. These discussions with Verizon over a negotiated settlement of the Alternative Form of Regulation and the level of rates for local service adjourned without any resolution. The litigation schedule resumed with hearings in the last week of August 2006. At hearings we cross-examined Verizon witnesses and presented four of our own witnesses in the areas of depreciation, cost of service, service quality, and jurisdictional separations. Additionally the AARP presented a witness focusing on Yellow Pages revenues that should be imputed to Verizon's total of local service revenue.

After several days of hearings, after reviewing the briefs of the parties and an extensive evidentiary record on the merits and deficiencies of the current Alternative Form of Regulation and the justification for a \$50 million reduction in Verizon's rates, the Staff of the Commission concluded that Verizon was overearning by \$32.4 million annually.

**HISTORY OF THE CASE.** Since 1995 -- as permitted by statute -- Verizon has been regulated under an alternative form of regulation (AFOR), under which Verizon has been given the flexibility to adjust its rates for all its services other than local exchange service, directory assistance, and operator services. The reason for the long-term litigation is that, under the statute, the Commission is required to review

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Verizon's AFOR every five years. At the time of the Commission's first review (in 2001), the Public Advocate asked the Commission to investigate Verizon's revenue requirement because we had good reason to believe that Verizon was over-earning. (The AFOR statute requires that the Commission set local rates under an AFOR that are at, or below, the level of local rates that would be in effect for Verizon under traditional rate-of-return regulation.) In 2001, the Commission rejected the Public Advocate's request for a revenue investigation and permitted Verizon to enter a second five-year AFOR. The Public Advocate appealed that ruling to the Law Court and, in early 2003 the Law Court remanded the case to the PUC directing the Commission to examine Verizon's revenues, as required by the AFOR statute. Thereafter, the Commission asked parties to comment on the process, and in late 2003 the PUC issued a second order saying that it found it impossible to come up with a prediction of what rate-of-return rates might be for Verizon. Again, the Public Advocate appealed the Commission order to the Law Court. Again, the Law Court ruled that the Commission should carry out an investigation of Verizon's revenue requirement, and again remanded the case to the Commission for that purpose.

The Examiner's Report was finally issued with the results of the Commission investigation that began after that second Law Court remand. In that investigation, discovery and hearings took place between May, 2005 and November, 2006. Briefs were filed in January, 2007. The finding by the Commission Staff that Verizon has over-earnings of over \$32.4 million is based on the Staff's general agreement with the issues (cost of capital, depreciation, separations) introduced by the Public Advocate and the yellow-page adjustment recommended by the AARP. (Since 2001, this case has been handled by Bill Black and Wayne Jortner. At various times during the case, Verizon and the Commission Staff urged the Public Advocate to settle the case with no change in revenue).

On July 3, 2007, Verizon and the Public Advocate filed a stipulation of settlement, prior to the Commission's final order that would consider the Staff's recommendations. The stipulation was intended to require Verizon to deploy broadband in Maine's rural areas until the Commission determines whether it will approve Fairpoint's proposed acquisition of Verizon-Maine. The stipulation was opposed by the AARP and rejected by the Commission on July 30, 2007. The next steps may include another attempt at a stipulated settlement or a final order by the Commission.

The revenue reduction recommended by the Staff, of course, has implications for the ongoing investigation by the Commission of the proposed Verizon/FairPoint transaction. FairPoint is a high-debt, high-dividend company. Before the Examiner's Report was issued, questions were already being raised about whether the new FairPoint-Maine entity would have sufficient cash flow to operate comfortably and to deploy broadband to the areas of Maine where broadband is needed. Both the Verizon AFOR/Rate proceeding and the Fairpoint proceeding are being actively litigated but unresolved as of this writing.

**2. Verizon/Fairpoint Merger:** Verizon's spin-off of its Northern New England land line properties to Fairpoint Communications initially triggered meetings with FairPoint personnel, discussion in the Legislature, and preliminary discussions as how best to proceed.

Later, the Public Advocate engaged four expert witnesses to work on the Verizon/FairPoint transaction all of whom have filed testimony analyzing Fairpoint's proposals. With respect to rates, the Public Advocate has urged the Commission apply any rate reductions applicable to Verizon, to Fairpoint, because it sought to acquire Verizon's properties with full knowledge that the PUC was considering a reduction in Verizon's local rates and therefore there is no reason to protect FairPoint from that outcome.

The Fairpoint case has involved extensive discovery, extensive discovery disputes, and many days of technical conferences in order to form a complete record upon which the parties and the Commission can rely in understanding all of the implications of this important case. The Public Advocate has many concerns about this transaction and noted that Verizon failed to seek required approval when it formed the

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company to be merged with Fairpoint and Fairpoint failed get approval when it sold more than 10% of their shares to Lehmann Brothers, the entity that represented FairPoint as it agreed to purchase Verizon. Lehmann Brothers now owns a 22% share of FairPoint, and thereby is an “affiliate interest” under the Maine statute that requires that PUC approval be granted before such an affiliate interest is created.

Other intervenors in the case include two labor unions – CWA and IBEW, small competitive local exchange carriers, and privacy advocates who are concerned about release of customer information to the National Security Administration.

The Public Advocate’s substantive concerns primarily involve Fairpoint’s financial capacity to become a reliable telephone utility for the vast majority of Maine residents. In its annual report, Fairpoint stated that it has no assurance that its business will generate sufficient cash flow to enable FairPoint to pay its indebtedness or fund its other liquidity needs. In essence, FairPoint confirmed that its substantial indebtedness might restrict its ability to pay dividends, have an adverse impact on its financing options, and limit its flexibility in planning for changes in its communications business.

Bill Black and Wayne Jortner participated in a meeting to determine whether Fairpoint might qualify for Universal Service Support at different levels than Verizon and whether Fairpoint's rates might be different from Verizon's based on other federal regulatory rules. We are awaiting more detailed responses from Fairpoint in connection with this issue. Fairpoint has promised to accelerate the deployment of DSL service in Maine but has been slow to provide all the details of the plan, which continues to be revised. Our consultant, Dr. Robert Loube will be scrutinizing and recommending changes to Fairpoint’s DSL plan.

Ultimately, the Public Advocate will be focusing on potential adverse impacts of this transaction and either asking the Commission to apply various remedial conditions on its approval or, if we conclude that no remedies are adequate, we will ask the Commission to reject the transaction.

**3. Verizon/NSA Wiretapping:** The Maine PUC and the parties to the case involving Verizon’s possible cooperation with NSA expected Verizon to file certain sworn affirmations of statements made in its recent press releases which appear to deny that it handed over private customer information to the National Security Administration (NSA). However, Verizon chose not to make the filing as directed, because the Department of Justice sued both Verizon and the Public Utilities Commission in an action in which DOJ requested a declaratory judgment that the PUC may not seek information pertaining to foreign intelligence functions from Verizon. Wayne Jortner participated in a interview about the Verizon/NSA issue on Bangor radio station WVOM. We filed a motion to intervene in the Federal District Court proceeding in which the Department of Justice asked for a declaratory judgment that the Maine PUC is barred from investigating complaints about Verizon’s participation in the warrantless wiretapping program allegedly being conducted by the NSA.

After we asked the Commission to process the complaint and hold Verizon in contempt if it failed to comply with the Commission’s earlier Order, Judge Woodcock of the Federal District Court in Bangor, issued a temporary restraining order and preliminary injunction, ordering the PUC to refrain from conducting a hearing to determine whether Verizon should be held in contempt for failing to respond to the Commission order. Judge Woodcock primarily relied on an affidavit from the Director of the NSA, which claimed that the Maine PUC proceeding will cause, grave breaches of national security. The judge refused to question that statement despite arguments from the Commission and the Intervenors that the facts underlying the Maine PUC case simply do not support the conclusion of the NSA Director. Subsequently the Maine case was consolidated with a multi-district litigation process whereby a California court will take jurisdiction of various similar cases throughout the U.S.



**4. Oxford Networks - Pole Attachments:** The OPA filed a brief at the PUC in the proceeding considering whether Verizon has obstructed competition by delaying or deterring pole attachments for competitors like Oxford Networks in Androscoggin County. Oxford Networks has requested a PUC order requiring Verizon to accommodate requests from competitors for access to pole space in a non-preferential manner. We agree with Oxford's contention that Verizon routinely has denied such requests or delayed in responding to them to a degree that violates competitive neutrality. We filed briefs largely supporting Oxford's position.

**5. Soft Dial Tone:** Wayne Jortner made progress in negotiations with Verizon and Maine's independent telephone companies seeking a compromise on legislation that would require soft dial tone – the continuation of E911 access from any telephone jack, even after disconnection of service. We believe that this would be an effective way to extend emergency services with negligible or zero additional cost to the State, to carriers or to ratepayers. The bill eventually passed and was signed by the Governor. In its final form, the law requires the Commission to write major substantive rules to be approved by the Legislature before soft dial tone service can be implemented.

**6. De-Tariffing of Telephones:** Wayne Jortner and Bill Black participated in PUC conferences exploring the merits of exempting various telecommunications services from tariff requirements. We indicated that we would not oppose the de-tariffing of certain services under certain conditions that would protect the public. In fact, we indicated that we may prefer the elimination of tariffs for certain services in exchange for the posting and filing of simple and clear information after any rate change. This could have the added benefit of allowing consumers to pursue legal remedies, as parties to a contract that are now foreclosed by the "filed rate doctrine". The Commission and the parties understand that de-tariffing is not de-regulation – all relevant consumer protection rules will remain in effect. Comments on the Commission's proposed rulemaking which would exempt various types of telephone utilities or particular services from the requirement to file tariffs with the Commission were filed. We generally supported the Commission's proposed rule but proposed some additional consumer protections. These exemptions have the potential to benefit utilities in competitive markets by reducing regulatory requirements and also may provide potential benefits for consumers as a result of new user-friendly rate information and the elimination of the filed rate doctrine. The filed rate doctrine historically precluded legal remedies relating to services that are represented by filed tariffs.

**7. Investigation of AT&T Pre-Paid Calling Cards:** AT&T has tripled the instate rate of its very popular prepaid calling card that many Maine consumers purchase at discount stores such as Sam's Club. The rate increase took effect prior to any tariff approval by the PUC and often with insufficient notice to customers. Ultimately, Staff of the Commission was able to negotiate satisfactory terms with AT&T allowing remedies for any consumer who experienced the rate increase without notice at the point of sale and we refrained from taking further action.

## **F. NATURAL GAS CASES AT FERC AND THE MAINE PUC**

**1. Northern Utilities Integrated Resource Plan:** The Public Advocate Office participated in a series of technical conferences in Portsmouth at which the Maine and New Hampshire Commissions and Maine and New Hampshire Public Advocate Offices jointly quizzed Northern Utilities on its five-year capacity expansion plan for gas supply in the two-state system. Other joint conferences in Portsmouth included Staff of both commissions and consumer advocates as well as Hess, Inc. and focused on Northern Utilities' proposals for a five-year system capacity plan and reserve capacity reserve charges applicable to certain transportation-only customers. Reserve capacity is required, among other things, to account for demand swings by large dual fuel customers that have no current obligation to pay capacity charges. Other sessions sought to resolve other issues in the context of Northern's supply portfolio planning,

including its demand forecast methodology to be employed in Northern's resource plan. The Public Advocate seeks to ensure that ratepayers will not bear unnecessary costs of excess capacity.

**2. Cost of Gas Proceedings:** The Public Advocate Office routinely attended hearings and participated in proceedings to monitor the reconciliation of the cost of gas for Northern Utilities, Bangor Gas, and Maine Natural Gas. In the case of Northern Utilities, such proceedings also focused on environmental remediation costs, and issues concerning the prudence of the cost of pipeline capacity that replaced the failed Wells LNG project.

**3. Northern Utilities Transportation Customer Responsibility for Capacity Charges:** The Public Advocate entered into a stipulation settling on an interim basis the charge for transportation-only customers for their share of Northern Utilities' system-wide capacity costs.

**4. Northern Utilities -- Meter and Billing Problems:** Wayne Jortner met with Commission staff and officials of NISOURCE (NU's parent company) to discuss Northern's problems reading meters on a timely basis. The failure to read meters for periods that sometimes exceed 12 months has caused confusion for customers and inaccurate estimated bills. Northern inadvertently violated certain rules that were developed several years ago when the same problems arose – thus leaving itself open to a possible \$650,000 penalty. One potential solution is to accelerate the deployment of automatic meter reading technology. The Public Advocate expects to negotiate with Northern concerning a proposed meter modernization program and its financing.

**5. Bangor Gas Reorganization:** The Public Advocate Office participated in proceedings to review the request by Semptra (Bangor Gas' parent company) to sell the utility to Energy West, a Montana-based gas utility.

## **G. WATER DISTRICT AND WATER COMPANY CASES**

**1. Fryeburg Water Company – Rate Investigation:** In November 2006, after the Public Advocate filed information showing that the Water Company had earned more than a reasonable rate of return in 2005, the Commission opened an investigation of the rates of the Fryeburg Water Company. In addition to the Town of Fryeburg, and a trustee of the newly-created Fryeburg Water District, two customers intervened in the proceeding who raised issues involving the capacity and sustainability of the aquifer that serves as a water source for the Water Company. The interventions of those two customers was consolidated. After memos were filed the Commission ruled that the capacity and sustainability issues were not relevant to the rate-design issues in the proceeding.

Two technical conferences were held -- one at the beginning of February, and a second in early March. Thereafter, we entered into negotiations about a possible settlement of the rate investigation. Our revenue-requirement consultant had determined that the Water Company has \$17,000 in excess revenues. However, the Company was engaged in a number of substantial capital improvements in 2007, improvements which will result in increased rates in 2008. Therefore, it was apparent the PUC would not be likely to order a rate decrease. To protect the larger body of ratepayers, we proposed a settlement that would require, *inter alia*, (a) that the Water Company "stay-out" for two years before requesting a rate increase, and (b) that the Water Company file a tariff that increases the rates paid by any commercial customer that purchases water for transport and use outside the Water Company's service territory. That settlement was adopted in a stipulation that was signed and submitted to the Commission by the Water Company, the Consolidated Intervenors and the Public Advocate. Then Pure Mountain Springs LLC (PMS), an affiliate of the Fryeburg Water Company (FWC) and its largest customer, filed a letter at the Commission objecting to the Stipulation. PMS requested that it be granted status as a full party to the investigation, and stated the reasons why it objected to the rate increase that it would face under the terms

of the Stipulation. We filed comments urging the Commission to deny PMS's late-filed petition to intervene, and the Water Company filed comments that explaining that the large rate increase for bulk water customers had been contemplated since well before the start of the rate investigation. However, the Hearing Examiner granted PMS's late-filed petition to intervene in the proceeding. In response, we submitted a data request to PMS, asking for details about the volumes of water that it uses, its costs, and data about the sustainable yield of the aquifer that underlies Fryeburg. PMS objected to those data requests and, to date, has not provided responses to those requests. After a series of informal conversations, the four principle parties to the proceeding filed a request for continuance, asking that the hearing be continued until the first week of July. Then the parties met in an attempt to draw up a revised version of the settlement – one that would respond to some of PMS's concerns. However, after three meetings, the parties found that there was no possibility of agreeing upon a settlement that was acceptable to all four parties. At the close of July 2007, the Commission had scheduled an August 15 hearing on the stipulation that had been filed in March, and had approved the Water Company's request to "update" its rate filing with information about the its 2007 capital improvements. The Water Company was suggesting that it will ask for an increase in its revenues.

**2. Pine Springs Development Corporation:** This proceeding involves a developer that provides water to each of the houses in a 12/8/06 residential sub-division in Shapleigh. Together with the Commission's Consumer Assistance Division, we urged the Commission to find that the developer was a water utility given its monopoly status as a provider of water. The developer does not permit lot owners to drill their own wells. After the filing of a motion for summary judgment and an exchange of memoranda, the Commission adopted the recommendation of the Hearing Examiner that Pine Springs Roads and Water (PSR&W) be treated as a water utility. The Commission also required that PSR&W reconnect a customer who had been disconnected as a water customer for failure to pay his "road fee." The case has continued because of two continuing concerns. First, PSR&W failed to meet the June 7 deadline for the filing of both its tariff sheets and its terms & conditions. In addition, one set of customers has some confusion about the level of rates that are to be paid going forward. Secondly, both sets of customers are complaining about the quality of water they are receiving from PSR&W. It appears that there are iron and manganese particulates in the water. We met with one set of customers and discussed the requirements that PSR&W faces. We also called two separate staff people at the DHHS Drinking Water Program and suggested that the Drinking Water Program visit the customers and collect water samples. In the meantime, the PUC Staff granted PRS&W an extension of the deadline for the filing of its tariff sheets and terms & conditions.

**3. Buckfield Village Corporation:** In the first half of 2006, Buckfield Village Corporation (BVC) faced a situation where it was on the verge of default on one of its loans. The BVC was granted an emergency rate increase. Then in the fall of 2006, the Village Corporation filed a general rate case proposing to increase its revenues by \$70,000. At technical conferences, the BVC suggested that it would take steps to re-negotiate its debt and to change its proposed rate design. In response, our office suggested a couple of adjustments that the BVC might make to reduce the size of its proposed increase, with the understanding that the BVC would be permitted to file for another rate increase in July 2007. At a second technical conference, the BVC accepted the Public Advocate proposal that the rate increase be limited to approximately \$172,000, that the rates be designed so that the standard meter charge be set at the same level as the "equivalent dwelling unit" (EDU) rate proposed by the BVC. The parties also agreed that the rate increase should be a temporary one that would be in effect through the end of 2007, and that, after it has refinanced its debt, the BVC will be permitted to file for a new rate increase for the year 2008.

**4. Vinalhaven Water District – System Development Charge:** This proceeding has focused principally on two issues: (a) the size of the system development charge (SDC) established by the Vinalhaven Water District (VWD), and (b) determining which former VWD residents should be required to pay a SDC if they should reconnect to the VWD's distribution system. We hired two consultants to

review the calculations underlying the VWD's newly-filed system development charge. Initially their analysis suggested that there may be no reason to retain the system development charge. Ultimately we submitted a filing that discussed the methods used by the Water District to calculate its proposed system development charge. Our comments suggested that the charge should be reduced or eliminated because the methods used to derive it include costs beyond those contemplated for growth of the water system.

**5. Portland Water District:** The Portland Water District (PWD) filed a Section 307 case at the Public Utilities Commission requesting an 11.8% increase in its revenues, to be phased in over three years. The case was different both because of the 3-year phase-in for the rate increase, and because of the Water District's rate-design proposal under which a larger share of the revenue increase would be shifted to the PWD's industrial and commercial customers. Several of those customers, including Bristol Seafoods, intervened as parties.

## H. NUCLEAR ISSUES

**1. Legislation – Oversight of Spent Nuclear Fuel:** The Public Advocate met on May 21<sup>st</sup> with Chairman Bliss of the Utilities and Energy Committee, Committee members Reps. Rines, and Berry, and representatives from the PUC to review the existing agreement between the State of Maine and Maine Yankee concerning environmental and public safety monitoring of the former Maine Yankee site in Wiscasset, and to discuss provisions scheduled to automatically go into effect 90 days after the adjournment of the current legislative session. Among the changes is a significant reduction in the funding the State receives from Maine Yankee to pay for the several forms of monitoring carried out by state agencies (DEP Radiological program, State Police, Health and Environmental Testing Laboratory and the Public Advocate). The current funding level from Maine Yankee is \$360,000 per year and drops to \$296,667 for the coming year, and to \$170,000 in 2009 and future years. This sharp drop in revenues will mean reducing or eliminating some of the monitoring activities or having state government pick-up the balance. The Public Advocate administers the Maine Yankee funds, and negotiates with the other state agency users to determine the appropriate distribution of the funds.

Legislation was introduced that would have prevented a reduction in the amount of funding the State of Maine receives annually from Maine Yankee and stabilize the funding level at \$360,000 annually (with an "inflation index" based on the Consumer Price Index that will maintain the buying power of the annual payment into the future). The legislation also requested a lump sum payment in 2007, and every five years after, to pay for costs associated with the replacement of depreciated or obsolete capital equipment used in the state's conduct of the various monitoring activities at and around the former site of the Maine Yankee nuclear power plant and the current nuclear waste storage facility at that location.

The legislation, "An Act to Ensure Adequate Funding for the Oversight of Spent Nuclear Fuel Storage in Maine," on which the Public Advocate testified "neither for nor against," is still important even though it was carried over to the 2008 session of the Legislature. There is a need to properly monitor the Maine Yankee site and questions have been raised about whether the funding has become inadequate, especially in light of the federal government's inability to develop a permanent high level nuclear waste storage facility at Yucca Mountain, Nevada and to remove the waste at Maine Yankee to that site.

## I. RAILROAD SERVICE QUALITY ISSUES

**1. Railroad Shipper Survey:** As required by section 1711 of Title 35-A, the Office submitted a report on Railroad Service Quality on February 5, 2007 (Attachment G) to the Chairs of the Joint Standing Committee on Utilities and Energy as well as the Chairs of the Committee on Transportation. The report presents information generated by four quarterly surveys of freight shippers in Maine. Surveys for the 3rd



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quarter, 4th quarter of 2006 and 1st quarter of 2007 were sent out with the following percentage of responses returned:

<u>Quarter</u>	<u>Survey Mailed</u>	<u>Percentage of Responses Received</u>
3rd/06	96	15%
4th/06	96	19%
1st/07	96	18%

The 2nd quarter survey results for 2007 are underway at year-end.

### Public Advocate Staff



Standing (left to right): Dick, Charlie, Eric, Patty, Bill  
Sitting (left to right): Mary, Debbie, Wayne

**Summary of Ratepayer Savings, 1982 to 2007  
Attributable to Public Advocate Interventions**

1.	FY 07	The PUC is required to review Verizon's AFOR every five years. At the time of the Commission's first review (in 2001), the Public Advocate asked the Commission to investigate Verizon's revenue requirement because we had good reason to believe that Verizon was over-earning. The AFOR statute requires that the Commission set local rates under an AFOR that are at, or below, the level of local rates that would be in effect for Verizon under traditional rate-of-return regulation.) In 2001, the Commission rejected the Public Advocate's request for a revenue investigation and permitted Verizon to enter a second five-year AFOR. The Public Advocate appealed that ruling to the Law Court and, in early 2003, the Law Court remanded the case to the PUC directing the Commission to examine Verizon's revenues, as required by the AFOR statute. The finding by the Commission Staff that Verizon has over-earnings of over \$32.4 million. At year-end the Commission had not made a decision as to whether to accept all the recommendations in the Examiner's Report. In addition, the Commission was considering A Stipulation that postponed consideration of the Examiner's Report until the first quarter of calendar year 2008.*	\$32,400,000*
*		Various water utility cases where the OPA was the only non-utility party	\$ 214,182
2.	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
3.	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

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*	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
4.	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
5.	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
*	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
6.	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
7.	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

# Annual Report - July 1, 2006 through June 30, 2007

## ATTACHMENT A

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8.	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
9.	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
10.	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
11.	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
12.	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
13.	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
14.	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
15.	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 flow-through 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



ATTACHMENT A

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*	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
16.	Total FY 89-FY 06, excluding settlements	\$ 127,980,000
17.	Total FY 89-FY 07, Including Settlements	\$ 176,212,955
18.	Prior Savings, including settlements, FY 82-FY 88	\$ 71,050,000
19.	Total, excluding settlements, FY 82-FY 07	\$ 147,180,000
20.	Total, Including Settlements, FY 82-FY 07	\$ 279,662,955

**Return on Ratepayer Investment: FY 00 - FY 07**

<b>Fiscal Year</b>	<b>1. Ratepayer Savings Claimed</b>	<b>2. OPA Budget</b>	<b>3. RO1 (1 ÷ 2)</b>
<b>FY 99/00</b>	<b>\$29,500,000</b>	<b>\$1,277,060</b>	<b>2310%</b>
<b>FY 00/01</b>	<b>\$14,200,000</b>	<b>\$1,368,147</b>	<b>1038%</b>
<b>FY 01/02</b>	<b>\$11,610,000</b>	<b>\$1,654,927</b>	<b>702%</b>
<b>FY 02/03</b>	<b>\$9,786,552</b>	<b>\$1,550,577</b>	<b>631%</b>
<b>FY 03/04</b>	<b>\$8,210,000</b>	<b>\$1,621,539</b>	<b>506%</b>
<b>FY 04/05</b>	<b>\$6,460,282</b>	<b>\$1,724,686</b>	<b>375%</b>
<b>FY 05/06</b>	<b>\$1,822,941</b>	<b>\$1,519,663</b>	<b>120%</b>
<b>FY 06/07</b>	<b>\$32,614,182</b>	<b>\$1,561,549</b>	<b>2089%</b>
<b>8 year averages/totals</b>	<b>\$114,203,957</b>	<b>\$12,278,148</b>	<b>930%</b>

Over the past eight years, ratepayer savings as claimed by the OPA came to more than nine times the OPA annual budget on average; for every dollar in the OPA budget over the period FY 00 to FY 07, \$9.30 was claimed as ratepayer savings due to the efforts of OPA Staff over the same period.

**2006/2007 Ratepayer Savings Attributable  
To OPA Intervention in Water Cases**

**2004-263: Fryeburg Water Company - Order**

Order closed the cases on Fryeburg Water Company's implementation plan to replace 6,200 feet of water mains to improve water quality. Service quality is an integral component in regulation and water quality improvement, particularly when attested to by customers as it was in this case, has value and should not go unrecognized.

**No quantifiable  
ratepayer benefits.**

**2005-613: Aqua Maine, Inc. - Case Stipulated**

Filing on consolidated terms and conditions for billing/ payments fees, approved as originally filed.

**No quantifiable  
ratepayer benefits.**

**2005-770: Aqua Maine, Inc. - Case Stipulated**

Filing on request for approval allocation methodology for changes in certain common costs, this case was approved as originally filed.

**No quantifiable  
ratepayer benefits.**

**2005-790: Aqua Maine, Inc. - Camden & Rockland Div.  
- Case Stipulated**

Aqua Maine proposed an increase in rates of \$192,228 effective June 1, 2006. The Stipulation which was approved by the Commission allowed for an increase of \$136,409.

**\$55,819 savings**

**2006-8: Baileyville Utility District - Order**

Group of small water districts seeking a non-specific increases in their water restoration charges. Some also seeking a \$10 fee for disconnection or acceptance of payment in lieu of disconnection. Commission disapproved the rate increase for restoration charges while approving a \$10 collection trip fee.

**There was no  
measurable  
ratepayer benefit.**

**2006-11: North Jay Water District - Order**

North Jay Water District proposed an increase in rates of \$13,677 effective October 1, 2006. The Stipulation which was approved by the Commission allowed for an increase of \$13,677.

**\$0 savings**

**2006-17: Aqua Maine, Inc. - Skowhegan Div. - Stipulation**

Aqua Maine proposed an increase in rates of \$162,629 effective June 1, 2006. The Stipulation which was approved by the Commission allowed for an increase of \$146,374.

**\$16,255 savings**

**2006-21: Aqua Maine, Inc. - Millinocket Div. - Stipulation**

Aqua Maine proposed an increase in rates of \$105,809 effective June 1, 2006. The Stipulation which was approved by the Commission allowed for an increase of \$101,021.

**\$4,781 savings**

**2006-163: Aqua Maine, Inc. - Greenville Div. - Stipulation**

Aqua Maine proposed an increase in rates of \$46,284 effective June 1, 2006. The Stipulation which was approved by the Commission allowed for an increase of \$43,957.

**\$2,327 savings**

**2006-317: Harrison Water District - Stipulation**

Harrison Water District proposed an increase in rates of \$23,666 effective October 15, 2006. The Stipulation which was approved by the Commission allowed for an increase of \$18,666.

**\$5,000 savings**

**2006-321: Portland Water District - Stipulation**

Portland Water District proposed an increase in rates of \$2,020,000 effective January 1, 2007. The Stipulation which was approved by the Commission allowed for an increase of \$1,925,000.

**\$95,000 savings**

**2006-366: Buckfield Village Corporation - Stipulation**

A negotiated rate increase was developed jointly by the Corporation and the Public Advocate in order for the Corporation to avoid bankruptcy; therefore no difference exists between the filing and the negotiated increase in rates. However, one could certainly argue that ratepayers benefited from the continued access to water resulting from the bankruptcy avoidance. This is a qualitative benefit that certainly has value and should be recognized.

**No quantifiable  
ratepayer benefits.**

**Bath Water District vs. Wiscasset Water District - Mediation**

In this proceeding the Public Advocate acted as a mediator in order to resolve the long-standing dispute between the two water districts over the cost of Bath supplying water to Wiscasset. Because Bath was threatening to disconnect Wiscasset unless Wiscasset paid a higher wholesale rate for the supply of water it receives from Bath, Wiscasset was faced with the expensive possibility that it would have to drill wells and establish a new water supply. The Public Advocate met with representatives of the Districts and over the course a three-month period negotiated two separate agreements under which Bath would continue to provide a supply of water to Wiscasset a minimum of fifteen-year. The agreement resulted in three different types of ratepayers savings. First, there were savings to the customers of the Bath Water District because the Wiscasset Water District continues to pay an important portion

of Bath's revenue requirement. Second for each Water District there was a savings in litigation costs because without an agreement the Districts would have gone to hearing either before the Commission or in Maine Superior Court. Finally, there was an avoided for the Wiscasset Water District: Wiscasset did not have to make the investment necessary to create its own water supply.

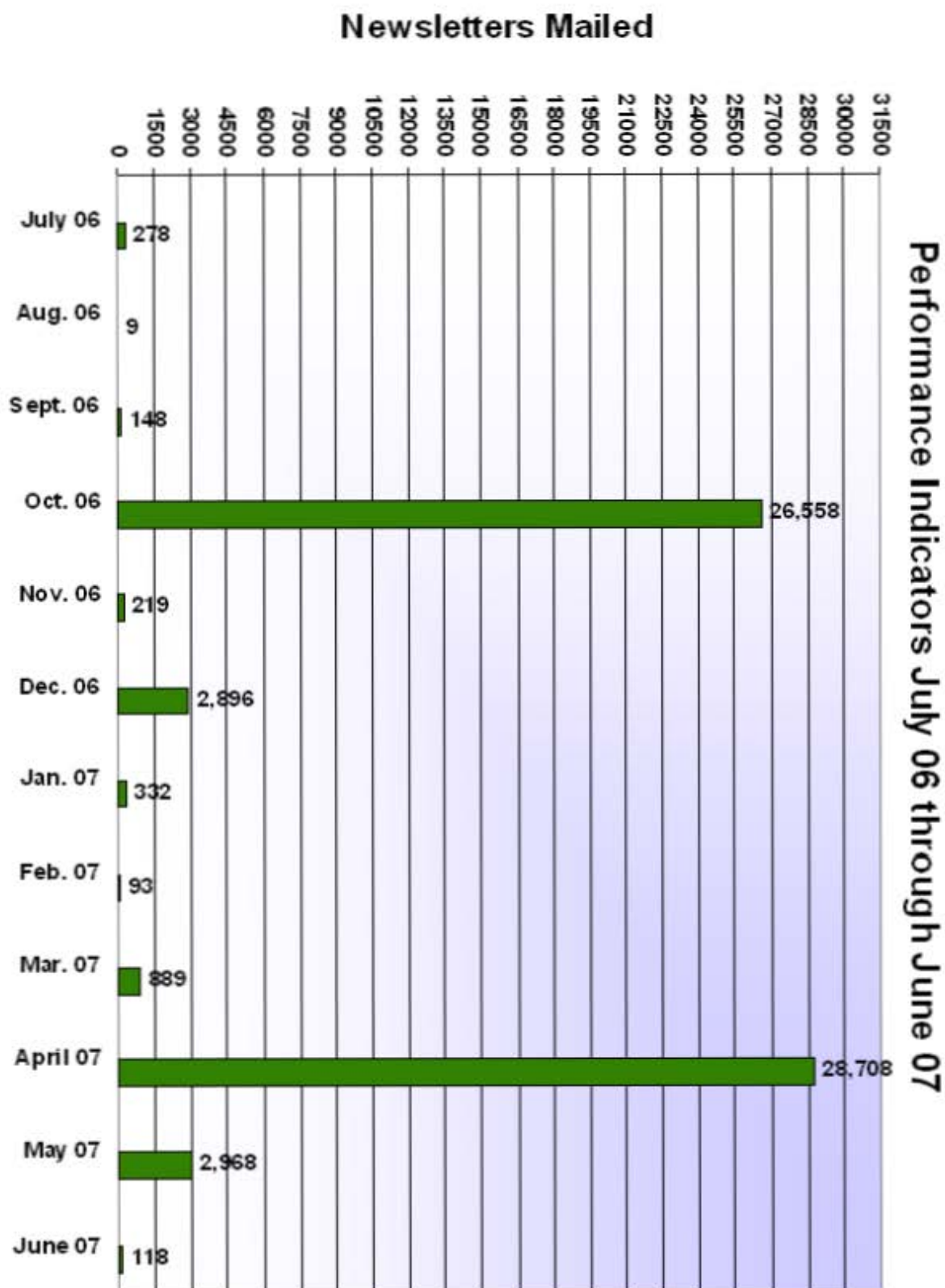
**Avoided Costs**  
**\$35,000 savings**

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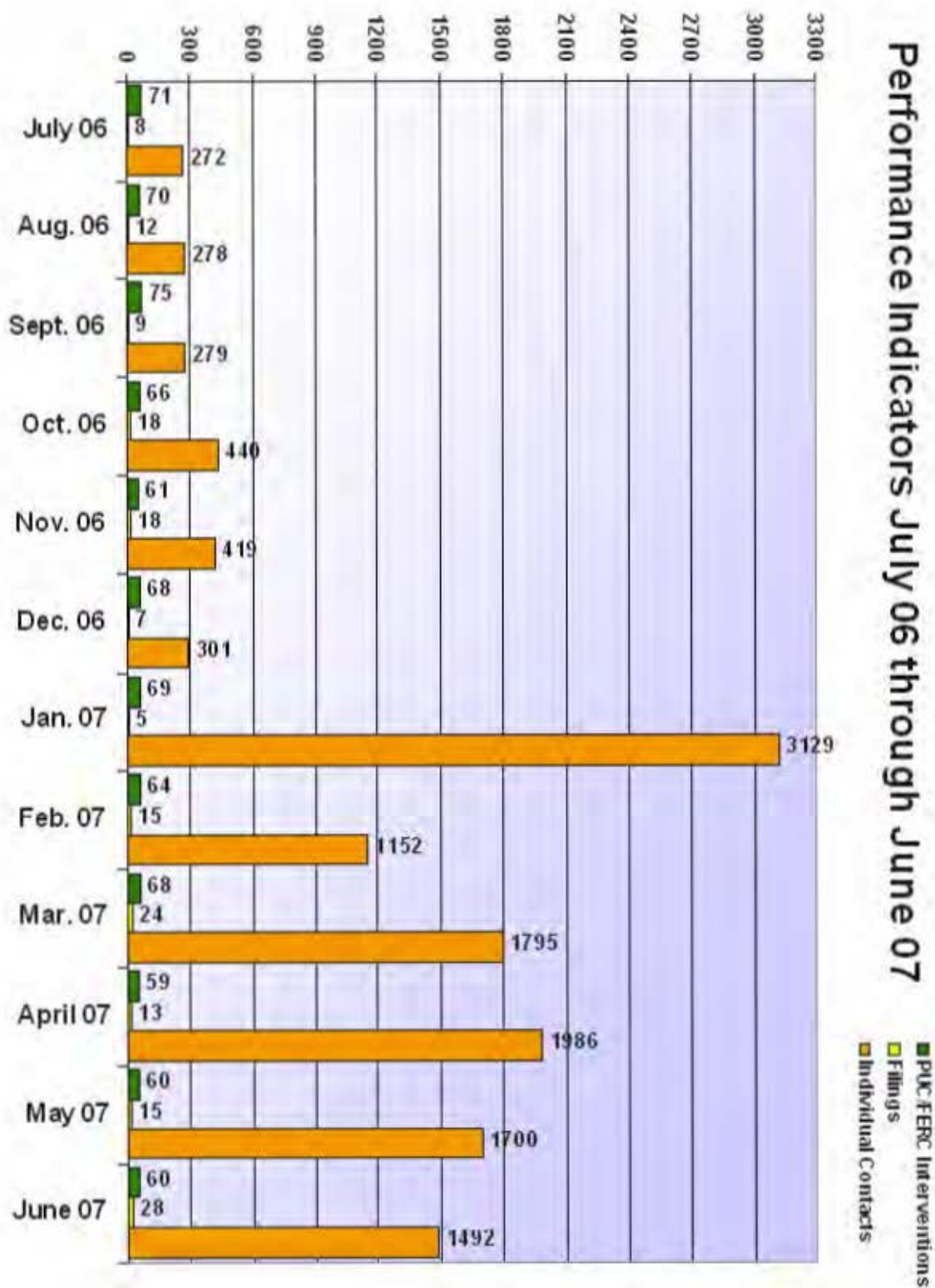
**Total Savings \$214,182**



ATTACHMENT B



ATTACHMENT C



**123rd LEGISLATURE, 1<sup>st</sup> SESSION**

Adopted:	27	64%
OPA position rejected:	15	36%
Bills OPA testified on:	42	100%

**LD# Bill Title**

Non-emergency bill effective date: September 20, 2007

**0033 An Act to Simplify Wireless Telecommunications**

Sponsor: Rosen

Description: permits PUC to require cell providers to not require area code.

OPA position: N/A

Committee action:

**ONTP**

**0036 An Act to Transfer the Administration of the Renewable Resource Fund from the State Planning Office to the Public Utilities Commission**

Sponsor: Bliss

Description:

OPA position: support

Committee action:

**OTPA PL**

**Ch. 18**

**0134 An Act to Encourage the Use of Solar Energy**

Sponsor: Bartlett

Description: Allows PUC discretion to set rebate amounts for thermal and PV solar installations.

OPA position: support

Committee action:

**OTPA (div rpt) PL**

**Ch. 29**

**0186 An Act to Provide Funding to the St. Francis Water District for New Wells**

Appr Sponsor: Jackson

Description:

OPA position: support

Committee action:

**Carried Over**

**0229 An Act to Facilitate the Establishment of Tribal Electric Utility Districts**

Sponsor: Pingree

Description: PUC may approve tribes to act a municipal power districts and provide for reasonable compensation to T&D whose plant is taken.

OPA position: support

Committee action:

**OTPA PL**

**Ch. 189**

**0230 An Act to Clarify the Scope of Conservation Programs with Respect to Electricity Use (OPA)**

Sponsor: Bliss

Description: other fuels can use EM money. Non-electric fuels that are incidental to electricity savings.

OPA position: supp

Committee action:

**ONTP**

**0240 An Act to Establish a Discounted Cable Rate for Senior Citizens and Assisted Living Facilities (concept draft)**

Sponsor: Mitchell

Description:

OPA position: Q supp.

Committee action:

**ONTP**

**0242 An Act to Establish a “Do Not Fax” List**

Sponsor: Mitchell

Description:

OPA position: n/a

Committee action:

**ONTP**

**0267 An Act to Ensure Proper Funding of the PUC (PUC)**

Sponsor: Bliss

Description:

OPA position: supp

Committee action:

**OTPA PL**

**Ch. 16**

**0268 AN Act Regarding the Long-term Contracting Authority of the PUC (PUC)**

Sponsor: Bliss

Description:

OPA position: support

Committee action:

**OTPA (div rpt) PL**

**Ch. 293**

**0290 An Act to Encourage the Use of Solar Energy**

Appr Sponsor: Cebra

Description: Increases set-aside for PV from 25% to 75% of amt assessed. Extends solar program until 1/31/12. \$1.5M GF approp in 08-09.

OPA position: opp

Committee action:

**ONTP**

**0352 An Act to Provide an Appeal Process Regarding Rate Increases of Certain Quasi-municipal Districts and Corporations**

Sponsor: Tuttle

Description:

OPA position: nf/na Committee action:

**ONTP**

**0369 An Act to Require High Speed Internet Access for All Maine Residents**

Sponsor: Knight

Description: *Obligation to serve extended to all phone customers except those in unorganized townships.*

OPA position: oppose Committee action:

**ONTP**

**0393 Resolve, Establishing a Commission to Develop Methods for the State to Promote the Generation of Electrical Power in an Environmentally Sound Manner Independent of Foreign Fuel Imports**

Sponsor: Jacobsen

Description: *9 members: 6 Legislators, 3 experts; report due Jan 4, 2008*

OPA position: support Committee action:

**ONTP**

**0398 An Act to Require Transmission Lines to be Placed Underground near Certain Facilities**

Sponsor: Valentino

Description: *PUC may not approve CPCN line unless parts adjacent to residential area, playground, school, child care, recreational camps are underground. Exemption if technologically infeasible.*

OPA position: Committee action:

**Carried over**

**0409 Resolve, To Study Alternative Fuel Use by Schools and Public Buildings**

Sponsor: Saviello

Description: *concept draft*

OPA position: n/a Committee action:

**ONTP**

**0413 An Act to Amend Maine's Electric Utility Restructuring Laws**

Sponsor: Rines

Description: *concept draft that removes prohibition on utility gen ownership*

OPA position: oppose Committee action:

**OTPA**

**Resolve Ch. 54**

**0420 An Act Providing of Regulation of the Cable TV Industry by the PUC**

Sponsor: Gerzofsky

Description: *basic tier rates and services; hearing and complaint procedures; petitions to FCC*

OPA position: support Committee action: **ONTP (per sponsor)**



- 0435 An Act to Require Utilities and Competitive Service Providers to Pay Interest on Overestimates of Electric Power Bills**  
Sponsor: Nutting  
Description: 5% interest  
OPA position: support      Committee action: **Carried over**
- 0498 An Act to Limit the Charges for a Lost Cell Phone**  
Sponsor: Cressey  
Description: no more than \$50  
OPA position: support      Committee action: **ONTP**
- 0536 An Act to Promote Efficiency in the Use of the Communications Equipment Fund**  
Sponsor: Bliss  
Description: Fund funded by USF; hard of hearing; changes funding levels for various subparts of Fund.  
OPA position: support      Committee action: **OTP PL**  
**Ch. 224**
- 0547 An Act to Create Fairness in E-9-1-1 Funding**  
Sponsor: Fitts  
Description: concept draft – prepaid wireless  
OPA position: support      Committee action: **OTPA PL**  
**Ch. 68**
- 0627 An Act to Ensure Uniform Emergency Medical Dispatch Services in Maine**  
Sponsor: Rines  
Description:  
OPA position: n/a      Committee action: **OTPA PL**  
**Ch. 42**
- 0645 An Act to Promote Municipal Energy Conservation**  
Sponsor: Eberle  
Description: funds grants of up to \$40,000 for Efficiency. Bond Bank participation.  
OPA position: support      Committee action: **OTPA PL**  
**Ch. 66**
- 0678 An Act to Limit the Eminent Domain Authority of a T&D Utility**  
Sponsor: Bartlett  
Description: CPCN required before eminent domain can be used.  
OPA position: sprt (verbal)      Committee action: **OTPA PL**  
**Ch. 148**

**0710 An Act to Promote Rural Broadband Access**

Sponsor: Raye

Description: concept draft: State Gov't position to promote rural broadband

OPA position: nf/na

Committee action:

**ONTP**

**0742 An Act Concerning Wholesale Power Purchase by COUs**

Sponsor: Fletcher

Description: disallows COU customers retail choice rights. Grandfathers those who already have a contract.

OPA position: q. support

Committee action:

**ONTP**

**0743 An Act to Allow T&Ds to Generate and Sell Power**

Sponsor: Tuttle

Description:

OPA position: oppose

Committee action:

**ONTP**

**0759 An Act to Increase the Percentage of Renewable Power in Systems of Very Large Investor-owned T&D Utilities**

Sponsor: MacDonald

Description: Increases portfolio requirement to 40% over ten years in 1% increments. Applies to CEPs selling in territory of T&Ds with greater than 500,000 customers (CMP).

OPA position: q. support

Committee action:

**ONTP**

**0764 An Act to Clarify Standards for Issuance of a CPCN**

Sponsor: Faircloth

Description: Only allows lines of greater than 138kv if it reduces cost of electricity to state consumers.

OPA position: nf/na

Committee action:

**ONTP**

**0765 Resolve, Regarding Legislative Review of Portions of ConnectME Authority, Chapter 101, a Major Substantive Rule of the Governor's Office**

Sponsor: Bliss

Description:

OPA position: n/a

Committee action:

**OTPA**

**Resolve Ch. 27**

**0785 An Act to Promote Green Power Use at State Buildings**

Sponsor: Piotti

Description: By 2010, all electricity used in State buildings must be renewable

OPA position: n/a

Committee action:

**OTPA PL**

**Ch. 52**

**0795 An Act to Extend the Solar Energy Rebate Program**

Sponsor: Benoit

Description: extends sunset from 12-31-08 to 12-31-10.

OPA position: support Committee action:

**OTPA PL**

**Ch. 158**

**0813 An Act to Provide an Energy Allowance to At-home Patients Using Ventilators**

Sponsor: Browne

Description: low-income customers using ventilators will be treated like those using oxygen pumps.

OPA position: support Committee action:

**OTPA PL**

**Ch. 97**

**0878 An Act to Amend the Charter of the Harrison Water District**

Sponsor: Sykes

Description: territorial limits, vacancies, remuneration of trustees, rates sufficient to meet needs, in conformance with §6105.

OPA position: n/a Committee action:

**OTP P&S**

**Ch. 4**

**0941 An Act to Amend the Charter of the Long Pond Water District**

Sponsor: Eaton

Description: change in territory and allocation of trustees btw Sorrento and Sullivan

OPA position: n/a Committee action:

**OTP P&S**

**Ch. 5**

**0969 Resolve, Regarding Legislative Review of Chapter 316, Long Term Contracting and Resource Adequacy, a Major Substantive Rule of the Public Utilities Commission**

Sponsor: Bliss

Description:

OPA position: support Committee action:

**OTPA Resolve**

**Ch. 35**

**0993 An Act to Amend the Charter of the Winterport Water District**

Sponsor: Weston

Description: concerns time of PUC monitor of District's authority to connect sewer

OPA position: n/a Committee action:

**OTP P&S**

**Ch. 8**

**1012 Resolve, to Require the Emergency Services Communication Bureau to Send E-9-1-1 Changes of Address Information to State Licensing Agencies**

Sponsor: Martin

Description:

OPA position: n/a

Committee action:

**ONTP**

**1030 An Act to Encourage Cogeneration**

Sponsor: Bartlett

Description: revolving loan FAME program

OPA position: n/a

Committee action:

**ONTP**

**1063 An Act Regarding Cable Television Service Outages**

Sponsor: Adams

Description: reduces from 6 to 2 the outage hours for which a customer can get a refund.

OPA position: support

Committee action:

**OTPA PL**

**Ch. 104**

**1066 An Act to Protect Consumers in the Insurance Industry**

Sponsor: Bliss

Ins. Description: Puts the OPA into the business of protecting insurance ratepayers

OPA position: nf/na

Committee action:

**ONTP**

**1068 An Act to Enhance Maine's Energy Independence and Security**

Sponsor: Pieh

Description: similar to LD 759, but applies to whole state and supply must come from new capacity (LD 2041 - §3210-C)

OPA position: q. support

Committee action:

**ONTP**

**1071 An Act Regarding Energy-generating Facilities**

Sponsor: Adams

Description: Tidal power DEP process

OPA position: n/a

Committee action:

**OTPA PL**

**Ch. 160**

**1098 An Act to Promote Electricity Transmission Independence**

Sponsor: Bliss

Description: Allows PUC to require T&D's to divest plants if rates lower, or if T&D builds even if PUC denies CPCN

OPA position: support

Committee action:

**Carryover**

**1099 An Act to Encourage Wind Energy Development**

Sponsor: Strimling

Description: FAME, tax breaks, Pine Tree Zone, DEP rules streamlined

OPA position: n/a

Committee action:

**Carried Over**

**1143 An Act to Prevent the Public Utilities Commission From Disclosing Private Information to the Federal Government**

Sponsor: Adams

Description: PUC must report to UTE if it gives up info w/o warrant.

OPA position: nf/na

Committee action:

**ONTP**

**1148 An Act to Protect Electric Ratepayers**

Sponsor: Brautigam

Description: excise tax on capacity of generators, revenues distributed to ratepayers.

OPA position: nf/na

Committee action:

**ONTP**

**1151 An Act to Streamline the Review of Minor Tariff Filings of Consumer-owned Water Utilities**

Sponsor: Fitts

Description: No 6104 case if increase is less than 1%.

OPA position: q. support

Committee action:

**OTPA PL**

**Ch. 127**

**1153 An Act to Allow Affordable Housing Discretionary Water and Sewer Fee Waivers**

Sponsor: Chase

Description:

OPA position: support

Committee action:

**OTPA (div rpt) PL**

**Ch. 174**

**1159 Resolve, to Encourage Increased Use of Biodiesel Fuels in Maine**

Sponsor:

Description:

OPA position: n/a

Committee action:

**OTPA**

**Resolve Ch. 79**

**1160 Resolve, to Encourage the Development of Water Power to Provide for Maine's Energy Needs**

Sponsor: Joy

Description: DEP to study a plan for a pilot state hydro facility

OPA position: n/a

Committee action:

**ONTP**



**1205 An Act to Amend the Laws Preventing the Pollution of Portland's Water Supply**

Sponsor: Bartlett

Description:

OPA position: n/a

Committee action:

**OTPA P&S**

**Ch. 15**

**1216 Resolve, to Establish a Study Commission to Stimulate Telecommunications Investment, Economic Development and Job Creation**

Sponsor: Edmonds

Description:

OPA position: n/a

Committee action:

**Carryover**

**1221 An Act to Amend the Charter of the Kennebunk Light and Power District**

Sponsor: Sullivan

Description: eliminates PUC review, except for disputes about cost of plant

OPA position: nf/na

Committee action:

**Carryover**

**1236 An Act to Create the Princeton Standard Water District**

Sponsor: McLeod

Description:

OPA position: n/a

Committee action:

**OTP P&S**

**Ch. 6**

**1248 An Act to Establish the Northern Maine Power Agency**

Sponsor: Sherman

Description: To procure standard offer power supply.

OPA position: nf/na

Committee action:

**Carryover**

**1284 An Act to Create the Energy Independence Act**

Sponsor: Bartlett

Description: Creates Office of Energy Independence and Security in statute

OPA position: n/a

Committee action:

**OTPA Resolve**

**Ch. 59**

**1302 Resolve, to Preserve Maine's Electric Energy Infrastructure**

Sponsor: McLeod

Description: DEP to report concerning value of hydropower development – Maine Waterway Development and Conservation Act.

OPA position: n/a

Committee action:

**OTPA**

**Resolve Ch. 37**

**I303 An Act to Establish the Columbia Falls Village Water District**

Sponsor: Tibbetts

Description:

OPA position: n/a

Committee action:

**OTPA P&S**

**Ch. 12**

**I331 An Act to Encourage Community Wind Power Projects**

Sponsor: MacDonald

Description: 1.5 ¢/kWh support payments for 10 years to qualifying community wind projects (funds to be sought from "any available source, public or private"; project must be locally sited, between 600kW and 2mW, class 3 or higher wind resource area, agreement to sell.

OPA position: nf/na

Committee action:

**ONTP**

**I339 Resolve, To Reduce Energy Costs for Consumers**

Sponsor: Brautigam

Description: PUC and utilities to study smart meters, report by 1-8-08

OPA position: oppose

Committee action:

**ONTP**

**I340 An Act to Enhance the Reliability and Competitiveness of Maine's Electricity Market**

Sponsor: Edgecomb

Description: allows PUC to order T&Ds to own or control generation if necessary to provide reliable and efficient service.

OPA position: q. support

Committee action:

**ONTP**

**I346 An Act to Enhance Maine's Energy Independence and Reduce Electricity Costs**

Sponsor: Fletcher

Description: adds new renewable requirement to RPS in 1% increments to 10% by 2017, implementing LD 2014 policy; CEPs can use RECs or alternative compliance mechanism; PUC safety valve; creates green standard offer option.,

OPA position: support

Committee action:

**See LD 1920 ONTP**

**I347 An Act to Establish Alternative Fuel Incentive Grants to Stimulate the Production, Distribution and Use of Biofuels**

Sponsor: Pingree

Description:

OPA position: q. oppose

Committee action:

**OTPA**

**Resolve Ch. 51**

**I360 An Act to Require Owners of Utility Facilities to Accommodate the Installation of Traffic Control Signals and to Permit the University of Maine System to Construct Lines on Public Rights-of-way**

Sponsor: Damon

Description: owners of utility plant in public ROW must accommodate attachment of traffic control equipment

OPA position: n/a

Committee action:

**OTPA PL**

**Ch. 268**

**I381 Resolve, to Ensure the Success of Regional Climate Change Efforts**

Sponsor: Fletcher

Description: requires OPA to study economic impacts on ratepayers of RGGL. Propose to Second Session alternatives to reduce cost.

OPA position: nf/na

Committee action:

**OTPA**

**Resolve Ch. 52**

**I382 An Act to Create a Utility District in Edgecomb**

Sponsor: McKane

Description:

OPA position: n/a

Committee action:

**OTPA P&S**

**Ch. 10**

**I383 An Act to Enhance Availability of Emergency Telephone Services**

Sponsor: Adams

Description: requires soft dial tone after disconnection.

OPA position: support

Committee action:

**OTPA PL**

**Ch. 226**

**I495 An Act to Reduce Additional State Fees for Consumer-owned Electric Utility Customers**

Sponsor: Snowe-Mello

Description: any state fee applicable to COU must pass each House by 2/3 vote.

OPA position: oppose

Committee action:

**ONTP**

**I573 An Act to Encourage and Facilitate Regional Utility Districts**

Sponsor: Treat

Description: Water COU may not lend money to customers; assets of a water COU belong to ratepayers.

OPA position: support

Committee action:

**ONTP**

**I621 An Act to; Ensure the Reliability of Communications Equipment in Certain Buildings**

Sponsor: Savage

Description: ensure ability of radio and cell devices to communicate with dispatchers from within new and renovated buildings and structures.

OPA position: n/a Committee action: **ONTP**

**I625 An Act to Protect Maine Consumers from Windfall Profits of Generators**

Sponsor: Martin

Description: concept draft: taxes increased profits on generators not required to buy CO2 offset credits

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

**I655 An Act to Improve Home and Commercial Building Energy Efficiency**

Sponsor: Hinck

Description: nes construction would have to conform to model building energy code; PUC enforcement.

OPA position: support Committee action: **OTPA (div rpt) Resolve**

**Ch. 93**

**I656 An Act to Amend the Fryeburg Water District**

Sponsor: Muse

Description: allows FWD to purchase assets in NH, and to buy stock in Freyburg Water Company

OPA position: support Committee action: **OTPA P&S**

**Ch. 11**

**I666 Resolve, Directing the Public Utilities Commission to Amend its Rules to Increase the Amount of Energy Conservation Funds for School Administrative Units**

Sponsor: Pingree

Description: would direct PUC to increase funds in PUC's Maine High School Performing Schools Program; require new efficiency standards for new construction or renovation of schools; requires reporting of school energy consumption data to DOE and PUC and OEIS, with a goal of 30% reduction by 2014.

OPA position: nf/na Committee action: **OTPA**

**Resolve Ch. 55**

**1675 An Act to Protect Network Neutrality**

Sponsor: Strimling

Description: ISPs must provide non-discriminatory access to the Internet; security and privacy addressed.

OPA position: nf/na

Committee action:

**OTPA (div rpt)**

**Resolve Ch. 106**

**1767 An Act to Encourage Community Network Development**

Sponsor: Perry

Description: Establishes an Advisory Committee to help develop community computer network with low cost access for info and services. GF appropriation.

OPA position: support

Committee action:

**ONTP**

**1836 An Act to Save Money for Maine Energy Consumers through Enhanced Energy Efficiency**

Sponsor: Bartlett

Description: Decoupling; Inquiry into efficiency strategies; relaxes EM target percentages; Energy Efficiency Board; fixes wires charge at 0.145 cents/kWh

OPA position: oppose

Committee action:

**ONTP (ltr – stakeholder)**

**1837 An Act to Harmonize State and Federal Laws on Do-not-call Lists**

Sponsor: Bartlett

Description: conforms state law with federal

OPA position: n/a

Committee action:

**OTP PL**

**Ch. 227**

**1851 An Act To Establish the Regional Greenhouse Gas Initiative Act of 2007**

Nat Sponsor: Koffman (Governor's bill)

Description: RGGI

OPA position: support

Committee action:

**OTPA PL**

**Ch. 317**

**1866 An Act to Revise Maine's Utility Reorganization Laws**

Sponsor: Sullivan

Description: For large, utilities, no merger approval without increase in econ development, increased info access and econ benefits to ratepayers. For smaller utilities, the standard is unchanged.

OPA position: support

Committee action:

**ONTP**



**1918 An Act to Ensure Adequate Funding for the Oversight of Spent Nuclear Fuel Storage in Maine**

Sponsor: Berry

*Description:*

OPA position: nf/na

Committee action:

**Carried Over**

**1920 An Act to Stimulate Demand for Renewable Energy (Committee Bill)**

Sponsor:

*Description:* see 1346

OPA position: support

Committee action:

**OTPA PL**

**Ch. 403**

**Speaking Engagements & Developmental Training: July 2006 to June 2007**

- A. **Stephen Ward**
- August, 3, 2006; Maine Community Action Directors, Freeport, ME, speaker
  - Sept. 8, 2006; Maine Development Foundation, Saco, ME
  - Sept. 14, 2006; Skowhegan Community Center, Electric Power Forum, Skowhegan, ME, "Regulatory Environment: Past, Present & Future," speaker
  - Nov. 9, 2006; Regional Green House Initiative Workshop, Portland, ME
  - Nov. 8, 2006; Eastern Maine Development Corporation Conference, Bangor, ME, speaker
- B. **William Black**
- Sept. 6, 2006; April 4, 2007, June 1, 2007; Maine Relay Services for the Death (Advisory Board), Mackworth Island, ME
  - Sept. 9, 2006, Nov. 12, 2006, Feb. 7, 2007, May 31, 2007; Maine Telecommunications Users Group
  - June 27, 2007; Maine Telephone Association, Bangor, Lewiston, So. Portland, & Portland, ME
  - Oct. 30-31, 2006, Nov. 27, 2006, Nov. 29, 2006, Nov. 30, 2006, Feb. 13, 2007; John Wagner DSL Island Deployment, Vinalhaven, ME
- C. **Eric Bryant**
- August, 3, 2006; Maine Community Action Directors, Freeport, ME, speaker
  - Sept. 8, 2006; Maine Development Foundation, Saco, ME
  - Nov. 21, 2006, Jan. 30, 2007; Independent System Administrator, Bangor, ME
- D. **Mary Campbell**
- July 24-25, 2006, July 27, 2006, August, 4, 9, 14, 16, 2006, Nov. 28, 2006, Nov. 30, 2006, May 9, 2007, June 5-6, 2007; MEAdvantage Training, Augusta, ME
- E. **Ronald Norton**
- Nov. 30, 2006; Regional Green House Initiative, Bangor, ME
- F. **Patty Moody-D'Angelo**
- April 4, 2007, June 1, 2007; Maine Relay Services for the Death, Mackworth Island, ME
  - Nov. 6, 20, 27-29, 2006, Dec. 4, 2006, May 9, 2007; MEAdvantage Training, Augusta, ME

**G. Wayne Jortner**

- Sept. 9, 2006, Nov. 12, 2006, Feb. 7, 2007, May 31, 2007; Maine Telephone Users Group, Bangor, Lewiston, So. Portland, & Portland, ME
- Jan. 18, 2007, June 27, 2007; Telephone Association of Maine; Hallowell, ME, Portland, ME
- Feb. 9, 2007, Telephone Clinic, Freeport Library, Freeport, ME, speaker
- March 29, 2007; Public Advocate Office, Radio Interview
- May 3, 2007; Women's Guild, North Windham, ME, speaker
- May 21, 2007; Speaker, Topsham, ME
- June 26, 2007; PROP, Woodford's Club Portland, Portland, ME, speaker

**H. Deborah Tondreau**

- Nov. 9, 2006, Nov. 17, 2006, Nov. 29, 2006; MEAdvantage Training, Augusta, ME

**I. Richard Davies**

- Feb. 15, 2007; Pratt and Whitney, Energy Officials, No. Berwick, ME
- March 21, 2007; Dirigo Electric Co-op Members, Hallowell, ME
- March 27, 2007; Time-Warner (Maine) Officials, Augusta, ME
- April 5, 2007; Maine Community Action Association Directors Meeting, Freeport, ME
- April 19, 2007; Water Ratemaking Seminar, Ogunquit, ME

**J. Multi-Staff**

- May 16, 2007; telephone clinic, Auburn Mall, Auburn, ME

## ATTACHMENT F

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## Public Advocate Staff Time, by Utility Category and Project: FY 07

<b>A. ELECTRICITY</b>			100.00%	2,552	32.45%
<b>1. Federal</b>		167.5	6.56%		
NERC	90				
ISO/NE	32.5				
FERC	29				
NASUCA	16				
<b>2. State</b>		2212	86.68%		
COALITION	27.5				
GOVERNOR'S INITIATIVE	1				
LEGISLATURE/HEARINGS	90.5				
POLICY	148				
PUC	1,921.5				
COMPLAINTS	23.5				
<b>3. Other</b>		172.5	6.76%		
NEWSLETTERS	117				
PUBLIC SPEAKING	36				
ADMIN.	19.5				
<b>B. TELEPHONE</b>			100.00%	2,582.5	32.84%
<b>1. Federal</b>		264	10.22%		
FCC	130				
NASUCA	134				
<b>2. State</b>		1890	73.18%		
PUC	1490				
POLICY	49				
LEGISLATURE/HEARINGS	46				
COMPLAINTS	212				
<b>3. Other</b>		428.5	16.59%		
PUBLIC SPEAKING	21.5				
TELEPHONE GROUPS	29				
TRAINING	33				
NEWSLETTERS	270				
ADMIN.	75				
<b>C. WATER</b>			100.00%	1,242	15.80%
<b>1. Federal</b>		8.5	0.68%		
NASUCA	8.5				
<b>2. State</b>		1188.5	95.77%		
POLICY	7				
COMPLAINTS	70				
PUC	1,111.5				
<b>3. Other</b>		45.5	3.67%		
PUBLIC SPEAKING	3				
ADMIN.	42.5				
<b>D. NATURAL GAS</b>			100.00%	184	2.34%
<b>1. Federal</b>		7	3.80%		
FERC	7				
<b>2. State</b>		162.5	88.32%		
PUC	162.5				
<b>3. Other</b>		14.5	7.88%		
ADMIN.	14.5				

ATTACHMENT F

Page 2 of 2

Public Advocate Staff Time, by Utility Category and Project: FY 07 (con't.)

<b>E. RAILROAD FREIGHT</b>				<b>155.5</b>	<b>1.98%</b>
<b>1. State</b>		<b>155.5</b>	<b>100.00%</b>		
ADMIN.	153.5				
COMPLAINTS	2				
<b>F. NUCLEAR OVERSIGHT</b>			<b>100.00%</b>	<b>36</b>	<b>0.46%</b>
<b>1. State</b>		<b>18</b>	<b>50.00%</b>		
ADMIN.	18				
<b>2. Other</b>		<b>18</b>	<b>50.00%</b>		
PUBLIC SPEAKING	18				
<b>G. GRAND TOTAL</b>	<b>6659.5</b>				<b>100.0%</b>





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

February 5, 2007

Senator L. Bartlett II, Senate Chair  
Rep. 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  
Rep. 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 by provisions of Section 1711 of Title 35-A and the reporting requirement established by Section 1711(6), we forward for review by the Utilities and Energy Committee and by the Transportation Committee the second annual Railroad Service Quality Report. This service quality report presents information generated by four quarterly surveys of freight shippers in Maine and the 86 responses submitted in 2006.

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. Barry Hobbins  
Rep. Herbert Adams  
Rep. Philip Curtis  
Rep. Seth Berry  
Rep. Stacy Allen Fitts  
Rep. Peter Rines  
Sen. Christine Savage

Sen. Douglas Smith  
Rep. Richard Blanchard  
Rep. Kenneth Fletcher  
Rep. Jon Hinck  
Rep. Michael Thibodeau  
Sen. Bill Diamond  
Rep. Charles Fisher

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Rep. George Hogan  
Rep. Ann Peoples  
Rep. William Browne  
Rep. Richard Cebra  
Rob Elder, DOT  
Lynn Vicaire, Perma Treat Corp.  
Kathie Bilodeau, Transportation

Rep. Edward Mazurek  
Rep. Charles Ken Theriault  
Rep. Douglas Thomas  
Rep. Kimberley Rosen  
Steve Hudson, Hudson & Hudson  
Lucia Nixon, UTE  
Kristen Gottlieb, U&E

**Report of the Public Advocate on Railroad Service Quality**  
**2006**

**A. INTRODUCTION**

Under current 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 96 surveys in each quarter in 2006 (384 in total) 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, 2006, 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	Railroad	
	<u>X</u>	<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	_____	_____
• Number of late placements	_____	_____
• Average number of days late (total number of late days divided by total late placements)	_____	_____
2. <u>Cars requested/cars rejected by customer</u>		
• Number of empty cars requested in quarter	_____	_____
• Number of empty cars actually delivered	_____	_____
• Number of empties rejected for any reason	_____	_____



- Number of full cars requested in quarter \_\_\_\_\_
- 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 comprise an informal association of rail consumers. The Public Advocate also consulted with the Office of Freight Transportation at Maine's Department of Transportation.

The surveys identified six railroads (Eastern Maine Railroad, Maine Eastern Railroad, Montreal Maine and Atlantic, New Brunswick Southern, St. Lawrence and Atlantic and Guilford/Springfield Terminal) in these quarterly surveys. The total of 86 responses to the 384 quarterly surveys mailed in calendar 2006 indicate a response rate of 22% - a favorable response rate, in our opinion.

Details about rankings of railroads with respect to survey criteria are provided in Attachment I.

#### C. SURVEY RESULTS

The following is a presentation of all the narrative comments received in 2006 from survey respondents.

##### 1. Eastern Maine Railroad

- This is a sister-company of ours. Though I'm probably slightly biased in my comments, I have had very few problems with the service. Our products going in their direction are feeding our paper mill in St. John, NB. We all know our part in keeping the mill running - NSBR won't drop the ball.

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2. Guilford Rail Systems/Springfield Terminal

- After much back and forth discussion with the railroad, they did waive demurrage for the months of February and March.
- We have change shipping methods to bulk truck.
- No cars provided or shipped this quarter. Thanks.
- There has been a vast improvement in the quality of service by Guilford rail systems. Better communications at lower levels of management which minimizes the amount of time senior management needs to be involved. I hope this continues.
- In section #2 - we requested empty cars a total of 8 times; only 7 cars were delivered in the first quarter. #8 was delayed until the second quarter.
- Some of the results I have seen in previous survey recaps concern me because I believe they paint a picture that is too negative. Railroading is a difficult business and the ST operates in one of the most difficult areas of the country. One need only look at the experience of shippers dealing with the BAR becoming the CDAC becoming the MMA to understand that maybe the management at the ST does know what they are doing. They have managed to provide reasonable service at relatively low cost for many years. I may not like some of the decisions that ST management has made but, in the long run, they have probably kept a rail system operating that would otherwise largely be gone.
- No problems, service is good.
- We have discontinued using any rail service due to the terrible service we received from Guilford. We are using transport loads exclusively now.
- I can count at least 8 deliveries to pick up at railcars at \_\_\_\_\_ by GRS/ST in 2nd quarter for my customer \_\_\_\_\_ for business going to \_\_\_\_\_. Their service is unreliable and inconsistent at best and I will probably lose the business in the future. Guilford is only coming up once a week to \_\_\_\_\_ and I need more interchange service, it is taking 7-10 days to go from \_\_\_\_\_ to \_\_\_\_\_ to interchange with SLR for delivery to \_\_\_\_\_. I know our General Manager is on the phone at least a couple of times per week trying to obtain a delivery schedule.
- In the three month period ending June 30, we have had no activity with railcars.
- Guilford/ST service unreliable, unpredictable.
- We basically need to load 60 cars a week, but the ST is lucky to get us 45 cars a week.
- Service is good, no problems.
- Prompt service is an ongoing, daily issue with railroad.
- We have not used the railroad in over two years.
- I have absolutely nothing good to say about this carrier, except to say they're honest. They have admitted to passing over our cars of pulpwood in order to pull higher priced cars. They are very slow at moving our cars - our customer is to receive 32 cars per week, we are lucky if ST delivers half of that. I can't talk to anyone about customer service. I can never reach anyone at their Waterville or Northern Maine Junction locations, and the people in Massachusetts never return my calls. The only people that will contact me are the accounting folks when we've underpaid our freight bills.
- The GRS/ST seemed to be doing a better job at delivering empties to use at a regular basis.
- l/c delays both directions; excessive dwell time in ST yards, bad order repair delays; inconsistent service, embargos on warehouses, derailments, billing and routing issues.

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- We did not have any activity in the 4th quarter of 2006. We will, however, have rail service both in and out of \_\_\_\_\_ in the 1st quarter of 2007.
- Service is very good.
- We don't use this service anymore.
- Unable to establish new rate contract that was competitive to other modes of transport. E.g. truck/intermodal.

3. Montreal Maine and Atlantic Railroad

- Rail cars setting in Canada border waiting to cross for more than a week - meantime I'm running low on cars and product.
- This is my 1st response to you. My only complaint relates to the sizeable rate increase that we are absorbing. Approximately \$500 per rail car. To a company like ours this increase in cost is not passable to our customers and a hit of \$500 + 500 cars is a huge increase in our cost structure.
- We stopped using the railroad.
- We feel that things are improving and look forward to the future. Our only problem is that cars are slow being set and picked up.
- Need better rail service.
- No complaints or comments.
- Great service Jan./Feb./March 2006. Very responsive. No snow.
- Service is not reliable. Can't count on train service on a regular basis.
- Shortage of rail cars delayed service. Overall very good service.
- Because of the \_\_\_\_\_ mill we currently are not using the rail service.
- No placements or shipments for the 1st quarter of 2006 from either MMA or GRS/ST.
- During request by email at MMA - they still cannot get it right. Sending demurrage bills then customers has to follow up with copies of the emails sent to railroad to show that we did what were suppose to do and they did not. So there is no durrage due to MMA.
- MMA no improvement in service. Service is not reliable!
- No complaint.
- For the most part, we always have empties available for loading in our \_\_\_\_\_ yards. The problems arises when we make requests for specific car types in specific yards. I find that the rail carrier's business moves much slower than ours does and often times cars arrive after the need has passed. If the cars aren't there when we need them we are forced to pay higher freight costs to get the product moved. In some cases we don't have the luxury of a backup plan, so it's necessary for us to wait until cars are placed. As a customer I expect my Company to be treated at though we are the only customer. I have called and e-mailed several complaints to the MMA staff - from the customer service center to the Chairman of the Board. My frustrations are with the incompetence in giving me what I ask for in a timely manner. I know that sounds bad, but I expect the same good service that we give our own customers.
- No complaints.
- All went well.
- No shipments for quarter.
- Things have gone well this quarter - \_\_\_\_\_ yard workers (SC) very helpful when we had a problem.

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- Have not shipped or used the railroad for this period.
- Car being held up @ the border by MMA and paperwork.
- Only received 11 cars this Quarter.
- No complaints.

4. St. Lawrence & Atlantic Railroad

- No comments as we are only starting to use their line next week to move \_\_\_\_\_ from Quebec to Northern Maine via MMA.
- No railcars, delivered to during the 4th quarter.
- Excellent service.

**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 provisions (September 17, 2005), the Public Advocate has not undertaken any action other than conducting the 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 occurred in the fourth quarter of the State fiscal year 2006. According to OPA timesheets, OPA personnel spent 199.5 hours on railroad service-related issues in the twelve months ending July 1, 2006. These efforts corresponded to 2.9% 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.

**Attachment 1**

**A. Survey Highlights**

- 1) Eastern Maine Railroad ranked best in seven out of nine categories losing the best ranking in only two categories: "Number of empty cars actually delivered out of empty cars requested" (to MMA) and "number of full cars delivered out of full cars requested" (to GRS/ST).
- 2) Guilford/Springfield Terminal ranks poorest of all railroads surveyed in five categories for 2006:
  - 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; and
  - d) the percentage of empty cars delivered out of cars requested.
- 3) Guilford/Springfield Terminal ranks best in one category in the last six months of calendar 2006: "full cars actually picked up/delivered out of cars requested."
- 4) Montreal Maine and Atlantic ranks poorest of all railroads surveyed in three categories for 2006:
  - a) the number of late placements of inbound cars or cars released by shipper;
  - b) the percentage of late placements out of all cars delivered; and
  - c) the number of cars requested by shippers but never actually delivered.
- 5) St Lawrence & Atlantic ranks best in two categories in 2006: "number of individual complaints regarding service problems in Maine (0)" and "number of times service was requested and not provided overall (0)." It ranked poorest in two categories: "number of empties rejected for any reason (606)" and "percentage of full cars requested (28.53%)."

**B. Notes**

- 1) The average response rate for 2006 survey was 22% out of 96 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 (23 out of 49). Comments were both favorable and unfavorable.

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Railroad Shipper Survey Results - 1st, 2nd, 3rd & 4th Quarters of 2006						
Name of Railroad	SMO/MER	Eastern Maine RR (EMR)	Montreal Maine & Atlantic RR (MMA)	New Brunswick Southern RR (NBSR)	St. Lawrence & Atlantic RR (SLAR)	Guilford Rail System/Springfield Terminal (GRS/ST)
<b>1. Late placements/on-time placements</b>						
- no. of on-time placements (occurring on the date for which ordered), of inbound loads or cars released by shipper		8	2233		468	4,018
-no. of late placements		0	935		1	494
-average no. of days late (total no. of late days divided by total late placements)		0	62		2	64.27
		8	3168		469	4,512
		0.00%	29.51%		0.21%	10.95%
<b>2. Cars requested/cars rejected by customers</b>						
-no. of empty cars requested in quarter		0	3236		409	6,504
-no. of empty cars actually delivered		0	4007		409	6,389
		0.00%	123.83%		100.00%	98.23%
-no. of empties rejected for any reason		0	1		606	108
-no. of full cars requested in quarter		8	4864		1763	1,914
-no. of full cars actually picked up or delivered		8	4364		503	5,127
		100.00%	89.72%		28.53%	267.87%
-no. of times service was requested and not provided at all (as opposed to delayed)		0	46		0	42
<b>3. No. of complaints</b>						
-no. of individual complaints regarding service problems in Maine, other than a request for a switch or a car		0	36		0	134
-no. of contacts with personnel of a Maine railroad concerning service problems		1	111.5		2	402
<div></div> indicates lowest-ranked performance <div></div> indicates highest-ranked performance						

Railroad Shipper Survey Results - 4th Quarter 2006							
Name of Railroad	SMO/MER	Eastern Maine RR (EMR)	Montreal Maine & Atlantic RR (MMA)	New Brunswick Southern RR (NBSR)	St. Lawrence & Atlantic RR (SLAR)	Guilford Rail System/Springfield Terminal (GRS/ST)	Surveys Received Back 18
<b>1. Late placements/on-time placements</b>							
- no. of on-time placements (occurring on the date for which ordered), of inbound loads or cars released by shipper			80		173	1,473	Surveys Mailed 96
-no. of late placements			42		0	10	% of Response 19%
-average no. of days late (total no. of late days divided by total late placements)			16		0	4	
<b>2. Cars requested/cars rejected by customers</b>							
-no. of empty cars requested in quarter			94		251	1,485	
-no. of empty cars actually delivered			75		251	1,506	
-no. of empties rejected for any reason			1		0	56	
-no. of full cars requested in quarter			70		803	87	
-no. of full cars actually picked up or delivered			90		261	1,466	
-no. of times service was requested and not provided at all (as opposed to delayed)			15		0	3	
<b>3. No. of complaints</b>							
-no. of individual complaints regarding service problems in Maine, other than a request for a switch or a car			5		0	3	
-no. of contacts with personnel of a Maine railroad concerning service problems			9		0	10	
<b>4. Other Comments</b>							
GRS - We did not have any activity in the 4th quarter of 2006. We will, however, have rail service both in and out of _____ in the 1st quarter of 2007.							
GRS - Service is very good.							
GRS - We don't use this service anymore.							
GRS & SLAR - Unable to establish new rate contract that was competitive to other modes of transport. E.g. truck/intermodal.							
MMA - No shipments for quarter.							
MMA - Things have gone well this quarter - _____ yard workers (SC) very helpful when we had a problem.							
MMA - Have not shipped or used the railroad for this period.							

ATTACHMENT G  
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MMA - Car being held up @ the border by MMA and paperwork.	
MMA - Only received 11 cars this Quarter.	
MMA - No complaints.	
SLAR - No railcars, delivered to during the 4th quarter.	
SLAR - Excellent service.	