

MAINE STATE LEGISLATURE

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STATE OF MAINE

OFFICE OF THE
PUBLIC ADVOCATE

ANNUAL REPORT

July 1, 2017 - June 30, 2018

August 8, 2018

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State of Maine
Office of the Public Advocate
112 State House Station, Augusta, Maine 04333-0112
(207) 624-3687 (voice) 711 (TTY) www.Maine.gov/meopa

Paul R. LePage
GOVERNOR

Barry J. Hobbins
Public Advocate

August 8, 2018

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

As required by 35-A M.R.S. §1702 (6), the Office of the Public Advocate submits this Annual Report of activities which provides an overview of the office's work in the prior year. During the past year, the Office of the Public Advocate has been active in 69 proceedings at the state, regional and federal level. The office increased its participation by attending all legislative work sessions and testified on legislation affecting Maine utility customers before legislative committees taking a proactive approach. The office also participated in a number of stakeholder groups along with others such as AARP, the Community Action Agencies, Efficiency Maine, Maine State Housing Authority, Maine Equal Justice Partners, the Governor's Energy Office and various environmental groups.

This office has pursued its mission for the past 37 years earning both the respect of customers and regulated utilities. While there are a variety of ways to measure the success of the office, the most easily understood is money saved for the utility consumers. During Fiscal Year 2018, our advocacy saved ratepayers \$13,040,845, bringing our 37-year total to more than \$586,500,109.

My first year as Public Advocate presented itself with challenges that were unforeseen at its beginning. Last October Maine experienced an unprecedented rain and wind storm resulting in days of electrical outages and property destruction, record high electrical bills bringing into question Central Maine Power's new billing system, metering, and customer communications system along with their customer service response. The Tax Cuts and Jobs Act of 2017 (TCJA) was signed into law on December 22, 2017. These matters all resulted in proceedings being initiated by the Maine Public Utilities Commission ("MPUC") which in turn resulted in more time spent by our senior counsel and supporting staff on these matters as well as an increased need for consultants.

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

- Enactment of legislation for the arrearage management program to assist customers who have fallen behind in their electric bills and to help with energy reduction;

- Providing of assistance to customers with record-high utility bills as well helping them to navigate thru the Consumer Assistance Division established with the PUC;
- The publication and distribution of the “Low-Income Usage Study” and a “Low-Income Energy Burden Study” which studies were commissioned in 2017 and are the culmination of four years of work by the OPA to assist low-income customers to reduce the number of accounts in the arrears and their utility usage;
- Participating in rulemaking proceedings to amend Chapter 880 of the Commission’s rules, which clarified and streamlined the process for pole attachment, assisting efforts to deploy broadband in hard to reach areas of Maine;
- Successfully challenged Emera Maine’s third distribution rate increase in the past five years. Through our advocacy, the commission granted the utility less than half of what it had requested;
- Successfully challenged Emera Maine’s request to recover all of the costs of its new substation in Bar Harbor. The Commission found that almost \$2 million of the \$9.3 million cost was imprudently spent and not allowed onto rates;
- The passing of legislation aimed at ensuring that low-income Maine residents that use “lifeline” phones have access to telephone service without a service provider tax;
- Working to ensure that a proposal by CMP to make significant transmission investments in the greater Portland area is carefully reviewed to ensure that what is built is only what is necessary for reliability and is built at least cost;
- Pursuant to a contract award from Massachusetts CMP is seeking PUC approval to construct a high voltage transmission line that would be used to deliver power from Quebec to utilities in Massachusetts. Our office is participating in the case to ensure that it provides benefits to Maine ratepayers and that Maine ratepayers are not adversely affected by CMP’s pursuit of the project.

I believe the past year has brought a higher visibility to the Office of the Public Advocate and a greater understanding by the ratepayers of Maine in what this office does on an on-going basis and what it can do to help them.

I along with the entire staff of the Office of the Public Advocate are pleased and honored to work on behalf of Maine consumers and to represent their interests before the Maine Public

Utilities Commission, the Maine Legislature, Federal and State courts, and Federal agencies and we look forward to continuing to do so.

Sincerely,

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

Barry J. Hobbins
Public Advocate

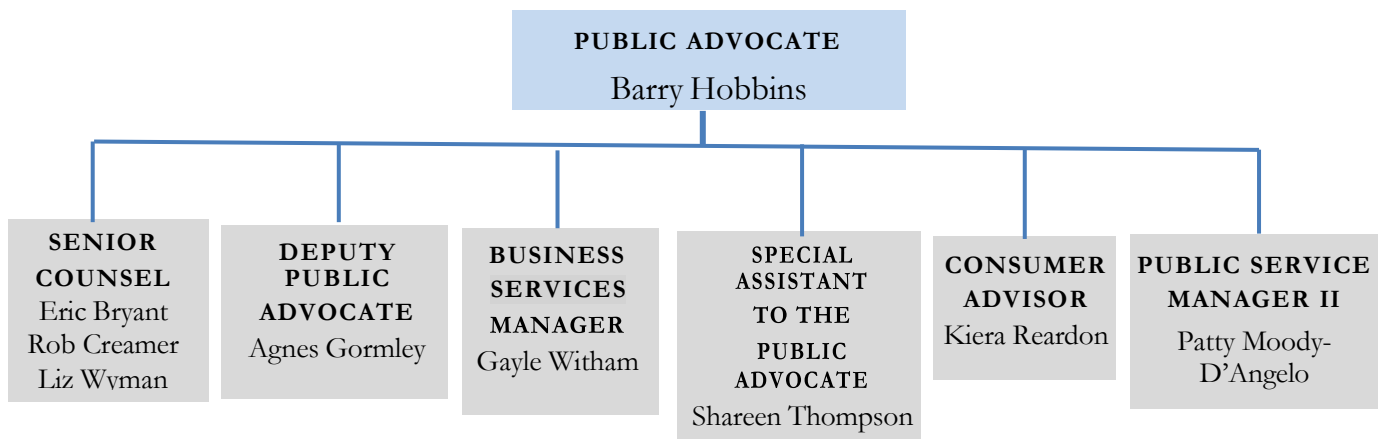
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ABOUT THE OFFICE OF THE PUBLIC ADVOCATE

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 2017-2018, we had nine employees and a total budget of \$1,872,981.

An organizational chart is below.



2018-00069*Central Maine Power Company**Request for Approval Annual Compliance Filing (Stipulation Docket No. 2013-00168) Pertaining to Central Maine Power Company*

Pursuant to the requirement in the Order approving its rate case, on March 30, 2018, Central Maine Power (CMP) made its annual compliance filing. In June 2018, the OPA and other parties, entered into a settlement agreement with CMP, which was approved by the Commission, which resulted in an overall decrease (-1.18 percent) in residential customer rates effective July 1st of this year. Although the annual compliance case resulted in a slight increase to residential customer distribution rates (0.84 percent). Because there was a corresponding decrease in transmission and stranded cost rates, customers will experience an overall reduction in their bill of 1.3 percent.

This outcome was significant given that customers were facing payment of approximately \$68 million of storm restoration costs from last year's October storm, the worst storm in CMP's history. Our office played an active role, working with our consultant to develop a methodology that contributed to an overall reduction in storm cost recovery. That work, combined with the savings from the federal Tax Cuts and Jobs Act, contributed to a much lower increase in distribution rates than would otherwise have occurred.

The parties to the case also agreed to develop policies and procedures that will facilitate more prompt and accurate identification of all storm-related costs going forward.

2016-00049*Maine Public Utilities Commission**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 that doing so was in the public interest.

In December of 2017, the Commission issued an Order in this docket finding that the goals related to non-transmission alternatives (NTAs) as set forth in the Smart Grid Policy Act should be served by the utilities rather than an independent smart grid coordinator. This finding was contrary to the arguments the OPA and the other intervenors in the case, who advocated for the appointment of an independent entity

to serve as the Smart Grid Coordinator.

The OPA advocated that there is clear value to ratepayers in creating a Smart Grid Coordinator to develop and propose distributed energy resources that may offset the need for transmission and distribution investments. 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. We argued that this adversarial approach was likely to be superior to the alternative that attempted to incentivize a utility to bid against itself in deciding between an NTA and a transmission or distribution investment.

The Commission rejected these arguments and found that the policy goals related to NTAs set forth in the Smart Grid Policy Act are more likely to be realized by removing the incentives in existing rate setting designs that cause T&D utilities to favor wires solutions over NTAs. The Commission directed CMP and Emera Maine to file rate proposals that would address the incentive issues. Emera Maine and CMP have filed their proposals, which will be reviewed and evaluated in an adjudicatory proceeding in 2019.

Report on Maine Low-Income Household Energy Usage

In June of 2017, the OPA commissioned a Low-Income Usage Study and a Low-Income Energy Burden Study. Both studies will be ready for publication and distribution by fall of 2018. The OPA coordinated the direction of the studies with EMT, who also made a financial contribution to fund the studies. These studies were undertaken in support of our effort to obtain good data on both energy uses among Maine's low-income people and the extent of the energy burden throughout Maine. Over the past four years, the OPA has led an effort to improve the design and delivery of efficiency programs for low-income customers in Maine. We have worked with the Efficiency Maine Trust to create programs that maximize cost-effective savings opportunities and impacts for low-income customers. We have also helped to enact an innovative arrearage management program that provides a path out of debt for low-income customers who pay their bills on time.

These studies provide significant data points that will help our efforts to help reduce these customers' energy burden and make their bills more affordable in the future. They will provide significant information so energy efficiency program designers can understand the opportunities for energy efficiency programming and more identify the costs and benefits of services to low-income people.

2017-00018

Emera Maine

Investigation of Inclusion of Acadia Substation Investment in Rates Pertaining to Emera Maine

In 2013, Emera Maine began developing a substation in Bar Harbor that was originally to cost \$5 million. Following public outcry, Emera opened up a lengthy and

contentious local stakeholder process that resulted in a new design at a new location with a cost of \$9.3 million. Emera originally sought to recover the allocated distribution portion of these costs -- \$7.4 million -- in its 2015 rate case. The remaining portion would be allocated to transmission rates. The OPA challenged Emera and the Commission opened a prudence investigation under 35-A M.R.S. § 113. After more than a year of litigation, the Commission determined that Emera had in fact been imprudent in several aspects of the development, including the creation of an elaborate carriage house façade intended to hide the substation from neighbors and tourists. The Commission allowed Emera to include \$5.574 million in its distribution rates, finding that approximately \$1.8 million was imprudently spent.

2017-00198

Emera Maine

Request for Approval of Proposed Rate Increase

This rate case was Emera Maine's third request for an increase in distribution rates in the last five years. Emera filed notice of the case in August, stating that it would seek a \$10 million increase in distribution revenue requirement, and that it would provide evidence that it had adequately responded to the Commission's order from the previous case that adjusted its allowed returns downward as a penalty for imprudence. The OPA hired an accounting expert to assist us with the case. Early in the case, the new Tax Cuts and Jobs Act went into effect, reducing the federal corporate income tax. Although burdens and savings are supposed to pass through rates to consumers, Emera resisted, seeking to retain these savings. The Commission held simultaneous public witness hearing in Orono, Machias and Presque Isle, using the UMaine video link system. AARP Maine was helpful in publicizing these hearings, leading to a good turnout. After discovery, evidentiary hearings and briefs, the Commission agreed with Emera and removed the earnings penalty, but it only approved a \$4.5 million increase. The Commission agreed with the OPA that Emera could not retain any of the tax savings amounts requiring the Company to return them to ratepayers. Overall, the Commission approved a \$5.574 million rate increase.

2017-00232

Central Maine Power Company

Request for Approval of CPCN for the New England Clean Energy Connect Construction of a 1,200 MW HVDC Transmission Line from Quebec-Maine Border to Lewiston (NECEC) Pertaining to Central Maine Power Company

At the end of July 2017, CMP filed a Petition for a Certificate of Public Convenience and Necessity to build a transmission line from the Canadian border in Beattie Township to Lewiston. This proposed transmission line is part of a joint proposal from CMP and Hydro Renewable Energy (HRE) a Hydro Quebec generation affiliate, in response to an RFP from Massachusetts utilities to deliver to that state a significant amount of renewable power. Following the collapse of the original project chosen in response to the RFP, CMP's and HRE's bid was selected. CMP's portion of the project

would be 143 miles of DC transmission line to a DC/AC converter station in Lewiston, along with significant upgrades to CMP's existing grid in order to accommodate the power flows. The cost of the project is estimated to be \$950 million, all of which, according to CMP, will be paid for by Massachusetts customers. The OPA have intervened and is participating to protect CMP's ratepayers from any adverse impacts of the project. The case is currently set for hearings and a decision in the fall.

2017-00324

Maine Public Utilities Commission

Commission Investigation into the Response by Public Utilities to the October 2017 Storm

Following the significant power outages caused by the October 30, 2017 wind storm, the Commission opened an inquiry into the preparedness and response of both CMP and Emera Maine to that storm. In addition to responding to discovery in that investigation, each utility filed cases in separate dockets in which they requested ratepayer reimbursement for their respective costs of restoration. The OPA hired consultants to assist with these issues. In the storm preparedness docket, our expert identified several areas where utility cost accounting was deficient, including the methodologies employed in the reporting of capitalized costs. We highlighted the lack of sufficient reporting detail in contractor invoices. We also recommended improvements to outage reporting services, better staging of specialized equipment, and improvements in the outage predictabilities of CMP's outage management system. The Commission is expected to issue a report on the findings developed in the case.

2018-00052

Central Maine Power Company

Commission Initiated Investigation into Metering, Billing and Customer Communications Pertaining to Central Maine Power

In late October, CMP began using a new \$55 million customer management and billing software platform. Early in 2018, many CMP customers began voicing complaints about bills that were significantly higher than usual, some as much as 10,000 percent higher than the same month in the previous year. Very soon it became apparent that this was a widespread problem. CMP initially denied any problem, insisting that customers were using more power because of the cold winter. In the following months, the problems persisted. In March of 2018 the Commission initiated an audit of CMP's systems to address the metering and billing functions. More recently, the Commission expanded the scope of the audit to include customer communication issues. The expansion of the audit is not expected to impact the timeframe for its completion, scheduled for year's end.

From the beginning, the OPA has worked with many of these customers, helping them file complaints with the Consumer Assistance and Safety Division (CASD) and initiate

investigations into their specific account anomalies. We have also created resources to assist individuals in filing public comments in the docket.

The Commission has honored the OPA's request and agreed to include us in meetings with Commission Staff and the auditors (and CMP) for follow-up discussions and questions regarding the information provided in the auditor's written reports. We are currently seeking expert help for this effort.

EL16-19

Federal Energy Regulatory Commission

ISO New England Inc. Participating Transmission

Owners Administrative Committee

Emera Maine; Town of Braintree Electric Light Department; NSTAR Electric Company; Chicopee Electric Light Department; Central Maine Power Company; Maine Electric Power Company (MEPCO); Connecticut Municipal Electric Energy Cooperative & Connecticut Transmission Municipal Electric Energy Cooperative; The City of Holyoke Gas and Electric Department; New Hampshire Transmission, LLC; Green Mountain Power Corporation; Massachusetts Municipal Wholesale Electric Company; New England Power Company, d/b/a National Grid; New Hampshire Electric Cooperative, Inc.; Eversource Energy Service Company as agent for: The Connecticut Light and Power Company, Western Massachusetts Electric Company, and Public Service Company of New Hampshire; Town of Hudson Light and Power Department; Town of Middleborough Gas & Electric Department; Town of Norwood Municipal Light Department; Town of Reading Municipal Light Department; Town of Wallingford (CT) Electric Division; Taunton Municipal Lighting Plant; The United Illuminating Company; Unitil Energy Systems, Inc. and Fitchburg Gas and Electric Light Company; Vermont Electric Cooperative, Inc.; Vermont Electric Power Company, Inc. and Vermont Transco, LLC; Vermont Public Power Supply Authority; Shrewsbury Electric and Cable Operations
Order Instituting Section 206 Proceeding and Establishing Hearing and Settlement Judge Procedures re ISO New England Inc. Participating Transmission Owners Administrative Committee et al under EL16-19

In 2015, the FERC determined that the formula transmission rates charged by the New England Transmission Owners (NETOs) appeared to be unjust and unreasonable, and opened a proceeding. The OPA intervened because these formula rates make up a significant part of the rates of both CMP and Emera Maine. Over the next two years, the New England Transmission Owners and the so-called Consumer Interested Parties, including the OPA, participated in settlement discussions. This year, most of these parties finally reached agreement. The agreement, which is pending approval at FERC, would take effect in 2020. It includes improved transparency in protocols that govern the annual cost input to the formula rate and which allow discovery and challenge by customers. The Agreement also makes changes to the formula itself, which will improve the transparency of the numbers and inputs that make up the rates.

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
- 2016-00005
Investigation of Landowner Complaints Regarding Albion Road and Maguire Road Substations Pertaining to Central Maine Power Company
- 2016-00081
Commission Initiated Inquiry into RGGI Disbursements to Certain Customers Pertaining to Maine Public Utilities Commission
- 2017-00311
Commission Initiated Investigation of Information Provided to the Commission in Hampden Microgrid Proceeding Pertaining to Emera Maine
- 2018-00004
Commission Initiated Investigation of the Impact of the Tax Cuts and Jobs Act of 2017 Pertaining to Central Maine Power Company
- 2018-00021
Request for Approval of an Accounting Order for Deferral of Incremental 2017 Storm Restoration Costs Pertaining to Emera Maine
- 2018-00037
Request for Approval of T & C Section 57 – Net Energy Billing Pertaining to Central Maine Power Company
- 2018-00065
Request for Approval of Rate Change Regarding Annual Reconciliation of Stranded Cost Revenue and Costs Pertaining to Central Maine Power Company
- 2018-00069
Request for Approval Annual Compliance Filing (Stipulation Docket 2013-00168) Pertaining to Central Maine Power Company
- 2018-00117
Consideration of Technical Resource Manuals (TRMS) and the Process for Establishing Avoided Costs Pertaining to Efficiency Maine Trust

- 2018-00118
Request for Approval of Tariff Revision (Stranded Costs and DSM)
(7/1/18) Pertaining to Emera Maine
- 2018-00140
Commission Initiated Solicitation for Applications for Disbursement of
2018 RGGI Funds
- 2018-00170
Commission Initiated Investigation to Examine Factual Issues Raised in
a Maine Power Reliability Program Ombudsman Referral Regarding the
Coston Property
- 2018-00171
Commission Initiated Investigation into Rate-Setting Mechanisms
Regarding Non-Wire Alternatives
- 2018-00185
Request for Approval of Easement Agreement/Affiliate Transactions
Pertaining to Central Maine Power Company, Emera Maine, Maine
Electric Power Company
- 2018-00191
Commission Initiated Investigation of Avoided Costs and Other
Parameters Regarding the Determination of Cost-Effectiveness
Pertaining to Efficiency Maine Trust

2017-00065

Northern Utilities, Inc. d/b/a Until

Request for Approval of Rate Change Pursuant to Section 307

On May 31, 2017, Northern Utilities (Northern) filed a request to increase its gas distribution base rates to provide an annual increase of \$5,981,413 in distribution revenues. Then, on August 18, 2017, after the Commission's review of Northern's request had already commenced, the Company filed supplemental testimony requesting an additional increase in revenue of \$677,008, in connection with its Targeted Area Buildout (TAB) expansion program in Saco. Northern updated its revenue requirement again on January 8, 2018, proposing an increase of \$6,547,173, which included the Saco TAB. On January 26, 2018, Northern filed a final adjustment to its revenue requirement to reflect the impact of the 2017 federal Tax Cuts and Jobs Act (TCJA), which, by reducing the federal income tax rate from 35 percent to 21 percent reduced, Northern's proposed revenue increase to \$3,481,567.

After extensive discovery and testimony by Northern and the OPA, the Commission issued an order noting that without the TCJA, it would have allowed a revenue increase for Northern of \$2,072,647 after making a number of adjustments to Northern's request, including: (1) the Commission's approval of a return on equity of 9.5 percent versus the 10.3 percent request by Northern; (2) the use of a 13-month average rate base instead of the year-end rate base requested by the Company; (3) adjustments to Northern's depreciation expense; and (4) reductions to the revenue requirement for the Saco TAB. After factoring in the federal corporate income tax reduction, however, the Commission required Northern to decrease its delivery rates by \$87,243 as of March 1, 2018.

The Commission's order also extended Northern's Targeted Infrastructure Replacement Adjustment (TIRA) mechanism, which allows the Company to make an annual filing with the Commission seeking to recover the cost of replacing outdated infrastructure such as cast-iron pipe and making other safety improvements. The TIRA mechanism was extended through 2024, when Northern's infrastructure replacement project is scheduled to be completed.

2017-00209

Maine Natural Gas Corporation

Commission Investigation into Large Volume Customer Underbilling Pertaining to Maine Natural Gas Corporation

This proceeding began with a complaint filed with the Commission's Consumer Assistance and Safety Division (CASD), which raised concerns about how Maine Natural Gas Corporation (MNG) had billed several of its large-volume customers. In the course of the ensuing CASD investigation and MNG's 2017 cost of gas proceeding, it came to light that MNG had discovered in 2016 that it had underbilled a large volume sales customer by a factor of ten when compared to actual usage. An inspection by MNG then found eleven other cases where this had occurred, going back as far as 2002. The Commission initiated its investigation on August 23, 2017, with the purpose of examining the effect of this underbilling on other customers and the possibility of adjusting MNG's distribution rates set in its most recent rate case, due to the billing units and revenue assumptions used in that case having been based in part on the incorrect billing and usage information.

On March 1, 2018, the OPA submitted testimony showing that by underbilling these 12 large-volume customers, thereby undercounting the amount of gas they used, MNG had increased the amount of gas it designated as "lost and unaccounted for" on its system. The cost of replacing such lost and unaccounted for gas is recovered from ratepayers, and MNG had thus been over-charging its ratepayers for the years during which this underbilling occurred. The OPA determined the amount by which ratepayers had been overcharged due to this error was \$517,990.

On June 15, 2018, Commission Staff issued a Bench Analysis examining the possibility that MNG's distribution rates be adjusted so that they can be based on its actual gas sales. The case is still ongoing, with a final Commission decision expected in 2018.

2017-00147

Bangor Natural Gas Company, Inc.

Request for Approval of Cost of Gas Filings (5/1/16 - 4/30/17) Pertaining to Bangor Natural Gas Corporation

Bangor Natural Gas Company (BGC) filed its annual cost of gas activities report with the Commission on June 30, 2017, and the Commission initiated a review of the Company's gas sales, purchasing, and hedging activities. The OPA, in the course of this review, raised two concerns with BGC's cost of gas activities. First, BGC disclosed that it has been charging its "bundled" customers (those taking both gas supply and delivery service from the Company) for both the cost of lost and unaccounted for gas related to serving them and the cost of lost and unaccounted for gas related to serving BGC's transportation customers (those taking only delivery service). Second, the OPA noted that in cashing out imbalances between the quantities

of gas scheduled for delivery by gas marketers serving transportation customers and the gas actually delivered, BGC used the price of gas at the Algonquin city-gate index for the price of gas delivered to southern New England. The result was that if a marketer under-delivered, BGC would charge the marketer the cost of buying replacement gas using the Algonquin city-gate price. But when it bought that replacement gas, BGC would do so at a higher price that included an additional amount charged for delivery to Maine. In this case, the marketer would have paid less than what BGC spent for replacement gas, with the difference being made up by BGC's bundled customers through the Company's cost of gas rate.

To date, there have been several technical conferences in this proceeding and an extensive amount of testimony and discovery by both BGC and the OPA. On March 22, 2018, the OPA filed a Motion for Summary Judgment with the Commission, explaining that by charging bundled customers for the cost of lost and unaccounted for gas related to serving both them and other customers, BGC violated 35-A M.R.S. § 4703, which only allows BGC to charge its bundled sales customers the cost of gas purchased to supply them. The OPA has calculated that BGC overcharged its bundled customers in this manner by \$78,634 during the period of May 2016 through April 2017. The OPA's Motion for Summary Judgment requests that the Commission order BGC to refund this amount to its bundled customers and open an investigation into prior periods.

OTHER NATURAL GAS CASES

- 2015-00175
Request for Approval of Third Triennial Plan Pertaining to Efficiency Maine Trust
- 2016-00283
Commission Initiated Notice of Probable Violation Regarding Pipe Joining Procedures 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
- 2017-00127
Request for Approval of Annual Cost of Gas Reconciliation (9/1/17 – 8/31/18) Pertaining to Maine Natural Gas Corporation
- 2017-00176
Request for Approval of Cost of Gas Filings Pertaining to Summit Natural Gas of Maine, Inc.
- 2017-00202
Request for Approval of Cost of Gas Factor Rates for November 2017 – April 2018 Pertaining to Northern Utilities, Inc. D/B/A Unitil
- 2017-00254
Rulemaking Amendments Consumer Protection Standards for Electric and Gas Utilities Chapter 815
- 2018-00005
Commission Initiated of Investigation of the Impacts of the Tax Cuts and Jobs Act of 2017 Pertaining to Maine Natural Gas Corporation
- 2018-00006
Commission Initiated of Investigation of the Impacts of the Tax Cuts and Jobs Act of 2017 Pertaining to Summit Natural Gas of Maine, Inc.
- 2018-00007
Commission Initiated of Investigation of the Impacts of the Tax Cuts and Jobs Act of 2017 Pertaining to Bangor Natural Gas Company, Inc.
- 2018-00040
Request for Approval of Precedent Agreement for Portland Natural Gas Transmission Systems Portland Xpress project Pertaining to Northern Utilities, Inc. D/B/A Unitil

- 2017-00041
Request for Approval of Cost of Gas Factor Rates for the 2018 Summer
Pertaining to Northern Utilities, Inc. D/B/A Unitil
- 2017-00069
Request for Approval of an Affiliated Interest Transaction Pertaining to
Northern Utilities, Inc. D/B/A Unitil
- 2018-00084
Request for Approval of Annual Price Change (6/1/18) Pertaining to
Summit Natural Gas of Maine, Inc

Pole Attachment Dockets

2017-00183

Maine Public Utilities Commission

Commission Initiated Inquiry into Amendment of Chapter 880 of the Commission's Rules

2017-00247

Maine Public Utilities Commission

Rulemaking Amendment to Joint Use Utility Poles; Determination and Allocation of Costs and Procedure Chapter 880

In 2015, the OPA requested the Commission reexamine Chapter 880 of its rules, which governs utility pole attachments (Docket No. 2015-00295). The rule had not been amended in 20 years and failed to meet the needs of current telecommunications projects. With the push to deploy broadband throughout the state, the pressure on getting access to utility poles to hang fiber has resulted in long delays and high expenses. After receiving comments from the parties and considering the matter, the Commission determined that it was unable to amend the rule without clarification from the Legislature as to the extent of its jurisdiction with respect to regulating attachments to utility poles.

The Legislature enacted Public Law 2017, Chapter 199, which amended 35-A M.R.S. § 711, the joint use statute, to broaden the Commission's jurisdiction to address pole attachment issues. In response to this legislation, on July 28, 2017, the Commission opened an inquiry into the amendment of Chapter 880. The Commission also provided a "strawman" rule that proposed amending the existing rule, incorporating many of the changes that the OPA had proposed in its 2015 filing. Numerous telecommunications companies filed comments in the proceeding explaining the difficulties of obtaining access to the poles. The pole owners also filed comments objecting to any changes in the rules that would cause them to incur additional costs or lose control of the poles. The OPA filed comments reiterating its concern that the rule was not providing a fair and reasonable process for obtaining access to the poles, leading to greater costs for broadband deployment, particularly in hard to reach areas of Maine. In addition to taking written comments, the Commission held two public workshops that allowed the parties to engage in further discussion.

On September 27, 2017, the Commission closed its inquiry and simultaneously opened a rulemaking, Docket 2017-00247, to amend Chapter 880. The OPA again filed comments pushing for an improved process and firm timeframes to govern telecommunications providers' ability to gain access to utility poles for purposes of expanding broadband. The Commission adopted the rule in January of 2018. The rule

provides a streamlined process for the “make-ready” work required to attach fiber to the poles, which should facilitate broadband deployment.

The Commission has opened an additional rulemaking proceeding to address the rates that pole owners charge to pole attachers on an annual basis. The Commission also plans further rulemaking to address the potential for some form of overarching governance or supervision of pole attachment in Maine, such as the use of a single pole administrator. The OPA will continue to participate in these processes as a means of facilitating access to broadband, which has become a necessary component of economic development and quality of life in Maine.

POLR Deregulation Dockets

2017-00016, 2017-00185, 2018-00027

Consolidated Communications/NNE f/k/a Northern New England d/b/a FairPoint Request for POLR Relief Certificate Pertaining to Northern New England d/b/a FairPoint Communications

In 2016 the Maine Legislature enacted Public Law 2015, Chapter 462, which removed FairPoint Communications, now Consolidated Communications, from its obligation to provide “provider of last resort” (POLR), or basic telephone service in Portland, South Portland, Lewiston, Auburn, Bangor, Biddeford and Sanford as of August 29, 2016. The statute, codified at 35-A M.R.S. § 7221, also provided that Consolidated could be relieved of its obligation to provide POLR service in 15 additional municipalities throughout the state if it met certain standards. The Legislature approved the municipalities named in the statute as being eligible for POLR deregulation because these towns have sufficient competition by alternative telephone service providers. Deregulation of POLR service means that Consolidated is not required to seek approval from the Commission when it wants to raise its rates. In addition, consumers will not be able to bring complaints about their telephone service to the Commission’s attention. The statute provided a one-year grace period following the entry of an order deregulating the 15 municipalities in which Consolidated cannot raise its prices. Regardless of being relieved of its POLR obligation in any municipality in the state, the statute requires Consolidated to continue to maintain its network for providing telephone service.

In 2017 and 2018 Consolidated filed three petitions with the Commission seeking to be relieved of its obligation to provide POLR service in the 15 statutorily designated communities. With respect to each of these petitions, Consolidated had to demonstrate that it had met service quality requirements set forth in the statute for the two consecutive quarters immediately preceding each request. Consolidated was required to provide notice to its POLR customers of its desire to be relieved of POLR obligations. The Commission held meetings in each of the 15 municipalities involved. The OPA

attended each of these meetings and was available to answer questions of POLR customers impacted by the deregulation of POLR service. The Commission entered orders granting Consolidated certificates relieving it of its POLR obligations for the 15 municipalities in the following dockets:

2017-00016 (order entered April 27, 2017)

Scarborough, Gorham, Waterville, Kennebunk and Cape Elizabeth

2017-00185 (order entered November 2, 2017)

Bath, Yarmouth, Old Orchard Beach, Westbrook, Freeport

2018-00027 (order entered May 3, 2018)

Brunswick, Augusta, Windham, Kittery, Brewer

OTHER TELECOMMUNICATIONS CASES

- 2017-00305

Commission Initiated Inquiry Regarding Chapter 288 – Maine Universal Fund

2017-00190*Livermore Falls Water District**Request for Approval of Rate Change – 307 (5/20/18) Pertaining to Livermore Falls Water District*

Livermore Falls Water District (LFWD), on August 1, 2017, filed a request pursuant to 35-A M.R.S. § 307, to increase its annual revenue by \$325,500, or by 39 percent over its then current level. This was LFWD's first rate increase request in fifteen years, and LFWD attributed the need to increases in operations and maintenance expenses, depreciation expenses, and principal and interest on bonds to finance capital improvements to the water system. Along with the OPA, the Jay Village Water District (JVWD) also intervened. JVWD purchases water from LFWD to provide service to its own customers as well as public fire protection in Jay.

A technical conference was held on November 9, 2017, which was followed by lengthy settlement negotiations between both water districts and the OPA, with input from local legislators. The outcome was a stipulation among the parties, filed with the Commission on January 22, 2018, which proposed that: (1) LFWD's rates would increase effective March 1, 2018, to produce a revenue increase of \$301,367, or an increase of 36 percent above then current levels; (2) this increase would be staggered over three years, with 50 percent of the increase to be effective on March 1, 2018, and 25 percent effective on each of March 1, 2019 and March 1, 2020; and (3) the consumption charge for JVWD would increase from \$1.4274 per 100 cubic feet to \$1.99 per 100 cubic feet, over a three-year period. The Commission approved this stipulation.

Rather than being a win for ratepayers, the OPA believes that this case illustrates the challenges facing small water districts and their customers, with aging infrastructure, increasing costs, and a desire to avoid raising rates. This tends to produce fewer, but larger, rate increases than might otherwise be the case. The OPA looks forward to working with water districts and the Legislature to find ways to smooth out rate increases and find opportunities to decrease expenses through local and regional cooperation.

2017-00252*Maine Public Utilities Commission**Rulemaking Amendments for Consumer Protection Standards for Water Utilities Chapter 660*

In May of 2017, the OPA filed a request with the Commission that it open a rulemaking process to amend Chapter 660 of its rules regarding consumer protection

standards for water utilities. The OPA proposed amending the portion of the rule that governs disconnection notification requirements for residential premises that are leased or rented. The OPA suggested the rule be clarified as to the exact timeframe for when the utility must send notice of a disconnection to the landlord as well as when the utility must post the notice of disconnection on the premises. The OPA believed the timeframe in the rule was unclear, leading to confusion for water utilities, landlords and tenants.

The Commission opened a rulemaking to address the issue. The OPA and several utilities submitted comments. The Commission held a rulemaking hearing, which gave the OPA and water utility representatives further opportunity to discuss possible amendment to the rule. The Commission has taken no further action on the rulemaking since the close of the written comment period in December of 2017.

OTHER WATER CASES

- 2016-00233
Commission Inquiry into Water Supply Issues Affecting Maine Water Utilities
- 2017-00190
Request for Approval of Rate Change – 307, Pertaining to Livermore Falls Water District
- 2017-00286
Request for Approval of Terms and Conditions (8/19/18) Pertaining to Greater Augusta Utility District
- 2017-00316
Request for Approval of Rate Change – 307, Pertaining to Jay Village Water District
- 2017-00325
Request for Approval of Securities Pertaining to Van Buren Water District
- 2018-00008
Commission Initiated Investigation of the Impact of the Tax Cuts and Jobs Act of 2017 Pertaining to all the Maine Water Company Divisions
- 2018-00059
Investigation into the Acts and Practices of the West Paris Water District Pursuant to 35-A M.R.S.A. § 1303
- 2018-00112
Request for Approval of Reorganization Between SJW Group and CTWS Pertaining to the Maine Water Company

Public Advocate Barry Hobbins as well as representatives from the Office of the Public Advocate attended all public hearings and work sessions of the Joint Standing Committee on Energy, Utilities and Technology (EUT) during the second session of the 128th Legislature. Not only did the OPA provide testimony during the public hearings and participated in the work sessions and language review sessions – the OPA actively participated during the legislative session in stakeholder groups concerning microgrids, energy efficiency, non-transmission alternatives, Lifeline, utility arrearage management and access to telephone services for low-income customers and biomass as well as others which we believe greatly benefit the ratepayers of Maine. More information can be found on our website at www.maine.gov/meopa/reports.

P.L. 2018, ch.414 (LD 1848)

An Act to Extend Arrearage Management Programs

The Legislation that created the Arrearage Management Program (AMP) was intended to help low-income customers who had fallen behind in their electric bill payments and help them to utilize energy efficiency programs to reduce their usage, which would reduce their bills. The authorizing legislation was for a period of three years with an opportunity to allow the Legislature to review the program after this time. LD 1848 authorized the program for an additional three years and provided for an assessment of the program in a report to the EUT Committee at the end of the three years. The bill also made participation in the program optional for consumer-owned utilities. The time allows more information to be collected and evaluated to allow development of further recommendations and adjustments to help the program and participants succeed. It was determined through this program that the average household enrolled in AMP used twice as much electricity each month as the average Maine household. This high usage makes even the monthly bill a burden for many program participants, let alone paying down any arrears. Extending the program would allow additional time to improve the program so that it could realize its original purpose – to allow low-income customers who have fallen behind in their bills an opportunity to become current and avoid disconnection. It will also allow the Efficiency Maine Trust to implement more energy savings programs with a greater potential for lowering energy usage than were offered in the initial three years of the program. Community Action Programs will also create additional support for program participants through financial literacy.

The OPA strongly supported this bill, testifying not only at the public hearing but actively participating in the work sessions as well as working with other stakeholders.

After the public hearing and work sessions the EUT gave LD 1848 an “ought to pass as amended.” It was then sent to the House and Senate where it was passed only to be vetoed by Governor LePage in May. After an effort headed by the OPA this matter was reconsidered and it was voted unanimously (with four reported absent) to overturn the veto. On May 2, 2018, LD 1848 was enacted into public law and AMP is now extended to September 30, 2021.

LD 1872

An Act to Enhance the Operations of the Telecommunications Relay Services Advisory Council

LD 1872 amends the enabling legislation of the Telecommunications Relay Services Advisory Council (“Council”), reflecting recommendations of the EUT Committee and the Attorney General’s office. In January of this year, the Council submitted a Program Evaluation Report to EUT pursuant to the State Government Evaluation Act, 3 M.R.S. § 956 (“GEA”). The Council identified several areas in which the organization needed to make changes to modernize its operations to better meet its obligation to ensure that Maine continues to offer high-quality telecommunications relay services to the deaf and hard of hearing community. The EUT Committee agreed with the following recommendations in the GEA report:

- Taking out the word “advisory” and adding language that requires the Council to implement TRS services
- Establishing a “Telecommunications Relay Services Council Fund” to receive funds transferred from the Maine Public Utilities Commission (MPUC), which is responsible for collecting the statutory assessments from telecommunications providers
- Requiring the Council to prepare an annual budget not to exceed \$600,000 to submit to the MPUC, which will then transfer funds to the Telecommunications Relay Services Council Fund. This language removes the obligation of the MPUC to determine yearly funding for relay services and instead gives the Council the autonomy to create a budget necessary to support the provision of relay services in Maine
- Defining the duties of the Council to explicitly include the ability to enter into contracts for services, in coordination and accordance with state purchasing laws and rules
- Giving the Council authority to develop pilot programs to provide access to relay services
- Establishing that Council members may be reimbursed for the costs associated with the participation in conferences related to the telecommunications relay services and assistive telecommunications devices or technology.

The bill also establishes membership of the council, one member of which is from the Office of the Public Advocate. Senior Counsel Liz Wyman was appointed to the council by Public Advocate Barry Hobbins. This bill was emergency in nature as funding levels for telecommunication relay services needed to be in place for contracts that were scheduled to be executed in June of 2018. This bill was passed by both the

House and Senate and became law (without the Governor's signature as an emergency measure) on May 1, 2018.

LD 1746

An Act to Ensure That Low-income Residents of the State Have Access to Telephone Services

LD 1746 is bipartisan legislation focusing on those citizens of Maine who most need phone access. Lifeline phone service is important and at times vital for low-income Mainers who depend on reliable phone service health care, employment, child care or other essential areas of life. This bill clarifies that telephone services available to low-income Mainers be supported by federal universal service support funds and are not subject to the state service provider tax and that federal support for such services is not subject to fees assessed under the state universal service fund, the state telecommunications education access fund and the statewide E-9-1-1 surcharge. There was no testimony in opposition to this bill and it had the unanimous support of the EUT Committee. This bill was supported by a broad coalition of organizations and businesses including AARP Maine, Legal Services for the Elderly, Maine Equal Justice Partners, the Maine Community Action Network, several phone service providers as well as the OPA. Maine Senator Susan Collins lobbied for funding at the federal level within the Federal Communications Commission ("FCC") budget for maintaining Lifeline service on behalf of Maine most vulnerable and by meeting with the stakeholders group and Public Advocate Barry Hobbins at her Portland office. This bill was carried over to a Special Session of the 128th Legislature, passed to be enacted on June 21, 2018, and signed by Governor LePage on June 25, 2018.

LD 260

An Act to Create the Maine Energy Office

This bill, which was carried over from the first session of the 128th Legislature, renames the Governor's Energy Office ("GEO") the Maine Energy Office ("MEO"). It establishes the office, transfers the staff, power and functions from the GEO to the MEO on January 1, 2019. It places the office under the control and supervision of a commissioner instead of a director. As an established cabinet level position appointed by the Governor the commissioner would lead the state's energy planning and policy functions. The EUT Committee would review the Governor's nominee for the Commissioner and the Senate would confirm that person. LD 260 as originally proposed established the position of deputy commissioner to be appointed by the Governor and subject to Senate confirmation with a later committee amendment specifying that the deputy commissioner serve at the pleasure of the commissioner. In addition, LD 260 specifies that Efficiency Maine Trust transfer an annual amount to the newly created office. This legislation not only elevates the director to commissioner but results in the office benefitting from consistent funding.

This change to an executive level position puts the MEO on a level parity with other New England States and will help to elevate Maine's energy legislative leadership. This bill is unfinished business and is again carried over to any special session that may be held.

LD 1729

An Act to Restore Confidence in Utility Billing Systems

During the second session of the 128th legislature LD 1729 was amended both in title and scope. The amended bill adds regulations to large electric companies and gives the Commission flexibility when conducting large investigations to have those investigations paid for by the shareholders and not by the ratepayers. It also allows for a third party to test Smart Meters for accuracy and additionally requires that the Commission generate a report regarding storm preparation and execution. The bill's mandated report would indicate if the investor-owned transmission and distribution utilities had done enough to protect and strengthen their systems as high-intensity storms increase, if it is beneficial for the ratepayers to require the utilities to do more to protect their systems against damage, to prevent or decrease outages and their duration, ways to improve safety, and what lessons were learned from the outages due to recent storms. A Central Maine Power spokesperson testified on behalf on this bill commenting that CMP takes every complaint seriously. The OPA believes the bill as amended is certainly a step in the right direction by working to restore not only confidence in but also the integrity of the utilities and their billing systems. The EUT Committee issued a divided report and this bill was carried over to any legislative special session that may be held and was passed to be enacted by the House on June 20, 2018, by the House and by the Senate on June 21, 2018. Governor LePage vetoed this bill on July 3, 2018. The matter was reconsidered and the House overrode the veto by 143 to 0 (8 being absent), the Senate overrode the veto by 26 to 8 and it was enacted into law on July 9, 2018. The OPA agrees that there should indeed be periodic and independent audits of investor-owned transmission and distribution utility's metering and billing systems.

SUPPORT FOR UTILITYCUSTOMERS

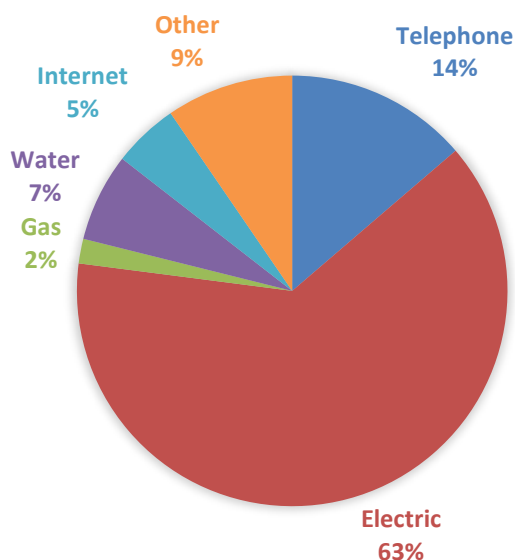
Assisting Litigants

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 begun revising all of our documents to meet accessibility standards and ensure access by all. We have assisted 15 *pro se* litigants in five separate cases and worked with one individual to help draft a ten-person complaint.

Responding to Customer Concerns

In the past year, the Consumer Advisor received and addressed 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.

PERCENTAGE OF CONTACTS BY SUBJECT MATTER



In addition to consumer complaints that come in to the office directly, the Office of the Public Advocate participated in 12 public forums addressing the upcoming changes to telephone deregulation. The public forums were panel discussions lead by Public Utilities Commission staff and joined by a staff member from the OPA and a

representative from Consolidated Communications. Meetings were publicized through joint efforts with AARP.

The OPA urged the Public Utilities Commission to hold three public witness hearings the service district of Emera Maine who had proposed a 12% rate increase. These public witness hearings were held in Orono, Machias and Presque Isle. Staff members of the OPA were in attendance providing information to assist residents in deciding the appropriate avenue to pursue their complaints along with handouts and other documents explaining the case processed. The meetings were advertised through joint efforts with AARP.

Consumer Education

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 OPA created a bi-weekly newsletter to update individuals, Legislators, and other State agencies on our case activity. The publication is emailed out twice each month. The Consumer Advisor continues to develop case specific guides for individuals seeking information on participating at the Public Utilities Commission.

The second major project underway is an upgrade to the Office of the Public Advocate website. This upgrade will enhance our materials by streamlining the website and making it fully compatible with screen readers and other accessibility equipment.

RATEPAYER FY 2017-2018 SAVINGS

Ratepayer savings from July 1, 2017 to June 30, 2018 attributable to the efforts of the Office of the Public Advocate:

2017-00065

Northern Utilities, Inc. d/b/a Unitil, Request for Approval of Rate Change Pursuant to Section 307

\$1,408,920

Northern updated its revenue requirement again on January 8, 2018, proposing an increase of \$6,547,173, which included the Saco TAB. On January 26, 2018, Northern filed a final adjustment to its revenue requirement to reflect the impact of the 2017 federal Tax Cuts and Jobs Act (TCJA), which, by reducing the federal income tax rate from 35 percent to 21 percent reduced Northern's proposed revenue increase to \$3,481,567.

2017-00069

CMP Annual Compliance case

\$4,000,000

Ratepayers savings are attributable to methodology developed by OPA Consultant: \$3 million. Identification of accounting errors by OPA Consultant- additional reduction: \$1 million.

2017-00198

Emera Rate Case

\$5,540,000

This rate case was Emera Maine's third request for an increase in distribution rates in the last five years seeking a \$10 million increase in distribution revenue requirement. After discovery, evidentiary hearings and briefs, the Commission agreed with Emera and removed the earnings penalty, but it only approved a \$4.5 million increase. It found, agreeing with us, that Emera could not retain any of the tax savings amounts but needed to return them to ratepayers. Overall, the Commission approved a \$5.574 million rate increase.

2017-00018*Emera – Acadia Substation***\$1,800,000**

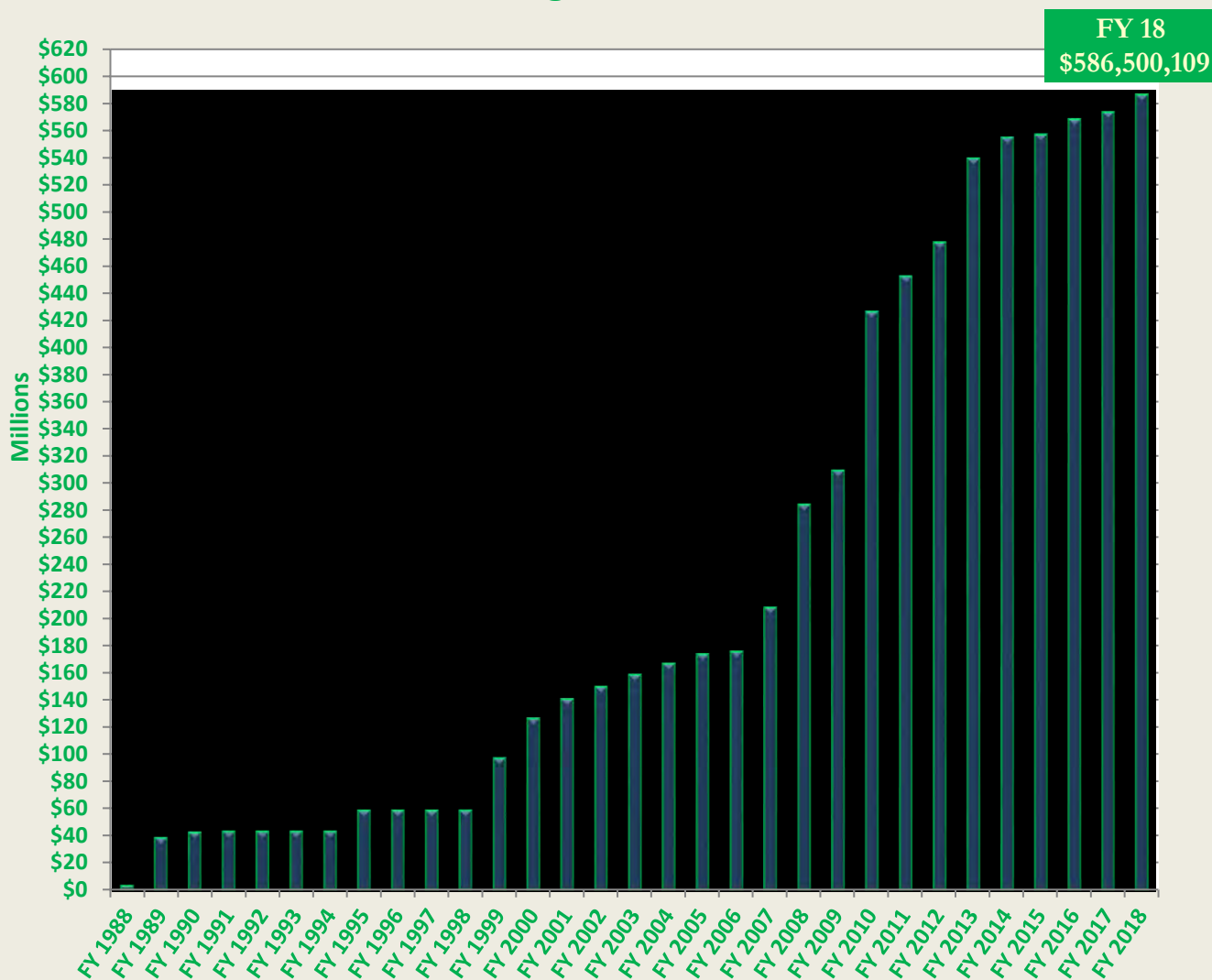
Emera Maine began developing a substation in Bar Harbor that was originally to cost \$5 million. The Commission allowed Emera to include \$5.574 million in its distribution rates, finding that approximately \$1.8 million was imprudently spent.

2017-00127*Annual Cost of Gas Reconciliation (9/1/17 – 8/31/18)***\$ 921,361***Pertaining to Maine Natural Gas Corporation***2017-00147***Approval of Cost of Gas Filings (5/1/16 - 4/30/17) Pertaining to Bangor Natural Gas Corporation***\$ 57,254****TOTAL SAVINGS FY 2017 – 2018: \$13,040,845**

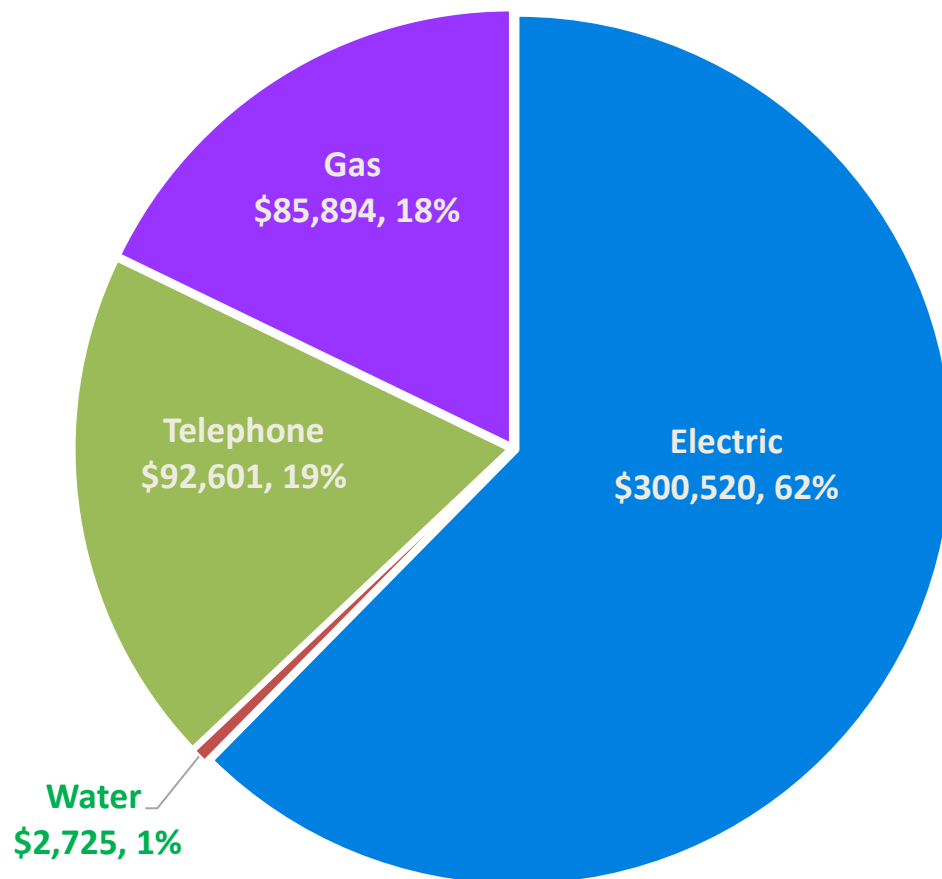
CUMULATIVE SAVINGS

Cumulative Savings in Rates 1988 to 2018

Cumulative Savings in Rates 1988 to 2018



CONSULTANT COSTS



PUBLIC ADVOCATE
STAFF TIME

