

MAINE STATE LEGISLATURE

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STATE OF MAINE
OFFICE OF THE PUBLIC ADVOCATE

ANNUAL REPORT

July 1, 2016 - June 30, 2017

August 23, 2017



State of Maine
Office of the Public Advocate
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Paul R. LePage
GOVERNOR

Barry J. Hobbins
PUBLIC ADVOCATE

August 23, 2017

Dear Governor LePage, Chairman Woodsome, Chairman Berry, and Members of the Joint Standing Committee on Energy, Utilities, and Technology:

As you know, I was appointed as Maine's Public Advocate in June of this year. The appointment affords me the opportunity to continue my public service and I am honored to serve.

Each year, as required by 35-A M.R.S. § 1702(6), the Office of the Public Advocate submits an Annual Report providing an overview of the office's work in the prior year. Over the past twelve months the Office of the Public Advocate has been active in 78 proceedings at the state, regional and federal level, and testified on 26 bills affecting Maine utility customers before legislative committees.

A summary of the office's most significant efforts on behalf of electric, gas, telecommunications and water utility customers are included in this report. Highlights from the past year include:

- Participating in merger proceedings in which Consolidated Communications purchased FairPoint Communications and obtaining an agreement that will bring more than \$50 million in capital expenditures to improve Maine's telecommunications network;
- Successfully challenging Emera Maine's request for a major distribution rate increase. Through our advocacy, we worked to significantly reduce the amount of the requested increase.
- Working to support the development of low-income energy efficiency programs that maximize energy savings at a low cost.
- Working with Maine Natural Gas to implement a Service Quality Index mechanism that will track the company's performance in regard to customer service and penalize it for any significant decline in the level of that service.
- Successfully opposing changes proposed by Northern Utilities to its contract with the Granite State natural gas pipeline, which had the potential to increase costs for Northern's ratepayers, especially during the winter heating season.

Our office has vigorously pursued our mission for the past 36 years, and in the process earned the respect of both customers and regulated utilities. While there are a variety of ways

to measure our success, the most easily understood is money saved for utility customers, based on positions advocated by our office alone. During Fiscal Year 2016 – 2017, our advocacy saved ratepayers \$5,235,577 million, bringing our 36 year total to more than \$573,459,264 million. Everyone at the Office of the Public Advocate is honored to work on behalf of Maine consumers, and looks forward to continuing the work of this office.

Sincerely,

A handwritten signature in black ink, reading "Barry J. Hobbins". The signature is written in a cursive style with a large, prominent initial "B".

Barry J. Hobbins
Public Advocate

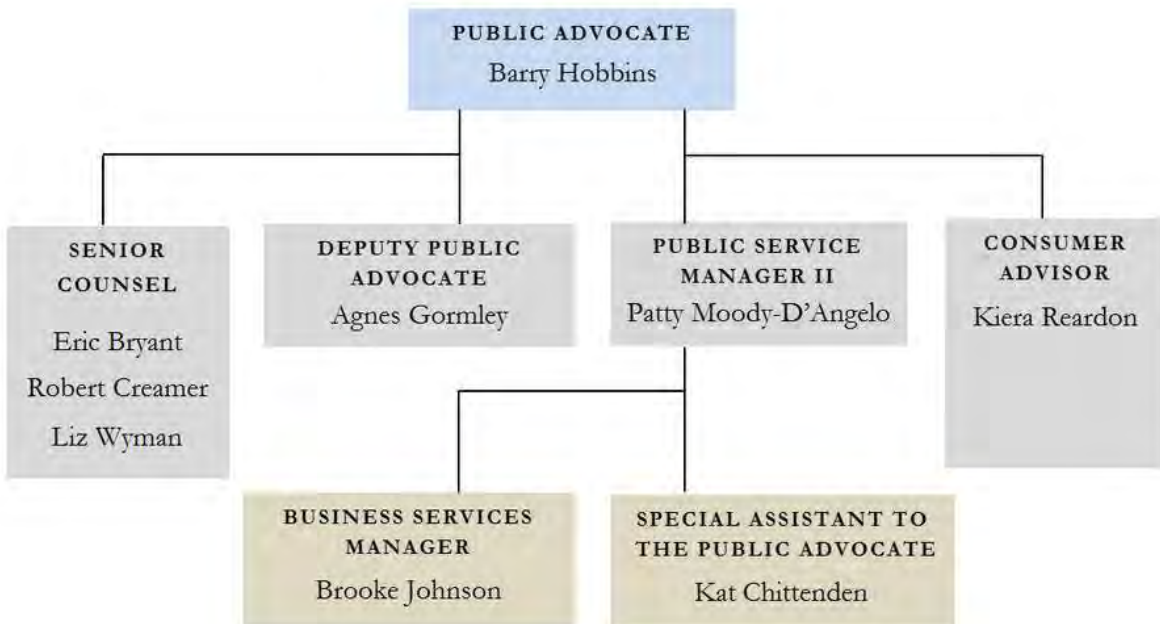
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ABOUT THE OFFICE OF THE PUBLIC ADVOCATE

The Office of the Public Advocate's primary responsibility is to represent the interests of Maine users of utility services. Our attorneys and staff advocate for rates, services and practices to benefit residential customers in state and regional forums, and provide information and advice to ratepayers. For FY 2016-2017, we had nine employees and a total budget of \$1,811,854.

An organizational chart is below.



2015-00040*Request for Approval of Customer Relationship Management and Billing System Pertaining to Central Maine Power Company*

As part of its last rate case, Central Maine Power (CMP) petitioned the Public Utilities Commission for approval to replace its billing system. In October of 2015, after extensive negotiations, our office, together with other parties, entered an agreement with CMP, approved by the Commission that the Company should move forward with implementing a new customer relations and management billing (CRM&B) system and that CMP should be permitted to recover its prudently incurred costs related to the CRM&B system effective on the go-live date for the system.

The expected go-live date for the new CRM&B system is September 2017. By Order dated June 20, 2017, the Commission approved \$52.6 million for the cost of the Company's new CRM&B system, including costs associated with incorporating certain functionalities that would allow for the adoption of specific rate design capabilities.

Prior to the in-service date, CMP will provide the PUC and our office the Company's plan for educating customers on the changes that will result from the CRM&B implementation including the new bill format and the Company's plan for managing the expected increase in customer calls related to the CRM&B implementation. We will be prepared to assist customers with the transition.

2015-00360*Request for Approval of a Proposed Rate Increase Pertaining to Emera Maine*

In this case, the OPA was the sole party in opposition to Emera's requested 8% distribution rate increase request (an increase of \$6.5 million in revenue requirement). The Commission Staff played an important role, including initiating a management audit of the Company that was conducted within the schedule of this rate case. The two primary revenue requirement issues litigated by the OPA were the cost of capital and Emera's request to put in rates \$7.4 million in estimated distribution costs associated with a new substation in Bar Harbor.

With the help of an expert witness, we challenged the Company's proposed 10.25% ROE, arguing instead that only 9.0% was warranted under the formula traditionally employed by the Commission. In its final order, the Commission chose 9.5% as the ROE, saving ratepayers over \$1.6 million annually in rates.

Regarding the substation, the Commission accepted our argument that Emera had failed to prove that its decision to surrender a valid building permit for its originally-proposed open air substation in one location and instead build a compact substation with a carriage-house façade in a different location was prudent. As a result, the Commission only authorized \$4 million (the estimated cost of the abandoned open-air project) to be placed in rates. However, it has allowed Emera to attempt to prove the prudence of its investment decisions in a follow-on case that is underway.

The management audit, conducted by Liberty Consulting, was primarily concerned with the prudence of Emera's investment decisions in implementing a new customer billing system. In a prior case, the Commission had allowed \$18.5 million of estimated costs for the billing system into rates. In this case, however, due to delays and cost increases, Emera was seeking over \$13 million in additional amounts. Liberty identified problems with Emera's investment decisions, and recommended that \$2 million of this additional expense should be rejected. We argued, through an expert witness, that the Commission should disallow \$10 million of the billing system costs. However, the Commission rejected our recommendation and instead ordered a \$2 million adjustment in its final order.

2016-00049

Commission Initiated Investigation into the Designation of a Non-Transmission Alternative Coordinator

The Smart Grid Policy Act was passed in 2009, giving the Commission authority to designate a smart grid coordinator if it deemed doing so to be in the public interest. In April of 2016, the Commission opened a proceeding to make a finding of whether it would be in the public interest to designate a smart grid coordinator for Non-Transmission Alternatives (NTAs). Our office has taken the position that the designation of a NTA coordinator is in the public interest because there is clear value to ratepayers in creating a NTA Coordinator to develop and propose distributed energy resources that may offset the need for more expensive transmission and distribution investments.

We have also advocated the NTA Coordinator should be a third party entity rather than the transmission and distribution utility that should perform the function of the NTA Coordinator. Establishing an entity with a commercial interest in successfully developing and operating NTAs would provide a counterbalance to the interest of the T&D utilities to develop transmission.

The proceeding is ongoing. Legislation requires it be decided by December 15, 2017. (P.L. 2017, ch. 201.)

2016-00159

Request for Examination of Low-Income Program Pertaining to Efficiency Maine Trust

This proceeding was initiated as a directive of the Public Utilities Commission order approving the Efficiency Maine Trust's Third Triennial Plan. That order noted the magnitude of the budget allocation for the Trust's low-income programs and the importance of delivering program benefits to low-income customers and directed parties to address and resolve issues related to the Trust's low-income programs. The active parties in the case, including our office, in a stipulation presented to the Commission, addressed program designs related to low-income initiatives.

Specifically, the parties provided an updated and clarified program description for low-income initiatives; established a role for a Low-Income Advisory Group; and, proposed adjustments to screening methodology and assumptions that would be employed to assess cost-effectiveness in low-income initiatives.

In a June 2017 Order the Commission rejected the stipulation, finding in two instances, that the stipulation did not comport with the statute. We are revising the stipulation in accordance with the Commission's directive and intend to re-submit it for Commission approval.

2016-00209

Request to Sell Assets, Abandon Service, and to Transfer Service Territory Pertaining to Swans Island/Emera Maine

Because of its high rates, small body of ratepayers and the need for significant investment needs in order to maintain reliability service, the Swan's Island Electric Cooperative (SIEC) approached Emera Maine and negotiated an agreement under which Emera Maine would acquire SIEC's assets and service territory. This agreement was presented to the Commission for approval. The OPA joined a stipulation with Emera Maine and SIEC under which the transaction would be approved and SIEC's former ratepayers would pay the same rates as all other Emera Maine ratepayers. The Commission rejected this first stipulation, finding that Emera's ratepayers would have been improperly required to subsidize costs associated solely with SIEC obligations. While there are examples of rate averaging like that contemplated in this stipulation, the Commission found that there were also examples of different rates paid by ratepayers of the same utility based (in part) on geography. Following this, Emera Maine and SIEC renegotiated the arrangement and filed a second stipulation under which SIEC ratepayers would pay for the obligations they had assumed prior to the agreement with Emera. Thus, former SIEC customers would be responsible for paying over \$600,000 in costs, to be recovered through a fixed monthly charge on their Emera bills. The OPA did not join in this second stipulation, but did not oppose it.

2016-00281

Request for Approval of Special Rate Contract with Corinth Wood Pellets, LLC Pertaining to Emera Maine

Corinth Wood Pellets, a wood pellet manufacturer, is a customer of Emera Maine paying rates that are set in part by its highest monthly demand in the past 11 months. Due to reduced and seasonal demand for its products, Corinth sought rate relief from Emera, stating that it would have difficulty staying in business under the current rate structure. Emera, not wanting to lose the contribution to revenue requirement made by Corinth, filed for a "special rate contract" for Corinth with the Commission. We intervened and ultimately supported the agreement which was approved. The applicable three-part test for a special rate contract – whether the discount is necessary, whether the discounted rate exceeds the marginal cost of service, and

whether the customer's contribution is maximized – was met.

FERC Docket Nos. ER12-1650, ER15-1429

Emera Maine, Maine Public District

In this FERC proceeding, the OPA worked closely with the consumer-owned utilities receiving transmission service from Emera (Houlton Water Company, Eastern Maine Electric Cooperative, Van Buren Light & Power), with the Maine PUC and with FERC Trial Staff to challenge Emera's proposed rates and rate formulae from several different rate years. After a significant amount of negotiation under the guidance of a FERC settlement judge, the parties reached an agreement that was filed with FERC in June. Under the settlement, customers in the Maine Public District will receive discounts and refunds totaling \$3.7 million. Further, Emera has agreed to changes to the Protocols that govern its annual updates, allowing parties to challenge the accuracy of the annual inputs to Emera's formula rate.

OTHER ELECTRIC CASES

- **2011-00138**
Request for Approval of Non-Transmission Alternative (NTA) Pilot Projects for the Mid-Coast and Portland Areas Pertaining to Central Maine Power Company
- **2014-00048**
Request for Approval of Certificate of Finding of Public Convenience and Necessity for Construction of Transmission Line in Northern Maine Pertaining to Emera Maine
- **2014-00049**
Request for Approval of Certificate of Finding of Public Convenience and Necessity for Construction of Lakes Region Transmission Project Pertaining to Central Maine Power Company
- **2014-00071**
Investigation of Parameters for Exercising Authority Pursuant to the Maine Energy Cost Reduction Act, 35-A M.R.S.A. Section 1901
- **2014-00172**
Request for Adjudicatory Proceeding for Approval of Revenue-Neutral Change in Rate Design to Remove Seasonal Price Differential from Rates Pertaining to Emera Maine
- **2014-00364**
Request for Approval of an Affiliated Interest Transaction and Commission Investigation of Generation Service in Maine by Central Maine Power Company's Affiliates Pertaining to Central Maine Power Company
- **2014-00369**
Commission Initiated Investigation into Central Maine Power Company's Proposed Customer Usage Market Portal and Establishment of the Customer Data Dissemination (CDD) Working Group
- **2015-00161**
Commission Initiated Investigation into Emera Maine's Transmission Maintenance and Planning Practices
- **2015-00175**
Request for Approval of Third Triennial Plan Pertaining to Efficiency Maine Trust
- **2016-00005**
Investigation of Landowner Complaints Regarding Albion Road and Maguire Road Substations Pertaining to Central Maine Power Company
- **2016-00035**
Request for Approval of Annual Compliance Filing Pertaining to Central Maine Power Company
- **2016-00081**
Commission Initiated Inquiry into RGGI Disbursements to Certain Customers Pertaining to Maine Public Utilities Commission

OTHER ELECTRIC CASES

- **2016-00108**
Request for Approval of a Rate Change - 307 Pertaining to Kennebunk Light and Power District
- **2016-00119**
Request for Approval of Eminent Domain Authority Pertaining to Central Maine Power Company
- **2016-00120**
Commission Initiated Inquiry into Net Energy Billing Rules (Chapter 313)
- **2016-00160**
Request for Examination of Very Large Project Stranded Investment and Funding for T&ST Customers Pertaining to Efficiency Maine Trust
- **2016-00161**
Request for Examination of Measure Bundles and LED Lighting Pertaining to Efficiency Maine Trust
- **2016-00162**
Request for Examination Voltage Optimization Pilot Program Pertaining to Efficiency Maine Trust
- **2016-00170**
10-Person Complaint Regarding the Resotation Efforts due to an Outage on 7/27/16 Pertaining to Central Maine Power Company
- **2016-00202**
Commission Initiated Inquiry into the Collection and Allocation of Customer Deposits by Electric Utilities
- **2016-00222**
Public Utilities Commission Amendments to Net Energy Billing Rule (Chapter 313)
- **2016-00226**
Request for Approval of Stranded Cost Revenue Requirements and Rates Pertaining to Central Maine Power Company
- **2016-00237**
Request for Approval of a Rate Change - 307 Pertaining to Eastern Maine Electric Co-op, Inc.
- **2016-00256**
Public Utilities Commission Amendments to the Rulemaking Chapter 314 of the Commission's Rules Regarding Statewide Low-Income Assistance Plan
- **2016-00265**
Central Maine Power Request for Approval of Changes to Smart Meter Opt Out Program

OTHER ELECTRIC CASES

- **2016-00270**
Request for Approval of a Rate Change - 307 Stranded Cost Rates Pertaining to Emera Maine
- **2016-00306**
Request for Approval of a Waiver Pertaining to Central Maine Power Company
- **2017-00006**
Commission Initiated Investigation into Ownership Interests in Generation Pertaining to Emera Maine and Central Maine Power Company
- **2017-00018**
Investigation of Inclusion of Acadia Substation Investment in Rates Pertaining to Emera Maine
- **2017-00027**
Request for Approval of Hampden Microgrid Project Pertaining to Emera Maine
- **2017-00033**
Commission Initiated Investigation to Establish Assessment and Apportionment Amounts for Low-Income Assistance Plan and Assessment Amounts for Oxygen Pump and Ventilator Programs Pursuant to Chapter 314
- **2017-00034**
Request For Approval of an Advisory Ruling Concerning Chapter 313 Pertaining to Central Maine Power Company
- **2017-00045**
Commission Initiated Inquiry of Issues and Processes Related to Future Evaluations and Technical Resource Manual (TRM) Updates Pertaining to Efficiency Maine Trust
- **2017-00046**
Request for Approval Annual Filing Accordance to Stipulation in 2013-00168 Pertaining to Central Maine Power Company
- **2017-00047**
Request for Approval of Rate Change Regarding Stranded Cost Revenue Requirement and Annual Reconciliation of Stranded Cost Revenue and Costs Pertaining to Central Maine Power Company

2016-00040*Commission Review of Procurement and Hedging Program Pertaining to Bangor Gas Company, LLC*

This case was a follow-on proceeding to Docket 2015-00199, the Commission's review of the Annual Cost of Gas Activities Report filed by Bangor Gas Company, LLC (Bangor Gas or the Company) for May 1, 2014 to April 20, 2015. The OPA, in that earlier case, had raised concerns about how Bangor Gas implemented its hedging policy, including the Company's inconsistency in acting under that policy and, on occasion, failure to follow it at all. To address these issues, the OPA identified several principles that should be furthered by Bangor Gas' hedging policy, notably that: (1) hedging activities should mitigate customers' exposure to large, unexpected increases in natural gas prices; but (2) still retain some opportunity for customers to benefit when market prices decline. Bangor Gas indicated that it agreed with some of the OPA's principles, and the Commission ordered the initiation of a separate proceeding to allow the parties and Commission Staff to discuss how the Company should conduct its hedging in the future.

This separate proceeding was initiated in Docket 2016-00040, where the OPA and Bangor Gas agreed on a hedging policy that: (1) required that a certain minimum amount of gas be hedged for the winter heating season; (2) set limits on the amount of gas that may be hedged; (3) confined hedging activity to gas used from October through April; and (4) provided the Company with flexibility to respond to changing market conditions. The Commission approved this policy in an Order issued on May 9, 2017, which specifically noted that the Commission retained the authority to review Bangor Gas' gas purchasing for prudence, and expected the Company to exercise its flexibility under the policy and deviate from its terms when warranted by market conditions.

2016-00122*Request for Approval of Annual Cost of Gas Filings Pertaining to Maine Natural Gas Corporation*

On June 21, 2016, Maine Natural Gas Corporation (MNG) filed its annual cost of gas reconciliation for the period July 1, 2015 through June 30, 2016. The reconciliation is intended to allow MNG to address any difference between the amount it charged its customers for gas supplied during the preceding 12 months and what MNG actually paid for that gas. If MNG charged customers more the actual cost of gas, they are given a credit on their bills going forward and, conversely, if MNG charged customers less than the actual cost of gas, there is an additional charge placed on customers' bills.

MNG included in its proposed reconciliation an amount to represent the estimated cost of the gas it would purchase to replace gas it had essentially borrowed from a large customer and used to meet the needs of MNG's other customers during the previous winter. The OPA was extremely concerned about MNG recovering the cost of gas it had not yet purchased. After discussing this issue with MNG and Commission Staff, the parties

arrived at an agreement whereby MNG would not seek in its 2016 reconciliation any amounts for replacement gas it had not yet purchased and would instead address this issue in its next reconciliation filing. The result of this agreement was \$235,577 in savings for MNG customers in the 2016 reconciliation adjustment.

2016-00253

Request for Proposals for Physical Energy Storage Contracts for Liquefied Natural Gas Storage Capacity

The Maine State Legislature, in the Liquefied Natural Gas Storage Act, P.L. 2015, ch. 445, directed the Commission to determine whether it should execute a contract to construct a facility for storing liquefied natural gas (LNG) in Maine. The Commission was given the authority to execute such a contract if it found that an LNG storage facility would be in the public interest and was reasonably likely to benefit electric and/or gas consumers within the state. The Commission accordingly issued a request for proposals and received bids to construct an LNG storage facility from seven different entities. The proposed costs of the facilities were as much as \$25 million a year, for up to twenty years, to be borne by Maine's utility ratepayers.

The OPA, in concert with Maine's local gas distribution utility companies and other parties, opposed the execution of a contract for any of the proposed LNG storage facilities. The OPA argued that: (1) a contract for an LNG storage facility of the size and cost of those proposed by the bidders was an extremely risky investment that would subject Maine's ratepayers to very large fixed costs in return for uncertain benefits; (2) none of the proposed storage facilities were shown to have any potential to significantly lower the cost of gas or electricity prices within Maine; and (3) the fact that no private actors had proposed constructing such a storage facility, without ratepayer assistance, was evidence of its potential unprofitability. The Commission agreed, and ruled that it would not execute a contract to construct any of the proposed LNG storage facilities.

OTHER NATURAL GAS CASES

- **2014-00132**
Proposed Changes to Northern's Retail Choice Program
- **2015-00005**
Request for Approval of an Alternative Rate Plan (ARP) and Establishment of Starting Point Rates Pertaining to Maine Natural Gas Corporation
- **2015-00018**
Request for Approval of 2015 Integrated Resource Plan (IRP) Pertaining to Northern Utilities, d/b/a Unitil
- **2015-00175**
Request for Approval of Third Triennial Plan Pertaining to Efficiency Maine Trust
- **2016-00069**
Request for Approval of an Affiliated Interest Transaction Pertaining to Maine Natural Gas Company
- **2016-00097**
Public Utilities Commission Amendments to Commissions Rules Regarding Cost of Gas Adjustment Chapter 430
- **2016-00138**
Request for Approval of Cost of Gas Filings Pertaining to Bangor Gas Company, LLC
- **2016-00147**
Request for Approval of Cost of Gas Filings Pertaining to Summit Natural Gas of Maine, Inc.
- **2016-00154**
Request for Approval of Tariff and Rate Change for Natural Gas Conservation Program Assessment Pertaining to Bangor Gas Company, LLC
- **2016-00165**
Request for Approval of Reorganization Pertaining to Summit Natural Gas of Maine, Inc.
- **2016-00174**
Request for Approval of Cost of Gas Filings Pertaining to Northern Utilities, Inc. d/b/a Unitil
- **2016-00217**
Investigation into Development of a Service Quality Index Pertaining to Maine Natural Gas Corporation's Rate Plan
- **2016-00229**
Request for Approval of Atlantic Bridge Precedent Agreement Pertaining to Northern Utilities, Inc. d/b/a
- **2016-00282**
Request for Approval of Reorganization between Gas Natural, Inc. and FR Bison Merger Sub, Inc. an Indirect Subsidiary of the First Reserve Energy Infrastructure

OTHER NATURAL GAS CASES

- Fund GP II LP Pertaining to Bangor Natural Gas Company, Inc.
- **2017-00028**
Request for Approval of Cost of Gas Filings 2017 Summer Pertaining to Northern Utilities, Inc. d/b/a Unitil
 - **2017-00035**
Request for Approval of Targeted Infrastructure Replacement Adjustment Rate and 2016 Cast Iron Replacement Program Reporting Pertaining to Northern Utilities, Inc. d/b/a Unitil
 - **2017-00037**
Request for Approval of Rate Change for Targeted Area Build-Out Program In City Of Sanford Pertaining to Northern Utilities, Inc. d/b/a Unitil
 - **2017-00039**
Request for Approval of Annual Compliance Filing Pursuant to 2015-00005 Pertaining to Maine Natural Gas Corporation
 - **2017-00065**
Request for Approval of Rate Change - 307 Pertaining to Northern Utilities, Inc. d/b/a Unitil
 - **2017-00066**
Request for Approval of Annual Price Change Pertaining to Summit Natural Gas of Maine, Inc.
 - **2017-00069**
Request for Approval of an Affiliated Interest Transaction Pertaining to Northern Utilities, Inc. d/b/a Unitil

2014-00376

Request for Review of Provider of Last Resort Service SQI Reporting for 3rd Quarter 2014

FairPoint Communications, Inc. filed mandatory reports indicating that it had failed to meet certain Service Quality Indices (SQI) for the third quarter of 2014 through the second quarter of 2016. The Commission opened an investigation into FairPoint's failure to meet these benchmarks, such as the failure to clear the required percentage of troubles within 24 hours, and the failure to meet the required percentage of scheduled appointments with a customer. Our office intervened in the case and participated in discovery and technical conferences to explore the reasons for FairPoint's failure to meet these benchmarks. We entered into a settlement with FairPoint in which the Company agreed to undertake three infrastructure replacement projects in areas where there had been a significant percentage of network outages and problems – Bar Harbor, Eastport and Southwest Harbor. These projects, which total more than \$185,000 of capital investment, were not on a list of work to be performed by FairPoint prior to entering into the settlement. FairPoint must complete these projects by the end of 2019 at the risk of a penalty of \$15,000 in additional project work. The Commission approved this settlement on June 20, 2017.

2015-00185

Request for Approval of Certificate of Finding of Public Convenience and Necessity Pertaining to Enhanced Communication of Northern New England, Inc. d/b/a FairPoint Communications

Enhanced Communications of Northern New England, Inc. (Enhanced) is a competitive local exchange carrier (CLEC) and a subsidiary of FairPoint Communications. Enhanced filed a petition to obtain a Certificate of Public Convenience and Necessity (CPCN) to provide local exchange service throughout all of Maine, including in exchanges already served by FairPoint or one of its subsidiaries. Our office and other parties opposed the petition because Enhanced failed to show a public benefit would flow from being granted a certificate to operate as a CLEC in the territory of its parent, FairPoint. Upholding our position, the Commission in June of 2016, approved Enhanced's petition to operate in all local exchanges within Maine except for those where FairPoint is already operating. Enhanced filed an appeal to the Law Court. In a decision issued on August 15, 2017, the Court affirmed the Commission decision, holding that "a petitioner has the burden of proof to establish that granting the CPCN is in the public convenience and necessity, i.e., has some benefit to the public and not merely its own business interest."

2016-00235

Commission Initiated Rulemaking Regarding Relief from Provider of Last Resort Service Obligation Chapter 220

In 2016, the Legislature enacted a law that allowed FairPoint Communications to be systematically relieved of its obligation to provide “Provider of Last Resort” (POLR) telephone service throughout the state. The statute required the Commission to promulgate rules that would direct how FairPoint could proceed with POLR removal. The Commission initiated a rulemaking procedure in which our office intervened. Our primary concern was to ensure that the procedure for POLR removal would allow citizens in each of the towns in which FairPoint was seeking to be relieved of its POLR responsibilities to have notice of the process and an opportunity to participate. We worked with FairPoint to devise a process that allowed for public meetings and hearings to ensure that POLR customers would be assured of adequate telephone coverage in their communities. The Commission approved the rule with our recommended proposals and sent it to the Legislature for review. On May 17, 2016, the Commission adopted the legislatively approved rule.

2016-00307

Request for Approval of Reorganization Pertaining to Northern New England d/b/a FairPoint Communications

On December 29, 2016, FairPoint Communications and Consolidated Communications of Mattoon, Illinois, (Consolidated) filed a petition with the Commission seeking approval of a reorganization in which Consolidated would acquire FairPoint in its entirety. Consolidated had financing in place to pay \$1.5 billion for FairPoint. We intervened in the case with a focus on ensuring that Consolidated had the financial capacity and management capability to deliver quality telephone service to its Maine customers. We were also concerned about the existing condition of the FairPoint network. As a condition for agreeing to the acquisition we required Consolidated to commit capital resources to repair, improve and maintain the network. Specifically, we obtained the following agreement:

Cap-Ex/Network

For the next three years Consolidated will spend \$16.4 million each year on capital expenses including fiber expansion, broadband build-out and speed upgrades and non-revenue generating/core infrastructure. If Consolidated fails to meet this annual spending requirement, it will be required to pay an additional \$500,000 for capital improvements.

Consolidated will spend an extra \$1 million on network improvement projects for each of these three years to address areas of the network that have service quality issues (high percentage of troubles).

Consolidated will continue with an important project that FairPoint had already started – the

conversion of asynchronous transfer mode (ATM) equipment throughout the network. This project will modernize and prepare the network for next generation services. Consolidated will complete it within 5 ½ years.

Broadband Reporting

Consolidated will provide a written update to the PUC and the OPA regarding major expansion and network upgrade of its Connect America Fund II projects, which will include a description of the projects and the proposed start/end dates. This information will allow the OPA to assist consumers who want to know when broadband is coming to their area.

Consolidated will provide data to the PUC, the OPA and the ConnectME Authority showing the location and speed of its broadband services throughout the state. Although this information must be maintained as confidential, it will provide policy-makers with accurate information regarding where important insight into the breadth of Maine's broadband service areas.

In an Order dated June 5, 2017, the Commission accepted our agreed terms with Consolidated and approved the reorganization. The closing occurred on July 3, 2017.

Federal Communications Commission WC Docket No. 05-25

Petition for Reconsideration of the National Association of State Utility Consumer Advocates, Maine Office of the Public Advocate, the Maryland Office of the People's Counsel, and the Utility Reform Network of Declaratory Ruling, Second Report and Order, and Order on Reconsideration

The OPA joined this petition to object to guidance that was contained in an appendix to the Federal Communications Commission's (FCC) "Voice Replacement Order." This order adopted rules regarding the quality of voice replacement offerings necessary to allow a telephone service provider to apply for an automatic grant to discontinue service. This Office joined the Maryland Office of the People's Counsel and two public interest groups to object to the technical guidance because it was inconsistent with the rule and it did not provide adequate assurance that consumers would have replacement voice service with comparable service quality and performance. The petition is pending.

OTHER TELECOMMUNICATIONS CASES

- **2016-00124**
Request for Approval of Interconnection Agreements with AT&T Wireless Services, Inc. Pertaining to Northern New England d/b/a FairPoint Communications
- **2016-000142**
Request for Approval of Reorganization Pertaining to Oxford West Telephone Company and Oxford Telephone Company
- **2016-00158**
Request for Approval of Certificate of Finding of Public Convenience & Necessity Pertaining to Pole and Fiber Network Authority ME, LLC
- **2016-00228**
Commission Initiated Investigation Into the Prepaid Wireless Fee

2016-00096 | 2016-00289

Request for Approval of Reorganization Pertaining to the Maine Water Company Biddeford and Saco | Request for Approval of Reorganization Pertaining to the Maine Water Company

These cases were two similar proceedings where the Maine Water Company (MWC) requested that the Commission approve the corporate reorganization of its parent company, Connecticut Water Service, Inc. (CWS), due to CWS' acquisition of two water utilities located in Connecticut. In docket 2016-00096, CWS was acquiring Heritage Village Water Company, and in docket 2016-00289, CWS was acquiring Avon Water Company. MWC owns and operates several water utilities throughout Maine.

The OPA's primary concern in each of these proceedings was the amount of debt CWS may have assumed as a result of acquiring the Connecticut water utilities, and the effect of that debt on MWC and its ability to serve ratepayers in Maine. The OPA requested and received financial information from CWS and reviewed it to ensure that the acquisitions would not impact MWS' rates or level of service. After determining that there would be no adverse effect on MWS or its ratepayers, the OPA indicated that it did not oppose CWS' acquisition of the Connecticut water utilities.

OTHER WATER CASES

- **2016-00048**
10-Person Complaint Regarding an Unreasonably High Increase in Rates for Private Fire Protection Pertaining to the Maine Water Company Biddeford and Saco
- **2016-00106**
Request for Approval of Tariff Revision Regarding System Development Charges Pertaining to Kennebunk/Kennebunkport/Wells Water
- **2016-00183**
Request for Approval of System Infrastructure Needs Assessment Pertaining to Deer Isle Consumer Owned Water Utility

LD 256

An Act to Ensure Continued Availability of High-Speed Broadband Internet at Maine's Schools and Libraries

For nearly 20 years the Maine Telecommunications Education Access Fund (MTEAF) has supported communications for Maine schools and libraries. Today, in concert with federal eRate funding, it provides symmetrical 100 Mbps connections to nearly all of Maine's schools and libraries. Changes in the telecommunications market – in particular the shift towards the use of smartphones for purposes other than telephone calls – have resulted in a decline in the overall contribution base supporting MTEAF, and growing inequity in contributions between wireless and landline customers. LD 256 proposed changes to stabilize the revenue stream supporting MTEAF at a level sufficient to support the Maine School and Library Network in the future, and a process to develop a more equitable method of allocating costs among telecommunications providers. After a contentious public hearing, the OPA worked with parties to revise the bill, adopting a contribution mechanism proposed by FairPoint and modeled on that used to support e911 services that addressed the fairness concerns. The bill passed both houses of the Legislature with substantial majorities. The Legislature voted to override the Governor's veto and the bill became law.

LD 406

An Act to Amend the Law Governing Joint use of Certain Utility and Telecommunications Infrastructure

In 2015, the Office of the Public Advocate requested that the Public Utilities Commission revise its rules governing pole attachment to remove the barriers to the deployment of broadband in unserved and underserved areas of the state. The Commission declined to open a rulemaking, but instead opened an Inquiry in which the overwhelming majority of telecommunications providers in the state confirmed the need for pole attachment reform. The Commission closed that inquiry in the fall of 2016, and submitted legislation to clarify its authority over the terms and conditions of pole attachment. The OPA led the successful effort to get all stakeholders to agree on final language, leading to passage and enactment of a revised version of 35-A M.R.S. § 711 that clarifies the Commission's jurisdiction to set the terms, conditions and rates of attachments to utility poles. In August, the PUC initiated the rulemaking process with the intent to enact a rule by the legislative deadline of January 15, 2018.

LD 756

An Act to Clarify the Authority of an Affiliate of a Utility to Own Power Generation outside of the Utility's Territory

As in the second session of the 127th Legislature, this session saw significant activity to revise the laws governing the relationship between investor-owned transmission and distribution utilities and generation affiliates owned by the same parent holding company. This was the subject of extensive litigation before the Public Utilities Commission in recent years, culminating in a November 17, 2016 ruling by the Law Court regarding the now-dissolved proposed

joint venture between Emera and First Wind. The committee considered two bills on the topic. The first, supported by Emera and the OPA, would clarify that ownership of affiliated generation outside of a utility's service territory was permissible. This bill was passed by the Legislature and was enacted into law as P.L. Ch. 287 without the signature of the Governor on July 11, 2017. A more comprehensive bill, LD 1224 backed by Central Maine Power's parent company, Avangrid, would have allowed a holding company to own generation affiliates located within the service territory of its transmission and distribution utility, subject to codes of conduct intended to protect against anti-competitive behavior. The OPA testified neither for nor against this bill. It was carried over until next session.

LD 803

An Act to Improve Transparency in the Electricity Supply Market

LD 803 was one of three bills intended to address consumer protections in the competitive electricity supply market, which continues to generate the majority of consumer complaints received by our office. The OPA was closely involved in the drafting of the bill and negotiations on final language. The law ultimately passed by the Legislature and signed by the Governor adds a number of additional restrictions for suppliers serving residential customers that are targeted to address these consumer concerns. They include prohibitions on any renewal of a supply contract without advance notice by mail, and a bar on renewal of a supply contract without express consent if: 1) the rate is more than 20% higher than the customer's previous rate; or 2) longer than 12 months (or the prior contract's term). Competitive electricity providers are also barred from charging early termination fees for contracts that have been renewed without express consent. Finally, the law requires the PUC to conduct an analysis, in consultation with the Office of the Public Advocate, of the prices paid by competitive electricity providers compared to standard offer service. This should provide policymakers with valuable information on the costs and benefits of retail competition to Maine electricity customers.

LD 1504

An Act to Modernize Rates for Small-Scale Distributed Generation

This bill would have required the Maine Public Utilities Commission to adopt Net Energy Billing (NEB) rules that would be substantially equivalent to the law in place prior to the Commission's adoption of its NEB Rule in March of 2017.

The bill also required the Commission to conduct an analysis, to be completed by 2021, of the costs and benefits to ratepayers resulting from NEB. The Commission was also directed to develop a proposal for how to transition from NEB to time-of-use rates, market-based rates or other rate designs.

The Governor vetoed the bill and his veto was sustained. The PUC NEB Rule adopted in March has been appealed to the Law Court.

Responding to Customer Concerns

In the past year, the Consumer Advisor received and addressed 508 consumer calls, emails and in-person questions. These calls often require multiple follow-ups with the utility and the consumer before the issue is completely resolved.

In addition to consumer complaints that come in to the office directly, the Consumer Advisor participated in four public forums addressing the upcoming changes to telephone deregulation and a public hearing in Presque Isle for residents concerned about a proposed rate increase by Emera Maine. The Office of the Public Advocate provided documents to assist residents in deciding the appropriate avenue to pursue their complaints.

Consumer Education

The Consumer Advisor has completed a webpage to house instructional documents, templates and a detailed explanation the typical process a case takes through the Public Utilities Commission in lay terms.

A second major project has been the the 2017 edition of the Electricity Guide. The 4-page guide is specifically designed to address common questions residential and small business customers have about the competitive electricity market. The Guide contains an overview of the competitive electricity market, frequently asked questions and answers, and tips for those shopping for a new supplier. The Electricity Guide is distributed to 22,000 households across the State and is available for download from the OPA website. We continue to serve as a dynamic resource for customers interested in competitive electricity providers by updating the rate offerings on a monthly basis.

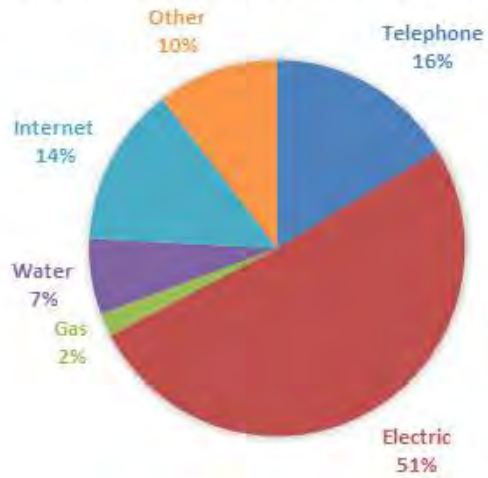
The third major project underway is the 2017 Ratewatcher Guide. The Ratewatcher provides articles and charts detailing the services and rates of broadband internet service providers, local and long-distance telephone service, voice over internet protocol (VOIP) options and wireless phone and internet providers available across Maine. The Ratewatcher is distributed to 22,000 households across the State and is available for download from the OPA website.

Assisting Litigants

Cases before the Maine Public Utilities Commission (PUC) are often a daunting prospect for concerned citizens wanting to express their opinions in a particular case. Building on the instructional documents already created, we have added a specific webpage to our site helping individuals navigate the PUC process in one easy to find location. We have assisted *pro se* litigants in four separate cases and worked with one individual to help draft a ten-person complaint.

SUPPORT FOR
UTILITY CUSTOMERS

PERCENTAGE OF INQUIRIES BY SUBJECT MATTER



RATEPAYER FY 2016-2017 SAVINGS

Ratepayer savings from June 30, 2016 to July 1, 2017 attributable to the efforts of the Office of the Public Advocate:

2015-00360

\$5,000,000

Request for Approval of a Proposed Rate Increase Pertaining to Emera Maine

With the help of our experts, we challenged the Company's proposed 10.25% return on equity, arguing instead that only 9.0% was warranted under the formula traditionally employed by the Commission. In its final order, the Commission chose 9.5% as the ROE, saving ratepayers over \$1.6 annually in rates. In addition, the Commission, in response to our advocacy, disallowed \$3.4 million of costs for a substation. The total amounts to \$5 million in ratepayer savings.

2016-00122

\$235,577

Request for Approval of Annual Cost of Gas Filings Pertaining to Maine Natural Gas Corporation

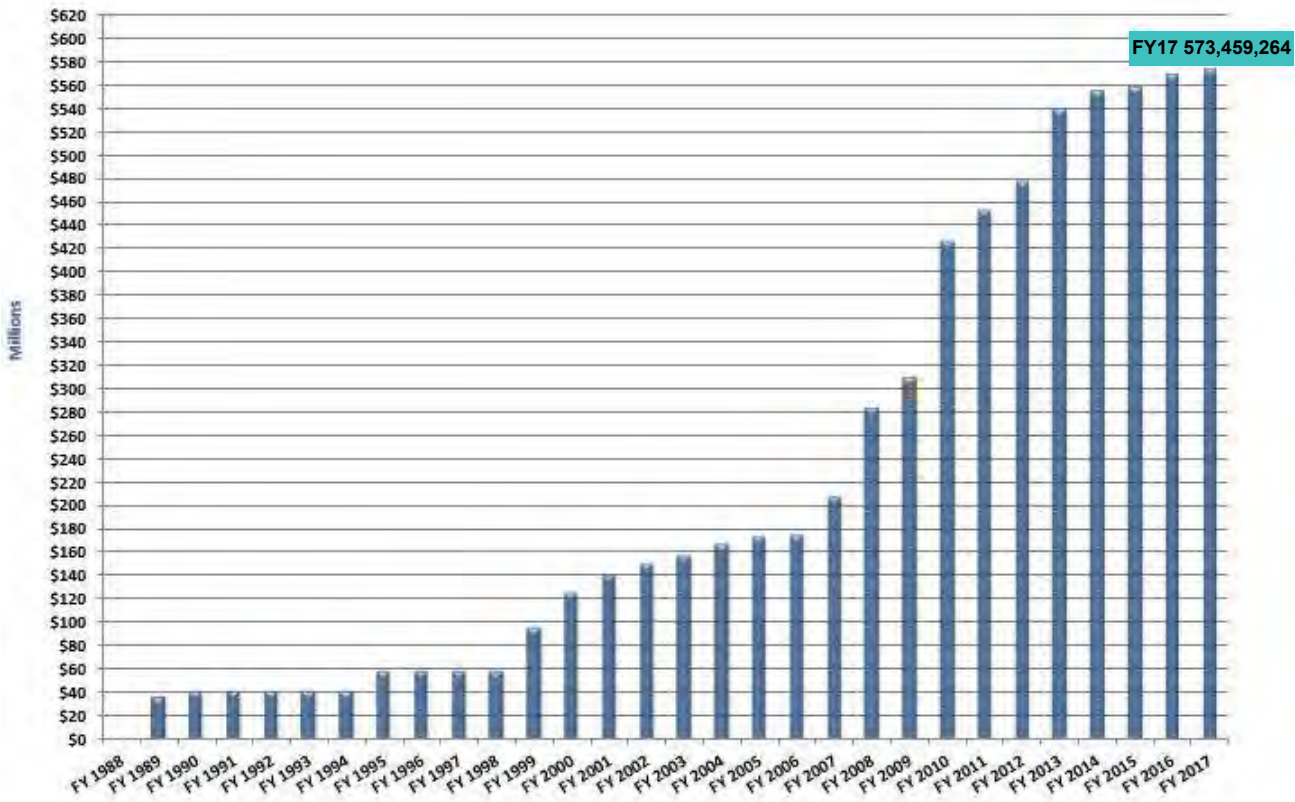
Maine Natural Gas Corporation (MNG) filed for its annual cost of gas reconciliation in June 2016. The Office of the Public Advocate (OPA) was concerned that MNG was recovering for the cost of gas it had not yet purchased. As a result of the OPA's recommendations, MNG customers are receiving a savings of \$235,577 in the 2016 reconciliation adjustment.

TOTAL SAVINGS FY 2016 – 2017:

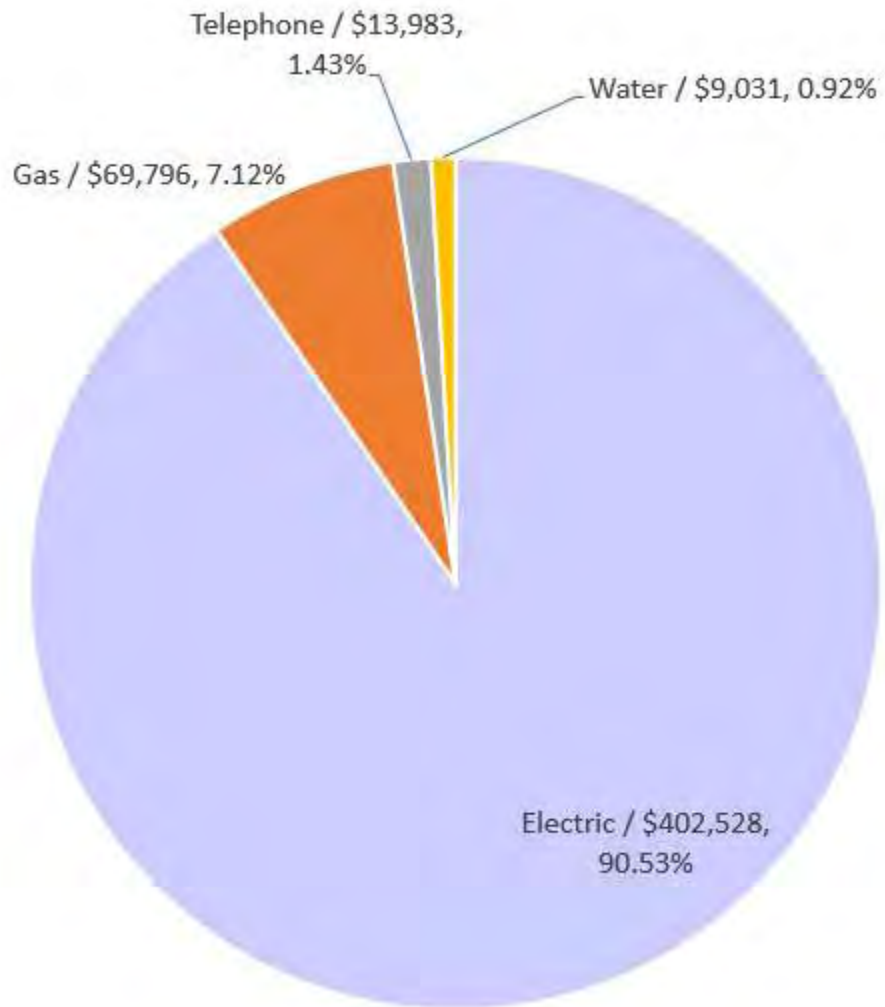
\$5,235,577

CUMULATIVE SAVINGS

Cumulative Savings in Rates 1988 to 2017



CONSULTANT COSTS



PUBLIC ADVOCATE
STAFF TIME

