

MAINE STATE LEGISLATURE

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**State of Maine
Office of the Public Advocate**



**Retail Electricity Supply
Study Report**

February 1, 2023

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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

Janet T. Mills
GOVERNOR

William S. Harwood
PUBLIC ADVOCATE

February 1, 2023

Dear Members of the Joint Standing Committee on Energy, Utilities and Technology,

This Report is submitted by the Office of Public Advocate (OPA) pursuant to LD 318, “Resolve, To Direct the Office of the Public Advocate To Study Reforming Maine's System of Retail Electricity Supply To Provide More Options to Maine Customers and Support Maine's Climate Goals”. (Public Law 2021, Chapter 164).

The Report is based on extensive research and analysis by highly respected national experts, led by Susan Baldwin of SMBaldwin Consulting and Steve Estomin of Exeter Associates. The research and analysis of each firm is included in their respective reports attached hereto as Attachments A and B.

The Report also reflects the input of an informal stakeholder advisory group of knowledgeable Maine public officials and industry leaders, including:

Noël Bonam & Barbara Alexander, AARP
Susan E. Clary, Central Maine Power Company
Marc Hanks, NRG Energy
Lori Hemmerdinger, C.N. Brown
Stephen Johnston, Versant Power
Jeff Jones, Maine Power LLC
Ben Lucas, Maine State Chamber of Commerce
Sean Mahoney, Conservation Law Foundation
Claire Swingle, Maine Governor’s Energy Office
Mitch Tannenbaum, Maine Public Utilities Commission

OPA appreciates the time, effort, and valuable contributions of each member of the stakeholder group. However, it is important to note that the conclusions and recommendations submitted in this Report do not necessarily reflect the views of individual members of the stakeholder group. Written comments from stakeholders are attached as Attachment C.

Based on the extensive analysis of the Baldwin and Exeter teams and the input from the stakeholder group, OPA is recommending several significant changes to improve the

retail supply of electricity to Maine residential consumers. Specifically, the Baldwin study focused on reforming the rules governing the residential market served by Competitive Electricity Providers (CEPs) and the Exeter study focused on reforming Standard Offer Service (SOS). Each of their Reports include analysis of their respective subject areas and recommendations to benefit Maine consumers.

REFORMING RETAIL SUPPLY BY CEPS

As part of electric utility restructuring in 2000, Maine allowed non-utility CEPs to supply electricity to Maine consumers. At a high level, the Baldwin Report concludes that the anticipated benefits of the competitive electricity market for residential customers, including promised innovations in pricing and products, have not materialized. Accordingly, the OPA is recommending phasing out residential CEP service. Although there are CEPs that do provide a benefit to a limited number of Maine consumers; overall, this service does not benefit Maine consumers. This is reflected in the fact that approximately 10% of Maine residential consumers purchase their electricity from CEPs and, for those few who do, especially low-income consumers, they collectively have paid substantially more than the Standard Offer (SO) price.

To assure ratepayers are not paying more than necessary, the OPA is recommending that the Standard Offer Provider(s), as periodically selected by the Maine Public Utilities Commission (PUC), be the exclusive retail suppliers to all residential customers. CEPs would have the option to continue to serve commercial and industrial customers.

Alternatively, if the Legislature decides to allow CEPs to continue providing residential service, the OPA is recommending that, as outlined in the Baldwin Report, existing consumer protections should be tightened by:

- a) capping CEP prices at Standard Offer prices;
- b) prohibiting residential CEP contracts with rates that vary month to month;
- c) improving transparency of competing CEP prices;
- d) developing a public CEP report card showing consumer complaints and state enforcement actions against each CEP;
- e) improving annual CEP reports to the PUC;
- f) strengthening regulation of door-to-door sales by CEPs; and
- g) providing additional resources to OPA and PUC for consumer education, complaint handling and compliance and enforcement actions.

REFORMING STANDARD OFFER SERVICE

The Exeter Report focuses on the need for Standard Offer reform. The Report responds to recent large increases in SO prices. In just over a year's time, the SO price in Maine tripled from approximately 6 cents/kWh to approximately 18 cents/kWh. There are

few basic commodities whose prices increase so dramatically over such a short period of time. Unfortunately, this results in financial hardship for: low-income consumers; consumers living on a fixed income; those who live paycheck to paycheck; and small businesses on a tight budget who have a limited ability to pass these increases on to their customers.

To address this situation, the Exeter Report recommends that a new Standard Offer Provider be designated to be the statewide supplier of SOS. The OPA believes that designating a new SO Provider for a term of up to 10 years will reduce the future risk of sudden sharp price increases. Implementing the “laddering” approach to purchasing SO supply recommended in the Exeter Report, this new SO Provider can, subject to oversight by the PUC, structure and diversify its energy purchases over time to stabilize prices.

In addition, the new SO Provider should be directed to help achieve Maine’s climate goals by offering consumers an optional “green” Standard Offer supply and/or adopting, subject to PUC oversight, rate design changes that promote the efficient use of electricity as a substitute for fossil fuels.

Finally, the synergies between the SMBaldwin Report and the Exeter Report should be noted. Making the SO Provider the exclusive retail supplier of electricity to residential customers minimizes price volatility, benefiting households throughout Maine. Without the risk that CEPs temporarily offer prices below SO prices when market conditions are favorable, and then raise them above SO prices shortly thereafter (which puts pressure on SO Providers to also “follow the volatile market”), the SO Provider will be able to maintain stable prices.

OPA looks forward to reviewing with the EUT Committee this Report and our recommendations. We will be happy to answer any questions and welcome your feedback.

Cc: Retail Supply Stakeholder Group

Sincerely

A handwritten signature in cursive script that reads "William S. Harwood". The signature is written in black ink on a white background.

William S. Harwood
Public Advocate

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Reform of Electricity Supply: CEP-Served Residential Retail Electric Market

Prepared by Susan M. Baldwin and Timothy E. Howington

on behalf of

Maine Office of Public Advocate

per 2021 P.L. ch.164 (LD 318)

February 1, 2023

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EXECUTIVE SUMMARY

After more than twenty years, the hoped-for innovation and lower prices in the residential retail electric supply market have yet to materialize.

State policymakers opened Maine’s residential retail electric supply market to competitive entry in 2000, with hopes of innovation and lower electricity prices for Mainers. That innovation has yet to materialize, and, on average, prices charged by competitive electric providers (CEP) have exceeded the prices households pay for standard offer service.

- There is no evidence that the products CEPs offer to residential customers contribute more to achieving Maine’s climate goals than do standard offer services (which are already “green” because they incorporate the state’s renewable portfolio standard (RPS) requirement), the Green Power Program, and the adoption of energy efficiency measures in the home.
- Despite more than twenty years of a residential market open to competitive electric providers, there is no evidence of innovation.
- The prices for the products offered by competitive electric providers have historically been much higher than for standard offer service: The rates that CEPs charged Maine households in 2021 ranged between \$0.0670 per kWh and \$0.1708 per kWh, with an average of \$0.1087 per kWh – *70 percent above the standard offer rate that year, and, the average price charged by each supplier exceeded the standard offer.*
- Possible short-term savings under the current atypical electric supply conditions are unrepresentative; over time, consumers pay significantly more for CEP supply, particularly under variable rate plans, than for standard offer service.

The opportunity cost (the loss of potential gain from other alternatives when one alternative is chosen) of continuing the residential CEP market is substantial.

- Residential consumers pay approximately \$20 million above standard offer rates each year in order to buy an essential product. These millions of dollars could be allocated in ways that contribute more effectively to Maine’s economy and to the achievement of Maine’s climate goals.
- Ensuring compliance with regulations (addressing consumer complaints and pursuing enforcement actions) is time-consuming and resource-intensive.

Low-income consumers are particularly vulnerable to promotional offerings by CEPs that, over time, lead these consumers to pay more for their essential electric service requirements.

- In Central Maine Power’s region, low-income consumers are almost 50 percent more likely to purchase from CEPs than are other consumers.

- In Versant’s region, low-income consumers are 33 percent more likely to purchase from CEPs than are other consumers.
- This pattern is consistent with studies in other states that show that low-income households and low-income communities disproportionately purchase CEP services. Studies in other states also show that households in low-income communities are charged more per kWh than are non-low-income/community households that purchase their services from CEPs.

Maine’s CEP-served market is small, and enrollments have been declining, but the overall gap between CEP rates and the standard offer service rates has nonetheless increased in recent years.

- Only nine percent of Maine households purchase electricity supply from competitive electricity providers.
- In January 2014, 29.9 percent of small customers (residential and small commercial) chose CEPs; by September 2022, that number had dropped to 11.2 percent.
- Although fewer households are purchasing CEPs’ products, they are paying more to do so:
 - In 2018, on average, households paid between \$150 and \$200 more for electricity per year if they purchased from CEPs; in 2021, on average, households paid between \$310 and \$340 more for electricity per year if they purchased from CEPs.

The “greenness” of CEPs’ products is ambiguous at best, and likely based on out-of-region fuel sources; also, consumers may pay CEPs a steep mark-up for products marketed as green.

- The products that CEPs market as “green” may be simply complying with Maine’s baseline renewable portfolio standard.
 - Consumers may not understand that standard offer service is the same “shade of green” as is CEPs’ basic products – standard offer service is also based on a fuel mix that comports with Maine’s renewable portfolio standards.
- None of Maine’s CEPs rely on Green-e® certified renewable energy and carbon offset products, which meet the most stringent environmental and consumer protection standards in North America.
- The price of one CEP green product (“50% green”) is almost five cents per kWh higher than the price for the CEP’s basic product; moreover, the price for that green product is variable.
 - By contrast, consumers can enroll in the *Green Power* program (which is based on renewable energy sources in Maine) for less than two cents per kWh.

From a cost-benefit perspective, the most effective public policy would be to phase out the residential CEP market.

- Savings over the longer term have not materialized, and low-income consumers are especially harmed by the market.
- The additional societal costs of the CEP market include both direct costs (higher overall prices) and the harm to consumers when gaps in the enforcement of consumer protection laws and regulations leave them vulnerable to unfair or deceptive practices.
- Plugging the gaps in consumer protection and consumer education would require significant additional resources.
- The CEP residential market should be phased out effective January 1, 2024 (no new customers and no renewals of existing contracts).

If the CEP market is not discontinued, then:

- Rates for CEP services with the same fuel source and emissions as standard offer service should be capped at standard offer rates for all households, and, at a minimum, for low-income households.
- Variable rates should be prohibited.
- Automatic renewals of contracts should be prohibited.

If the CEP market continues, additional consumer protections should be adopted.

- Door-to-door marketing should be monitored closely.
 - At the very least, the use of agents should be prohibited, and an independent entity should audit door-to-door sales and marketing practices.
 - Any CEP found to violate consumer protections should be prohibited from engaging in any further door-to-door marketing.
- Early termination fees should be eliminated.
- Greater transparency is essential to enable consumers to compare:
 - Prices;
 - Fuel mix;
 - Emissions; and
 - Use of in-region versus out-of-region renewable energy sources.

If the CEP market continues, state agencies should be given additional resources with which to oversee the market and promote informed decision-making by consumers.

- CEPs should contribute annually (in proportion to their Maine revenues) to all state agencies that are charged with education, auditing, compliance, and enforcement.
- State agencies with key responsibilities for overseeing CEP practices and consumers’ ability to understand the functioning of the CEP market should receive adequate resources.
- Examples of initiatives that could benefit from additional funds and staffing include:
 - An objective, independently conducted analysis (perhaps by a state university or community college) of the demographics (income and English proficiency) of those households purchasing CEP services (including levels of participation and prices paid);
 - Verification of any claims as to “green” energy;
 - Independent audits of CEPs’ sales and marketing practices (e.g., listening to recordings of sales calls; reviewing marketing materials; and examination of whether calls to customer service representatives are handled in a timely manner);
 - Enforcement to ensure compliance with regulations;
 - Developing and maintaining a consumer-friendly portal with up-to-date information about CEP prices, consumer complaints, supplier investigations, and green products; and
 - Community-based education.

Overall recommendation

State policy makers should phase out the residential retail electric supply market because the costs to consumers and to state agencies vastly outweigh the benefits of consumers having a choice of electricity supply providers. Consumers’ monies can be spent more effectively in other ways to contribute to the achievement of Maine’s climate goals. If, contrary to this recommendation, state policy makers allow this market to continue, the state Legislature should allocate substantial additional funding supplemented by new annual assessments on CEPs to support the resource-intensive oversight and education responsibilities that are integral to improving the way in which the residential retail electric market functions. The following pages include recommended policy guidelines for evaluating the market and summarize twelve recommendations, each of which are discussed in more detail in Section 6.

Recommended Policy Guidelines

- Assess overall costs and benefits of the market. Does competitive supply:
 - Save residential customers money in aggregate?
 - Contribute to the achievement of Maine’s climate goals?
 - Deliver innovative products?
- Seek affordable rates for all consumers, and especially those with low and limited incomes.
- Minimize high-risk opportunities for misleading and aggressive sales and marketing practices.
- Facilitate best use of consumers’ “green dollars.”
- Improve efficiency of consumers’ purchasing decisions with more accurate pricing signals (through accountability; oversight; education; and transparency).
- Enhance effectiveness of consumer protections through adequately funded oversight and enforcement.

Summary of Recommendations

Recommendation No. 1: Discontinue residential retail electric market effective January 1, 2024 (in the alternative, cap CEP rates at SOS rates).

Pending the implementation of Recommendation No. 1, adopt the following consumer protections:

Recommendation No. 2: Protect those Mainers who are struggling the most to pay electricity bills: discontinue CEP service for those participating in energy assistance programs *or* cap CEP rates for energy assistance participants at standard offer rates.

Recommendation No. 3: Obtain and analyze geographically granular data regarding demand for CEP products and CEP prices actually charged (for households of all incomes and separately for households participating in energy assistance programs).

Recommendation No. 4: Prohibit variable rates and prohibit automatic renewal of contracts.

Recommendation No. 5: Require suppliers to contribute adequate funding to support multilingual, community-based education, which is subject to OPA and PUC review.

Recommendation No. 6: Enhance transparency regarding CEP prices: (1) require electricity bills for CEP-served customers to also show the corresponding rates and amounts if standard offer service had been purchased; and (2) establish comprehensive up-to-date portal with easy access for consumers and required participation by CEPs.

Recommendation No. 7: Adopt and enforce transparency measures to enable consumers to make informed decisions about the renewable energy implications of their choice of products.

Recommendation No. 8: Establish and maintain transparency regarding supplier-specific consumer complaints.

Recommendation No. 9: Increase transparency of and ease of access to information in CEPs' Annual Reports, including revenues and number of customers; complaints; enforcement actions; and voluntary green programs (fuel mix, emissions, and the "green premium" (i.e., green mark-up))

Recommendation No. 10: Authorize PUC to assess fees on suppliers to support an enforcement fund.

Recommendation No. 11: Eliminate termination fees.

Recommendation No. 12: Prohibit the use of third-party sales agents; and (2) conduct frequent audits of door-to-door sales and marketing practices

1. INTRODUCTION

1.1 Scope of Report

2021 P.L. ch.164 (LD 318) directs the Public Advocate to study reforming Maine's system of retail electricity supply to provide more options to Maine customers and to support Maine's climate goals. This report, prepared on behalf of the Public Advocate, addresses issues concerning the residential electric supply market that is served by competitive electric providers (CEP).¹ As overarching questions, this report assesses the degree to which the CEP-served electric market benefits Maine's households as well as the contribution of the residential CEP-served electric market to furthering Maine's climate goals.

This report examines the issues specified in Section 3.1 of 2021 P.L. ch.164 (which concerns a portal for consumers to gain access to information about the offerings of retail electricity suppliers) and Section 3.2 of 2021 P.L. ch. 164 (which identifies nine areas of consumer protections, which, at a minimum must be considered). This report focuses on residential customers (the analyses and recommendations do not concern commercial and industrial customers). A separate report, also prepared on behalf of the Public Advocate, addresses the other elements of 2021 P.L. ch.164.² Together, these two reports respond to the Legislature's directive in 2021 P.L. ch.164.

1.2 Sections 3.1 and 3.2 of 2021 P.L. ch. 164

Section 3.1 of 2021 P.L. ch. 164 directs the Public Advocate to:

[E]xamine methods of protecting customer rights and interests including through the establishment of a public access website portal through which customers may obtain information on and shop for competitive electricity supply. The Public Advocate shall examine the feasibility of a publicly accessible website maintained by the Public Utilities Commission or by the Office of the Public Advocate that provides current, independent and objective information that allows customers to compare terms, conditions and prices and value-added service offers provided by competitive electricity providers, as well as any other information the Public Advocate or the commission determines would be useful to customers. The Public Advocate shall consider how to ensure customers may use the website to easily access external publicly accessible websites where customers may review offers and contract details and execute agreements electronically.

Section 3.2 of 2021 P.L. ch. 164 directs the Public Advocate to “examine the development and adoption of customer protections that include at least the following:

- A. Conditions for, or prohibitions on, any fees for residential customers seeking to change a product or pricing plan
- B. Credits for excessive call center times
- C. Education programs to inform customers about customer choices and protections and public service announcements by state agencies encouraging customers actively to shop for electricity supply options before winter and summer seasons when prices may be higher
- D. Options for allowing retail electricity suppliers to bill for their electricity supply, value-added services and products along with the local distribution company’s regulated charges, as well as an examination of whether retail electricity suppliers should be allowed to collect electricity bills that include value-added services and products other than generation supply service and whether nonpayment of those portions of electricity bills should be subject to the threat of disconnection of service
- E. Publication, at least annually, of a competitive electricity provider report card that includes, but is not limited to, levels of verified complaints filed with the Public Utilities Commission against electricity providers.
- F. Examining the advantages and disadvantages of variable-rate contracts for residential customers
- G. Requiring renewable energy projects marketed by retail electricity suppliers to be consistent with the State’s renewable energy resources laws
- H. Examining whether retail electricity suppliers should be allowed to conduct door-to-door sales only if the individual personally attempting to make a sale is employed by and supervised by the retail electricity supplier and whether the State’s existing consumer protection laws adequately protect the State’s retail electricity consumers
- I. Programs to protect low-income customers that incorporate energy equity considerations, including but not limited to a hardship program that provides grants to qualifying low-income customers on an annual basis; a payment extension program that allows a qualifying low-income customer additional time to pay a bill without the threat of termination; a payment plan program that allows qualifying low-income customers to pay the balance owed in installments along with the regular monthly bill; a bill discount program that provides qualifying low-income customers with a fixed discount on their monthly bill; and other programs designed to increase access to renewable energy for such customers.

This report addresses all of the items listed above except for item “D” – which the *Exeter Report* examines. The statute directs the Public Advocate to address “at least” the nine measures listed above – in response to this mandate, this report also examines more broadly other consumer protections.

1.3 Organization of Report

This report is organized as follows:

- Section 1, this section, describes the scope and organization of this report.
- Section 2 summarizes key characteristics of Maine’s residential retail market.
- Section 3 provides an overview of existing consumer protections in the residential retail market.
- Section 4 identifies and describes recommended principles for evaluating how well the residential retail electric market is functioning.
- Section 5 describes consumer harms associated with the residential retail electric market.
- Section 6 analyzes the relationship of Maine’s residential retail electric market to Maine’s renewable energy and climate goals.
- Section 7 summarizes the key findings and recommendations of this report, and cross-references them to the statutory directives to the OPA.
- Appendices include additional information.³
- Endnotes identify the sources upon which this report relies.

2. OVERVIEW OF MAINE'S RESIDENTIAL COMPETITIVE ELECTRIC MARKET

2.1 Background

State policymakers opened Maine's residential retail electric supply market to competitive entry in 2000,⁴ with hopes of innovation and lower electricity prices for Mainers. In its 2018 report submitted to the Joint Standing Committee on Energy, Utilities and Technology, the Maine Public Utilities Commission describes Maine's electricity market:

Electricity customers in Maine receive and pay for two distinct services – delivery and supply. Delivery service, which is provided by utilities such as Central Maine Power and Emera Maine, includes the transmission and distribution of electricity. Delivery service rates are regulated by the Maine Public Utilities Commission (Commission) and the Federal Energy Regulatory Commission. Supply service, which is provided by Competitive Electricity Providers (CEPs) and Standard Offer Suppliers (SOS), includes electric energy, capacity and related services. Supply service is not price-regulated but is governed by competition. However, suppliers must have a license before serving customers in Maine, and must comply with Chapter 305 of the Commission's rules, which includes provisions for consumer protection. Customers that do not affirmatively sign up for service with a CEP automatically receive standard offer service. Standard offer service is procured annually through competitive bid processes administered by the Commission. Prices are set based on the lowest bids received.⁵

In total, 13 states and the District of Columbia have opened residential markets to third-party electricity supply (and some have also opened residential markets to third-party gas supply).⁶ The residential sector includes private households and apartment buildings where energy is consumed primarily for space heating; water heating; air conditioning; lighting; refrigeration; cooking; clothes drying, appliances; power tools; and, more recently, heat pumps and charging electric vehicles.

Maine's investor-owned utilities (IOUs) set prices according to three different classes of customers: Residential/Small Commercial; Medium; and Large. The demarcations among these three classes varies slightly among the IOUs as Table 1, below, shows.

Table 2.1 Class Definitions⁷

Utility	Residential and Small Commercial	Medium Commercial	Large Commercial
Versant Power - Bangor Hydro District	<25 kW	25-500 kW	>500 kW
Central Maine Power Company	<20 kW	20-400 kW	>400 kW
Versant Power - Maine Public District	<50 kW	50-500 kW	>500 kW

Most customers (96 percent) are in the residential/small commercial class, as Table 2.2, below shows. However, according to the U.S. Department of Energy’s Energy Information Administration classifications, residential customers represent only 19 percent of total electricity usage in Maine. By comparison, commercial customers represent 51 percent and industrial customers represent 30 percent of total electricity demand.⁸

Table 2.2 Total Number of Customers by Class⁹

Total Customers	Residential and Small Commercial	Medium Commercial	Large Commercial
839,702	809,016	13,001	467

2.2 CEP Residential Market: Scale

Table 2.3, below shows that large commercial customers are the most likely to purchase electricity supply from CEPs and residential/small commercial customers are the least likely to be served by CEPs. As of September 2022, 10.2 percent of residential/small commercial customers purchased electricity from CEPs, in contrast with the 84.4 percent of large customers who do so.

Table 2.3 Percentage of Customers Enrolled with CEPs: Statewide¹⁰

Residential and Small Commercial	Medium Commercial	Large Commercial	All Customers
10.2%	47.6%	84.4%	10.7%

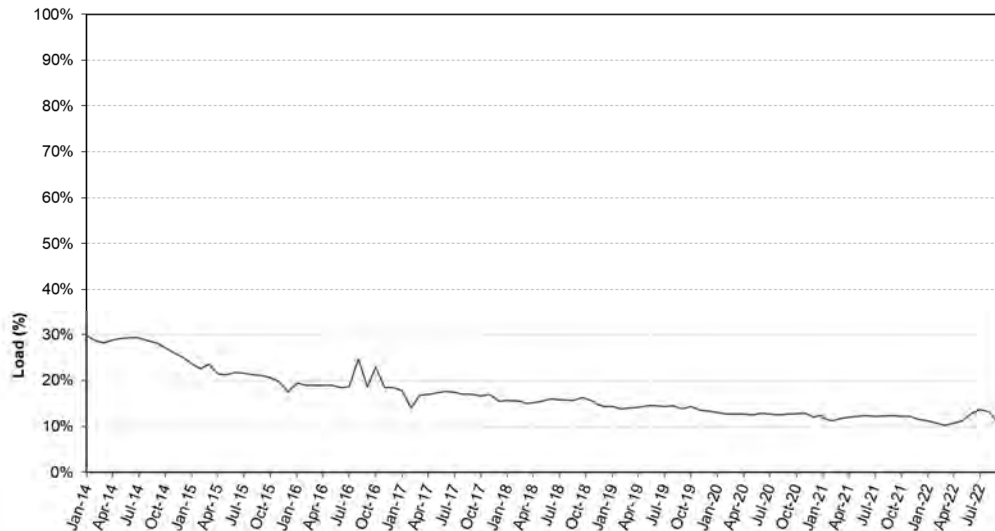
Reliance by small customers on CEPs varies among the IOUs’ regions, with the highest percentage in Central Maine Power’s region, and the lowest percentage in Versant Power’s Maine Public District, as Table 2.4, below, shows.

Table 2.4 Residential and Small Commercial CEP Customers by IOU Region¹¹

Utility	Customers	Percent of Total
Central Maine Power	72,281	11.2%
Versant Power - Bangor Hydro District	10,347	8.1%
Versant Power - Maine Public District	295	0.8%
Total	82,923	10.2%

The percentage of small customers served by CEPs has been declining (see Figure 2.1, below) – from 29.9 percent in January 2014 to 11.2 percent in September 2022. This trend combined with the fact that, as of 2021, only 9 percent of households rely on CEPs for the supply of electricity¹² makes the Maine market unique because of its limited CEP presence. This compares with, for example, Massachusetts, where, based on the most recent public data available, 31 percent of low-income households participate and 17 percent of non-low-income households buy from third-party suppliers.¹³ (More similar to Maine, in Connecticut, as of November 2022, retail suppliers serve 8.2% of Eversource Energy residential customers and 8.6% of United Illuminating residential customers.¹⁴)

Figure 2.1 Load Served by Retail Power Marketers: Residential and Small Commercial Customers (January 2014 – September 2022) ¹⁵



The Public Utilities Commission (PUC) reports residential data combined with small commercial data. The “Form 861” reports that CEPs submit annually to the Energy Information Administration (EIA) in the U.S. Department of Energy (DOE) show data for residential customers separately from that for small commercial customers. Table 2.5 below shows that Maine’s CEPs (designated in the Form 861 as “retail power marketers”) reported a total of 64,279 residential customers in their Form 861s in 2021.¹⁶ Only 9.0 percent of Maine households purchased from CEPs in 2021, in comparison with the 88.6 percent of Maine households who purchased from IOUs.

Table 2.5 Residential Supply: EIA (2021)¹⁷

Supply	Total Customers	Percent of Total
Cooperative	10,633	1.5%
Municipal	6,239	0.9%
IOU	630,181	88.6%
Retail Power Marketer	64,279	9.0%
Total	711,332	100.0%

2.3 CEP Residential Market: Prices

One source of information about CEPs' revenues, sales, and customers is the publicly available Form 861 that CEPs submit to the DOE's EIA. As is discussed more in Section 3.3, below, CEPs also submit this data to the PUC as part of their required annual report filings,¹⁸ but some CEPs redact the information in their annual reports. For that reason, Table 2.6 below relies on the more comprehensive EIA Form 861. The price per kWh of supply shown in Table 2.6 is computed based on the revenues and megawatt-hours that the CEPs report to the EIA, and includes only those CEPs that served residential customers during 2021. Appendix 2.1 to this report, which is also based on the Form 861, lists all CEPs that served Maine customers in 2021, and indicates which classes of customers they served (residential, commercial, and industrial).¹⁹

Some CEPs also charge early termination fees, which are not shown in Table 2.6 below.²⁰ Table 2.6 shows that CEP rates vary enormously, and that the average price exceeded the standard offer rate for each CEP during 2021 (see Table 2.7 for the standard offer rates). The price shown of \$0.1087 per kWh in the row entitled "total" is the average CEP price charged in 2021.

Table 2.6 CEPs Serving Residential Customers: Revenues, mWh, Customers, and Price per kWh EIA Form 861: 2021²¹

Supplier	Revenues (\$ 000)	mWh	Customers	Price per kWh Supply
Ambit Energy Holdings, LLC	\$3,331	46,772	5,906	\$0.0712
C. N. Brown Electricity, LLC	\$2,219	30,057	3,652	\$0.0738
Clearview Electric Inc.	\$1,183	6,928	1,498	\$0.1708
Constellation NewEnergy, Inc	\$545	8,130	862	\$0.0670
Electricity Maine, LLC	\$24,405	201,496	29,836	\$0.1211
ENGIE Retail, LLC (Think Energy)	\$2,204	23,925	2,612	\$0.0921
FairPoint Energy LLC	\$3,939	28,413	5,119	\$0.1386
First Point Power, LLC	\$146	1,939	245	\$0.0750
Mega Energy of Maine, LLC	\$34	253	43	\$0.1344
North American Power and Gas, LLC	\$3,163	25,654	3,433	\$0.1233
SmartEnergy Holdings, LLC	\$5,756	60,289	8,431	\$0.0955
Town Square Energy	\$1,441	11,050	1,773	\$0.1304
XOOM Energy Maine, LLC	\$631	5,964	869	\$0.1058
Total	\$48,996	450,870	64,279	\$0.1087

Standard offer rates provide a useful benchmark against which to compare CEP rates. Contributions to Maine's climate goal are also important for assessing the merits of the residential retail electric market: Section 6, below, discusses CEPs' contributions to supporting

Maine’s climate goals. CEP “amenities” (marketing give-aways such as airline mileage, lightbulbs, and gift cards) are not examined in this report.²²

The rates shown in Table 2.7, below, are the standard offer rates that were in effect in 2021 to correspond with the time period for which the actual average rates that Maine’s CEPs charged customers are available.

- Some of the CEPs’ annual reports, which were most recently submitted on July 1, 2022 in compliance with Chapter 305 requirements,²³ for calendar year 2021, include rates (or one can derive average rates from the revenues and kWh reported), but other CEPs’ annual reports redact this information, and so a comprehensive public analysis of CEPs’ actual rates cannot be conducted based on the information that CEPs submit to the PUC.
- The OPA’s monthly report shows prices as they appear on CEPs’ websites, but posted prices may not correspond with prices actually charged to customers, and not all CEPs are included in the OPA’s report because not all CEPs submit information.²⁴
- This report relies on the publicly available comprehensive data submitted by Maine’s CEPs to DOE’s EIA, which, as of the date this report was prepared, was available most recently for 2021.²⁵ Because the Form 861 includes actual revenues and actual kWh for each state, the average price actually charged by each Maine CEP can be derived.

This report was prepared during a time of great flux in energy prices. Because of extreme instability in energy markets, some consumers who locked in rates with CEPs may be paying lower rates than those available from the SO Provider. This is an anomalous condition, atypical of historical patterns that have been observed over the past many years. Moreover, such savings are unlikely to persist for consumers who are enrolled in variable rate plans or those whose fixed rate plan converts to a variable rate at a later time. Indeed, one CEP presently is charging thousands of Maine customers \$0.3999 per kWh, which has led to consumer complaints. Also, during times of high standard offer rates, consumers – especially those with low and limited incomes -- are more susceptible to exaggerated claims of energy savings (claims that may border on, if not actually constitute, deceptive and misleading sales and marketing practices). The theoretical possibility of lower electricity bills does not always translate into actual savings, especially when viewed over the longer term.

Table 2.7 2021 Standard Offer Rates: Small Customers²⁶

Utility	2021 Rate
Central Maine Power	\$0.0644940
Versant Power - Bangor Hydro District	\$0.0619600
Versant Power - Maine Public District	\$0.0602670

2.4 CEP Residential Market: Maine Economy

Although it is not one of the explicit objectives set forth in P.L. 2021, ch. 164, bolstering Maine’s economy is sound public policy. Table 2.8, below, shows that, with one exception, the CEPs that serve Maine’s households are headquartered out of state.²⁷ While door-to-door sales would likely rely on Maine employees, this mode of sales is fraught with potential for consumer harm. Other sales modes, such as telemarketing, do not necessarily rely on Maine residents (that is, sales calls could originate from out of state). Therefore, much of the approximate \$20 million that Maine households pay each year *above and beyond* what they would pay for electricity supply were they to purchase standard offer rates²⁸ likely flows out of state and therefore out of Maine’s economy.²⁹

Table 2.8 Twelve of Thirteen CEPs Are Headquartered Out-of-State

Name	Company Headquarters	Parent Company
Ambit Energy Holdings, LLC	Dallas, Texas	
C. N. Brown Electricity, LLC	South Paris, Maine	
Clearview Electric Inc.	Dallas, Texas	
Constellation NewEnergy, Inc	Baltimore, Maryland	
Electricity Maine, LLC	Houston, Texas	Spark Energy
ENGIE Retail, LLC (Think Energy)	Houston, Texas	
FairPoint Energy LLC	Norwalk, Connecticut	Crius Energy LLC
First Point Power, LLC	Cranston, Rhode Island	
Mega Energy of Maine, LLC	Sugar Land, Texas	
North American Power and Gas, LLC	Houston, Texas	
SmartEnergy Holdings, LLC	New York, New York	
Town Square Energy	Gilbert, Arizona	
XOOM Energy Maine, LLC	Huntersville, North Carolina	NRG

2.5 CEP Residential Market: Takeaways

- Thirteen retail power marketers serve Maine households.
- The CEPs' presence varies greatly: In 2021, one CEP served fewer than 50 households, and another CEP served almost 30,000 households.
- The rates that CEPs charged Maine households in 2021 ranged between \$0.0670 per kWh and \$0.1708 per kWh, with an average of \$0.1087 per kWh.³⁰
- This average CEP rate was approximately 70 percent higher than the standard offer rates in 2021, which were less than \$0.0645 per kWh.
- Much of the *additional* \$20 million that CEP-served Maine households spend for electricity likely flows out of Maine's economy.
- High standard offer rates could lead to fleeting opportunities for savings.

IN 2021, THE AVERAGE CEP RATE WAS APPROXIMATELY 70 PERCENT HIGHER THAN THE STANDARD OFFER RATE

3. OVERVIEW OF EXISTING CONSUMER PROTECTIONS

3.1 Existing Consumer Protections

Chapter 305 establishes licensing requirements for competitive electricity providers, which includes marketers, brokers, and aggregators, and establishes registration requirements for third-party sales agents. It also includes procedural rules governing application for licensing, registration, revocation, termination, and enforcement, and annual reporting provisions. Finally, Chapter 305 establishes consumer protection rules applicable to competitive electricity providers and third-party sales agents. The regulations are extensive, detailed and address many areas of potential consumer harm. This section highlights some of the existing consumer protections.

OPA explains, among other things:

As indicated, there are consumer protection provisions in state law ([Title 35-A MRSA § 3203](#)) and in Commission rules ([Ch. 305](#)). These include the following:

- A CEP may not terminate service without providing a minimum of 30 days' notice.
- A CEP must offer a minimum of 30 days service.
- A CEP must have a verification of a customer's affirmative choice to obtain service with the company (no "slamming").
- A customer has five days to rescind his or her initial selection of CEP service.
- A CEP may not use unfair or deceptive business practices.
- A CEP may not release private customer information to anyone, unless allowed by law, or by the customer's consent.
- A customer may file a complaint with the Commission if a CEP has used "slamming" practices to obtain customers.
- If a CEP drops a customer, or if the customer seeks to be dropped and makes no other choice, the customer will automatically go back on standard offer service.
- A CEP must notify a customer two times between 30 and 60 days in advance of a contract renewal.³¹

The PUC describes various requirements including, for example:

Re licensing:

All competitive electricity providers, including electricity suppliers, marketers, aggregators, and brokers must be licensed by the PUC. The [license application is available here \(Word\)](#) or on request to the PUC at 207-287-3831 (ask for the "Chapter 305 Application Package"). The application includes instructions and references to the PUC rule governing licensing, [Chapter 305 \(Word\)](#). The PUC maintains a current [list of competitive electricity providers](#) that have applied for and been granted licenses pursuant to Chapter 305. ,³²

Re third-party sales agents:

A third-party sales agent undertaking the retail sale or marketing of electricity on behalf of a competitive electricity provider may not engage in any sales or marketing activity unless the third-party sales agent is registered with, and has obtained a registration number from, the Commission. If an individual person is an employee, representative, or otherwise working on behalf of an entity registered with the Commission as a third-party sales agent, then that person need not individually register with the Commission. Competitive electricity providers must register all proposed third-party sales agents regardless of whether a third-party sales agent is registered by another competitive electricity provider.³³

Chapter 305 states:

As part of the application process, the PUC requires information about enforcement proceedings and customer complaints. *Going forward however, consumers should be alerted to enforcement actions and complaints.*³⁴

Variable rates:

Chapter 305 includes the following consumer protection measures regarding variable rates and charges:

Each competitive electricity provider that offers and provides service with Indexed Variable Rate or Charge or Non-indexed Variable Rate or Charge:

- a. Must clearly specify in the Terms of Service document and on its webpage the formula and/or market indices by which the Variable Rate or Charge will be calculated or disclose that there is none for a Non-indexed Variable Rate or Charge;
- b. Must clearly specify in the Terms of Service document and on the webpage whether there is any limit on how high the rates or charges may rise;

- c. Must provide on the webpage the Indexed Variable Rate or Charge that the formula and/or index would have produced over the immediately prior 12-month period;
- d. Must provide on the webpage the Non-indexed Variable Rate or Charge that would have been applicable over the immediately prior 12-month period; and
- e. For rates that are established prior to the billing period, the rates must be posted on the competitive electricity provider's website at least one week in advance of any change in the applicable rate or charge.

Termination Fees

Presently, under Chapter 305, the following applies:

Termination fees must be a fixed dollar amount, and may not be established by formula. Termination fees may not apply to customers whose Terms of Service provided for a month-to-month Indexed Variable Rate or Charge or Non-indexed Variable Rate or Charge. Competitive electricity providers may not impose a termination fee for any Terms of Service that was renewed without the express consent from the customer obtained in accordance with subsection 4(B)(6).

OPA also explains the following on its website regarding the PUC's enforcement authority:

Although the Maine PUC cannot regulate the price of the electricity offered by competitive suppliers, it has the authority to investigate matters relating to service offered by CEPs. Depending on the offending actions of a CEP, the Commission may revoke a CEP's license, issue cease and desist orders, order restitution and levy administrative fines.

Contact the MPUC's Consumer Assistance Hotline at [1-800-452-4699](tel:1-800-452-4699), Monday through Friday, 9:00 a.m. to 4:00 p.m. if you have issues with CEPs.

3.2 Existing Sources of Information for Residential Consumers

An important element of consumer protection and to efficient markets is ensuring that consumers have adequate access to accurate, easy-to-understand information. Presently, residential consumers seeking information about CEP products and prices can turn to the following sources of information:

- CEPs' web sites. Consumers can visit CEPs' web sites for general information about their prices and products.
- The OPA's web site includes background information about the market (including "What to Consider When Choosing a Supplier;" a summary of CEP's prices and products; an overview of consumer protections; a description of the PUC's

enforcement authority; a link to the “Electricity Guide, Competitive Electricity Edition;” and links to the PUC website.)³⁵ The OPA’s summary of prices provides a starting point for consumers seeking to compare options but, as the OPA cautions, with emphasis, “Prices can change without notice, so we strongly urge you to go to the website or call the company to confirm before signing up.”³⁶ Moreover, the burden should be on CEPs, not OPA, to post up-to-date, comprehensive accurate information on a centrally maintained portal, which is subject to audit.

- The annual reports that, pursuant to Chapter 305, CEPs are required to submit to the PUC, which include information about revenues, customers, complaints, investigations, and voluntary green products, among other things. However, accessing the CEPs’ reports is a somewhat cumbersome process, and some CEPs redact some of the information that they include in their annual reports. Moreover, it is unlikely that residential customers would turn to this source of information.
- IOUs include bill inserts with information about suppliers. For example, among CMP’s messages in bills are the following:
 - CMP does not generate or supply electricity. We deliver your electricity. Your electricity is supplied by [Supplier Name].
 - For information regarding electricity supply options, please visit the Office of the Public Advocate website at: maine.gov/meopa/electricity/electricity-supply or call them at 207.624.3687.
 - CMP provides billing services for your electricity supplier. We are required to bill and collect supplier charges and forward payments on your behalf, in accordance with MPUC rules.
 - CMP is your energy delivery company. Other companies, not regulated by the MPUC, supply your electricity, which we deliver to you safely and reliably. CMP does not control the supply price though we are required to include and collect the costs in our monthly bills. You will see your supplier and their supply charges itemized on this page.

The other source of information for consumers are the CEPs’ sales representatives and agents. CEPs convey information about their products during the sales and marketing of their products, which may include written materials sent in the mail, door-to-door sales, telemarketing calls and presence at community events. The CEP’s economic incentive during these transactions is, of course, to paint the most favorable picture possible of its products.

3.3 CEPs’ Annual Reports

More than 250 names appear in the PUC’s pull-down menu for CEPs’ annual reports,³⁷ and in some instances the listing includes the same CEP with different variations on its name. Yet, according to information filed with the EIA, only thirteen CEPs were active in Maine’s residential market in 2021.

For practical public access to these annual reports, it would be helpful to create a separate pull-down menu that includes only those CEPs that are active, with the names that lead to the CEPs' annual reports (for example, Ambit appears twice, first as Ambit Northeast, LLC and then again as Ambit Northeast, LLC d/b/a Ambit Energy – it is the second entry that takes one to Ambit's annual report; similarly there are five listings that show “Constellation” as part of the CEP's name, two of which have links to annual reports, the first of which is licensed but has no customers). Also, CEPs undergo name changes and ownership changes. For example, as Table 5.1, below shows, the company that appears as “Fairpoint” in the DOE's listings appears on the PUC's annual report listing as “Energy Rewards F/K/A Fairpoint Energy LLC F/K/A Viridian Energy MD LLC.” Even more helpful for transparency would be to fund adequately the resources needed to glean, compile, and make accessible to consumers the most important information from CEPs' annual reports (including information about the various company names that are and have been associated with the CEP).

As with all suggestions in this report that would result in additional expenses for the responsible agency, the improvement should occur only if additional resources are provided and are commensurate to the new administrative burden.

Accessing CEPs' Annual Reports

The annual reports are accessible in the Case Management System:

<https://mpuc-cms.maine.gov/CQM.Public.WebUI/AnnualReports/ReportSearch.aspx>

- Once you click on this link you can use the drop down menus to find the reports.
- Under utility type: (Select electric)
- Under utility subtype: (Select CEPs)
- You do not necessarily need to select any report type as there is only one option.
- If you are looking for a particular CEPs report - under pertaining to utility/company you can select a specific company.
- In the “report for year” box, enter in the year you are looking for.

4. PRINCIPLES FOR EVALUATING AND IMPROVING THE RESIDENTIAL RETAIL ELECTRICITY SUPPLY MARKET

4.1 Overview

As a threshold matter, with twenty-plus years of experience with the residential retail electric market, it is an apt time for Maine’s policy makers to take a “fresh look” at the market. Is the market functioning (and could it, with modifications, function) in a way that benefits consumers and the public good? If policy makers determine that the market should continue, the next step is to consider ways to improve the efficiency of market transactions.

4.2 Metrics for Evaluating the Benefits and Harms of the Residential Retail Electric Market

The residential retail electric supply market should benefit customers and contribute toward overarching public policy goals, such as reducing households’ carbon footprints. Moreover, the opportunity cost associated with the requisite regulatory overhead should be considered – that is, could limited public resources be allocated more efficiently elsewhere? What exactly is the level of administrative resources necessary to provide effective oversight of the CEP market, including measures to enhance transparency and to ensure compliance with regulations and laws?

In evaluating the overall benefits and harms of the residential retail electric market, key metrics include:

- The prices consumers pay for competitive electric supply relative to the prices they pay for standard offer service.
 - All else being equal, lower electricity prices are better for households than are higher prices. Electricity is an essential product, but monies spent on electricity are not then available for food, housing, and other necessities.
- The contribution of CEPs’ products to the achievement of Maine’s climate goals as compared with other consumer purchases.
 - All else being equal, more reliance on renewable energy sources and lower per-household kWh demand is better for Maine (with the caveat that lowering electricity usage does not affect the quality of household members – that is, that the reduced demand results from more efficient energy use and reliance on renewables as opposed to simply curtailing demand without actually changing the home’s energy requirements).³⁸
- Evidence of innovation.
- The scale and scope of sanctions and enforcement actions against competitive electric suppliers.

- Consumer complaints.
- The administrative burden of oversight of the CEP market.

Metrics for Evaluating CEP-Served Residential Market

- Prices
- Impact on households with low and limited income
- Contribution to Maine’s climate goals and use of local renewables
- Administrative costs and burdens

4.3 Objectives for Improving Consumer Protections

If the residential CEP market continues, existing consumer protections should be expanded and strengthened so that the market functions more efficiently. Section 7, below, includes specific recommendations, which are linked to the report’s key findings and are mapped to the specific mandate set forth in P.L. 2021, ch. 164. The objectives of such measures include:

- Ease of making informed choices: Households are familiar with day-to-day purchases like canned tomatoes and gasoline. Households lack familiarity with fine-print contracts, variable rates, promises of green energy, and interacting with door-to-door sales agents selling complicated energy products.³⁹ Transparency is essential to ensure that consumers can make fully informed purchasing decisions.
- Addressing the information asymmetry between CEPs and consumers: In markets where customers’ and sellers’ expertise differ significantly, regulatory oversight and intervention is especially important. Suppliers are far better equipped to negotiate in retail residential energy supply markets than are individual residential customers. Reading contracts, monitoring the ever-changing market, understanding one’s options, and withstanding marketing pressure when a door-to-door salesperson is at the door are among the various actions customers are being asked to do to purchase essential utility services. Door-to-door marketing also occurs, not only at the doors of consumers’ homes, but also at shopping malls, local events and other venues. (By contrast, large commercial customers typically have resources to negotiate the purchase of energy supply and to read the fine print in contracts.) For these reasons, strong, and consistently enforced consumer protection measures are essential, including transparency regarding rates, terms and conditions, as well as protections against widely fluctuating variable rates and automatically renewing contracts.
- Enforcement is essential to prevent aggressive and deceptive sales and marketing practices. When misleading and aggressive sales and marketing occurs, customers’ purchasing decisions should not be construed as their preference for “choice,” but rather should be interpreted as distorted purchasing decisions. Many states’ experiences with

suppliers engaging in deceptive sales practices demonstrate that widespread abuses prevent customers from making fully-informed “choices.”

- Increasing reliance on renewable energy benefits all: It is important to ensure that suppliers represent accurately any assertions they make about their reliance on renewable energy. For markets to work efficiently, and especially when consumers choose to pay more to purchase “green” products, it is essential that suppliers not mislead consumers about the impact of their choices on the state’s climate goals. Oversight of suppliers’ claims is essential to prevent “greenwashing.”
- Protecting consumers with lowest incomes from high prices: Affordable rates are important for all residential consumers, and especially so for those struggling to make ends meet. Electricity is an essential service – if households with low and limited incomes are paying more than necessary for electricity, this is evidence of consumer harm.

5. EVIDENCE OF CONSUMER HARM

5.1 Overview

Consumer harm in the residential retail electric market includes high prices, misleading or deceptive sales practices, and difficulty in reaching a customer service representative. Some metrics of consumer harm include prices actually charged to consumers, misrepresentations or ambiguity regarding the “greenness” of products, complaints, and enforcement actions.

5.2 High Prices for an Essential Product

The kilowatt hour of electricity that enters a home and allows a consumer to run the refrigerator, turn on the lights, heat the home, and operate a table saw is identical in function regardless of whether it is supplied by an IOU or a CEP. The differences among retail electric products arise in the pricing (fixed rate for a particular number of months, lower or higher than the standard offer rate, variable, time-of-day, early termination fee, etc.), the fuel source used (local renewable, out-of-region renewable, non-renewable), emissions, and one-time amenities typically packaged as part of a sales pitch. The choice of an IOU or a CEP for supply does not affect the “quality” of the kWh (e.g., its reliability, the probability of a rolling black-out, the timeliness of repairing power lines in the wake of a storm, etc.).⁴⁰

An important metric of consumer harm is the difference between the amount consumers pay for competitive electricity supply and the amount they would have paid had they purchased the same electricity through standard service offering. Table 5.1, below, shows that over the four-year period spanning 2018 to 2021, Maine households purchasing CEP products paid between \$78 million and \$91 million *more* for electricity supply than if they had purchased standard offer service.⁴¹

Moreover, as Section 6 shows, there is no evidence that these payments contributed any more to achieving Maine’s climate goals than if consumers had simply purchased standard offer product (which incorporate the state’s renewable portfolio standard). Instead, these substantial excess payments could have unambiguously contributed to the achievement of Maine’s climate goals through other uses, for example, through enrollment in Maine’s *Green Energy Program* or the purchase of energy efficiency measures to reduce household energy requirements.

Table 5.2, below, which shows the year-by-year consumer impact of the residential retail electric market, demonstrates that consumer losses are continuing despite the fact that as Figure 2.1, above, shows, the percentage of small customers (residential and small commercial) participating in the market declined from 29.2 percent in January 2018 to 11.2 percent in September 2022.⁴² Expressed on a per-household basis, as Figure 5.1, below, shows, the annual loss for those

households purchasing from CEPs was between \$158 and \$203 in 2018 and between \$310 and \$340 in 2021.⁴³

Fewer households are relying on CEPs for supply but those who do are paying more

Table 5.1 Maine Households Paid Between \$78 Million and \$91 Million More for Electricity as a Result of Purchasing CEP Products: 2018 - 2021⁴⁴

Supplier	Total 2018-2021 Overpayment	
	Low Estimate	High Estimate
Agera Energy LLC	\$52,738	\$82,444
Ambit Energy Holdings, LLC	\$2,753,586	\$4,140,265
C. N. Brown Electricity, LLC	\$752,610	\$1,203,111
Clearview Electric Inc.	\$5,039,547	\$5,626,776
Constellation NewEnergy, Inc	(\$128,903)	\$52,452
Electricity Maine, LLC	\$48,636,016	\$55,438,744
ENGIE Retail, LLC	\$2,044,980	\$2,635,544
FairPoint Energy LLC	\$8,665,626	\$9,562,964
First Point Power, LLC	\$70,370	\$113,195
Mega Energy of Maine, LLC	\$23,727	\$25,500
North American Power and Gas, LLC	\$5,722,682	\$6,475,320
SmartEnergy Holdings, LLC	\$1,862,844	\$2,176,264
Town Square Energy	\$1,385,099	\$1,553,379
Union Atlantic Electricity	\$247,496	\$328,621
XOOM Energy Maine, LLC	\$1,001,630	\$1,176,404
Statewide	\$78,130,046	\$90,590,983

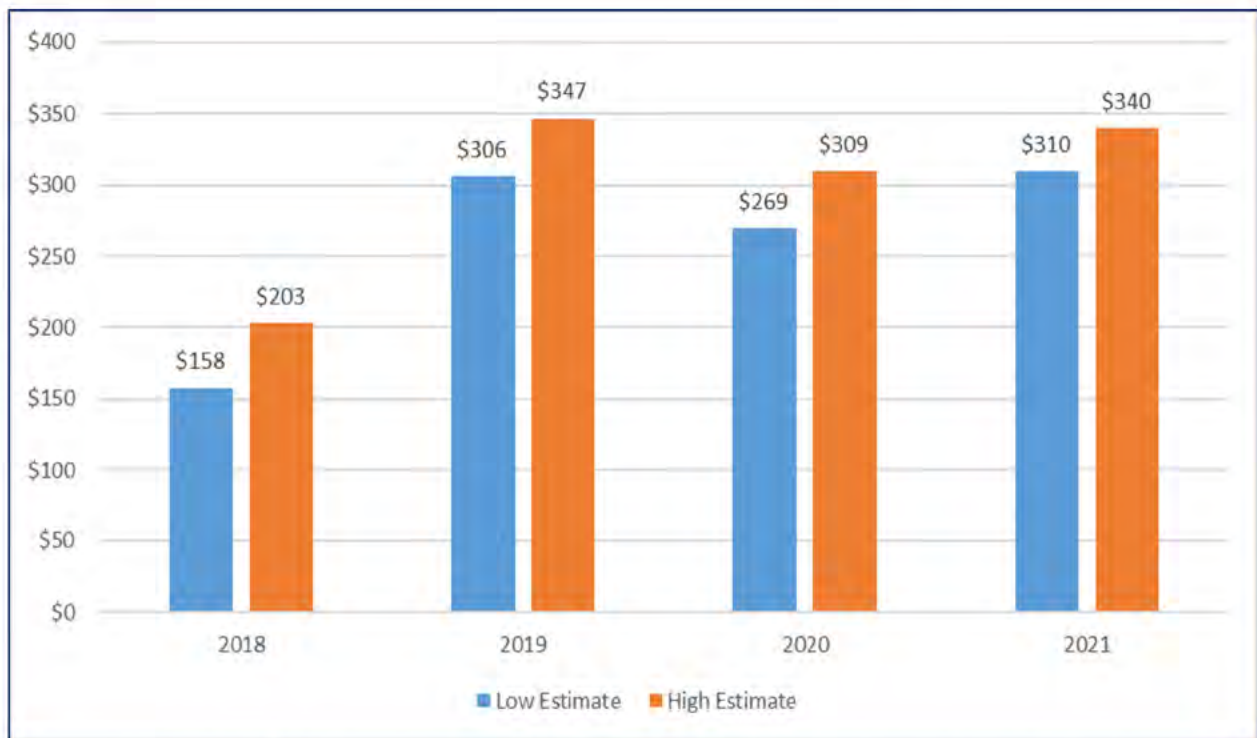
Table 5.2 below shows year-over-year aggregate consumer losses for the four years spanning 2018 through 2018. Much of these monies likely flow out of Maine’s economy.⁴⁵

Table 5.2 Annual Aggregate Consumer Losses Persist: 2018 through 2021

Year	Low Estimate	High Estimate
2018	\$16,679,612	\$21,447,196
2019	\$23,288,559	\$26,366,635
2020	\$18,244,085	\$20,953,535
2021	\$19,917,790	\$21,823,618
Total 2018-2021	\$78,130,046	\$90,590,983

Figure 5.1, below, shows average consumer losses on a per-household basis during the same four years.

Figure 5.1 Annual Per-Household Consumer Losses Persist: 2018 through 2021



Moreover, as Table 2.6, above, shows, based on CEPs’ most recent Form 861 data (submitted for 2021), thirteen CEPs served residential customers in Maine, with prices ranging between \$0.0670 per kWh to \$0.1708 per kWh. In each instance, the CEPs’ average prices exceeded the standard offer rate. Overall, the average residential CEP rate was \$0.1087 per kWh, 70 percent more than the standard offer rate.

These findings are consistent with findings in other jurisdictions. Figure 5.2, below, includes analyses of CEP prices in other states, as well as nationwide.

Figure 5.2 Examples of Harm in Other Jurisdictions: Overpayment for Electricity by Residential Consumers

- **Nationwide** Consumers purchasing from CEPs paid an additional \$19.2 billion between 2010 and 2019, relative to standard offer rates.⁴⁶
- **Connecticut** Since January 2015, when the Connecticut Office of Consumer Counsel started tracking supplier data, customers with a supplier have overpaid a total of \$299,183,095 more than standard service.⁴⁷
- **Maryland** From 2014 to 2017, Maryland households paid about \$255 million more than if they had stayed with their utility's supply offer.⁴⁸ See also, another study showing that Maryland consumers pay approximately \$34.1 million per year to purchase supply from CEPs⁴⁹
- **Massachusetts** Households experienced \$425.7 million net consumer loss between July 2015 through June 2020 (with the net consumer loss based on a comprehensive analysis of bills rendered and comparison of the prices consumers would have paid for standard offer service with what were actually charged by CEPs).⁵⁰
- **New York** In New York, the Department of Public Services Staff found New York customers of alternative suppliers paid in the aggregate \$1.3 billion more than they would have if they remained energy supply customers of their own utility during the 36-month period.⁵¹
- **Pennsylvania** Consumers in the FirstEnergy Companies' regions paid \$431,152,822 above standard offer rates to CEPs between August 2017 and December 2021.⁵² Consumers in other parts of the state paid \$1,131,895 above standard offer rates (for these regions: PECO Electric (January 2015 – April 2020); PPL Electric (January 2015 – May 2020); and Duquesne Light (January 2017 – May 2020)).⁵³

5.3 Disproportionate Harm for Low-Income Households and Communities.

[P]rograms to protect low-income customers that incorporate energy equity considerations, including but not limited to a hardship program that provides grants to qualifying low-income customers on an annual basis; a payment extension program that allows a qualifying low-income customer additional time to pay a bill without the threat of termination; a payment plan program that allows qualifying low-income customers to pay the balance owed in installments along with the regular monthly bill; a bill discount program that provides qualifying low-income customers with a fixed discount on their monthly bill; and other programs designed to increase access to renewable energy for such customers. (P.L. 2021, Ch. 164, § 3.2.I)

A report released by the OPA in December 2022 provides background on low-income households, low-income energy assistance and energy burdens in Maine.⁵⁴ Energy costs represent a disproportionate burden for low-income customers.⁵⁵ High supplier prices burden those least able to pay for basic necessities. Moreover, to the extent that those low-income households who participate in energy assistance programs pay excessive CEP electricity prices, publicly funded fuel assistance monies will be depleted that much more quickly than if the households purchased standard offer service. In New York, regulators explained:

As we have articulated in the past, continuing to allow assistance program funds to be squandered at the expense of APPs and all ratepayers and taxpayers is not in the public interest as it harms consumers in at least two ways. First, it means that our most economically vulnerable consumers are paying more for energy than necessary. Second, because the Commission has sanctioned low-income discount programs that provide energy discounts to low-income customers to help make energy more affordable for these consumers, all utility customers (including the low-income customers) subsidize those programs and are also harmed.⁵⁶

High energy prices can also lead to disconnections for non-payment, which affects not only the household that loses access to an essential service, but more generally harms the individual's community. Analysis of billing data in Pennsylvania showed: "Payment trouble and termination rates are higher for both residential and CAP [Customer Assistance Program] shopping customers compared to default service customers."⁵⁷ The analysis concludes: "In 2021, CAP shopping customers were terminated at a rate of 29.45% across all four Companies – while CAP customers with default service were terminated at a rate of 8.77%."⁵⁸

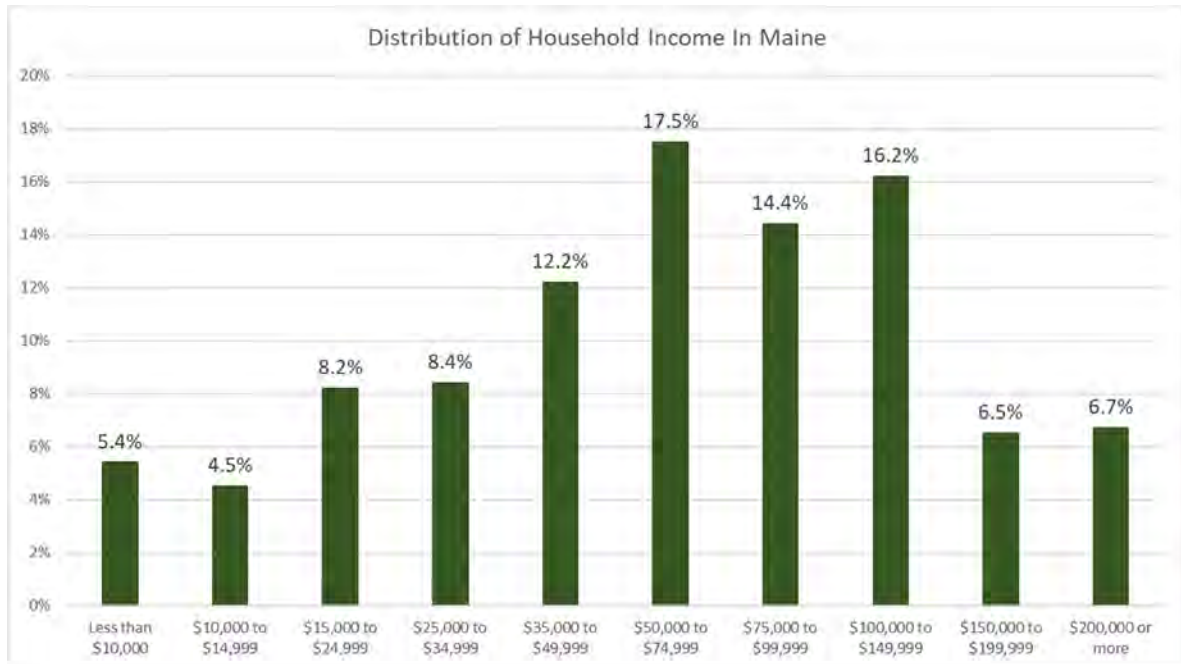
Also, it is important to look beyond simply the numbers of households receiving energy assistance – many households who are eligible for energy assistance do not participate. Moreover, there are many consumers who may not qualify for assistance, but who struggle nonetheless to make ends meet. Policies that seek to protect only those who are participating in energy assistance programs will miss the mark – that is, those consumer protections will fail to protect many households having a hard time paying for electricity, housing, food, transportation and other necessities.

Many Mainers can ill afford to pay more for electricity supply – an essential item – than necessary:

- 27,506 households participated in the HEAP Program in 2021.⁵⁹
 - Not all eligible households receive assistance: Approximately 60% of eligible⁶⁰ households are not participating in HEAP.⁶¹
- Approximately 24,000 households participated in the 2021-2022 program year in the Electric Low-Income Assistance Program (also referred to as Electric Lifeline Program).⁶²
- For those "65 Years and Older," the median income was \$45,579 in 2021.⁶³
- Approximately 67,000 Maine households participate in the Federal Communications Commission's Affordable Connectivity Program (ACP), which is based on 200% of federal poverty guidelines, and which provides high-speed internet access subsidies to qualifying households, primarily based on income criteria.⁶⁴ As with energy assistance programs, the number of households that participate in the ACP is less than the number that are eligible to participate.
- Nearly 39 percent of Maine Households get by on less than \$50,000 per year.⁶⁵
- Even those households not eligible for or not participating in energy assistance programs may be struggling to make ends meet.

Figure 5.3 shows the distribution of household income in Maine. Household disposable income is finite – monies spent on electricity are then not available for other household expenditures.

Figure 5.3 Distribution of Household Income in Maine⁶⁶



5.3.1 Multiple Studies Have Shown that the CEP Market Disproportionately Harms Low-Income Households and Low-Income Communities.

Multiple studies have demonstrated that high CEP prices disproportionately harm low-income households and low-income communities.

- Low-income consumers and residents of low-income communities are much more likely to purchase electricity from third-party suppliers than are non-low-income consumers and residents of more affluent communities.
 - o Prior to the discontinuation of CEP service to low-income households in Connecticut in 2020, 35 percent of low-income households purchased electricity from CEPs, while only 27 percent of non-low-income households did.⁶⁷
 - o Based on the most recently available public data, in Massachusetts, 31 percent of low-income households and 17 percent of non-low-income households buy third-party suppliers' products.⁶⁸ This pattern has continued year-after-year. For the year ending June 2019, 33 percent of low-income households purchased from third-party suppliers, while only 17 percent of all other households did. In the years ending June 2018 and June 2017, the low-income participation rates were 35 percent and 36 percent, respectively, while the participation rates by all other households were 18 percent in each of these years.⁶⁹
 - o In a recent study of price discrimination in retail electricity markets in the Baltimore, Maryland area, researcher Jenya Kahn-Lang found that, in 2019,

approximately 24 percent of customers in low-income communities participated in the retail choice market in any given month, while only 20 percent of customers in high-income areas participated.⁷⁰ She also found a strong correlation between low incomes and door-to-door marketing presence.⁷¹ Kahn-Lang also found higher participation rates for low-income customers than high-income customers in other states.⁷²

- Low-income households and communities are much more likely to pay higher prices than their higher-income counterparts. Detailed analyses based on prices actually paid to, and kWh purchased from, each of the suppliers separately by zip code show, for example:
 - o In Connecticut, 78 percent of hardship customers paid more for electricity from a CEP than they would have paid on standard service from October 2016 through September 2018. During this period, hardship customers paid in aggregate \$7.2 million in excess premiums, averaging \$143 per customer. Furthermore, of those customers purchasing from a CEP, hardship customers paid 69 percent more than all other customers.⁷³
 - o In Massachusetts, low-income households paid on average 24 percent more per kWh for competitive service than other households paid for competitive service in the year ending June 2020. Assuming usage of 600 kWh per month, the premiums over standard rates amount to an annual overpayment of \$241 for low income households, and \$194 for all other households.⁷⁴
 - o In Pennsylvania, low-income customers in 2021 were charged on average of between \$248.52 (Penelec) and \$367.18 (West Penn Power) more than the default service price.⁷⁵ Analysis also showed that low-income customers paid substantially more than did other customers for third-party suppliers' products.⁷⁶
 - o In every month of Kahn-Lang's study period (in the Baltimore, Maryland area), she found that households in the lowest-income category paid the highest mean and median prices, while customers in the highest-income category paid the lowest mean and median prices.⁷⁷

5.3.2 In Maine, Low-Income Households Are More Likely to Purchase CEPs' Products than Are Other Households

Low-income households in CMP's territory are more likely to purchase electric supply from CEPs than are other households in CMP's territory: 12.72 percent of low-income households purchase from CEPs while only 8.76 percent of non-low-income households purchase from CEPs. Low-income households, then, are 45 percent more likely to purchase CEP products than are other households. This pattern is consistent with those experienced in other states, discussed above. Also, while other households paid \$0.179070 per kWh, low-income household paid an average of \$0.183113 per kWh, about 2 percent more.⁷⁸

The same pattern holds in Versant's Bangor territory, where 8.27 percent of low-income households purchase electricity from CEPs, while only 6.20 percent of other households do.⁷⁹

Households with limited and low incomes who do not participate in energy assistance programs are not reflected in this analysis, nor are communities with low median incomes. Also, these analyses do not address patterns in communities with relatively higher proportions of consumers lacking English proficiency. One way to analyze these issues more comprehensively would be to analyze the CEP market on a community basis, based on zip-code-level data – this would permit an examination of the degree to which the levels of participation and the prices paid vary throughout the state.

5.4 Enforcement of Consumer Protections

An evaluation of the residential retail electric supply market should assess, among other things, the need for and challenges associated with enforcing consumer protection laws and regulations.

Many states have laws and regulations intended to insulate consumers from unfair or deceptive marketing practices. Some of these laws or regulations focus specifically on CEPs, while others may apply more broadly (e.g., to door-to-door sales or telephone solicitations generally). The effectiveness of such laws and regulations depends on their enforcement. Ideally, state agencies would conduct regular, proactive audits of CEPs’ sales and marketing practices to ensure compliance with state laws and regulations, but, as a practical matter, they lack the resources necessary to implement such a program.

Monitoring enforcement actions from other jurisdictions is a worthwhile (and low-resource) practice, but is unlikely to make a significant impact on supplier conduct. Chapter 305 mandates that, in their annual reports to the PUC, every CEP must identify enforcement actions directed at the CEP from other jurisdictions. Appendix 5.1 reproduces relevant portions of the most recently submitted annual reports for those CEPs who reported such actions. As a practical matter, the PUC is unlikely to invest the resources necessary to determine whether such disclosures are accurate or complete (and this is not always possible, as details of sanctions imposed pursuant to settlements may be protected from public disclosure). An annual report from one of the CEP’s subject to an enforcement action in Maryland (discussed in the Maryland case study at the end of this section) significantly understated the Maryland Public Service Commission’s findings regarding its violations of state law.⁸⁰ Moreover, because the annual reports are not readily available to consumers, the information disclosed regarding the investigation of supplier practices in other jurisdictions is unlikely to inform consumers’ purchasing decisions.

Typically, it has required a giant red flag, in the form of multiple consumer complaints, to trigger an investigation. States have devoted substantial resources to investigating consumer complaints about CEPs’ deceptive sales and marketing practices (such as slamming, sales representatives purporting to represent utilities, sales representatives mis-advising consumers that they must select a provider other than the utility, promising savings in electricity bills, ignoring no-solicitation signs, and refusing to terminate a contract). Appendix 5.2 reproduces an excerpt from a report prepared on behalf of the Maryland Office of People’s Counsel, which includes: “Massachusetts Attorney General Review of State Investigations and Class Action Lawsuits” (from a report prepared in 2018) and “Additional State Investigations and Class Action Lawsuits

Alleging Unfair or Deceptive Acts or Practices by Suppliers” prepared in November 2018. Since then, investigations and class action lawsuits have continued throughout the country.⁸¹ The case study at the end of this section focuses on five highly resource-intensive investigations (2019 to the present) of suppliers in Maryland whose practices were initially flagged through the consumer complaint process.

Among the disadvantages of a complaint-driven approach, in addition to the resource-intensive nature of such investigations, are that:

1. Consumer harm necessarily occurs well before there is any possibility of a remedy (and likely continues during the investigation into the apparent harm);
2. Resolution of complaint-driven investigations can often drag on for more than a year;
3. Consumers who may have experienced similar harm but do not voice their complaints are often excluded from remedies, such as re-rating at the utility’s standard rate; and
4. Often, the size of fines or other sanctions imposed on the CEP is not sufficient to deter future non-compliance with regulations and laws, and instead may be simply a cost of doing business.

5.5 Consumer Harm: Takeaways

- In each of the four years spanning 2018 through 2021, Maine households paid *an extra \$20 million*, on average, to purchase an essential utility – electricity supply.
- Households struggling to make ends meet can least afford to pay higher prices for a necessary (essential) service than they would through standard offer service, and yet studies show that the CEP market disproportionately harms low-income households.
- Fuel assistance dollars will be stretched thinner when consumers pay more for electricity than they could with standard offer service.
- The residential retail electric market is tipped in favor of the CEPs: the path to enforcement of regulations and laws entails consumer harm and substantial administrative burden for the state agencies with oversight responsibility.
- Penalties can be simply a cost of doing business and not sufficiently large to counterbalance the financial incentive by sales representatives to close sales, especially if their salaries are linked to commissions; by contrast, IOUs do not earn commissions when customers purchase electricity supply through standard offer service.
- The potential to save money during times of high standard offer rates can lead to increased enrollments with CEPs, but if rate plans are variable, the savings can turn into losses.

Consumer Protection Enforcement: A Case Study

In 2019, the Staff of the Maryland Public Service Commission (MPSC) filed complaints against five retail suppliers of gas and/or electricity for violation of state law and the MPSC’s consumer protection regulations, after receiving multiple complaints from consumers about the suppliers’ enrollment practices.⁸² The Maryland Office of People’s Counsel (OPC) filed separate complaints in each of these cases.

The applicable Maryland laws prohibit unfair and deceptive trade practices; they include the Maryland Consumer Protection Act, Comm. Law Art., § 13-301 (“CPA”), as well as several laws that focus on solicitations via specific sales channels, such as the Maryland Door-to-Door Sales Act, the Maryland Telephone Solicitation Act, and the Maryland Telephone Consumer Protection Act. The MPSC also has detailed consumer protection rules for retail gas and retail electric suppliers (COMAR 20.51.07 and 20.53.07). In addition to reinforcing the prohibitions on unfair and deceptive practices, these rules establish protections relative to contracting practices, unauthorized enrollments, and the training and supervision of sales representatives (regardless of whether they are employed directly or through a third party agent). Despite this relatively robust framework, these cases revealed the difficulty associated with holding retail electric/gas suppliers accountable for practices that violated state consumer protection law and regulations.

The cases with the strongest evidentiary record involved suppliers SmartOne Energy and SmartEnergy. SmartOne Energy, a natural gas supplier, admitted to violating regulations that required written contracts on all telephone enrollments.⁸³ Recordings of telephone calls with several of consumers who complained to the MPSC also revealed false, misleading statements by SmartOne’s representatives. The MPSC fined SmartOne \$561,000 and suspended its license.⁸⁴ In addition, the MPSC required that complainants be refunded the difference between SmartOne’s rates and what they would have paid for service from the utility; SmartOne was required to return all customers to utilities (standard offer service).⁸⁵ This case was completed within several months, but this was not typical of other supplier investigations.

Despite strong and compelling evidence, the SmartEnergy case was not resolved nearly so expeditiously; it dragged on for 3 ½ years. SmartEnergy sent misleading postcards to consumers, inducing them to phone in to its sales center.⁸⁶ The “script” SmartEnergy provided to its telephone representatives contained misleading information, and the supplier recorded the entire telephone conversation between its representative and the consumer, so it was possible to identify the representatives’ many misleading statements.⁸⁷ SmartEnergy also failed to comply with the contracting practices mandated by law and regulation.⁸⁸ The supplier argued that the transactions were not subject to the Maryland Telephone Solicitation Act because the consumers “initiated” the telephone call. The MPSC rejected this claim.⁸⁹ SmartEnergy appealed the case to two levels of the Maryland court system, and both courts fully upheld the MPSC’s decision.⁹⁰

Still, from the filing of the complaint until the last appeal, this case took 3 ½ years to resolve (including a 6-month suspension due to the Covid pandemic).

MPSC Staff also filed complaints against three other suppliers in May 2019.⁹¹ All three of these suppliers relied primarily on door-to-door sales; two also enrolled consumers by phone. In the case of door-to-door sales, unfair and deceptive practices occur in an unmonitored, unsupervised environment. Direct and indirect incentives for sales representatives (whether employees or agents) to close sales set the stage for aggressive and deceptive marketing tactics during in-person contacts. Even when the agency tasked with enforcement receives a consumer complaint, it has no way to verify whether the consumer's account or the supplier's account is correct. Third-party verification cannot be relied upon to counteract what goes on during the in-person transaction if the information initially provided was misleading or deceptive. The supplier may describe a training regimen that seems adequate on paper, but there is no way to ensure that individual representatives are complying. It is unsurprising, therefore, that the three supplier complaints involving door-to-door sales were resolved by settlements.

Consumers who took the time to complain to the MPSC got some relief, but typically not the other prior enrollees who may have experienced similar harms.⁹² Fines imposed under these settlements were relatively inconsequential compared to the suppliers' revenues in the state. Within the three settlements, there were provisions that required reforms in contracting practices (to comply with law and regulations), removal of certain misleading information from sales and/or training materials, and some ongoing monitoring by the regulator. In the end, however, the agreed-to changes cannot ensure that sales representatives, in their interaction at the consumer's front door, refrain from employing methods that violate the door-to-door sales laws and regulations.

As to conduct that occurred over the telephone, the providers that used this method as a secondary enrollment tool attempted (like SmartEnergy) to invoke a legal exemption for incoming calls, and the final disposition of the complaints against them remained unresolved pending SmartEnergy appeals. Eventually, these suppliers were also deemed to have violated Maryland's Telephone Solicitation Act.⁹³ Again, as in SmartEnergy, the resolution of these cases was resource-intensive, and the extended time necessary to obtain a final disposition preserved suppliers' business interests at the expense of consumers.

Takeaway from Maryland cases:

What these several cases show is that – even with a robust regulatory framework – holding providers accountable for misleading sales presentations and other violations of state laws and regulations governing telephone solicitations and door-to-door sales is an extremely resource-intensive and protracted process. In the end, the sanctions often do not fully compensate consumers for the harm they have experienced from supplier misconduct (for example, when only those consumers who file complaints get re-rated). Even when the supplier is required to correct misinformation in its training materials, there remains a strong incentive for sales representatives to employ aggressive or deceptive practices to close sales with prospective customers, particularly when there is no on-site supervision (as in the case of door-to-door sales, as well as many telemarketing calls). The other side of the ledger is the minimal benefit that most consumers are receiving from retail suppliers. The suppliers in the Maryland cases all claimed to offer consumers an economic benefit, through lower prices or promotional products, but in each case, it was demonstrated that their prices were consistently higher than the utility's.⁹⁴ This is consistent with consumers' experiences in other states (see Figure 5.2, above).

6 RELATIONSHIP OF RESIDENTIAL RETAIL ELECTRIC MARKET TO MAINE'S RENEWABLE ENERGY AND CLIMATE GOALS

6.1 Background

There is no clear evidence that products CEPs market as “green” contribute any more to the achievement of Maine’s climate goals than does standard offer service. The same Renewable Portfolio Standard (RPS) requirements apply to all supply in Maine – whether sold by a CEP or as standard offer service. A CEP pitching a “green” product generally does not provide the basis for this labeling. It is not clear, for instance, whether it is asserting that its product exceeds the minimum RPS requirement or merely complies with it. Further, if a CEP is asserting that it exceeds the minimum requirement, the basis for such a claim may be inaccurate or misleading, for instance regarding whether their incremental purchases are compliant with Maine RPS certification requirements. As a result, a CEP claim that it is offering a “green” product could be misleading.

The PUC website describes Maine’s RPS, which requires increasing reliance on renewable resources:

Maine Statute (M.R.S. 35-A §3210) requires 30% of Maine load be satisfied by existing renewable electricity generation (Class II) and 10% of Maine load in 2017 and beyond be satisfied by new renewable resources (Class I), and increasing amounts of Class IA and thermal renewable energy credits (TRECs) starting 2020 and 2021, respectively. By 2030, 40% of Maine load must be satisfied by Class IA resources and 4% by TRECs.⁹⁵

The pricing and marketing of so-called “green” products are not transparent and so even those consumers who are willing and able to pay more to purchase especially climate-friendly products lack access to easy-to-compare information about ways to spend their “green dollars.” For example, some CEPs charge premiums as high as five cents per kWh for their green products although the underlying Renewable Energy Certificates (RECs)⁹⁶ the CEPs purchase may cost them as little as a fifth of a penny per kWh. Moreover, the RECs purchased by CEPs typically are associated with out-of-state renewable energy such as wind farms in Texas that have already been built and do not contribute toward the achievement of Maine’s climate goals.

Pursuing green electricity above and beyond (i.e., more quickly than) the state’s renewable portfolio standard timetable depends in part on consumers’ ability and willingness to pay a “premium” for “greener” electricity than that already mandated. For many households, and especially for households with low and limited incomes, disposable income is finite, and monies spent on CEP products in excess of monies that would be spent for standard offer service are then not available for other uses (such as housing, transportation, food, childcare, and other

energy products). Therefore, if and when CEPs pitch their products as green, it is important that the “shade of greenness” be transparent to the potential consumer, both in the premium (or mark-up) customers are being asked to pay for that greenness as well as the characteristics of the greenness (the fuel source and the emissions) so that consumers can make informed (efficient) purchasing decisions.

An important context for assessing CEPs’ contribution to the achievement of Maine’s climate goals is consideration of alternative ways that consumers could allocate household income to minimize their carbon footprint:

- Would alternative uses of household dollars do more, less, or the same to achieve Maine’s climate goals? ⁹⁷
- Would alternative uses of household dollars result in lower overall energy requirements in a home, and thereby provide a recurring financial benefit to households (as well as contributing to Maine’s climate goals)?

Maine’s *Green Power* Program is one purchasing option and the adoption of energy efficiency measures is another, and, of course, those with the financial resources to do so, can pursue both. These are both useful benchmarks against which to compare CEPs’ green products.

6.1.1 Maine Green Power⁹⁸

As the *Maine Green Power* website explains, the program: “allows Maine electric customers to choose clean, local renewable energy for their home or business. The program allows Mainers to match their electric use with green power produced in Maine.” This program provides a benchmark against which to compare the prices and fuel sources of CEP products. Both the prices and the fuel sources in the *Green Power* program are subject to PUC oversight. By contrast, CEPs may price their green products as they choose, and, other than meeting the minimum RPS requirements, there are no guidelines regarding the fuel mix of their voluntary green products.⁹⁹

Green Power Prices:

Customers can purchase:

- Half Block (250 kWh) purchase per month: \$4.95 per ½ Block (\$0.0198/kWh)
- One Block (500 kWh) purchase per month: \$8.95 per Block (\$0.0179/kWh)
- Ten Blocks (5,000 kWh) or more purchase per month: \$6.45 per Block (\$0.0129/kWh)

Green Power Fuel Sources:

The Maine Green Power Program matches the purchase amount with Renewable Energy Certificates, or RECs, that are produced in Maine. In other words, the RECs that consumers support through the Green Power Program are “pre-qualified” – they are subject to regulatory

oversight, are “homegrown” and so necessarily contribute to Maine’s climate goals, as this excerpt from the web site entitled “How do I know that I’m getting what I pay for?” shows:

The Maine Public Utilities Commission provides oversight to ensure that only eligible Maine renewable energy resources are used to generate energy for *Maine Green Power*. In addition, *Maine Green Power* will issue annual reports that outline the mix of renewable resources your household or business purchased through *Maine Green Power*.¹⁰⁰

4,600 Mainers have voluntarily enrolled in the *Maine Green Power* program.

6.1.2 Adoption of Energy Efficiency Measures

Households can also allocate part of their budgets to adopt energy efficiency measures, which will permanently reduce demand for fossil fuel sources. Households could use the approximate *additional* \$20 million per year that they now spend as a result of purchasing higher-priced CEP products instead for energy efficient windows, energy-efficient appliances, heat pumps, and other energy-saving measures. Unlike the dollars spent in premiums for each kWh purchased from a CEP, dollars spent on these measures would lower household energy demand year after year and so help consumers, especially those struggling to make ends meet, pay their fuel bills.¹⁰¹

6.1.3 Framework for Assessing the Role of CEPs in Achieving Maine’s Climate Goals

- Household incomes are limited: policies should assist consumers in allocating “energy budgets” efficiently.
- The “green premium” per kWh should be readily transparent.
- Consumers should know what they are getting (i.e., “shade of greenness” and contribution to achieving Maine’s climate goals).
- Monies spent on energy efficiency measures will benefit household budgets and Maine’s climate year after year.

6.2 Existing Consumer Protections for CEPs’ Green Products

Some consumer protections for CEPs’ green products exist. An excerpt from Chapter 305 (“Marketing of Electricity Attributes”) follows:

Competitive electricity providers that market or promote electricity products on the basis that all or a percentage of the electricity provided have specified attributes, including but not limited to green, renewable, specified resource types and locations, must provide supporting documentation in the annual report filed pursuant to section 2(E) of this Chapter. For purposes of this provision, the documentation must be as follows:

- a. **ISO-NE Control Area.** For service to customers in the ISO-NE control area, the competitive electricity provider must have GIS certificates in a Maine GIS-sub-account that reasonably corresponds to the usage of the customers provided the green electricity or renewable electricity product.
- b. **Maritimes Control Area.** For service to customers in Northern Maine, the competitive electricity provider must have market settlement data and other documentation that demonstrates the renewable resources used to serve load reasonably corresponds to the usage of the customers provided the green electricity or renewable electricity product. This information must document that the renewable attributes of the resources have not been used or transferred for any other purposes.

This provision does not prohibit competitive electricity providers from marketing, promoting, or providing green or environmental products, such as renewable credits associated with resources that are not used to serve load in New England, as part of the provision of electricity services. The promotion of such products may not state or suggest that the electricity actually used to serve the customer has the stated attributes. The competitive electricity provider must provide supporting documentation in the annual report filed pursuant to section 2(E) of this Chapter.

The PUC bears the burden of verifying the information that CEPs submit in their annual reports regarding their green, renewable resources. From the consumer's perspective, for the market to work efficiently, consumers require reliable, easy-to-understand information about the "green-ness" of the various CEP products and the "premium" that each CEP charges for its green products.

Appendix 6.1 includes (1) a summary of CEPs' green products based on the authors' review of the annual reports submitted in July 2022 for calendar year 2021 to the PUC by the thirteen CEPs that submitted Form 861s for calendar year 2021; and (2) reproduces the descriptions of CEPs' "voluntary" green products, where such descriptions were publicly included with CEPs' annual report submissions.

However, consumers are highly unlikely to research and read CEPs' annual reports, and, instead, will rely on CEPs' representations as to the "green-ness" of their products as put forth in written sales materials, web site materials, door-to-door sales pitches, and telemarketing calls. An independent, verified and easy-to-use comparison of CEPs' green products – prices, fuel mix (and source; in-region vs. out-of-region), and emissions -- should be readily available to consumers so that they can make informed choices. Creating, maintaining, verifying, and publicizing such a comparison, however, would require new and substantial administrative resources and depend critically on CEPs' timely and accurate posting of information to a centrally maintained portal, subject to independent oversight.

6.3 RECs and Maine’s Climate Goals

CEPs’ voluntary “green” products may rely on out-of-region RECs. CEPs can purchase RECs associated with Texas wind farms for between \$2 and \$4, which works out to between \$0.002 and \$0.004 per kWh. The green mark-up charged to consumers, however, can be more than ten times that amount. The OPA publishes CEPs’ prices and early termination fees (based on CEPs’ websites). The OPA’s table, as of January 9, 2023 is reproduced below in Table 6.1.¹⁰² The OPA prefaces the table with a caution that “[p]rices can change without notice, so we strongly urge you to go to the website or call the company to confirm before signing up.” OPA also explains that “[p]roducts with a higher percentage of electricity generated from renewable resources are noted with a (xx%) after the price showing the percentage of renewable energy included in the product.”

Table 6.1 Reproduction of OPA Table of Standard Offer and CEP Prices

Competitive Electricity Provider	Rate for CMP Customers (¢/kWh)	Rate for Versant (Bangor Hydro) Customers (¢/kWh)	Fixed Rate Term	Early Termination Fee	Telephone
Residential and Small Commercial Standard Offer (PUC)	17.631	16.438	1/1/23 – 12/31-23	No	n/a
Ambit Energy Updated 8/1/22	26.25	26.25	Winter Break 12	No	877-282-6248
	26.5	26.5	Winter Break 24		
C.N. Brown Electricity	16.50	16.50	12 Months	\$100	207-739-6444
	17.50 (100%)	17.50 (100%)	12 Months GreenChoice		
Major Energy	20.49	20.79	12 Months	No	888-625-6760
Mega Energy Updated 8/1/22	19.9	19.9	12 Months	\$50	855-810-6342
SmartEnergy	19.90	18.40	6 Months	No	800-443-4440
XOOM Energy	17.49	16.99	24 Months	\$200	888-997-8979
	22.39 (50% Green)	20.09 (50% Green)	Variable	No	

By way of illustration, one can consider a consumer residing in CMP territory. Green products are shown in Table 6.1, above, for only two suppliers: C.N. Brown Electricity and Xoom Energy.

- For the calendar year 2023, as Table 6.1, above shows, CMP’s rate per kWh for standard offer service is \$0.17631.
- By enrolling in the Maine *Green Power* program, a household can purchase 500 kWh for \$8.95, which is \$0.0179 per kWh in addition to the standard offer rate.¹⁰³
- C.N. Brown Electricity offers \$0.165 per kWh for a 12-month contract, and for the same 12-month contract, a 100% green product for \$0.175 per kWh, both with an early termination fee of \$100.
- Xoom offers two products, a 24-month month fixed price at \$0.1749 per kWh (with an early termination fee of \$200) and a variable price of \$0.2239 for a “50% Green” product.

It is not clear whether the two CEPs’ green products (100 percent for C.N. Brown Electricity and 50 percent for Xoom Energy) are based on out-of-region or in-region fuel sources – only the latter would contribute to the achievement of Maine’s climate goals. Setting aside for a moment the important question of the source of the renewable energy, one can compare the “green premiums” associated with these CEP products, which is shown in Table 6.2, below.

Table 6.2 Green Electricity Supply Products – Based on OPA Table¹⁰⁴

	CMP (2023)	C.N.Brown	Xoom
Base Rate (\$ per kWh)	\$0.1763	\$0.1650	\$0.1749
Total Monthly Bill	\$88.16	\$82.50	\$87.45
Green Product	<i>Green Power</i>	<i>Green Choice</i>	<i>50% Green</i>
Additional Fee	\$8.95 / 500 kWh	\$0.01 / kWh	\$0.049 / kWh
Rate (\$ per kWh)	\$0.19421	\$0.17500	\$0.22390
Term	None	12 Months	Variable
Early Termination Fee	None	\$100	None
Fixed / Variable Rate	Fixed	Fixed	Variable
Attribute	100% Maine REC	100% "Green"	50% "Green"
Total Monthly Bill	\$97.11	\$87.50	\$111.95
Green Premium (\$ per kWh)	\$0.0179	\$0.0100	\$0.0490
Green Premium (\$ per year)	\$107.40	\$60.00	\$294.00

Assuming 500 kWh of usage per month, over a 12-month period, the CMP customer who enrolls in the *Green Power* program, would pay an additional \$107.40 to support 100% Maine RECs; the C.N. Brown customer would pay an additional \$60 to support 100% Green (with the fuel source unspecified); and the Xoom customer would pay at least an additional \$294 to support 50% Green (with the fuel source unspecified and because the rate is variable, that premium could change).

Figure 6.1 shows the relative magnitude of the base rate versus the “green premium” for each of the suppliers listed in Table 6.2.

Figure 6.1 Components of Total Green Product Price



It is important, however, to consider the source of the “green-ness.”¹⁰⁵ Presently, consumers cannot readily discern the extent to which CEPs’ voluntary green products contribute to the achievement of Maine’s climate goals. Only one of the thirteen Maine CEPs appears as “Green-E” certified in Maine, but although it appears, the actual Green-E certificate for the company does not actually include Maine as Appendix 6.2 shows.¹⁰⁶

An explanation of a Green-e product follows:

Green-e® certified renewable energy and carbon offset products meet the most stringent environmental and consumer protection standards in North America. You can search below for certified green power and renewable energy certificate programs for your home or business, and carbon offset products to offset your emissions from activities like driving and flying.¹⁰⁷

In another jurisdiction, regulators stated:

Additionality means the purchase of the REC encourages development of renewable generation that would not occur otherwise. In the case of RECs acquired from Texas wind sources, for example, the sources likely would have been constructed regardless of the REC market because of the financial viability of a readily-available source of energy. The Authority attempts through this Decision to use the REC market as it was originally intended – to encourage greater development of renewable sources of energy generation.¹⁰⁸

The arena of “green” products is complicated, as this excerpt from a report by the Greenhouse Gas Management Institute & Stockholm Environment Institute explains:

What is a “green power purchase”?

Short answer

Frustratingly, from the perspective of an end-use consumer on an electricity distribution grid, there is no accepted definition. A muddled miscellany of financial and contractual arrangements is commonly referred to as “buying green power,” most of which have little bearing on the origins of the electrical energy a buyer physically consumes. This reality presents challenges for representing “green power purchases” in a company's GHG emissions reporting.¹⁰⁹

To make informed, efficient purchasing decisions, consumers need clear, easy-to-compare information. At a minimum, Maine households should be informed about:

- The difference between “green” products based on out-of-region RECs and in-region RECs as it relates to the achievement of Maine’s climate goals.
- Suppliers’ relative reliance on in-region vs. out-of-region RECs.
- The additional “mark-up” associated with different “shades of green.”

The market presently lends itself to greenwashing.¹¹⁰ Overall, there is no evidence that the presence of the residential CEP market is helping to move the needle toward achieving Maine’s climate goal. Moreover, consumers’ dollars may be spent more effectively with other purchases, whether it be enrollment in the *Green Power* program, or the adoption of energy efficiency measures. In Connecticut, regulators stated:

RESA did not demonstrate that returning hardship customers to standard service impacts the state’s clean energy goals. The evidence in this docket did not indicate that hardship customers contract with a supplier to purchase clean energy. In fact, the evidence did not even indicate that hardship customers with suppliers are purchasing more clean energy than if they were on standard service. Achieving clean energy goals is laudable, but the Authority finds the state can achieve its clean energy goals without forcing Connecticut customers to subsidize inflated supplier rates.¹¹¹

6.4 Residential Green Products and Maine’s Climate Goals: Takeaways

Many consumers want to purchase “greener” electricity and may even be willing to pay a premium to do so. Problems arise when:

- The electricity being marketed is not any “greener” than standard offer service, but consumers believe that it is.
- Consumers don’t realize they are paying a larger mark-up to purchase products marketed as renewable than they would for other equally (or more) effective climate-friendly options - they are not getting the most bang for their “green” buck.
- CEPs’ sales of products they brand as “green” complicate standard offer providers’ pursuit of renewables and enrollment of customers in programs such as the *Green Energy* program.
- Consumers lack an accurate, easy-to-use, up-to-date comparison of the premiums charged for various green options and the degree to which green options contribute to Maine’s climate goal.

7 FINDINGS AND RECOMMENDATIONS

7.1 Summary

Maine Public Law 2021, Chapter 164 (P.L. 2021, Ch. 164) directs the Public Advocate to study ways to reform Maine’s system of retail electricity supply to provide more options to customers as well as to support Maine’s climate goals. State policymakers opened the residential retail electric supply market to competitive entry in 2000,¹¹² with hopes of innovation and lower electricity prices for Mainers. These hoped-for benefits generally have not materialized for residential customers. Instead, an analysis of Maine’s residential third-party market as well as of similar markets in other jurisdictions demonstrates that the CEP retail residential electric market is not a consumer-friendly way to provide options to Maine’s households, nor is there evidence that it furthers Maine’s achievement of its climate goals more effectively than do (and could) other energy policies (those already in place, and those that could be adopted).

Household budgets are not unlimited: Monies spent for electricity supplied by Maine’s competitive electric providers, which, on average, is priced 70 percent above that charged for standard offer service,¹¹³ could be allocated instead toward other energy-related household purchases (such as energy efficiency measures,¹¹⁴ home-based adoption of renewable energy systems,¹¹⁵ and enrollment in Maine’s Green Power Program,¹¹⁶ which could both:

1. Contribute more toward the achievement of Maine’s climate goals than do CEPs’ offerings; and
2. By lowering per-household energy demand (without jeopardizing quality of life),¹¹⁷ partly mitigate year-after-year financial hardship particularly for those households that are struggling the most to make ends meet.

7.2 Analytic Framework

This section of the Report summarizes major findings and links them to recommendations based on the following analytic framework:

1. Is the CEP-served market benefiting Maine’s households?
2. Is the market benefiting those households in Maine with low and limited incomes as well as those Mainers residing in low-income communities?
3. Is the market furthering Maine’s climate goals to the same degree, a lesser degree, or a greater degree than other alternative uses of Mainers’ disposable income?

7.3 Major Findings

An analysis of the CEP-served market demonstrates that:

- The CEP-served retail electricity market has been harming residential customers, and is continuing to harm residential consumers.
 - A detailed analysis of the prices actually charged by CEPs to Maine’s households shows that during the four-year period spanning 2018 through 2021, CEP-served residential customers paid between \$78.1 million and \$90.6 million *more* for electricity – an essential service – than they would have paid with standard offer rates.¹¹⁸ This translates into an approximate \$280 per-participating household overpayment for electricity per year, or \$1,040 - \$1,200 total over the entire four-year period).
 - This harm is part of an even longer trend: In its *2018 Report*, the PUC showed that customers who received electricity supply service from a CEP over the three-year period 2014 through 2016 paid approximately \$77.7 million more than what they would have paid for standard offer service.¹¹⁹
 - There is no evidence so far that suggests that this aggregate overpayment furthered the achievement of Maine’s climate goals.
- The finding of substantial financial harm to Maine’s consumers is consistent with other states’ experiences.¹²⁰
- Of Maine’s 711,332 households, only nine percent (64,279 households) purchase electricity from CEPs.¹²¹
- Although access to and analysis of geographically granular demand and pricing data for Maine’s CEP-served communities are not within this Report’s scope, detailed analyses in other states demonstrate that CEP prices and subscription levels are higher in low-income communities than they are in affluent ones. Detailed analyses in other states demonstrate not only that all households (regardless of income), on average, pay a “premium” to purchase from CEPs, but also that some households pay an *additional* premium because they are low-income or live in low-income communities or in communities with relatively higher proportions of households lacking English proficiency.¹²²
- Although the supply market has been open to residential retail competition for more than two decades, the hoped-for benefits of competition have not materialized to offset the well-documented harms.
- Maine’s Green Power Program offers voluntary green products.¹²³
- There are many ways to save with “green” energy efficiency items.¹²⁴
- Chapter 306 contains requirements for competitive electricity providers to disclose price, contract, fuel mix, and emissions information to customers in a uniform format.¹²⁵ However, there does not appear to be a central clearinghouse that enables consumers to compare easily CEPs’ “green premiums” (that is the mark-up for purchasing greener

products) and how such premiums compare to alternative ways to contribute to the achievement of Maine's climate goals.

- Variable rates often lead to excessive rates and are often associated with consumer complaints that lead to regulatory investigations of suppliers' sales and marketing practices. One CEP presently is charging thousands of Maine customers \$0.3999 per kWh.
- Automatic renewals of contracts prevent consumers from affirmatively revisiting their choice of suppliers.
- Door-to-door sales create opportunities for aggressive and deceptive sales and marketing practices.
- The promise of "green" energy is misleading. A product marketed as "green" may not necessarily differ from the fuel mix and emissions of the standard offer service.¹²⁶
- When households are unable to pay their electricity bills, all consumers are harmed:
 - Disconnections jeopardize the safety and health of those households that are disconnected
 - Publicly funded energy assistance dollars can be depleted more quickly than if households paid lower standard offer rates.
- As the case study discussed in Section 5, above, demonstrates, the CEP market disproportionately burdens consumers and regulators, with CEPs often continuing to generate revenues while complaints are addressed and investigations proceed (some lasting years). The sales and marketing practices of those CEPs that fail to comply with existing consumer protection measures lead to (1) consumer harm (high bills and the burden associated with seeking remedy) and (2) the administrative burden of investigating consumer complaints and enforcing consumer protection measures. While due process for CEPs is important, the scales are tipped in CEPs' favor. The overall administrative apparatus needed to ensure compliance with laws and regulations should be taken into consideration while assessing the merits of the overall CEP residential market.
- Chapter 305 sets forth consumer protection measures, which are comprehensive, but which could nonetheless benefit from strengthening if the CEP-served residential electric retail market continues.
- Even the most comprehensive set of consumer protections is only as effective as the enforcement (moreover, enforcement necessarily occurs after the fact, that is, in the wake of consumer harm).

7.4 For Many Maine Households, Disposable Income is a Binding Constraint on their Purchase of Essential Items

As state policymakers consider how to chart a sustainable, consumer-friendly and climate-friendly path forward – and one that does not require inordinate regulatory overhead to enforce -- it is important to recognize that Mainers' disposable income is not unlimited.

- For the household category "65 Years and Older," the median income was \$45,579 in 2021.¹²⁷
- 27,506 households participated in the HEAP Program in 2021.¹²⁸
- Participation in the Federal Communications Commission's Affordable Connectivity Program (which provides high-speed internet access subsidies to qualifying households, primarily based on income criteria) is another indicator of the number of households struggling to pay bills, though, as with energy assistance programs, the number of households that participate in the ACP is less than the number that are eligible to participate. Approximately 67,000 Maine households participate in the ACP.¹²⁹ The income qualification for the ACP is 200 percent of the federal poverty guideline, and so differs from that used for other low-income programs.
- Nearly 39 percent of Maine Households get by on less than \$50,000 per year.¹³⁰
 - Even those households not eligible for or not participating in energy assistance programs may be struggling to make ends meet.
- Monies paid to CEP in excess of monies that would be spent for standard offer rates are not available for other household purchases.
 - Disposable income is not infinite.
- The opportunity cost of the market's continuation should be considered: millions of dollars are being spent each year in excess of what would have been spent through standard offer service. These are monies that could have been allocated in other ways to further Maine's climate goals, such as:
 - Energy efficiency measures (e.g., an energy-efficient window or storm door);
 - Home-based adoption of renewable energy measures (e.g., a heat pump or solar panel); and
 - Other actions suggested in Maine's Climate Report.¹³¹

7.5 Overall Finding

The hypothetical possibility for a well-informed customer who meticulously monitors the market to save some money does not justify the widespread abuses and overcharges that most customers experience. Household monies spent on overpriced CEP-supplied electricity could be expended more efficiently on other more climate-friendly energy-saving purchases. In conclusion,

although opening markets theoretically can lead to innovation and benefits, it is essential to weigh the *hypothetical* benefits against the *actual* harms that have been occurring (as is evidenced by net consumer loss and enforcement actions) for many years.

7.6 Recommendations

Overview

This section of the Report links recommendations to key findings, and often describes corresponding best practices that other states have adopted. Pending the implementation of the first recommendation, described below, Maine’s policymakers should the other recommendations described below.

Finding No. 1: The residential retail electric market harms consumers and fails to further Maine’s climate goals more effectively than do and could other measures.

Recommendation No. 1: End the residential retail electric CEP market. Many states, with the best of intentions, including Maine, opened the residential retail electric market to competitive entry (and in some states, such as Maryland, the gas market as well). Unfortunately, the innovation and lower prices that state policy makers anticipated did not materialize. Instead, consumer harm (billions of dollars, countless complaints, and hundreds of enforcement actions and sanctions) and substantial administrative burden ensued. For many years, the *hypothetical possibility* of benefit has allowed the market in Maine and in other jurisdictions to continue despite ongoing and substantial harm to consumers, including (and especially) to consumers with low-incomes.¹³² Other states are considering discontinuing the residential retail electric market. Moreover, although there is widespread support for policies that promote reliance on renewable energy, there is no evidence that the products that suppliers in Maine market as “renewable” constitute anything more than the use of RECs based on out-of-region sources or the same RPS mixture as is required through standard offer service. Furthermore, there is substantial evidence that consumers pay an exorbitant premium to purchase services marketed as green.¹³³ Consumer dollars could be allocated more efficiently elsewhere. Rather than permitting this “greenwashing”¹³⁴ to occur, the state should instead encourage consumers to purchase green electricity through the Green Power Program.

The market should be phased out beginning January 1, 2024, with no new contracts as of that date and no renewals of existing contracts as of that date.

Recommendation No. 1: Discontinue Residential Retail Electric Market

- Phase out residential retail electric market effective January 1, 2024:
 - No new customers; and
 - No renewals of existing contracts.
- Ensure that IOUs have time to implement.

Best practices:

- Massachusetts. Legislation has been introduced, including with bipartisan support, but not yet passed, that would prevent new sales by third-party suppliers. For example:
 - 2021: Attorney General Maura Healey, Energy and Environmental Affairs Secretary Kathleen Theoharides, Department of Public Utilities Chairman Matthew Nelson, Sen. Brendan Crighton and Rep. Frank Moran supported legislation (S 2150/H 3352) that would ban competitive electric suppliers from signing up new individual residential customers in Massachusetts.¹³⁵
 - 2022: The provision, which was included in S. 2842 without amendments from a 2021 Senate bill submitted by Sen. Brendan Crighton, would prevent retail suppliers from creating new residential contracts in the state or renewing those contracts after 2023.¹³⁶
 - See Appendix 7.1 and Appendix 7.2, respectively for a reproduction of Maine L.D. 1917: An Act To Eliminate Direct Retail Competition for the Supply of Electricity to Residential Consumers, and Massachusetts S 2150.
- Boston, Massachusetts: Mayor Michelle Wu’s 2023 legislative agenda includes banning “predatory competitive electric supply companies that trap unsuspecting residents into high electric bills.”¹³⁷
- New York: The New York Public Service Commission website includes this cautionary note: “Please read the text below prior to entering the Power to Choose website. The Public Service Commission has been critical of certain Energy Services Companies, or ESCOs, particularly regarding prices. The Commission is considering whether the retail access market for energy commodity is working properly, or if it should be revised.”¹³⁸

As an alternative to this measure, CEP rates could be capped at standard offer rates, and rates for independently verified CEP green products could be capped at the Green Program rates (or the rates of any new, state-overseen green products).

Finding No. 2: Evidence demonstrates that the CEP market disproportionately harms low-income households.

Recommendation No. 2: Protect Mainers with Greatest Financial Constraints. If policymakers do not adopt Recommendation No. 1, they should then take strong measures to protect Maine’s low-income customers. Analyses in other states demonstrate that prices are higher in low-income communities and for customers participating in energy assistance programs.

Recommendation No. 2: Protect Mainers With Low and Limited Incomes

- No new contracts or sales to those participating in energy assistance programs.
- No renewals of existing contracts for those participating in energy assistance programs.
- Make sure IOUs and suppliers have adequate time to implement.
- In the alternative: cap rates for supply to low-income consumers and to residents of low-income communities at standard offer rates.

Best practices:

- Connecticut ended the market for hardship customers,¹³⁹ a decision which some suppliers opposed, but which Connecticut’s regulators upheld.¹⁴⁰
- Maryland has capped prices for low-income households.
 - The Energy Supply Reform Bill (SB31/HB397) went into effect on January 1, 2023, and will protect low-income consumers from paying more to third-party suppliers than the utility company rate for electricity and natural gas.¹⁴¹
 - See Appendix 7.3 to this Report for a reproduction of the Maryland legislation.
- The New York Public Service Commission prohibits third-party suppliers from serving low-income customers unless they guarantee savings. Specifically suppliers must seek a waiver from the prohibition and:

[D]emonstrate their willingness to develop a program that ensures delivery of the claimed savings. These assurances should include at a minimum the following: (a) an ability to calculate what the customer would have paid to the utility; (b) a willingness and ability to ensure that the customer will be paying no more than what they would have been paid to the utility; and (c) appropriate reporting and ability to verify compliance with these assurances. In the event an ESCO requests such a waiver the Commission will review it and, in addition to the above elements, will consider other conditions it determines are necessary to protect consumers.¹⁴²

- The Pennsylvania Public Utility Commission required low-income customers to be returned to standard service. Among other things, pursuant to a settlement:

“The Companies will develop a letter to be sent to all CAP [Customer Assistance Program] customers enrolled with an EGS notifying those customers of the pending change to the program rules and their options related thereto. The letter will be available in English and Spanish, and will inform CAP shopping customers of the following:

- All CAP shopping customers are required to return to default service by June 1, 2023 in order to remain enrolled in the Companies’ CAP.
- CAP shopping customers have the choice to voluntarily withdraw from CAP by June 1, 2023, if they wish to remain with their current EGS.
- CAP shopping customers who take no action by June 1, 2023 will be automatically returned to default service and will remain enrolled in CAP without interruption.
- CAP shopping customers will not incur any early cancellation, termination, or other fees if they choose to return to default service and remain in CAP.”¹⁴³

Practical considerations of Recommendation No. 2:

- The burden of compliance with this consumer protection would be on utilities, which render consumer bills. If CEPs render their own bills, there would be a substantial burden on government agencies to enforce the restrictions and to ensure CEPs’ accountability.
- Although this consumer protection is better than none, there are drawbacks (which are not associated with Recommendation No. 1):
 - First, many consumers who are eligible for energy assistance do not participate in the energy assistance programs, and so would not be protected by this recommendation.

- Second, there are many customers who do not qualify for energy assistance who are nonetheless struggling to make ends meet. Recommendation No. 2 would not protect them from high rates.

Finding No. 3: Geographically granular data would assist policymakers in implementing measures to protect households with the lowest financial resources.

Recommendation No. 3: Analyze geographically granular pricing and demand data. There is substantial evidence that marketing and sales disproportionately occur in low-income communities and communities with higher percentages of households lacking English proficiency. Moreover, there is comprehensive evidence that suppliers charge higher prices to low-income consumers and in low-income communities. An analysis, similar to that conducted in other states (of supplier-specific data on prices and subscribership), should occur based on zip-code-level data for Maine. Consumer-specific information is not necessary and therefore consumer privacy is not an issue. This analysis, which should not delay the implementation of other consumer protection measures, can inform outreach and education.

Recommendation No. 3: Obtain and analyze geographically granular data

- Require IOUs to provide zip-code-based data on demand and prices for CEP-provided service to the PUC and OPA.
- Conduct independent analysis of prices actually being paid and levels of participation and overlay with U.S. Census data regarding income.

Best Practices

Detailed analyses of participation levels and prices actually paid were conducted at a zip code level in Massachusetts in order to overlay supplier data with demographics, based on oversight questions issued by the Massachusetts Office of the Attorney General.¹⁴⁴

In Connecticut, detailed analyses of participation levels and prices actually paid were conducted at a zip code level to overlay supplier data with demographics.

The Maine Legislature or the Maine PUC should direct utilities to provide twelve consecutive months of detailed billing data separately for separately for low-income and other customers, separately by supplier within each utility's region and separately by month. Also, utilities should provide comparable data for the most recent month of the 12-month period disaggregated to a zip code level so that one could assess whether certain groups of customers and communities are being disproportionately harmed (as is happening in Massachusetts, and as was investigated and

addressed in Connecticut and Pennsylvania). This level of detail should be provided to the PUC or OPA annually and be available for analysis by interested stakeholders.

The most reliable way to obtain information is from the utilities, which render bills to customers on behalf of suppliers. These bills include accurate, up-to-date information about the prices that suppliers actually charge for electricity and the numbers of bills rendered on behalf of each of them. In sharp contrast, information that suppliers post on their web sites and that are posted on the OPA 's website are not necessarily the rates that customers pay.

Actual billing data would help Maine's policymakers determine whether consumers, especially low-income consumers, are receiving the purported benefits of competition. Detailed analyses of rates charged by suppliers in Massachusetts, Connecticut, and Pennsylvania unambiguously demonstrate that any given supplier may charge a dozen or more *different* rates to its customer base in a *single* month.

Finding No. 4: Variable rates contribute to rate shock; automatic renewals also harm consumers.

Recommendation No. 4: Prohibit variable rates and prohibit automatic renewals of contracts. Variable rates contribute to rate shock and consumer harm. Customers may be attracted to low "teaser" rates and then be caught unaware until they receive high bills resulting from spiking rates. States have implemented consumer protections against variable rates, but they fall short of protecting consumers fully. Customers may sign up with a supplier, not fully understanding the fine print of the contract and the fact that low teaser rates are short-lived and may transition into high and volatile variable rates. Shopping for a car or appliance is a one-time undertaking, and once completed, need not occupy a customer. In sharp contrast, in energy markets, where supplier rates may change frequently and vary enormously not only across suppliers but even among an individual supplier's customer base, and distribution utilities' rates change, customers must constantly be "on alert" to prevent exorbitant charges. The day-to-day chore of evaluating energy costs may overtake the theoretical possibility of customers making rational decisions in their best interests.

The consumer bears the burden of reading the fine print in a contract and visiting the supplier's web page. Also, web-based information does not reach all households: Adoption of high-speed internet access in the home (which facilitates research), declines as income declines; declines as age increases; and is lower in rural areas than urban and suburban areas.¹⁴⁵

Variable rates should be prohibited. If this does not occur, suppliers should be required to list very visibly on their web sites the highest and lowest rates charged as part of any variable rate offer for each of the preceding twelve months. This is an area where a careful review of rates actually being charged by suppliers to consumers for a representative period of time would allow policy makers to assess the range of variable rates in the electric market. Unanticipated increases in rates are a major cause of consumer harm. Little is known about the variable rates that are

actually being charged. In other states, a review of rates actually charged shows a wide range of prices charged by a single supplier. Another approach for protecting consumers is that adopted by New York regulators, who decided “rather than prohibit variable-rate, commodity-only offerings, such offerings will be permitted only if the ESCO guarantees to serve the customer at a price below the price charged by the utility on an annually reconciled basis.”¹⁴⁶

Automatic renewals should be prohibited. Consumers may not realize that they have the option to discontinue service with a supplier or may lack ready access to information that would guide their decision regarding whether to continue or to cancel their service. Banning automatic renewals would return consumers at the end of their contract terms to standard offer service or to a supplier that the consumer affirmatively selects.

As a less effective alternative to banning automatic renewals, suppliers could be required to: (1) seek affirmative, in-writing decision by their consumers to continue service; and (2) provide consumers with relevant information well in advance of the expiration of contract terms. Well-informed consumers make more efficient purchasing decisions than those lacking relevant information. If a consumer is alerted to the fact that her contract is about to be up for renewal and is simultaneously educated (with independently prepared consumer education materials) about both the supplier and standard offer prices that were offered during the soon-to-be-expired contract period as well as during upcoming time frame, she can make a more informed decision.

Recommendation No. 4: Prohibit Variable Rates and Automatic Renewals

- Prohibit variable rates.
- Prohibit automatic contract renewals.
- If variable rates are not prohibited, require affirmative consent for any increase in rates. Affirmative consent would provide an essential protection against unanticipated rate increases.
- In the alternative, require rates to be fixed for at least three billing cycles, and require one-month’s notice to customers before raising rates, with option to terminate service without penalty.
- Establish additional notice requirements so that ample notice be provided before each increase in variable rates occurs so that consumers have adequate time to terminate their service. Customers need adequate time to change their suppliers if they are concerned about pending rate increases.
- Require suppliers to post on their websites and in the PUC’s portal the lowest and highest rates they charged in the previous twelve months.

Best Practices

Connecticut: Connecticut prohibits variable rates, as the following excerpt from a Connecticut statute shows:

(4) On and after October 1, 2015, no electric supplier shall (A) enter into a contract to charge a residential customer a variable rate for electric generation services; or (B) automatically renew or cause to be automatically renewed a contract with a residential customer and, pursuant to such contract, charge such customer a variable rate for electric generation services. CT Gen Stat §16-245o(g)(4)(2015).

The language was strengthened further as part of legislation enacted in 2021:¹⁴⁷

Notwithstanding any provision of title 16, on and after July 1, 2022, no electric supplier shall charge a residential customer a variable rate for electric generation services. On and after July 1, 2022, any contract between an electric supplier and a residential customer that provides for the use of such variable rates shall be deemed null and void.

Maryland: Maryland provides some protection against sharply increasing variable rates, primarily through customer notification. Pursuant to its written notice requirement, if a contract with a fixed rate for three or more billing cycles changes to a variable month-to-month price and a change in the contract rate will be equal to or exceed 30 percent of the supplier's current supply rate, the supplier is required to provide written notice of the new rate to the customer at least 12 days prior to the close of the customer's billing period.¹⁴⁸ Regulations require suppliers to provide the written notice "by mail, or with the mutual consent of the supplier and customer, by email, text, automated phone message or other manner" and to "maintain records that such notice was provided to the customer." Also, pursuant to COMAR 20.53.07.08 and 20.59.07.08, electric and gas suppliers are required to provide a "clear and concise price description of each service, including but not limited to any condition of variability or limits on price variability." If "there is a limit on price variability, such as a specific price cap, a maximum percentage increase in price between billing cycles or minimum/maximum charges per therm for natural gas during the term of the contract," suppliers must "clearly explain applicable limits" and if "there is not a limit on price variability," suppliers must "clearly and conspicuously state that there is not a limit on how much the price may change from one billing cycle to the next."¹⁴⁹

This protection for Maryland consumers, although better than none, has four major drawbacks:

- An increase up to 30 percent is *not* covered by the consumer protection measure, but nonetheless is a steep increase and so this provides only limited protection.
- Once the rate has converted to a variable rate, this notice requirement will not apply and so rates can increase subsequently without notice or limit.
- There is no evidence that suppliers post their variable rates on their websites.
- As with most consumer protections, this requires enforcement in order to be effective.

Finding No. 5: In order for markets to function efficiently, consumers require clear, accurate information.

Recommendation No. 5: If the CEP market continues, suppliers should be required to contribute adequate funding to support multilingual, community-based education, which is subject to OPA and PUC review

Community-based education should be focused on the areas of highest concentration of demand for CEP-offered services, and also the focus of the education should be informed by the results of the geographically disaggregated analyses described in Recommendation No. 3, above. CEPs' contribution to the funds should be proportional to the Maine revenues they report in Form 861 to the DOE. The educational programs should be coupled with measures to protect households lacking English proficiency from aggressive or deceptive sales and marketing.¹⁵⁰ Additional funding should be provided to the state agency responsible for overseeing and implementing this recommendation that is commensurate with the resources needed.

Recommendation No. 5: Provide Community-Based Multilingual Education

- Require suppliers to fund community-based multilingual education, subject to OPA and PUC review

Finding No. 6: Assessing numerous supplier options is cumbersome and residential customers may not understand the implications of their choice.

Recommendation No. 6: Enhance transparency of CEP prices and products

Efficient markets require well-informed consumers. Chapter 305 provides some but insufficient protection regarding CEP bill information.¹⁵¹ Bills, whether specific to stand-alone CEP bills or to consolidated bills, should show clearly not only the total portion associated with the CEP-provided supply (total dollars and per kWh price) but also the dollar amount associated with the same usage if priced at:

- Standard offer rates, with standard RPS fuel source/emission (total dollars and rate per kWh).
- “Greener” standard offer rates, showing dollars and rates assuming voluntary purchase of block of 250 kWh or of 500 kWh of renewable energy through the Green Energy Program.

Customers’ bills should clearly convey the financial implications of their choice of electric supplier. Appendix 7.5 to this Report depicts the electric bill format used in Connecticut, which shows key information such as the supplier rate, term, and expiration date for any contract; the cancellation fee; the rate for the next cycle; the standard offer rate; and a comparison of the supplier and utility monthly charges.¹⁵² Among other things, the bill shows

- The dollar amount that would have been billed for the electric generation services component had the customer been receiving standard service; and
- An electronic link or Internet web site address to the rate board Internet web site and the toll-free telephone number and other information necessary to enable the customer to obtain standard service.

A requirement for easy-to-read comparison information on customers’ bills would help consumers routinely assess the impact of their choice of supplier on their utility expenses.

Supplier-specific information about actual average prices charged. The Connecticut Office of Consumer Counsel (OCC) publishes an Electric Supplier Market Fact Sheet, which provides statewide aggregate information about the residential electric supply market, as well as supplier-specific information. The report relies on information that suppliers are required to provide on a monthly basis to PURA. The OCC published its first electric supplier market fact sheet on March 12, 2014.¹⁵³ A fact sheet prepared and publicized by the Maine PUC or OPA such as that compiled and reported by the Connecticut OCC would increase supplier-specific accountability to regulators, advocates, and consumers.

Portal. The residential electric supply market is complicated and volatile. Residential customers need reliable, up-to-date, and easy-to-understand sources of information about suppliers’ prices and practices so that they can make well-informed purchasing decisions. An easy-to-navigate portal, developed and maintained by either the PUC or the OPA (with adequate funding) would make the CEP market function more efficiently.

CEPs that have residential customers in Maine should be *required* to post information, and to adjust information about rates, terms, and conditions in a timely and accurate manner (with sufficient consequences for non-compliance by CEPs so as to increase the probability of their participation).¹⁵⁴

By way of illustration, Appendix 7.6 reproduces Massachusetts website rules.¹⁵⁵ The portal should be easy to use and include:

- Prices.
- Display clearly the lowest and highest rates charged in the previous 12 months.

- Tally and describe complaints associated with each CEP, as recorded by the PUC and OPA and as reported by CEPs for other jurisdictions in their annual reports.
- Describe enforcement actions in Maine and other jurisdictions where each CEP serve. \
- Describe renewable energy associated with products (fuel mix and emissions), distinguishing fuel mix from out-of-region vs. in-region.

A portal is a useful tool, but it will not help all consumers. The adoption of high-speed internet access in the home – which would be the easiest way to access the portal – declines as income declines, declines as age increases, and is less in rural areas than in suburban and urban areas.¹⁵⁶ This is yet another reason for community-based education (see Recommendation No. 5, above).

Recommendation No. 6: Enhance transparency of CEP prices and products

- Easy-to-read comparisons of CEP and standard offer prices on consumers' bills
- Fact sheet with supplier-specific information about prices actually charged
- Portal with required posting by CEPs of up-to-date information about prices, products, and renewable sources

Finding No. 7: Suppliers' renewable offerings may do the same or even less to achieve Maine's climate goals than would result from the purchase of standard offer service, participation in Maine's Green Power Program, and adoption of energy efficiency and renewable energy measures in the home.

Recommendation No. 7: Adopt and enforce transparency measures to enable consumers to make informed decisions about the renewable energy implications of their choice of suppliers.

CEPs' renewable energy claims should be accurate and transparent so that customers understand fully the extent to which suppliers' renewable energy sources equal or exceed those that are already required and for which emissions are lower than or equal to those already required.

The use of in-region RECs should be readily distinguishable from reliance on out-of-region RECs. CEPs' educational materials should be supplemented by PUC/OPA educational materials so that consumers can be fully informed before they choose how to allocate their limited disposable income so that they can most efficiently contribute to achieving Maine's climate

goals. These educational materials should give customers examples of how they can spend their “green energy dollars” – for example, the relative impact of purchasing CEPs’ voluntary green products vs. weatherstripping, vs. heat pumps, vs. Maine’s Green Energy Program.

Many residents may be willing to pay a “green premium” to contribute toward climate-friendly energy policy and it is important that Maine’s policy makers help such citizens make efficient, informed purchasing decisions.

There are two key attributes of CEPs’ green programs that should be transparent and easy-to-understand: (1) the green premium (or mark-up) relative to the CEP’s “standard” product; and (2) the contribution toward achieving Maine’s climate goal (i.e., the fuel mix and emissions). The premium associated with choosing a voluntary “additionally green” product should be not only transparent but also compared in all marketing materials with the premium that would be paid to participate in Maine’s voluntary Green Power Program (or any other similar programs). For example, in its most recent filing of its annual report, Ambit states: “Up to an additional 4 cents (\$.04) per kilowatt-hour (kWh) used will be added to your bill for the green renewable premium. The energy rate can vary depending on your plan details.” Also Ambit states: “sources for this product. Wind (CT, NY, ME, VT, NH, MA, or RI).”¹⁵⁷ Consumers may not be aware, however, that they could participate in the Green Program for the substantially lower premium of less than \$0.02 per kWh.¹⁵⁸

Marketing materials, including information on CEPs’ web sites should be required to compare premiums, fuel mixes, and emissions with those available through Maine’s Green Power Program (and any other PUC-mandated program of this nature). CEPs should be required to post pricing and “green” information directly onto the site according to a standard PUC-established format. Moreover, the PUC should audit CEPs’ compliance with this provision of Chapter 305:

Competitive electricity providers that market or promote electricity products on the basis that all or a percentage of the electricity provided have specified attributes, including but not limited to green, renewable, specified resource types and locations, must provide supporting documentation in the annual report filed pursuant to section 2(E) of this Chapter.¹⁵⁹

Recommendation No. 7: Enhance transparency of CEPs’ renewable products

- Information should be readily available about:
 - CEPs’ mark-ups for their “green” products; and
 - The source of the renewable energy used for the green products.
- Consumers should be able to easily compare the prices, fuel sources, and emissions of CEPs’ products, standard offer options, and the Green Power Program.

Finding No.8: Accurate information is essential for markets to function properly.

Recommendation No. 8: Establish and maintain transparency regarding supplier-specific consumer complaints

CEPs presently are required to report the quantities of complaints in the jurisdictions they serve as well as to report enforcement actions to the PUC.¹⁶⁰ However, as Section 3.3 describes, the CEPs’ annual reports, available on the PUC’s website, are not easy to locate and navigate. Moreover, there is no corroboration available to consumers as to the accuracy of the numbers of supplier-reported complaints or as to the characterization of the enforcement actions. Consumers would benefit from access to one clearinghouse with supplier-specific complaint information.

Consumers should be able to readily determine (1) whether any given supplier has been the subject of investigation, sanction, or settlement in another jurisdiction (including the dates of such determinations and the nature of the issues); and (2) the numbers of complaints raised about the supplier to the OPA and PUC, as well as in other jurisdictions. Consumers should have ready access to a “CEP scorecard.”

Recommendation No. 8: Enhance transparency of complaints and enforcement actions regarding CEPs

- Information should be readily available to consumers about
 - Complaints regarding CEPs (in Maine and in other jurisdictions); and
 - Enforcement actions regarding CEPs (in Maine and in other jurisdictions)

Best Practices

- The New York Department of Public Service compiles a monthly report summarizing complaints about suppliers (see Appendix 7.7, which reproduces the relevant portion of the report).¹⁶¹

A monthly report released by the PSC or OPA on supplier-specific complaints would contribute to efficient decision-making by Maine’s consumers and would also increase suppliers’ overall accountability.

Finding No. 9: Policy makers should seek to maximize information publicly available to consumers and stakeholders.

Recommendation No. 9: Increase Transparency of Information in CEPs' Annual Reports

Pursuant to Chapter 305 requirements, suppliers must submit annual reports to the PUC. As much information as possible in these annual reports should be unredacted and available for public review, including, for example the following information:

- Information about revenues and number of customers: This information is provided to the DOE on a public basis in the Form 861, and similarly should be publicly available and easily accessible to Maine consumers and stakeholders
- Complaint data and information about enforcement actions: As is discussed regarding Recommendation No. 8, above, knowledge of these aspects of CEPs' practices leads to informed purchases by consumers and enhances CEPs' accountability.
- Data about fuel mix, emissions, and the premium charged for voluntary green programs: Complete information about CEPs' green products should be publicly available.

The PUC (or OPA) should provide streamlined access to key information. *The adoption of this recommendation depends critically on providing the PUC (or OPA) with the additional resources that would be necessary to compile, corroborate, and publicize this information.*

Recommendation No. 9: Increase consumer access to information that CEPs file in their annual reports

- Key information submitted by CEPs in their annual reports should be readily available to consumers.
- Adequate resources should be provided to the PUC or OPA to support the corroboration, compilation, and reporting of key information.

Finding No. 10: Effective consumer protections depend on timely enforcement.

Recommendation No. 10: Authorize PUC to assess fees on suppliers to support an enforcement fund.

Measures are only effective if they are enforced in a timely manner. The Legislature should authorize the PUC to assess fees on suppliers to support an enforcement team and to assess penalties of sufficient magnitude so as to deter non-compliance.

Retaining the residential CEP market is not only expensive for consumers, but also for state government agencies – it is resource-intensive to create and maintain a portal, develop and review consumer education materials, ensure compliance, handle consumer complaints, and conduct enforcement actions. Therefore, the PUC should be authorized to assess fees on CEPs of a sufficiently large magnitude as to support an enforcement and oversight fund – the assessment could be proportional to their revenues.

Recommendation No. 10: Authorize assessment on CEPs to support compliance and enforcement efforts

- Authorize PUC to assess CEPs funds in proportion to their Maine revenues to support enforcement efforts.

Finding No.11: The process of changing a supplier should entail minimal transaction costs for consumers.

Recommendation No. 11: Eliminate termination fees

In a competitive market, consumers are able to migrate among providers with minimal transaction costs. Consumers’ transaction costs include monetary elements and non-monetary ones. Table 6.2, above, shows some suppliers’ termination fees. Existing regulations appropriately prohibit termination fees for customers with variable rate services. Additional protection is necessary, however, for those with fixed rate contracts. Termination fees should be prohibited, as is the case in Connecticut. Appendix 7.8 reproduces legislation enacted in 2021 in Connecticut, which strengthens consumer protections for not only early termination fees but also other measures such as variable rates (see earlier discussion) and authorizing the Connecticut Public Utilities Regulatory Authority “to condition an electric supplier's license and access to the systems and billing of the electric distribution companies on terms the authority determines to be just and reasonable, including, but not limited to, proof that the electric supplier's products are not overpriced or harmful to residential customers.”¹⁶²

It is challenging to prevent or minimize the imposition of non-monetary transaction costs on consumers. Customers seeking to terminate their service may have a hard time reaching a customer service representative and also, even if they reach a supplier’s representative, may face challenges getting their request processed. Customers should have calls answered in a timely manner (e.g., 85 percent of calls answered within 30 seconds, and fewer than 5 percent of calls abandoned (abandoned calls occur when customers give up on reaching a representative)).

Recommendation No. 11: Minimize consumers’ transaction costs

- Eliminate termination fees
- Ensure that CEPs staff customer service adequately

Finding No.12: Door-to-door sales are the most likely places where aggressive and misleading sales practices occur.

Recommendation No. 12: Prohibit the use of third-party sales agents; and (2) conduct frequent audits of practices

P.L. 2021, Ch. 164 directs the Public Advocate to examine:

[W]hether retail electricity suppliers should be allowed to conduct door-to-door sales only if the individual personally attempting to make a sale is employed by and supervised by the retail electricity supplier and whether the State’s existing consumer protection laws adequately protect the State’s retail electricity consumers

Chapter 305 has comprehensive door-to-door marketing requirements (§ 4.B.14.). All the same door-to-door sales are the most likely places for aggressive and misleading sales practices to occur. As the Case Study at the end of Section 5 describes – even with a robust regulatory framework – holding providers accountable for misleading sales presentations and other violations of state laws and regulations governing telephone solicitations and door-to-door sales is an extremely resource-intensive and protracted process. In the end, the sanctions often do not fully compensate consumers for the harm they have experienced from supplier misconduct (for example, where only those consumers who filed complaints get re-rated). Even when the supplier is required to correct misinformation in its training materials, there remains a strong incentive for sales representatives to employ aggressive or deceptive practices in order to close sales with prospective customers, particularly when there is no on-site supervision (as in the case of door-to-door sales, as well as many telemarketing calls). The other side of the ledger is the minimal benefit that most consumers are receiving from retail suppliers. The suppliers in the Maryland cases discussed in Section 5, above, all claimed to offer consumers an economic benefit, through lower prices or promotional products, but in each case, it was demonstrated that their prices were consistently higher than the utility’s, which is consistent with findings in many states (see Figure 5.2, above).¹⁶³

Policy makers should strengthen door-to-door consumer protections.

Recommendation No. 12: Increase oversight of door-to-door sales and marketing

- Prohibit the use of third-party sales agents.
- Conduct frequent audits of door-to-door sales practices.
- Impose sufficiently high penalties to deter non-compliance.
- Require non-complying CEPs to discontinue door-to-door as a sales mode.

Summary of Recommendations

Recommendation No. 1: Discontinue residential retail electric market effective January 1, 2024 (in the alternative: cap CEP rates at SOS rates)

Pending the implementation of Recommendation No. 1, adopt the following consumer protections:

Recommendation No. 2: Protect those Mainers who are struggling the most to pay electricity bills: discontinue CEP service for those participating in energy assistance programs *or* cap CEP rates for energy assistance participants at SOS rates

Recommendation No. 3: Obtain and analyze geographically granular data regarding demand for CEP products and CEP prices actually charged (for households of all incomes and separately for households participating in energy assistance programs)

Recommendation No. 4: Prohibit variable rates and prohibit automatic contract renewals

Recommendation No. 5: Require suppliers to contribute adequate funding to support multilingual, community-based education, which is subject to OPA and PUC review

Recommendation No. 6: Enhance transparency regarding CEP prices: (1) require electricity bills for CEP-served customers to also show the corresponding rates and amounts if SOS had been purchased; (2) establish comprehensive up-to-date portal with easy access by consumers with required participation by CEPs

Recommendation No. 7: Adopt and enforce transparency measures to enable consumers to make informed decisions about the renewable energy implications of their choice of products

Recommendation No. 8: Establish and maintain transparency regarding supplier-specific consumer complaints

Recommendation No. 9: Increase transparency of and ease of access to information in CEPs' Annual Reports, including revenues and number of customers; complaints; enforcement actions; voluntary green programs (fuel mix, emissions, and the "green premium" (i.e., green mark-up))

Recommendation No. 10: Authorize PUC to assess fees on suppliers to support an enforcement fund

Recommendation No. 11: Eliminate termination fees

Recommendation No. 12: Prohibit the use of third-party sales agents; and (2) conduct frequent audits of door-to-door sales and marketing practices

Table 7.1, below, maps this Report’s recommendations to the areas specified in P.L. 2021, Ch. 164.

Table 7.1 Summary of Recommendations: Mapped to P.L. 2021, Ch. 164

P.L. 2021, Chapter 164	Report Recommendation #
A. Conditions for, or prohibitions on, any fees for residential customers seeking to change a product or pricing plan	11
B. Credits for excessive call center times	11
C. Education programs to inform customers about customer choices and protections and public service announcements by state agencies encouraging customers actively to shop for electricity supply options before winter and summer seasons when prices may be higher	5, 6
D. Options for allowing retail electricity suppliers to bill for their electricity supply, value-added services and products along with the local distribution company’s regulated charges, as well as an examination of whether retail electricity suppliers should be allowed to collect electricity bills that include value-added services and products other than generation supply service and whether nonpayment of those portions of electricity bills should be subject to the threat of disconnection of service	Exeter Report
E. Publication, at least annually, of a competitive electricity provider report card that includes, but is not limited to, levels of verified complaints filed with the Public Utilities Commission against electricity providers.	6, 7, 8, 9
F. Examining the advantages and disadvantages of variable-rate contracts for residential customers	4
G. Requiring renewable energy projects marketed by retail electricity suppliers to be consistent with the State’s renewable energy resources laws	7, 9
H. Examining whether retail electricity suppliers should be allowed to conduct door-to-door sales only if the individual personally attempting to make a sale is employed by and supervised by the retail electricity supplier and whether the State’s existing consumer protection laws adequately protect the State’s retail electricity consumers	12
I. Programs to protect low-income customers that incorporate energy equity considerations, including but not limited to a hardship program that provides grants to qualifying low-income customers on an annual basis; a payment extension program that allows a qualifying low-income customer additional time to pay a bill without the threat of termination; a payment plan program that allows qualifying low-income customers to pay the balance owed in installments along with the regular monthly bill; a bill discount program that provides qualifying low-income customers with a fixed discount on their monthly bill; and other programs designed to increase access to renewable energy for such customers.	2, 3, 5, 6
“at least”: recommendations in addition to the nine areas specified in - P.L. 2021, Chapter 164	1, 10
3.1 (portal)	6

ENDNOTES

¹ The report was prepared by Susan M. Baldwin and Timothy E. Howington. Please see Appendix 1.1 and Appendix 1.2 for summaries of the qualifications and experience of Ms. Baldwin and Mr. Howington. This report also was informed by and benefited from suggestions and questions raised by stakeholders, who are listed in Appendix 1.3. The authors are especially grateful for the assistance throughout the project of William Harwood, Public Advocate; Benjamin Frech, Senior Assistant to the Public Advocate; and Kiera Reardon, Interagency Broadband Manager (previously Consumer Advisor with the OPA). The views expressed in this report are those of the authors.

² *Exeter Report*.

³ The sources of information upon which this report relies are cited throughout the document, and are shown in the endnotes to this report. The views expressed in this report are those of the report's authors, Ms. Baldwin and Mr. Howington, and are informed in part by their work concerning the residential retail electric market on behalf of consumer advocates and state agencies in other jurisdictions, including Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, and Rhode Island, as well as on behalf of the National Association of State Utility Consumer Advocates.

⁴ Maine Public Utilities Commission "Report on Competitive Electricity Providers and Standard Offer Price Comparisons," Presented to the Joint Standing Committee on Energy, Utilities and Technology, February 15, 2018 ("2018 PUC Report").

⁵ Id.

⁶ In other jurisdictions, providers are referred to as third-party suppliers, alternative suppliers, energy service companies (ESCOs) in New York, retail electric generation supplier (EGS) in Pennsylvania. In the Form 861 that suppliers submit to the Department of Energy's Energy Information Administration, they are referred to as retail power marketers.

⁷ PUC Migration Statistics as of November 9, 2022 [Migration Statistics | MPUC \(maine.gov\)](#), tab "Class Definitions".

⁸ U.S. Energy Information Administration, EIA Form 861 data, table "Sales_Ult_Cust_2021".

⁹ PUC Migration Statistics as of November 9, 2022 [Migration Statistics | MPUC \(maine.gov\)](#), tab "Customers".

¹⁰ Id.

¹¹ Id.

¹² U.S. Energy Information Administration, EIA Form 861 (2021).

¹³ "Are Consumers Benefiting from Competition? An Analysis of the Individual Residential Electric Supply Market in Massachusetts: 2021 Update," prepared by Susan M. Baldwin for Massachusetts Attorney General's Office, March 2021 ("2021 Massachusetts Update"), page 5. Across all income groups, 19 percent of Massachusetts households participate. Id., at page 3.

¹⁴ "Connecticut OCC Fact Sheet: Electric Supplier Market, November 2021 through October 2022," Updated on January 4, 2023 (data as of November 2022) ("Connecticut OCC Fact Sheet"). <https://portal.ct.gov/-/media/OCC/Fact-sheet-electric-supplier-market-November-2022.pdf>

¹⁵ PUC Migration Statistics as of November 9, 2022 [Migration Statistics | MPUC \(maine.gov\)](#), tabs "Load" and "Class – graph".

¹⁶ The EIA number corresponds with residential customers; the PUC reports residential and small commercial customers in one combined category.

¹⁷ U.S. Energy Information Administration, EIA Form 861 data, table "Sales_Ult_Cust_2021".

¹⁸ Chapter 305, §2.E.

¹⁹ The scope of this report (analyses, findings, and recommendations) pertain solely to the residential retail electric supply market.

²⁰ The OPA includes early termination fees in its monthly report.

²¹ In the OPA's CEP report released December 7, 2022, OPA also includes Major Energy. OPA publishes suppliers' prices with a "strong" recommendation that that "you check the current price and read all terms and conditions prior to signing up for any service." OPA presently shows the rates for eight suppliers (in comparison with the 13 reporting to EIA in 2021; also note that the supplier names shown by EIA do not always align with the supplier names shown on the OPA website). [Electricity Supply | Maine Office of Public Advocate](#) (site checked December 30, 2022). See Table 6.2, in Section 6, below, which reproduces the OPA's list of CEPs, their prices, their early termination fees, and their telephone numbers.

²² Connecticut regulators found little value in CEPs' amenities, stating:

The Authority finds the "value-added products" offered by suppliers convey no demonstrable overall benefit based on the (lack of) record evidence. RESA offered no evidence regarding how many hardship customers actually receive "value-added products," nor did it offer evidence regarding the actual value of these products, such as how many hardship customers receive energy-efficient thermostats, install such thermostats, or even that the hardship customers own the property in which they live and are able to install such thermostats. Furthermore, while gift cards and rebates might benefit the recipient, they do not benefit all Connecticut ratepayers that are contributing to the hardship payments and there is no evidence they offset the customer's overpayment.

Connecticut Public Utilities Regulatory Authority Docket No. 18-06-02, Review of Feasibility of Costs, and Benefits of Placing Certain Customers on Standard Service Pursuant to Conn. Gen. Stat. § 16-245O(M), Decision, December 18, 2019 ("*Connecticut Hardship Decision*"), at 9.

See, also, the findings of the New York Public Service Commission stating:

Finally, to the extent that any value-added products and services are available to New York customers, those products and services are, by and large, not energy related. Rather, they are typically products that are more accurately described as marketing devices or onetime offers intended to induce customers to enroll with the ESCO. The items - such as frequent flyer miles, gift cards, sports tickets, LED light bulbs, and "smart" thermostats - frequently have a market value that is much lower than the amount customers ultimately pay to the ESCO over the course of the contract in excess of what they would have paid to the utilities. Moreover, many of the aforementioned items have nothing to do with providing energy services and therefore serve none of the goals of the energy retail market. As to the items that have a tangential relationship to energy services - lightbulbs, thermostats, etc. - these items offer little or no value for the purposes of the energy retail market given that customers can easily purchase these items outside of that market; we find no convincing proof that customers receive any meaningful value when these easily accessible retail items are tethered to the receipt of commodity energy.

New York Public Service Commission Case 15-M-0127 (In the Matter of Eligibility Criteria for Energy Service Companies); Case 12-M-0476 (Proceeding on Motion of the Commission to Assess Certain Aspects of the Residential and Small Non-residential Retail Energy Markets in New York State); Case 98-M-1343 (In the Matter of Retail Access Business Rules), Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process, December 12, 2019 ("*NYPSC 2019 Order*"), at 11-12.

²³ <https://www.maine.gov/sos/cec/rules/65/chaps65.htm> (Chapter 305: Licensing Requirements, Annual Reporting, Enforcement and Consumer Protection Provisions for Competitive Provision of Electricity).

²⁴ The authors' detailed analyses of information about bills actually rendered by IOUs on behalf of suppliers in Connecticut and Massachusetts corroborate this.

²⁵ Form 861 data for 2022 will become available in October 2023.

²⁶ <https://www.maine.gov/mpuc/regulated-utilities/electricity/standard-offer-rates>

²⁷ The PUC includes a link to a list of 265 suppliers, with a note "that some companies on this list are inactive or serve only certain types of customers, e.g. large industrial." [Retail Electricity Suppliers in Maine - All Suppliers | MPUC](#) (site visited December 28, 2022). The PUC lists of CEPs serving residential customers include 87 entries in the CMP area, 88 providers in the Versant Power Bangor Hydro district, and 68 providers in the Versant Power Maine Public District and indicates that they are not necessarily all active): <https://www.maine.gov/mpuc/regulated-utilities/electricity/maine-retail-electricity-suppliers/cmp-residential>; <https://www.maine.gov/mpuc/regulated-utilities/electricity/maine-retail-electricity-suppliers/bhe-residential>; <https://www.maine.gov/mpuc/regulated-utilities/electricity/maine-retail-electricity-suppliers/mps-residential> sites visited 12/28/22

²⁸ See Section 5.2 for the calculation of the \$20 million.

²⁹ The location of those employed by CEPs for regulatory affairs, developing marketing materials, and customer service could be in-state or out-of-state.

³⁰ Calculated by authors based on data reported to EIA by CEPs: each CEP price as well as the statewide average price is computed by dividing total revenues by total kWh.

³¹ <https://www.maine.gov/meopa/electricity/electricity-supply#ConsumerProtections>

³² <https://www.maine.gov/mpuc/regulated-utilities/electricity/supplier-info/licensing-contracting>, site visited 8/22/22

³³ <https://www.maine.gov/mpuc/regulated-utilities/electricity/supplier-info/door-to-door>, site visited 8/22/22

³⁴ <https://www.maine.gov/mpuc/regulated-utilities/electricity/supplier-info/licensing-contracting>, site visited 8/22/22 (emphasis added). As is discussed later in this report, although CEPs submit information about enforcement actions and complaints to the PUC as part of their annual reporting requirements, this information is not readily accessible to consumers.

³⁵ <https://www.maine.gov/meopa/electricity/electricity-supply>. For more information, please download the Electricity Guide, Competitive Electricity Edition - [PDF](#).

³⁶ The OPA lists and provides links the websites of eight suppliers. As Table 2.6 shows, in 2021, 13 CEPs submitted Form 861 showing revenues, customers, and kWhs associated with residential customers in Maine. The OPA's list does not include the following seven CEPs that were among the 13 CEPs that submitted Form 861 for residential customers: Constellation NewEnergy, Inc; Electricity Maine, LLC; ENGIE Retail, LLC (Think Energy); FairPoint Energy LLC; First Point Power, LLC; North American Power and Gas, LLC; and Town Square Energy. The OPA's list includes one supplier for which a Form 861 was not found: Major Energy.

³⁷ <https://mpuc-cms.maine.gov/COM.Public.WebUI/AnnualReports/ReportSearch.aspx>

³⁸ Id.

³⁹ The federally mandated Broadband Consumer Label is intended to assist consumers compare confusing arrays of high-speed internet access prices, speeds, terms, and conditions. Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat. 429, § 60504; see also, In the Matter of Empowering Broadband Consumers Through Transparency, FCC CG Docket No. 22-2. In the retail broadband market, households have no choice but to choose among providers (in markets with more than one provider) – there is no default "standard offer" high-speed internet offering, the prices and quality of which are subject to regulatory oversight. By contrast, in the instance of electricity, there is a default service, the costs, prices and quality of which are subject to comprehensive investigation. Consumer marketing materials to help consumers compare CEPs' products are necessary only if the residential retail electric market exists. In other words, although an Electricity Consumer Label similarly could be created, it is important first to determine the merits of continuing the CEP market.

⁴⁰ As a separate purchasing decision, some customers may choose to buy a back-up generator or, especially when prices decline, a battery for on-site storage.

⁴¹ The range is based on the fact that the source of the information for the calculations is the Form 861, which enables one to compute, on a CEP-specific basis and on an annual basis, the average CEP price as well as the total kWh purchased, but which does not disaggregate the data among the different IOUs. The IOUs charge different rates (see Table 2.6 above). For that reason, in Table 5.1, a “low” estimate is based on the highest of the IOU rates in effect in each year and the “high” estimate is based on the lowest of the IOU rates in effect in each year. For the Form 861 data, see [Annual Electric Power Industry Report, Form EIA-861 detailed data files](#). For the standard offer rates, see: [Standard Offer Rates | MPUC \(maine.gov\)](#).

⁴² Maine PUC migration statistics, site checked December 30, 2022.

⁴³ Ranges for overpayment per household are calculated by dividing the estimate total overpayment by the total usage, separately for each year, using the high and low standard rates for comparison.

⁴⁴ Form 861 and [Standard Offer Rates | MPUC \(maine.gov\)](#).

⁴⁵ See Table 2.8, above.

⁴⁶ “Deregulation Aimed to Lower Home-Power Bills. For Many, It Didn’t,” *Wall Street Journal*, Scott Patterson and Tom McGinty, March 8, 2021. See, id., stating: “U.S. consumers who signed up with retail energy companies that emerged from deregulation paid \$19.2 billion more than they would have if they’d stuck with incumbent utilities from 2010 through 2019, a Wall Street Journal analysis of U.S. Energy Information Administration data found.”

See also “Why Your Electricity Bill May Be Higher Than Your Neighbor’s,” *By Wall Street Journal*, May 03, 2021 5:30 a <https://www.wsj.com/video/series/ws-explains/why-your-electricity-bill-may-be-higher-than-your-neighbors/4D514B2F-4A0A-45F2-A606-67B3CCAF0050>

⁴⁷ *Connecticut OCC Fact Sheet*.

⁴⁸ “Maryland’s Dysfunctional Residential Third-Party Energy Supply Market: An Assessment of Costs and Policies, Laurel Peltier and Arjun Makhijani, Ph.D., Abell Foundation, December 2018 <https://opc.maryland.gov/Portals/0/Files/Publications/Reports/Maryland%20Dysfunctional%20Residential%20Third%20Party%20Energy%20Suppliers.pdf?ver=1nXLUTONaQUS7ljF07ExRQ%3d%3d>

⁴⁹ “Maryland’s Residential Electric and Gas Supply Markets: Where Do We Go from Here?” prepared by Susan M. Baldwin and Sarah M. Bosley for the Maryland Office of People’s Counsel, November 2018, page 29. The Maryland residential gas supply market is also open to competition. See also, id., at 32 showing net annual losses in the residential retail gas market of \$20.7 million.

⁵⁰ *2021 Massachusetts Update*, at vii. These numbers are based on a comparison of bills rendered by EDCs on behalf of suppliers with the rates the customers would have paid under standard offer service – that is, actual prices by actual customers.

⁵¹ Press Release, “AARP and PULP Call for Consumer Protections and Oversight for Troubled Energy Market as PSC Considers Expansion to Long Island,” November 23, 2021. See also <https://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterSeq=49821&MNO=15-02754> for AARP/PULP’s joint comments in the New York proceeding. See also *NYPSC 2019 Order*, at 39, stating:

Moreover, the credible pricing data in the record leads us to conclude that mass-market ESCO customers, on average, spend significantly more money than utility customers.

⁵² Pennsylvania Public Utility Commission Docket Nos. P-2021-3030012; P-2021-3030013; P 2021-3030014; and P-2021-3030021, Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company for Approval of their Default Service Programs for the period commencing June 1, 2023, through May 31, 2027, Direct Testimony of Harry Geller on Behalf of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), CAUSE-PA Statement No. 1, February 25, 2022 (“Geller Testimony”), at 9.

⁵³ Id., at 38, stating: “In the last DSP proceedings for PECO Energy Company, Duquesne Light Company, and PPL Electric Utilities Corp., data showed that residential shopping customers across all three utilities were charged over \$1.1 billion in excess of the applicable default service rate.”

⁵⁴ “Electric Ratepayer Advisory Council Initial Annual Report,” OPA, December 1, 2022 (“ERAC Initial Annual Report”).

⁵⁵ See, e.g., Jacqueline Doremus & Irene Jacqz & Sarah Johnston, 2021. “Sweating the energy bill: Extreme weather, poor households, and the energy spending gap,” Working Papers 2101, California Polytechnic State University, Department of Economics. The abstract explains: “We find both groups respond similarly (in percentage terms) to moderate temperatures, but low-income households’ energy spending is half as responsive to extreme temperatures. Consistent with low-income households cutting back on necessities to afford their energy bills, we find similar disparities in the food spending response to extreme temperature. These results suggest adaptation to extreme weather, such as air conditioning use, is prohibitively costly for households experiencing poverty.”

⁵⁶ New York Public Service Commission Docket No. 12-M-0476 et al., Order Adopting a Prohibition on Service to Low-Income Customers by Energy Service Companies (issued December 16, 2016) (“*NYPSC 2016 Order*”), at 9. The New York Public Service Commission also stated:

Since 2012, the Commission has recognized that the objective of ratepayer-funded low-income assistance programs administered by the utilities, which augment taxpayer funds that provide financial assistance to utility customers through HEAP, are being subverted by ESCO service to APPs, and has repeatedly acted to address this critical problem. These significant ratepayer and taxpayer funds are employed to reduce bills that have been inflated by the comparatively higher priced gas and electricity. *The higher prices charged by ESCOs diminishes the value of the assistance provided to the APP and thereby undermines the State’s energy affordability goals and imposes an unfair burden on other ratepayers and taxpayers.*

NYPSC 2016 Order, at 4 (cite omitted, emphasis added).

⁵⁷ Geller Testimony, at 20.

⁵⁸ *Id.*, at 21, cite omitted.

⁵⁹ Maine Housing Annual Report 2021, p. 13. See https://www.mainehousing.org/docs/default-source/annual-reports/2021-annual-report.pdf?sfvrsn=a1898615_2

⁶⁰ *NYPSC 2016 Order*.

⁶¹ The *ERAC Initial Annual Report* states, at 15: “An estimated 40% of eligible households apply for and receive assistance.”

⁶² *Id.*, at 16.

⁶³ ACS, Table S1903.

⁶⁴ As of January 23, 2023, 67,204 households participate in the Federal Communications Commission’s Affordable Connectivity Program. <https://www.usac.org/about/affordable-connectivity-program/acp-enrollment-and-claims-tracker/#enrollment-and-claims-by-zipcode-and-county> site visited January 25, 2023.

⁶⁵ Income data from U.S. Census Bureau 2021 American Community Survey, Table DP03.

⁶⁶ U.S. Census Bureau, American Community Survey, 2021 ACS 1-Year Estimates, Table DP03.

⁶⁷ Connecticut Public Utilities Regulatory Authority Docket No. 18-06-02, Review of Feasibility, Costs, and Benefits of Placing Certain Customers on Standard Service Pursuant to Conn. Gen. Stat. § 16-245O(M), Direct Testimony of Susan M. Baldwin on Behalf of the Office of Consumer Counsel, February 27, 2019 (“Baldwin Connecticut Hardship Testimony”), at 30-31.

⁶⁸ *2021 Massachusetts Update*, at 5. Across all income groups, 19 percent of Massachusetts households participate. *Id.*, at 3.

⁶⁹ “Are Consumers Benefiting from Competition? An Analysis of the Individual Residential Electric Supply Market in Massachusetts,” prepared by Susan M. Baldwin for Massachusetts Attorney General’s Office, July 2019 Update (“2019 Massachusetts Update”), page 14; “Are Consumers Benefiting from Competition? An Analysis of the

Individual Residential Electric Supply Market in Massachusetts,” prepared by Susan M. Baldwin and Sarah M. Bosley for the Massachusetts Attorney General’s Office, March 29, 2018 (“2018 Massachusetts Report”), page 18.

⁷⁰ “Competing for (In)attention: Price Discrimination in Residential Electricity”, Jenya Kahn-Lang, November 28, 2022 (“Kahn-Lang”), at 14-15.

⁷¹ *Id.*, at 22.

⁷² *Id.*, at 83. Kahn-Lang cited the Illinois Office of Attorney General, which found that participation in the third-party market is highest in the low-income ZIP codes of Chicago, and lowest in the high-income ZIP codes, as well as similar results in Massachusetts, Connecticut, and Maine.

⁷³ *Connecticut Hardship Decision*, at 17.

⁷⁴ *2021 Massachusetts Update*, at 14

⁷⁵ Geller Testimony, at 16. See *id.*, stating (cites omitted):

On an average per customer basis, CAP shopping customers face substantially higher monthly charges than non-shopping CAP customers.

...

These are charges that CAP customers are categorically unable to afford. From July 2017 to December 2021, CAP shopping customers have paid on average – per customer – a total of between \$823.74 (Penelec) and \$1,115.86 (West Penn Power) in excess of the default service price.

⁷⁶ *Id.*, at 22.

⁷⁷ *Kahn-Lang*, at 12.

⁷⁸ Communication from CMP, January 3, 2023.

⁷⁹ Communication from Versant Power, January 3, 2023, and January 4, 2023.

⁸⁰ In its 2022 annual report to the Maine PUC, Smart Energy’s account of the investigation by the Maryland PSC (Case 9613, decided March 31, 2021) highlighted findings in the Proposed Decision of the Public Utility Law Judge (which, according to Smart Energy’s report, “said that SmartEnergy did not violate certain laws pertaining to telephone solicitation.”) Smart Energy notably neglected to disclose that this key finding by the PULJ was *reversed* by the Maryland PSC when it reviewed the proposed decision. This major substantive change meant that the Maryland PSC found the supplier to have violated the state’s Telephone Solicitations law in virtually every one of its telephone enrollments. The supplier’s annual report disclosure leaves the impression that it prevailed on some of its legal arguments regarding its telephone solicitation practices (it didn’t) and improperly minimizes the scope of the illegal behavior identified by the Maryland Public Service Commission.

⁸¹ See e.g., Appendix 5.3, which reproduces a press release, dated October 18, 2022, from the Connecticut Office of Consumer Counsel concerning a \$1.5 million settlement between the Office of Consumer Counsel (OCC), PURA’s Office of Education, Outreach, and Enforcement (EOE), and third-party electric supplier Verde Energy.

⁸² Complaints of MPSC Staff against: SmartOne Energy (Case No. 9617, filed May 10, 2019); SmartEnergy Holdings, LLC (Case No. 9613, filed May 15, 2019); Direct Energy Services (Case No. 9614, filed May 15, 2019); U.S. Gas and Electric, d/b/a Maryland Gas and Electric (“MGE”) (Case No. 9615, filed May 15, 2019); and Atlantic Energy (Case No. 9624, filed May 15, 2019).

⁸³ SmartOne Energy, Case No. 9617, Order Suspending Retail Supply License, Imposing Civil Penalty, and Directing the Transfer Of Service, August 2, 2019, at 3.

⁸⁴ *Id.*, at 16.

⁸⁵ *Id.*, at 16-17.

⁸⁶ SmartEnergy Holdings, Case No. 9613, Order on Appeals and Exceptions, March 31, 2021, at para. 78

⁸⁷ *Id.*, at paras. 40-49.

⁸⁸ Id., at 84

⁸⁹ Id., at 67.

⁹⁰ Circuit Court for Montgomery County, Case No. 485338V, order affirming MPSC decision, issued December 20, 2021; Court of Special Appeals of Maryland, No. 1675, September Term 2021, Order dated October 31, 2022.

⁹¹ Case Nos. 9614, 9615, 9624, op. cit. footnote 79.

⁹² See, e.g., Settlement in Atlantic Energy, Case No. 9624, March 17, 2021, at 2-3, enumerating 10 complainant customers to received rerating (difference between amount billed by supplier and utility's standard offer).

⁹³ See, e.g., Direct Energy, Case No. 9614, Order on Appeals, May 4, 2022, at 17.

⁹⁴ Testimony submitted by an expert witness from the Office of People's Counsel in each case established that the supplier's rate was consistently higher than that of the utility. However, this information was typically not relied on as part of the Commission's decision regarding sanctions, which focused primarily on violations of law and regulations. However, in several cases, the Commission ordered the re-rating of complainants or, in some instances, all enrolled consumers – that is, that they be refunded the difference between what they paid the supplier and the utility's standard rate. This is consistent with the conclusion that they were paying more for electric and/or gas service purchased from the supplier.

⁹⁵ <https://www.maine.gov/mpuc/regulated-utilities/electricity/renewable-programs/rps>; see also <http://www.mainelegislature.org/legis/statutes/35-A/title35-Asec3210.html>

⁹⁶ “A renewable energy certificate, or REC, is a market-based instrument that represents the property rights to the environmental, social, and other non-power attributes of renewable electricity generation. RECs are issued when one megawatt-hour (MWh) of electricity is generated and delivered to the electricity grid from a renewable energy resource.” (<https://www.epa.gov/green-power-markets/renewable-energy-certificates-recs>)

⁹⁷ https://www.maine.gov/climateplan/sites/maine.gov.climateplan/files/inline-files/MaineWontWait_December2020_printable_12.1.20.pdf See in particular page 9:

“MAINE’S CLIMATE ACTION PLAN GOALS · Reduce Maine’s Greenhouse Gas Emissions · While Maine has been among the leading U.S. states when it comes to mitigating greenhouse gas emissions, significant progress must still be made to meet the state’s 2030 and 2050 targets;”

page 12:

"Ensure Adequate Affordable Clean-Energy Supply • Achieve by 2030 an electricity grid where 80% of Maine’s usage comes from renewable generation. • Set achievable targets for cost-effective deployment of technologies such as offshore wind, distributed generation, and energy storage, and outline the policies, including opportunities for pilot initiatives, necessary to achieve these results;”

and page 55:

“A Renewable Portfolio Standard (RPS) establishes the percentage of electricity that an electricity supplier is required to provide from renewable resources. To encourage more generation of lower-emissions electricity, Maine has increased the state RPS to 80% by 2030, with a goal of 100% renewable electricity by 2050. Additionally, pairing energy storage with small distributed and large utility-scale renewable resources provides opportunities to maximize the value of renewable energy to our electric grid.”

⁹⁸ <https://megreenpower.com/enroll-green-power-banner-2/> See also [Frequently Asked Questions](#); "Maine Green Power"

⁹⁹ The annual reporting requirement in Chapter 305 simply requires CEPs to describe their voluntary green products as part of the overall reporting directive.

¹⁰⁰ [Green Power FAQ | MPUC \(maine.gov\)](#), site visited November 6, 2022

¹⁰¹ See, e.g., "Inflation Reduction Act Guidebook," The White House; <https://www.whitehouse.gov/cleanenergy/inflation-reduction-act-guidebook/>

¹⁰² [Electricity Supply | Maine Office of Public Advocate](#), site checked January 3, 2023.

¹⁰³ <https://megreenpower.com/for-your-home/> This is consistent with national data. The EPA states: “from 2006 through 2015, the average retail price premium over the standard offering for residential utility green power products has mainly hovered around \$20/MWh or around \$0.02 per kWh” and also states that “[h]istorically NREL [National Renewable Energy Laboratory] has not tracked the retail price of green power products of competitive suppliers.” <https://www.epa.gov/green-power-markets/green-power-pricing#one> site visited December 30, 2022.

¹⁰⁴ The *Green Power Program* states:

If the weighted average price of Maine-located RECs is greater than \$9.00/REC, then REC supply may be procured from NEPOOL-registered resources outside of Maine. If the weighted average price of program- eligible, NEPOOL-located RECs is greater than \$9.00/REC, then, subject to MPUC approval, REC supply may be procured from any state that contains a portion of the PJM interconnect territory.

<https://megreenpower.com/for-your-home/>

¹⁰⁵ See, e.g., “SmartEnergy buys renewable energy certificates (RECs) produced by wind, solar, hydro, and geothermal facilities located in the United States. Buying national RECs helps boost the nation’s renewable industry while reducing our reliance on fossil fuels. 100% of SmartEnergy’s customer’s electricity usage is matched by RECs.” site visited November 6, 2022 <https://smartenergy.com/why-smart/renewable-energy/>

¹⁰⁶ <https://www.green-e.org/certified-resources>, site visited December 31, 2022 (based on filtering for Maine and for residential renewable electricity). See, however, Appendix 6.2, which is Ambit’s Green-E information.

¹⁰⁷ <https://www.green-e.org/certified-resources>, site visited December 31, 2022.

¹⁰⁸ Connecticut Docket No. 16-12-29, PURA Development of Voluntary Renewable Options Program, Decision, October 21, 2020, at 9, footnote 10.

See also:

Additionality is notoriously difficult to establish, but in the present case, RECs are so oversupplied and so cheap that it's pretty easy to conclude they're providing virtually no financial additionality at the moment. They're just not a big enough revenue source to make the difference on a large power project. Most projects receiving REC revenue now would have been built regardless.

<https://www.vox.com/2015/11/9/9696820/renewable-energy-certificates>. Also, see [How Virtual Renewable Energy Certificates Became “100% Renewable Electricity”](#); [Retail Energy REC Greenwashing](#)

¹⁰⁹ Benchimol, A., Gillenwater, G., and Broekhoff, D. (2022). “Frequently Asked Questions: Green Power Purchasing Claims and Greenhouse Gas Accounting.” Greenhouse Gas Management Institute & Stockholm Environment Institute. [Offsetguide.org/green-power-faq](https://offsetguide.org/green-power-faq), [Frequently Asked Questions: Green Power Purchasing Claims and Greenhouse Gas Accounting \(offsetguide.org\)](#)

¹¹⁰ See also [FTC Issues Revised "Green Guides" | Federal Trade Commission](#). More recently, on December 14, 2022, the Federal Trade Commission announced that it is seeking public comment on various environmental claims, including, among others:

Carbon Offsets and Climate Change: The current Guides provide guidance on carbon offset and renewable energy claims. The Commission invites comments on whether the revised Guides should provide additional information on related claims and issues.

Federal Trade Commission Press Release, “FTC Seeks Public Comment on Potential Updates to its ‘Green Guides’ for the Use of Environmental Marketing Claims,” December 14, 2022. <https://www.ftc.gov/news-events/news/press-releases/2022/12/ftc-seeks-public-comment-potential-updates-its-green-guides-use-environmental-marketing-claims>

¹¹¹ *Connecticut Hardship Decision*, at 11.

¹¹² Maine Public Utilities Commission “Report on Competitive Electricity Providers and Standard Offer Price Comparisons,” Presented to the Joint Standing Committee on Energy, Utilities and Technology, February 15, 2018 (“2018 PUC Report”).

¹¹³ See Section 5, above. Today's 70 percent residential CEP mark-up is yet higher than the corresponding mark-ups of 12 percent in 2014, 61 percent in 2015, and 56 percent in 2016. Section 5, above; *2018 PUC Report*, at 4-5.

¹¹⁴ The Inflation Reduction Act includes numerous rebates and credits for households for energy efficiency and renewable energy measures. "Clean Energy For All: President Biden's Inflation Reduction Act Is the Most Aggressive Climate Action in U.S. History," White House, site visited November 29, 2022. https://www.whitehouse.gov/cleanenergy/?utm_source=www.cleanenergy.gov. See also, "A Consumer Guide to the Inflation Reduction Act: Here's how to save on electric vehicles, solar panels, heat pumps, and more via tax credits and rebates," Courtney Lindwall, NRDC, October 24, 2022. <https://www.nrdc.org/stories/consumer-guide-inflation-reduction-act>

¹¹⁵ "MaineHousing's heat pump program," <https://www.mainehousing.org/programs-services/energy/energydetails/heat-pump-program>.

¹¹⁶ Approximately 4,600 households participate in Maine's Green Power Program. [Home - Maine Green Power \(megreenpower.com\)](https://www.megreenpower.com) (site visited November 29, 2022).

¹¹⁷ One could of course lower a household's energy demand by simply lowering the thermostat in the winter to extremely low temperatures and raising the thermostat in the summer to extremely high temperatures. However, the overarching policy should be to ensure that all households, regardless of their community and income, can afford and have access to the fuel sources necessary for everyday household needs. (In Massachusetts, an analysis of actual billing data for the twelve months spanning July 2019 through June 2020 showed that the average monthly usage for low-income customers was 510 kWh per month and 574 kWh per month for non-low-income customers. *2021 Massachusetts Update*, at 24, footnote 8. It is not known whether the lower demand for electricity by low-income residents is attributable to factors such as a smaller dwelling size or curtailing usage specifically to make financial ends meet, or some combination of factors.) Measures that (1) ensure that per-kWh rates are affordable for all Mainers; and (2) help all Mainers adopt measures to use energy more efficiently are both important.

¹¹⁸ Source for CEP rates and kWh: EIA, Form 861: 2018 through 2021. Source for standard offer rates: <https://www.maine.gov/mpuc/regulated-utilities/electricity/standard-offer-rates/>, Maine Public Utilities Commission Docket No. 2019-00163, Standard Offer Bidding Procedure for Central Maine Power, Emera-Maine-BHD, and Emera Maine-MPD, Order Designating Standard Offer Providers, November 13, 2019. Maine's utilities' rates differ: The low and high ends of the range of consumer loss correspond with the highest and lowest standard offer rates, respectively, in effect during the relevant time periods. See also Section 5 of this Report. See also <https://www.darrenfishell.website/maine-retail-power-supplier-ripoff-continues/> <https://www.bangordailynews.com/2016/11/16/business/mainers-spent-50-million-they-didnt-need-to-on-electricity/>

¹¹⁹ *2018 PUC Report*, at 3.

¹²⁰ See, Section 5, above.

¹²¹ EIA Form 861: 2021. The DOE's EIA data shows residential customers separately. By comparison, the PUC's Migration Statistics aggregate residential customers with small commercial customers. See *2018 PUC Report*, at 2, indicating that residential CEP demand peaked in 2014 with more than 160,000 residential customers being served by a CEP. The *2018 PUC Report* is based on EIA residential data.

¹²² *2021 Massachusetts Update; 2019 Massachusetts Update; 2018 Massachusetts Report; Baldwin Connecticut Hardship Testimony; Kahn-Lang*. See also analysis conducted in Pennsylvania: "The data explored above shows that low income shopping customers are often charged higher rates, on average, compared to residential shopping customers as a whole. December 2021, the average shopping prices in excess of the default service price were substantially higher for confirmed low income (CLI) shopping customers compared to general residential shopping customers." Geller Testimony, at 22, cite omitted.

¹²³ Maine Green Power. <https://megreenpower.com/>

¹²⁴ See, e.g., "Efficiency Maine works with lighting manufacturers, retailers and distributors to reduce the prices of energy-efficient lighting products statewide. Prices are marked down in participating locations." <https://www.efficiencymaine.com/at-home/retail-lighting-program/>

¹²⁵ <https://casetext.com/regulation/maine-administrative-code/department-65-department-of-public-utilities-commission/division-407-public-utilities-commission/chapter-306-uniform-information-disclosure/section-407-306-2-uniform-information-disclosure-requirements>. Suppliers' annual reports must include, among other things:

[I]nformation that supports the accuracy of disclosure labels provided or made available over the prior calendar year. At a minimum, the annual report must include the following information for the prior calendar year:

- a. Copies of disclosure labels provided or made available to customers during the reporting period.
- b. Reports from the GIS Administrator for service in the ISO-NE control area.
- c. A description of the resources used to serve customers in the Maritimes control area and information verifying the accuracy of the resource portfolio and the emission characteristics associated with the resource portfolio.
- d. Verification of the accuracy of the disaggregation of the company resource portfolio into segments or products, if applicable.

¹²⁶ One of the requirements for suppliers' annual report is to describe their resource mix. CEPs must report: "The resources used to serve customers in Maine by resource category and percentage of Maine load served by each resource category. For service to customers in the ISO-NE control area, resources must be reported based on Generation Information System certificates contained in a Maine GIS sub-account and the ISO-NE's residual system mix. For service in Northern Maine, resources must be reported based on NAR Certificates. For purposes of this provision, the resources used for service in the ISO-NE control area and Northern Maine must be combined into a single resource mix." Chapter 305, § 2 E.1.b. In the *2018 PUC Report*, the PUC stated (emphasis added):

The Act directs the Commission, where possible, to indicate if and how CEP products purchased by residential consumers differed from standard-offer service. During the 2014-2016 period, several CEPs did offer renewable, or "green," supply product options. *The information available to the Commission through CEP reporting does not reveal what portion of the sales were associated with a renewable product as opposed to a standard energy product.*

Id., at 5.

¹²⁷ ACS, Table S1903.

¹²⁸ Maine Housing Annual Report 2021, p. 13. See https://www.mainehousing.org/docs/default-source/annual-reports/2021-annual-report.pdf?sfvrsn=a1898615_2

¹²⁹ As of January 23, 2023, 67,204 households participate in the Federal Communications Commission's Affordable Connectivity Program. <https://www.usac.org/about/affordable-connectivity-program/acp-enrollment-and-claims-tracker/#enrollment-and-claims-by-zipcode-and-county> site visited January 25, 2023.

¹³⁰ Income data from U.S. Census Bureau 2021 American Community Survey, Table DP03.

¹³¹ "A Four-Year Plan for Climate Action," Maine Climate Council, December 2020, https://www.maine.gov/climateplan/sites/maine.gov.climateplan/files/inline-files/MaineWontWait_December2020_printable_12.1.20.pdf; "Maine Won't Wait Progress Report," December 1, 2022. https://www.maine.gov/climateplan/sites/maine.gov.climateplan/files/inline-files/MWW_Climate%20Plan%20Update%20December%202022_digital.pdf

¹³² See discussion in Section 5, above.

¹³³ See Section 6, above; See also Ambit's most recent annual report to the Maine PUC, which states: "Up to an additional 4 cents (\$.04) per kilowatt-hour (kWh) used will be added to your bill for the green renewable premium. The energy rate can vary depending on your plan details." By contrast, the premium for participating in the Maine Green Program is less than two cents per kWh.

¹³⁴ Greenwashing is a phenomenon whereby suppliers claim to be "green" but are purchasing low-cost renewable energy certificates from sources that are not eligible under the Renewable Portfolio Standard. Although these purchases allow a supplier to market its product as "green" they often have limited environmental benefits because

they originate from older or out-of-region sources that do not promote “additionality,” *i.e.*, additional renewable energy on the grid.

¹³⁵ <https://www.wbur.org/news/2021/07/28/energy-overseers-harm-electric-consumers>, “Healey, Baker Say It’s Time To Stop Harm To Electric Consumers,” July 28, 2021, WBUR.

¹³⁶ <https://www.utilitydive.com/news/massachusetts-energy-bills-retail-competition/627381/>

¹³⁷ City of Boston Press Release, “Mayor Wu Announces Agenda for New State Legislative Session,” January 20, 2023, <https://www.boston.gov/news/mayor-wu-announces-agenda-new-state-legislative-session>

¹³⁸ <https://documents.dps.ny.gov/PTC/home>, site visited December 7, 2022.

¹³⁹ *Connecticut Hardship Decision*.

¹⁴⁰ Connecticut regulators stated: “The Authority rejects RESA’s argument that there are Constitutional impediments to requiring hardship customers to receive supply from standard service.” *Connecticut Hardship Decision*, at 11. See also, *id.*, at 13, stating: “As clearly illustrated by the evidence in this docket, the excessive rates paid by hardship customers is an ongoing harm, both to hardship customers and to all ratepayers. Immediately returning hardship customers to standard service and preventing the harm from continuing is the most reasonable and necessary means of implementing the statute.”

¹⁴¹ “New Maryland Law Will Protect Low-Income Families from Overpriced Electricity and Gas,” National Consumer Law Center Press Release, June 7, 2021. <https://www.nclc.org/new-maryland-law-will-protect-low-income-families-from-overpriced-electricity-and-gas/>

¹⁴² *NYPSC 2016 Order*, at 25. See also *NYPSC 2019 Order*, at 40.

¹⁴³ Joint Petition for Partial Settlement, Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company for Approval of Their Default Service Programs, Docket Nos. P-2021-3030012, P-2021-3030013, P-2021-3030014, and P-2021-3030021, filed April 20, 2022 with the Pennsylvania Public Utility Commission, at 21. On August 4, 2022, the PUC approved the settlement.

¹⁴⁴ See, e.g., the Oversight Questions issued by the Massachusetts Office of the Attorney General, included as Appendix 7.4 to this Report.

¹⁴⁵ *Pew Research Center 2021 Internet/Broadband Fact Sheet* available at <https://www.pewresearch.org/internet/fact-sheet/internet-broadband/>

¹⁴⁶ *NYPSC 2019 Order*, at 40.

¹⁴⁷ Substitute House Bill No. 6526, Public Act No. 21-117.

¹⁴⁸ Maryland COMAR 20.53.07.13.

¹⁴⁹ Maryland COMAR 20.53.07.08 and 20.59.07.08.

¹⁵⁰ For example, in New York: “If there is an apparent language barrier, the sales agent must find a sales representative in the area that speaks the same language; supply you with materials that are in your native language; and, if the sales agent does not speak the language of the customer and/or does not have handouts in the native language, they are to terminate the sale.” <https://www3.dps.ny.gov/W/PSCWeb.nsf/All/DAA1CF3080DA35F685257FCB004EBB59?OpenDocument>, site visited December 7, 2022.

¹⁵¹ Chapter 305, § 4.B.3.

¹⁵² See also, a decision issued in New York, stating, among other things, that enhanced consumer protections “empower[] customers by improving transparency of ESCO product and pricing information, primarily through an on-bill comparison of ESCO to utility commodity prices and through required itemizing of ESCO charges.” *NYPSC 2019 Order*, at 2. See also, *id.*, at 33-36.

¹⁵³ *Connecticut OCC Fact Sheet*.

¹⁵⁴ New York regulators state in this regard:

To maintain eligibility, at least once every 30 days an ESCO must post on the Department’s “Power to Choose” website a price for each commodity-only product offered to residential customers. The ESCO is not permitted to charge newly enrolled customers more than the prices posted for that specific product at the time of the enrollment.”

NYPSC 2019 Order, at 16, cite omitted.

¹⁵⁵ See also, Investigation by the Department of Public Utilities on its own Motion into Initiatives to Improve the Retail Electric Competitive Supply Market, D.P.U. 14-140-E, Order Establishing Rules for the Shopping for Competitive Supply Website, October 26, 2016; D.P.U. 14-140-F, Order Revising Rules for the Shopping for Competitive Supply Website, October 17, 2017.

¹⁵⁶ *Pew Research Center 2021 Internet/Broadband Fact Sheet* available at <https://www.pewresearch.org/internet/fact-sheet/internet-broadband/>

¹⁵⁷ <https://mpuc-cms.maine.gov/CQM.Public.WebUI/AnnualReports/AnnualReportDetailPopUp.aspx?TrackingNumber=ARCP-2022-00452> Ambit’s filing consists of 5 items. See also, Appendix 6.2, which is Ambit’s Green-E certificate Maine is not among the states listed.

¹⁵⁸ [Green Power FAQ | MPUC \(maine.gov\)](#).

¹⁵⁹ Chapter 305, § 4.7.

¹⁶⁰ Chapter 305, § 2.E.1.c (enforcement actions) and Chapter 305, § 2.E.1.i (complaints and enforcement actions).

¹⁶¹ “October 2022 Office of Consumer Services Monthly Report on Consumer Complaint Activity, Rory M. Christian, Chair and Chief Executive Officer, Richard Berkley, Consumer Advocate and Director, Office of Consumer Services, Published November 28, 2022.

<https://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=19-00950&submit=Search>, site visited December 7, 2022. “

¹⁶² Substitute House Bill No. 6526, Public Act No. 21-117 (reproduced as Appendix 7.6).

¹⁶³ Massachusetts is one of the many states that has established consumer protections for door-to-door sales. Investigation by the Department of Public Utilities on its own Motion into Initiatives to Improve the Retail Electric Competitive Supply Market, D.P.U. 14-140-G, Order Establishing Door-to-door Marketing Notification Requirements and Standards of Conduct, May 4, 2018.

Appendix 1.1
Experience and Qualifications of Susan M. Baldwin

Experience and Qualifications of Susan M. Baldwin

Susan M. Baldwin has forty-four years of experience in public policy, which includes five years analyzing solar energy and energy efficiency for local, state and regional agencies, one year analyzing low-income issues for the budget office of a state welfare agency, and, most recently, 38 years analyzing the economics and regulation of the telecommunications and energy industries. She served as the Director of the Telecommunications Division for the Massachusetts Department of Public Utilities (which was subsequently reorganized), as a Senior Vice President for a consulting firm, and, since 2001, has been an independent consultant.

Since 2013, in addition to her ongoing contributions to state and federal telecommunications policy, Ms. Baldwin has assisted consumer advocate agencies with the customer service of electric and gas utilities and with in-depth analyses of residential and small commercial retail energy supply markets. In her capacity as an independent consultant, Ms. Baldwin sponsors expert testimony and reports submitted in state and federal regulatory proceedings, contributes to the policy-making by state legislatures, and writes detailed reports on telecommunications and energy policy. She has testified before 24 state public utility commissions in more than 75 regulatory proceedings as well as before five state legislative committees. She has submitted expert reports in four state taxation proceedings, and has contributed to dozens of comments and declarations filed in Federal Communications Commission proceedings.

Ms. Baldwin earned her Master of Economics from Boston University, her Master of Public Policy from the Harvard Kennedy School, and her Bachelor of Arts degree in Mathematics and English from Wellesley College.

Appendix 1.2
Experience and Qualifications of Timothy E. Howington

Experience and Qualifications of Timothy E. Howington

Timothy E. Howington is an analyst with over twenty years of experience in a variety of disciplines, including economic development, utility regulation, and geospatial modelling.

From 2001 to 2003 Mr. Howington led research efforts at Massachusetts Development Finance Agency, Massachusetts' quasi-public economic development authority. His duties in that position included creating location cost comparisons, evaluating tax structures and incentive programs for businesses, and contributing to economic impacts analyses.

Since 2003, Mr. Howington has contributed to numerous telecommunications and energy regulatory proceedings at the state and federal level addressing topics of concern to utility consumers, including market concentration and industry consolidation, differentials in product availability and service quality, and pricing.

Since 2012, Mr. Howington has contributed to the development of spatially-aware and cartographic solutions for the insurance, reinsurance, agriculture, and supply chain industries.

Mr. Howington earned an M.S. in Geo-Information Science from Salem State University, an M.A. in Economics from Boston University, and a B.A. in Near Eastern Languages and Civilizations from the University of Chicago.

Appendix 1.3

List of Stakeholders

Stakeholder Group
pursuant to Section 1 of 2021 P.L. Ch. 164 (LD 318)
Office of Public Advocate Study on
Reforming Maine’s System of Retail Electricity Supply to
Provide More Options to Maine Customers and Support Maine’s Climate Goals

AARP	Noel Bonam and Barbara Alexander
Central Maine Power	Susan Clary
CN Brown Energy	Lori Hemmerdinger
Conservation Law Foundation	Sean Mahoney
Governor’s Energy Office	Dan Burgess and Claire Swingle
Maine Power, LLC	Jeff Jones
Maine Chamber of Commerce	Benjamin Lucas
NRG	Marc Hanks
Public Utilities Commission	Mitch Tannenbaum
Versant Power	Stephen Johnston

Appendix 2.1

Classes of Customers Served by CEPs Submitting Form 861 for 2021 (residential, commercial, and industrial)

Utility Name	RESIDENTIAL	COMMERCIAL	INDUSTRIAL
Algonquin Energy Services		√	√
Ambit Energy Holdings, LLC	√	√	
American PowerNet			√
C. N. Brown Electricity, LLC	√	√	
Calpine Energy Solutions, LLC		√	√
Calpine Power America LLC			√
Champion Energy Services		√	
Clearview Electric Inc.	√	√	
Constellation NewEnergy, Inc	√	√	√
Direct Energy Business		√	√
EDF Energy Services, LLC		√	√
Electricity Maine, LLC	√	√	
ENGIE Resources LLC		√	√
ENGIE Retail, LLC	√	√	
FairPoint Energy LLC	√	√	
First Point Power, LLC	√	√	√
Freedom Energy			√
Liberty Power Corp.		√	
Mega Energy of Maine, LLC	√	√	
Messer Energy Services, Inc.			√
MP2 Energy LLC		√	
New Brunswick Power Generation		√	√
NextEra Energy Services, LLC		√	
North American Power and Gas, LLC	√	√	
SmartEnergy Holdings, LLC	√		
Sunwave Gas & Power Connecticut,		√	
Texas Retail Energy, LLC		√	
Town Square Energy	√	√	
XOOM Energy Maine, LLC	√	√	

Appendix 5.1
Supplier-Specific and Statewide Total Consumer Impact by Year:
2018 through 2021

Net Consumer Overpayment by Year and Supplier

Supplier	2018		2019		2020		2021		Total 2018-2021	
	Low Estimate	High Estimate	Low Estimate	High Estimate	Low Estimate	High Estimate	Low Estimate	High Estimate	Low Estimate	High Estimate
Agera Energy LLC	\$23,183	\$41,610	\$29,555	\$40,835	\$0	\$0	\$0	\$0	\$52,738	\$82,444
Ambit Energy Holdings, LLC	\$129,299	\$606,251	\$1,818,032	\$2,213,231	\$491,768	\$808,592	\$314,487	\$512,192	\$2,753,586	\$4,140,265
C. N. Brown Electricity, LLC	\$62,499	\$118,233	\$207,082	\$315,131	\$202,525	\$362,192	\$280,504	\$407,555	\$752,610	\$1,203,111
Clearview Electric Inc.	\$2,167,021	\$2,599,119	\$1,138,509	\$1,203,411	\$997,731	\$1,058,676	\$736,286	\$765,570	\$5,039,547	\$5,626,776
Constellation NewEnergy, Inc	(\$51,953)	(\$11,927)	(\$53,318)	(\$563)	(\$43,996)	\$10,212	\$20,364	\$54,729	(\$128,903)	\$52,452
Electricity Maine, LLC	\$10,766,324	\$13,557,289	\$14,594,912	\$16,346,590	\$11,865,063	\$13,273,425	\$11,409,717	\$12,261,441	\$48,636,016	\$55,438,744
ENGIE Retail, LLC	\$256,307	\$420,434	\$607,995	\$763,843	\$519,297	\$688,756	\$661,381	\$762,512	\$2,044,980	\$2,635,544
FairPoint Energy LLC	\$1,757,693	\$2,128,193	\$2,658,025	\$2,875,179	\$2,143,376	\$2,332,958	\$2,106,532	\$2,226,634	\$8,665,626	\$9,562,964
First Point Power, LLC	\$10,322	\$21,904	\$20,260	\$30,604	\$19,342	\$32,046	\$20,446	\$28,642	\$70,370	\$113,195
Mega Energy of Maine, LLC	\$3,331	\$3,776	\$2,713	\$2,972	\$0	\$0	\$17,683	\$18,752	\$23,727	\$25,500
North American Power and Gas, LLC	\$981,398	\$1,228,187	\$1,793,141	\$2,011,513	\$1,439,672	\$1,618,710	\$1,508,471	\$1,616,910	\$5,722,682	\$6,475,320
SmartEnergy Holdings, LLC	\$0	\$0	\$0	\$0	(\$4,877)	\$53,701	\$1,867,721	\$2,122,563	\$1,862,844	\$2,176,264
Town Square Energy	\$52,067	\$68,783	\$248,198	\$291,563	\$356,993	\$418,483	\$727,841	\$774,550	\$1,385,099	\$1,553,379
Union Atlantic Electricity	\$247,496	\$328,621	\$0	\$0	\$0	\$0	\$0	\$0	\$247,496	\$328,621
XOOM Energy Maine, LLC	\$274,625	\$336,724	\$223,455	\$272,328	\$257,191	\$295,784	\$246,358	\$271,568	\$1,001,630	\$1,176,404
Statewide	\$16,679,612	\$21,447,196	\$23,288,559	\$26,366,635	\$18,244,085	\$20,953,535	\$19,917,790	\$21,823,618	\$78,130,046	\$90,590,983

Appendix 5.2
Investigations As Reflected in CEPs' Annual Reports



Regulatory Actions

Connecticut Investigation (Docket No. 07-08-17) - March 26, 2020. PURA initiated an investigation to determine if Clearview complied with properly conveying supply summary information to the electric distribution companies for display on customer bills, marketing requirements, and compliance with continuing licensing requirements. Clearview reached a settlement with PURA November 17, 2021.

Entity	Agency (Region)	NOV Received or Significant Notice of Non-Compliance	Incident Date	Date Finalized	Status	Docket Number	Compliance Issues	Finding of Error	Penalty Amount
Spark Energy, LLC	PSC (Texas)		May-14	3/7/2016	Complete (Order issued 3/7/2016)	Docket No. 45520	Consumer Protection Violations related to rate reduction program, bill payments and adjustments, and disconnection of Service.	Yes	\$160,000
Major Energy Electric Services, LLC / Major Energy Services, LLC	PSC (Maryland)	4/1/2014	Prior to April 2014	2/26/2016	Complete (Order issued 2/26/2016)	Case No. 9346(b)	Violation of consumer marketing, advertising, and trade practices.	Yes	\$250,000 and \$50,000
Spark Energy, LLC	PURA (Connecticut)	9/5/2018	Prior to May 2018	N/A	11/6/2019	Docket No. 10-06-18RE02	Allegations of violating telemarketing Practices, using pre-recorded messages, deceptive practices, not directly training third party agents, and failure to timely remit ACP payments	Yes	\$500,000
Respond Power, LLC	PUC / BIE / AG (Pennsylvania)	6/20/2014	Prior to April 2014	4/22/2016	Complete (under settlement)	C-2014-2427659 / C-2014-2438640 (consolidated)	Deceptive marketing and business practices	no	\$5,083,504.36 in refunds plus \$55,000 to administrator plus a \$125,000 penalty and \$50,000 to the EDC hardship fund
Major Energy Electric Services, LLC	ICC (Illinois)	8/19/2014	Prior to April 2014	5/6/2015	Complete (under settlement)	Docket 14-0512	Deceptive Business practices	no	\$1,250,000
Spark Energy, LLC / Spark Energy Gas, LLC	PSC (New York)	1/25/2017	Prior to April 2017	5/19/2017	Complete	Case No. 16-M-0468	(Order to Show Cause 01/25/2017 / Order to Continue ESCO with Contingencies 05/18/2017). Slamming, Deceptive Marketing	no	\$0
Major Energy Electric Services, LLC / Major Energy Services, LLC	AG (New York)		2015	N/A	Pending	AOD No. 16-206	Consumer Protection Violations	Pending	Pending
Major Energy Electric Services, LLC	AG (Illinois)	4/9/2018	Unconfirmed	N/A	8/16/2019	Case No. 2018-CH-04549	Consumer Protection Violations	Yes	\$2,000,000
Electricity Maine, LLC	PUC (Maine)	5/1/2018	Prior to August 2018	2/26/2021	Complete	Docket No. 2010-00256	Door to door solicitation deceptive practices and agent misconduct.	Complete	\$500,000
Spark Energy, LLC	PUC (Texas)	1/18/2018	Prior to February 2018	N/A	pending (Finding of Violation 7/10/2018)	Investigation No. 2017-12-0004	Deceptive marketing and consumer disclosures	Pending	Pending
Verde Energy USA Texas, LLC	PUC (Texas)	1/3/2018	2017	N/A	pending	Investigation No. 2017-12-0003 combined with Investigation No. 2018-03-0010	Consumer protection and Credit/deposit requirements	Pending	N/A
Spark Energy, LLC	PUC (Texas)	4/2/2015	2014	2/29/2016	Closed (closing letter 2/29/2016)	Investigation No. 2015-04-0007	Deceptive Marketing, consumer disclosures, and billing system errors	yes	\$0
Spark Energy, LLC	PUC (Texas)	3/27/2018	2015, 2016, 2017	N/A	Pending	Investigation No. 2018-03-0008	Consumer Protection, Alternative payment programs, payment assistance.	Pending	Pending
Verde Energy USA Texas, LLC	PUC (Texas)	3/26/2018	2017	N/A	pending	Investigation No. 2018-03-0010 combined with Investigation No. 2017-12-0003	Consumer protection and Credit/deposit requirements	Pending	N/A
HIKO Energy, LLC	PA AG (Pennsylvania)	6/20/2014	Prior to 2014	5/1/2015	Complete (under settlement)	Docket No. C-2014-2427652	Deceptive trade practices, Telemarketer Registration violations, slamming, lack of good faith complaint handling.	No	\$25,000 to PA Hardship Fund & \$2,025,383.85 in refunds and \$50,000 in Administration costs
Verde Energy USA, LLC	PURA (Connecticut)	4/8/2015	2014	6/17/2015	Complete	Docket No. 09-06-08RE02	Quarterly Consumer Disclosure Notices	no	\$2,000 contribution to Operation Fuel, Inc.
Verde Energy USA New York, LLC	DPS (New York)	10/24/2018	2018	N/A	pending	Notice of Apparent Failure (NOAF)	Monthly Service Fee Errors (Overcharge)	Pending	N/A
Verde Energy USA Ohio, LLC	PUCO	4/1/2019	2018	2/26/2020	Complete	Docket No. 19-0958-GE-COI	Unfair, misleading, deceptive marketing	Yes	\$1,743,000
Major Energy Electric Services, LLC	PUCO	1/10/2020	2020	2/24/2021	Complete	Case No. 21-0046-GE-UNC	Unfair, misleading, deceptive marketing	Yes	\$1,068,000
Verde Energy USA, LLC	PUC (Pennsylvania)	1/30/2020	2020	7/27/2020	Complete	Docket No. C-2020-3017229	Misleading and deceptive marketing	Yes	\$1,000,000
Spark Energy, LLC	PUC (Texas)	5/2021	2021	11/1/2021	Complete	Investigation 2021060003	Initiating an increase in the price of fixed rate products during a contract term.	Yes	\$0
Spark Energy, LLC	PUC (Texas)	4/8/2022	2022	N/A	Pending	Investigation 2022030007	Information Disclosure (EDL)	Pending	Pending



Exhibit 3.9 Enforcement Actions

MARYLAND

- Case Title: In The Matter of the Complaint of the Staff of the Public Service Commission Against SmartEnergy Holdings D/B/A Smartenergy
- Case Number: 9613
- Agency Involved: MD PSC
- Status: Stayed and on Appeal
- Summary: In 2019, the MD PSC Staff and the MD Office of People’s Counsel filed complaints against SE for alleged violations of certain regulatory requirements and consumer protections applicable to energy suppliers operating in Maryland. SE answered each of the complaints and disputed many of the allegations. On December 16, 2020, a Public Utility Law Judge (PULJ) issued a Proposed Order finding, among other things, SmartEnergy violated certain Maryland laws such as engaging in conduct that had the capacity to be misleading or deceiving, but that SmartEnergy did not violate certain laws pertaining to telephone solicitations. On December 22, 2020, the Maryland Commission issued an Order imposing a moratorium on SE adding or soliciting new customers in Maryland. The Commission also established a briefing schedule related to the findings in the Proposed Order. On March 31, 2021, the Maryland Commission issued Order No. 89795 directing SE to: (1) continue the moratorium on soliciting or enrolling new customers; (2) return Maryland customers solicited via telephone to utility service; (3) re-rate and refund customers solicited via telephone; and (4) send a notice to customers explaining the Commission’s findings and directives. SE thereafter filed a successful motion to stay Order No. 89795 pending SE’s efforts to appeal Order No. 89795 in Maryland state courts. In December 2021, the Circuit Court for Montgomery County, MD, affirmed the Commission's decision, and SmartEnergy has noted an appeal to the Maryland Court of Special Appeals.

OHIO

- Case Title: In the Matter of SmartEnergy Holdings LLC
- Case Number: 19-1590-EL-UNC
- Agency Involved: PUCO
- Status: Resolved November 2019
- Summary: SE responded to a Notice of Probable Non-Compliance from PUCO in connection with a sweepstakes offer made to OH consumers. Although SE disputed many of the allegations made in the case, SE elected to resolve the matter by entering into a Joint Stipulation on terms acceptable to SE and the PUCO without any admission of wrongdoing.
- Conclusion: PUCO Staff's corrective action proposals were implemented by SE. SE paid a \$19,000 forfeiture.

ILLINOIS

- Case Title: In the Matter of the Investigation by the Attorney General of SmartEnergy Holdings,LLC
- Case Number: No Case Number
- Agency Involved: Attorney General
- Status: Resolved July 2019
- Summary: The AG initiated an investigation to determine whether there had been any violation of Illinois law. Although SE disputed many of the allegations made in the case, SE elected to resolve the matter by entering into an Agreement for Voluntary Compliance on terms acceptable to SE and the AG, without any admission of wrongdoing.
- Conclusion: SE issued \$200,000 in refunds to customers. AG's corrective action proposals were implemented by SE.

SMART ENERGY – NY PSC DECISION – UPDATE

- Case Title: In the Matter of Eligibility Criteria for Energy Service Companies Case; Proceeding on Motion of the Commission to Assess Certain Aspects of the Residential and Small Non- Residential Energy Markets in New York State; In the Matter of Retail Access Business Rules
- Case Number: Cases 98-M-134312-M-0476; 15-M-0127
- Agency Involved: NY PSC
- Status: SmartEnergy Holdings, LLC (“SE”) has Responded to Adverse License Action Due to Alleged Misrepresentations on Application Materials; Awaiting Action
- Summary: NY PSC required all ESCOs to submit a new eligibility application, which SE did in November 2020 and NY PSC approved in January 2021. In September 2021, NY PSC issued Order to Show Cause why SE’s ESCO license should not be revoked because of alleged misrepresentations in response to a question in the application materials. SE responded comprehensively on October 22, 2021, explaining its answer to the question as a good faith response to an ambiguous question that was submitted with the assistance of experienced counsel, and did not amount to a statement that was knowingly false or intentionally misleading that would justify license action. SE’s October 22, 2021, Response is attached as Exhibit A. On March 21, 2022, the NY PSC issued an Order to Deny SE’s Application for Eligibility rejecting SE’s arguments in the Response and requiring SE to return all residential customers to standard service within sixty days. The NY PSC Order is attached as Exhibit B.

SE is highly disappointed in the Order, which it views as based on findings lacking substantial evidence, arbitrary and capricious reasoning and/or errors of law. On April 21, 2022, SE filed a comprehensive response to the Order, which included requests for rehearing, stay of enforcement and reconsideration on multiple grounds. A copy of the Response is attached as Exhibit C.

Conclusion: Awaiting NY PSC action on SE’s April 21, 2022 response to, and request for relief from, the Order.

Exhibit 1 – Enforcement Actions

1. Maine Public Utilities Commission vs. Town Square Energy, LLC – Docket No. 2017-00144
2. CT Public Utilities Regulatory Authority – Investigation of Town Square Energy, LLC – Docket No. 10-03-11RE03
3. In the Matter of Town Square Energy East, LLC – PUCO Case No. 18-1785-EL-UNC
4. In the Matter of IDT Energy, Inc. – NJ BPU Docket No. EO17080888U
5. People of the State of Illinois vs. IDT Energy, Inc. – Docket No. 2018 CH 14380
6. PA Public Utility Commission Bureau of Investigation and Enforcement v. IDT Energy, Inc. - Docket No. M-2013-2314312
7. Office of PA Attorney General and Office of PA Acting Consumer Advocate vs. IDT Energy, Inc. - Docket No. C-2014-2427657
8. Illinois Commerce Commission vs. IDT Energy, Inc. – Docket No. 21-0788
9. People of the State of Illinois vs. Residents Energy, LLC – Docket No. 2019 CH 14720
10. PA Public Utility Commission Bureau of Investigation and Enforcement v. Residents Energy, LLC – Docket No. M-2017 -2511372
11. CT Public Utilities Regulatory Authority – Investigation of Residents Energy, LLC – Docket No. 19-08-21
12. Illinois Commerce Commission vs. Residents Energy, LLC – Docket No. 21-0794

Appendix 5.3
Investigations and Enforcement Actions
(excerpts from Massachusetts and Maryland reports)

STATE INVESTIGATIONS AND CLASS ACTION LAWSUITS ALLEGING UNFAIR OR DECEPTIVE ACTS OR PRACTICES BY SUPPLIERS LICENSED TO OPERATE IN THE COMMONWEALTH OF MASSACHUSETTS¹

AMBIT NORTHEAST, LLC d/b/a AMBIT ENERGY

State Investigations

- New York Department of Public Service: investigation of Ambit (2015).²

Lawsuits

- Kostovetsky vs. Ambit Energy Holdings, LLC, et al. U.S. District Court for the Northern District of Illinois, docket 1:15-cv-02553.
- Urbino v. Ambit Energy Holdings LLC, et al. U.S. District Court for the District of New Jersey, docket 3:14-cv-05184.
- Little, et al. v. Ambit Northeast, LLC, et al. U.S. District Court for the District of New Jersey, docket 3:16-cv-08800-PGS-LHG.
- Simmons v. Ambit Energy Holdings LLC. Supreme Court of the State of New York, County of Kings, docket 503285/2015.
- Lazarek et al v. Ambit Energy Holdings, LLC et al. U.S. District Court for the Western District of New York, docket 6:15-cv-06361-FPG-MWP.
- Silvis v. Ambit Energy LP. U.S. District Court for the Eastern District of Pennsylvania, docket 2:14-cv-05005; Third Circuit Court of Appeals, docket 16-1976.

CLEANCHOICE ENERGY, INC.

Formerly Ethical Electric, Inc., d/b/a Clean Energy Option

State Investigations

- Illinois Attorney General announced a settlement with Ethical Electric (2017).³
- Pennsylvania Attorney General announced an assurance of voluntary compliance with Ethical Electric (2015).⁴

CLEARVIEW ELECTRIC, INC. d/b/a CLEARVIEW ENERGY

State Investigations

¹ This list is meant to be illustrative rather than exhaustive. There may be additional lawsuits and state investigations that were not easily located via internet search.

² See <https://www.governor.ny.gov/news/governor-cuomo-announces-energy-bill-refunds-more-1500-new-yorkers> (last visited February 12, 2018).

³ See http://www.illinoisattorneygeneral.gov/pressroom/2016_08/20160808b.html (last visited February 5, 2018).

⁴ See <https://legalnewslines.com/stories/510549039-pennsylvania-electric-supplier-faces-legal-action-over-solicitation-pieces> (last visited February 5, 2018).

- Maine Public Utilities Commission: investigation of Clearview (2015). Docket 2015-00297.
- New Hampshire Public Utilities Commission: investigation of Clearview (2017). Docket DE 17-002.

CONSTELLATION ENERGY POWER CHOICE, LLC
CONSTELLATION ENERGY SERVICES, INC./INTEGRYS ENERGY SERV., INC.
CONSTELLATION NEW ENERGY, INC.

Parent Company: Exelon

State Investigations

- Pennsylvania Public Utilities Commission: investigation of MXenergy (2012).⁵ Docket M-2012-2201861.

Lawsuits

- Coda v. Constellation Energy Power Choice, LLC. U.S. District Court for the District of New Jersey, docket 2:17-cv-03437-JMV-MF.

DIRECT ENERGY SERVICES, LLC
DIRECT ENERGY BUSINESS, LLC

Parent Company: Centrica, plc

State Investigations

- Connecticut Public Utilities Regulatory Authority: investigation of Direct Energy (2013). Docket No. 13-07-17.
- Public Utilities Commission of Texas: investigation of Direct Energy (2014). Docket No. 42524.

Lawsuits

- Richards v. Direct Energy Services, LLC. U.S. District Court in the District of Connecticut, docket 3:14-cv-01724-VAB; Second Circuit Court of Appeals, docket 17-1003.
- Dolemba v. Direct Energy Services, LLC. U.S. District Court for the Northern District of Illinois Eastern Division, docket 1:14-cv-09677.
- Sevugan v. Direct Energy Services, LLC. U.S. District Court for the Northern District of Illinois Eastern Division, docket 1:17-cv-06569.
- Forte v. Direct Energy Services, LLC. U.S. District Court for the Northern District of New York, docket 6:17-cv-00264-FJS-ATB.

⁵ MXenergy was acquired by Constellation in 2011.

- Wilson v. Direct Energy Services, LLC. U.S. District Court for the Southern District of Ohio Western Division at Cincinnati, docket 1:16-cv-00454.
- Getso v. Direct Energy. U.S. District Court for the Northern District of Texas, docket 3:16-cv-02142-K.

DISCOUNT POWER, INC.

Parent Company: Spark Energy, Inc.

Lawsuits

- Chandler et al. v. Discount Power, Inc. State of Connecticut Superior Court, Judicial District of Hartford docket HHD-CV-14-6055537-S.

ENERGY PLUS HOLDINGS MA

Parent Company: NRG Energy, Inc.

State Investigations

- Connecticut Attorney General and Office of Consumer Counsel announce a settlement with Energy Plus Holdings, LLC (2014). CT PURA Docket No. 12-07-13.
- New York Attorney General announced a settlement with Energy Plus (2017).⁶

Lawsuits

- Fortney v. Energy Plus Holdings, LLC. U.S. District Court for the District of Maryland Greenbelt Division, docket 1:12-cv-08119-WHP.
- Wise et al. v. Energy Plus Holdings LLC. U.S. District Court for the Southern District of New York, docket 1:11-cv-07345-WHP.
- Faistl v. Energy Plus Holdings, LLC et al. U.S. District Court for the District of New Jersey Newark Division, docket 2:12-cv-02879-JLL-MAH.
- Yu v. Energy Plus Holdings, LLC. U.S. District Court for the District of New Jersey, docket 2:12-cv-02627-JLL-JAD.

JUST ENERGY MASSACHUSETTS CORP. d/b/a JUST ENERGY

Parent Company: Just Energy Group, formerly d/b/a U.S. Energy Savings

State Investigations

- Massachusetts Attorney General announced a settlement with Just Energy (2014).⁷
- Public Utilities Commission of Ohio: investigation into Commerce Energy, d/b/a Just Energy (2016). Docket Case No. 16-2006-GE-UNC.

⁶ See <https://ag.ny.gov/press-release/ag-schneiderman-announces-800k-settlement-energy-service-company-falsely-advertised> (last visited February 5, 2018).

⁷ See <http://www.mass.gov/ago/news-and-updates/press-releases/2015/2015-01-06-just-energy.html> (last visited February 5, 2018).

Lawsuits

- Nieves v. Just Energy New York Corp. U.S. District Court for the Western District of New York, docket 1:17-cv-00561-WMS.
- Donin et al v. Just Energy Group Inc. et al. U.S. District Court for the Eastern District of New York, docket 1:17-cv-05787-WFK-SJB.

LIBERTY POWER HOLDINGS, LLC

State Investigations

- Connecticut Public Utilities Regulatory Authority announced a settlement with Liberty Power (2016). Docket No. 06-12-07-RE06.
- Connecticut Public Utilities Regulatory Authority: investigation of Liberty Power (2017). Docket No. 06-12-07-RE07.
- Public Utilities Commission of Texas: investigation of Liberty Power Holdings, LLC (2016). Docket No. 45215.
- New York Public Service Commission: investigation of Liberty Power (2013). Case No. 13-E-0062.

Lawsuits

- Dolemba v. Liberty Power Corp., LLC et al. U.S. District Court for the Northern District of Illinois Eastern Division, docket 1:13-cv-05429.
- Moore v. Liberty Power Holdings LLC. U.S. District Court for the Northern District of Illinois Eastern Division, docket 1:16-cv-07553.
- Kreke v. Liberty Power Holdings LLC. U.S. District Court for the Southern District of Illinois, docket 3:17-cv-00808-DRH-RJD.

MAJOR ENERGY ELECTRIC SERVICES LLC

Parent Company: Spark Energy, Inc.

State Investigations

- Illinois Commerce Commission: investigation of Major Energy (2014).⁸
- Maryland Public Service Commission: investigation of Major Energy Electric Service, LLC and Major Energy Services, LLC (2014). Case No. 9346.

Lawsuits

⁸ See

<https://www.icc.illinois.gov/downloads/public/Major%20Energy%20Press%20Release%20FINAL%205%206%2015.doc> (last visited February 13, 2018).

- Carrera v. Major Energy Services, LLC et al. U.S. District Court for the District of New Jersey, docket 3:15-cv-03208-MAS-LHG.
- Gillis et al v. Major Energy et al. U.S. District Court for the Eastern District of Pennsylvania, docket 2:14-cv-03856-MSG.

MASSACHUSETTS GAS & ELECTRIC

Local Subsidiary of: U.S. Gas & Electric

Parent Company: Crius Energy

State Investigations

- Connecticut Public Utilities Regulatory Authority: investigation of Connecticut Gas & Electric (2013). Docket No. 13-07-15.
- Maryland Public Service Commission: investigation of U.S. Gas & Electric and Energy Service Providers, Inc. d/b/a Maryland Gas & Electric (2014). Case No. 9347.
- Pennsylvania Attorney General and Pennsylvania Office of Consumer Advocate announced settlement with Pennsylvania Gas & Electric (2015).⁹

Lawsuits

- Sobeich v. U.S. Gas & Electric, Inc. et al. U.S. District Court for the Eastern District of Pennsylvania, docket 2:14-cv-04464.

PALMCO POWER MA LLC

State Investigations

- Connecticut Public Utilities Regulatory Authority investigation of Palmco (2017).¹⁰ Docket No. 10-01-24RE01.
- New Jersey Attorney General, New Jersey Board of Public Utilities, and New Jersey Division of Consumer Affairs announce settlement with Palmco Power NJ, LLC and Palmco Energy NJ, LLC (2016).¹¹

Lawsuits

- The People of the State of Illinois v. Palmco Power IL, LLC. The State of Illinois Circuit Court of the Seventh Judicial Circuit, Sangamon County, docket 2017-CH-00099.
- Komoda v. Palmco Energy NJ, LLC et al. U.S. District Court for the Eastern District of New York, docket 1:14-cv-01679-KAM-VVP.

PROVIDER POWER MASS, LLC

⁹ See <http://www.oca.state.pa.us/Industry/Electric/Attorney%20General%20Kane%20Press%20Release.pdf> (last visited February 5, 2018).

¹⁰ See http://www.ct.gov/occ/lib/occ/8-17-17_palmco_settlement.pdf (last visited February 12, 2018).

¹¹ See <http://www.nj.gov/oag/newsreleases16/pr20160623b.html> (last visited February 5, 2018).

Parent Company: Spark Energy, Inc.Lawsuits

- Veilleux et al v. Electricity Maine, LLC et al. U.S. District Court for the District of Maine, docket 1:16-cv-00571-NT.

PUBLIC POWER, LLC***Parent Company: Crius Energy***State Investigations

- Connecticut Public Utilities Regulatory Authority investigation of Public Power (2016). Docket 13-02-08.
- Connecticut Public Utilities Regulatory Authority investigation of Public Power (2013). Docket 11-10-06.
- Pennsylvania Public Utilities Commission investigation of Public Power (2013). Docket M-2012-2257858.
- Pennsylvania Public Utilities Commission investigation of Public Power (2016). Docket No. M-2015-2439492.

SPARK ENERGY, INC.Lawsuits

- Ortiz et al v. Spark Energy, LLC. U.S. District Court for the Northern District of California, docket 4:15-cv-02326-JSW.
- Hoy v. Spark Energy Gas, LLC et al. U.S. District Court for the Northern District of Illinois Eastern Division, docket 1:14-cv-09579.
- Ballantyne v. Spark Energy, Inc. U.S. District Court for the Eastern District of Michigan, docket 2:17-cv-11018-MFL-SDD.
- Melville v. Spark Energy, Inc. et al. U.S. District Court for the District of New Jersey, docket 1:15-cv-08706-RBK-JS.
- Rolland v. Spark Energy, LLC. U.S. District Court for the District of New Jersey, docket 3:17-cv-02680-MAS-LHG.
- Bank v. Spark Energy Holdings, LLC et al. U.S. District Court for the Eastern District of New York, docket 1:13-cv-06130-JG-VMS.
- Markey et al v. Spark Energy, LLC et al. U.S. District Court for the Eastern District of Pennsylvania, docket 2:16-cv-01597-MSG.

STARION ENERGY, INC.State Investigations

- Connecticut Public Utilities Regulatory Authority investigation of Starion Energy (2015). Docket No. 09-10-10.
- District of Columbia Office of the People's Counsel announced a settlement with Starion (2014). Formal Case No. 1105.
- Delaware Public Services Commission investigation of Starion Energy (2013). PSC DOCKET NO. 395-13.
- Maryland Public Service Commission investigation of Starion Energy (2013). Case No. 9324.

Lawsuits

- Gruber v. Starion Energy, Inc. U.S. District Court for the District of Connecticut, docket 3:14-cv-01828-SRU.
- Owens v. Starion Energy, Inc. U.S. District Court for the District of Connecticut New Haven Division, docket 3:16-cv-01912-VAB.
- Primack v. Starion Energy PA, Inc. et al. U.S. District Court for the Northern District of Illinois Eastern Division, docket 1:14-cv-08772.
- Camuso et al v. Starion Energy Inc. U.S. District Court for the District of Massachusetts, docket 1:17-cv-12215.
- Windley v. Starion Energy Inc., et al. U.S. District Court for the Southern District of New York, docket 1:14-cv-09053.
- Orange v. Starion Energy PA, Inc. et al. U.S. District Court for the Eastern District of Pennsylvania, docket 2:15-cv-00773-CDJ; Third Circuit Court of Appeals, docket 16-1949.
- Eisenband v. Starion Energy, Inc. U.S. District Court for the Southern District of Florida, docket 9:17-cv-80195-KAM.

VERDE ENERGY USA MASS LLC

Parent Company: Spark Energy, Inc.

Lawsuits

- Roberts v. Verde Energy USA, Inc. U.S. District Court for the District of Connecticut, docket 3:15-cv-00312-VLB.
- Vebell v. Verde Energy USA, Inc. U.S. District Court for the District of Connecticut, docket 3:15-cv-00008-JBA.
- Coleman v. Verde Energy USA, Inc. U.S. District Court for the Southern District of Illinois, docket 3:17-cv-00062-DRH-SCW.
- Bunnell v. Verde Energy USA, Inc. U.S. District Court for the District of Massachusetts, docket 3:15-cv-30220-MGM.
- Schley v. Verde Energy USA, Inc. U.S. District Court for the District of New Jersey, docket 2:17-cv-00887-LS.
- Richardson et al v. Verde Energy USA, Inc. U.S. District Court for the Eastern District of Pennsylvania, docket 5:15-cv-06325-LS.

- Wachstock v. Verde Energy USA, Inc. U.S. District Court for the Eastern District of New York, docket 1:14-cv-04082-WFK-JMA.
- Bowser v. Verde Energy USA, Inc. U.S. District Court for the Southern District of New York, docket 7:15-cv-09471-CS.

VIRIDIAN ENERGY, INC.

Parent Company: Crius Energy

State Investigations

- Connecticut Public Utilities Regulatory Authority investigation of Viridian Energy (2015). Docket No. 09-04-15RE03.
- Maryland Public Service Commission investigation of Viridian Energy (2012). Case No. 9255.¹²

Lawsuits

- Sanborn v. Viridian Energy, Inc. U.S. District Court for the District of Connecticut, docket 3:14-cv-01731.
- Steketee v. Viridian Energy, Inc. U.S. District Court for the District of Connecticut, docket 3:15-cv-00585-SRU.
- Mirkin et al v. Viridian Energy, Inc. U.S. District Court for the District of Connecticut, docket 3:15-cv-01057-SRU.
- Hembling et al v. Viridian Energy, LLC et al. U.S. District Court for the District of Connecticut, docket 3:15-cv-01258-SRU.
- Lempert v. Viridian Energy, Inc. et al. U.S. District Court for the District of Connecticut, docket 3:15-cv-00703-VLB.
- Daniyan v. Viridian Energy, LLC. U.S. District Court for the District of Maryland, docket 1:14-cv-02715-GLR.
- Landau v. Viridian Energy PA, LLC. U.S. District Court for the Eastern District of Pennsylvania, docket 2:16-cv-02383-GAM.

XOOM ENERGY MASSACHUSETTS, LLC

Parent Company: ACN, Inc.

State Investigations

- The Maryland Public Service Commission investigation of Xoom Energy (2014). Case No. 9346.

Lawsuits

¹²[http://webapp.psc.state.md.us/newIntranet/sitesearch/Press%20Releases/Maryland%20PSC%20Issues%20\\$60,000%20Civil%20Penalty%20Against%20Viridian%20Energy.pdf](http://webapp.psc.state.md.us/newIntranet/sitesearch/Press%20Releases/Maryland%20PSC%20Issues%20$60,000%20Civil%20Penalty%20Against%20Viridian%20Energy.pdf) (last visited February 12, 2018).

- Adesina v. ACN, Inc. et al. U.S. District Court for the Western District of North Carolina, docket 3:14-cv-00562-GCM.
- Todd et al v. ACN, Inc. et al. U.S. District Court for the District of Maryland, docket 8:15-cv-00154-GJH.

Appendix 4B

Additional State Investigations and Class Action Lawsuits Alleging Unfair or Deceptive Acts or Practices by Suppliers

ADDITIONAL STATE INVESTIGATIONS AND CLASS ACTION LAWSUITS ALLEGING UNFAIR OR DECEPTIVE ACTS OR PRACTICES BY SUPPLIERS

SPERIAN ENERGY CORP.

Lawsuits

- People of the State of Illinois, *ex rel.* Lisa Madigan, Attorney General of the State of Illinois v. Sperian Energy Corp., Circuit Court of Cook County, Illinois, docket 2017-L-008604 (2017). Settlement announced October 15, 2018.¹

STARION ENERGY, INC.

Lawsuits

- Commonwealth of Massachusetts v. Starion Energy, Inc.; Starteldm, LLC; Telelink, LLC; Telestars, LLC; F E Z LLC d/b/a/ Shoretek; Ruzhdi Dauti; and Dashmir Murtishi, 1884CV03199, Suffolk Superior Court, Commonwealth of Massachusetts (2018).²

VIRIDIAN ENERGY, INC.

Investigations

- Massachusetts Attorney General announced a settlement with Viridian Energy (2018).³

¹ “Attorney General Madigan Secures \$2.65 Million in Refunds for Illinois Residents Defrauded by Sperian Energy,” Illinois Attorney General Press Release, October 15, 2018, available at: http://www.illinoisattorneygeneral.gov/pressroom/2018_10/20181015.html.

² “AG Healey Sues Starion Energy Over Deceptive Sales Tactics, Overcharging Residents by \$30 Million,” Massachusetts Office of the Attorney General Press Release, October 15, 2018, available at: <https://www.mass.gov/news/ag-healey-sues-starion-energy-over-deceptive-sales-tactics-overcharging-residents-by-30>.

³ “Competitive Electricity Supplier to Pay \$5 Million Over Claims of Deceptive Sales Tactics, Overcharging Residents, Payment Includes Millions in Restitution to Electric Customers,” Office of Attorney General Maura Healey, Press Release, March 28, 2018, <https://www.mass.gov/news/competitive-electricity-supplier-to-pay-5-million-over-claims-of-deceptive-sales-tactics>.

Appendix 5.4

Examples of Recent Investigations: Verde, [others]

[other examples may be added]



**STATE OF CONNECTICUT
OFFICE OF CONSUMER COUNSEL
NEWS RELEASE**

Consumer Counsel Claire E. Coleman

FOR IMMEDIATE RELEASE

Press Contact: Claire E. Coleman

Claire.Coleman@ct.gov

(c) 860-965-7459

**CONSUMER COUNSEL CLAIRE E. COLEMAN ANNOUNCES \$1.5 MILLION
SETTLEMENT WITH ELECTRIC SUPPLIER VERDE ENERGY OVER TELESales
MARKETING PRACTICES**

*A Settlement Between OCC, PURA's Office of Education, Outreach, and Enforcement and
Verde Energy Resolves Allegations of Deceptive Marketing and Provides Monetary Relief to
Consumers*

NEW BRITAIN, Conn. (October 18, 2022) – Consumer Counsel Claire E. Coleman announced today that the Public Utilities Regulatory Authority (PURA) has [approved](#) a [settlement agreement](#) between the Office of Consumer Counsel (OCC), PURA's Office of Education, Outreach, and Enforcement (EOE), and third-party electric supplier Verde Energy. The settlement agreement resolves PURA's August 12, 2022 [Notice of Violation](#) against Verde Energy that alleged that when conducting telesales marketing, the company did not comply with Connecticut law by:

- 1) failing to clearly state the purpose of solicitations;
- 2) including statements that implied that customers must enroll with a third-party supplier;
- 3) misrepresenting the standard service rate;
- 4) implying the solicitations were affiliated with an electric distribution company;
- 5) failing to properly monitor sales agents; and
- 6) other allegedly deceptive and unfair practices.

The approved settlement provides for the following relief:

- Verde Energy will pay \$1.5 million to Eversource Energy and The United Illuminating Company to be used to pay off hardship arrearages, which assists customers with a high energy burden and benefits all ratepayers by reducing uncollectibles;
- Verde Energy will reimburse, in the form of a bill credit, all of its customers enrolled after May 1, 2019 the difference between what customers paid Verde Energy and the applicable standard service rate;
- Verde Energy will reimburse, in the form of a bill credit, all customers currently enrolled below the applicable standard service rate a credit of \$100;
- Verde Energy will exit the Connecticut market for a period of 7 years.

“Consumers seeking to save money on electric supply deserve to hear an honest sales pitch, not misleading representations that cause them to potentially lose money,” said Consumer Counsel Coleman. “This settlement puts serious allegations to rest and helps reimburse those customers led astray by Verde Energy’s deceptive marketing. I thank EOE for its leadership in working to achieve this resolution, Verde Energy for their cooperation, and PURA for approving this settlement that will benefit both our most burdened energy consumers and all ratepayers.”

OCC encourages all consumers who wish to participate in the third-party electric supply market to use the [EnergizeCT rate board](#). When receiving outbound, unsolicited marketing from third-party electric suppliers, OCC encourages all consumers to remain diligent and not succumb to high-pressure tactics. Consumers with questions about the third-party electric supply market are free to contact OCC at any time by email at occ.info@ct.gov or by telephone at 860-827-2900

Earlier this year, OCC, EOE, and the Office of Attorney General [entered into a settlement](#) with Public Power for \$3 million dollars in order to resolve compliance issues. OCC continues to monitor the third-party supply market and the state of electric competition in Connecticut.

Consumer Counsel Coleman thanked Staff Attorneys Andrew W. Minikowski and Julie Datres for their assistance in this matter.

###

The Office of Consumer Counsel (OCC) is the State of Connecticut’s advocate for consumers on issues relating to electricity, natural gas, water, and telecommunications. For more information, visit www.ct.gov/occ.

Appendix 5.5
Complaints As Reflected in CEPs' Annual Reports

Ambit Northeast, LLC – Docket No. 2014-00184

Maine Public Utilities Commission- CEP Annual Report (407 Chapter 305 §2E)

Attachment H

Customer Complaints

(Chapter 305 (2) (E)(1)(i))

Attachment H

State(s)	Legal Entity	Customer Type	Commodity	Jan-21	Feb-21	Mar-21	Apr-21	May-21	Jun-21	Jul-21	Aug-21	Sep-21	Oct-21	Nov-21	Dec-21	Total
California	Ambit Northeast, LLC	Residential	Electric	0	0	0	0	0	0	0	2	0	0	0	0	2
California	Ambit Northeast, LLC	Residential	Gas	0	0	0	0	0	0	0	0	1	0	0	0	1
Connecticut	Ambit Northeast, LLC	Residential	Electric	2	1	0	0	0	0	0	1	4	5	5	7	25
Connecticut	Ambit Northeast, LLC	Residential	Gas	0	0	0	0	0	0	0	0	0	0	0	0	0
D.C.	Ambit Northeast, LLC	Residential	Electric	0	0	0	0	0	0	0	0	0	0	0	0	0
D.C.	Ambit Northeast, LLC	Residential	Gas	0	0	0	0	0	0	0	0	0	0	0	0	0
Delaware	Ambit Northeast, LLC	Residential	Electric	0	0	0	0	0	0	0	0	0	0	0	0	0
Delaware	Ambit Northeast, LLC	Residential	Gas	0	0	0	0	0	0	0	0	0	0	0	0	0
Illinois	Ambit Northeast, LLC	Residential	Electric	5	1	0	2	0	1	1	3	0	0	0	2	15
Illinois	Ambit Northeast, LLC	Residential	Gas	0	0	0	3	0	1	0	0	0	0	0	0	4
Indiana	Ambit Northeast, LLC	Residential	Electric	0	1	0	1	0	0	2	1	0	0	0	1	6
Indiana	Ambit Northeast, LLC	Residential	Gas	0	0	1	1	0	0	0	0	0	0	0	0	2
Maine	Ambit Northeast, LLC	Residential	Electric	0	1	0	0	0	1	0	0	0	1	0	0	3
Maryland	Ambit Northeast, LLC	Residential	Electric	1	0	0	0	0	0	0	1	0	1	0	0	3
Maryland	Ambit Northeast, LLC	Residential	Gas	0	0	0	0	0	0	0	0	0	0	0	0	0
Massachusetts	Ambit Northeast, LLC	Residential	Electric	0	0	1	0	1	0	1	0	0	1	0	1	5
New Hampshire	Ambit Northeast, LLC	Residential	Electric	0	0	0	0	0	0	0	0	1	0	1	0	2
New Hampshire	Ambit Northeast, LLC	Residential	Gas	0	0	0	0	0	0	0	0	0	0	0	0	0
New Jersey	Ambit Northeast, LLC	Residential	Electric	3	0	0	1	0	0	0	0	1	0	0	0	5
New Jersey	Ambit Northeast, LLC	Residential	Gas	0	0	0	0	0	0	0	0	0	0	0	0	0
New York	Ambit Northeast, LLC	Residential	Electric	1	0	2	2	2	2	3	0	0	0	0	1	13
New York	Ambit Northeast, LLC	Residential	Gas	0	0	0	0	0	0	0	0	0	0	0	0	0
Ohio	Ambit Northeast, LLC	Residential	Electric	2	1	0	0	0	0	0	0	0	0	0	0	3
Ohio	Ambit Northeast, LLC	Residential	Gas	0	0	0	0	0	0	0	0	0	0	0	0	0
Pennsylvania	Ambit Northeast, LLC	Residential	Electric	3	10	2	1	1	1	0	1	1	6	1	3	30
Rhode Island	Ambit Northeast, LLC	Residential	Electric	0	0	0	0	0	0	0	0	0	0	0	0	0
Virginia	Ambit Northeast, LLC	Residential	Electric	0	0	0	0	0	0	0	0	0	0	0	0	0
Virginia	Ambit Northeast, LLC	Residential	Gas	0	0	0	0	0	0	0	0	0	0	0	0	0

Energy Rewards, LLC – Docket No. 2011-264

Maine Public Utilities Commission- CEP Annual Report (407 Chapter 305 §2E)

Attachment H

Customer Complaints

(Chapter 305 (2) (E)(1)(i))

Attachment H

State (s)	Legal Entity	Customer Type	Commodity	Jan-21	Feb-21	Mar-21	Apr-21	May-21	Jun-21	Jul-21	Aug-21	Sep-21	Oct-21	Nov-21	Dec-21	Total
Connecticut	Energy Rewards LLC	Residential	Electric	0	0	0	0	0	0	0	0	0	0	0	0	0
Connecticut	Energy Rewards LLC	Residential	Gas	0	0	0	0	0	0	0	0	0	0	0	0	0
D.C.	Energy Rewards LLC	Residential	Electric	0	0	0	0	0	0	0	0	0	0	0	0	0
D.C.	Energy Rewards LLC	Residential	Gas	0	0	0	0	0	0	0	0	0	0	0	0	0
Delaware	Energy Rewards LLC	Residential	Electric	0	0	0	0	0	0	0	0	0	0	0	0	0
Delaware	Energy Rewards LLC	Residential	Gas	0	0	0	0	0	0	0	0	0	0	0	0	0
Illinois	Energy Rewards LLC	Residential	Electric	0	0	0	0	0	0	0	0	0	0	0	0	0
Illinois	Energy Rewards LLC	Residential	Gas	0	0	0	0	0	0	0	0	0	0	0	0	0
Maine	Energy Rewards LLC	Residential	Electric	0	0	0	0	0	0	1	0	1	0	0	0	2
Maryland	Energy Rewards LLC	Residential	Electric	0	0	0	0	0	0	0	0	0	0	0	0	0
Maryland	Energy Rewards LLC	Residential	Gas	0	0	0	0	0	0	0	0	0	0	0	0	0
Massachusetts	Energy Rewards LLC	Residential	Electric	0	0	0	0	0	0	0	0	0	0	1	0	1
New Hampshire	Energy Rewards LLC	Residential	Electric	0	1	0	0	0	0	0	0	1	0	0	0	2
New Hampshire	Energy Rewards LLC	Residential	Gas	0	0	0	0	0	0	0	0	0	0	0	0	0
New Jersey	Energy Rewards LLC	Residential	Electric	0	0	0	0	0	1	0	0	0	0	0	0	1
New Jersey	Energy Rewards LLC	Residential	Gas	0	0	0	0	0	0	0	0	0	0	0	0	0
Ohio	Energy Rewards LLC	Commercial	Electric	0	0	0	0	0	0	0	0	0	0	0	0	0
Ohio	Energy Rewards LLC	Residential	Electric	0	0	0	0	0	0	0	0	0	0	0	0	0
Pennsylvania	Energy Rewards LLC	Residential	Electric	0	0	0	0	0	0	0	0	0	0	0	0	0
Rhode Island	Energy Rewards LLC	Residential	Electric	0	0	0	0	0	0	0	0	0	0	0	0	0
Virginia	Energy Rewards LLC	Residential	Electric	0	0	0	0	0	0	0	0	0	0	0	0	0
Virginia	Energy Rewards LLC	Residential	Gas	0	0	0	0	0	0	0	0	0	0	0	0	0

Customer Complaints Filed with Other Regulatory Bodies in 2021

	Residential	Commercial	Total
Connecticut	17	0	17
Massachusetts	3	0	3
New Hampshire	6	0	6
Rhode Island	10	0	10
Total	36	0	36

Town Square Energy

Appendix 6.1
Review of and Excerpts from CEPs' Annual Reports:
Descriptions of CEPs' "voluntary" green products

Review of CEPs Annual Reports for 2021
submitted to the Maine Public Utility Commission in July 2022
Green Products

Overview

The Annual Report template asks CEPs:

Do you offer or plan to offer a “green (either green energy or RECs) product?
If so, please provide a description of the product offered below, attach copies of
any materials promoting this product, and complete the tab “G – Voluntary Green
Programs.”

Part G is a template for CEPs to specify the source of the renewable energy associated with the voluntary green programs they offer.

The following summarizes information that could be located in CEPs’ most recent annual reports regarding their green products. Text is copied directly and typos are in the original. This summary is followed by the promotional materials that were provided by CEPs regarding their green products as part of their annual report submissions to the PUC.

1. Ambit

Most of the worksheet is redacted; a “yes” or “no” could not be located.

Part G could not be located

Attachment K, Ambit’s description of its voluntary green products, is included with this appendix.

2. CN Brown Electricity LLC

Answered yes.

“Offered GreenChoice Energy in 2021; materials attached.” (The materials are included with this appendix.)

Tab G includes this statement: “CN Brown intends to procure its 11,561 GIS REC’s, which will satisfy the requirements of the Green Products. This will be completed on or before July 31, 2022.”

3. Clearview

Answered yes.

Clearview describes its product as “100% renewable products”

Tab G shows that the sources (primarily hydroelectric/hydropower with a small amount of biomass) are all in Connecticut (Scotland and Goodwin Dam).

Promotional materials could not be located.

4. Constellation Energy

Information could not be located

5. Electricity Maine LLC

Answered yes.

Attachment L (included with this appendix) states:

Worry Free Renewable – 100% product with RECs utilized to satisfy claim. Electricity Maine offered Pure Green 18, Green Maine 18 and Worry Free Renewable 24. Description on TOS "The rate you pay Company will include the Generation Charge and Transmission Charge, if applicable. If your plan includes a green, carbon neutral, or renewable component, then Company will purchase and retire renewable energy certificates ("RECs"), carbon offsets, verified emission reductions or other instruments or attributes to ensure that a specified percentage of your electricity usage, as disclosed in your CDS if applicable, is offset. The renewable, green or carbon neutral content of your plan, if applicable, is specified in your CDS."

Tab G was not located.

6. Engie

Engie answered yes.

It refers to its website for its "Green Energy Marketing materials."

<http://www.engieresources.com/recs>

Tab G is not filled out

7. Fairpoint Energy LLC

The spreadsheet that would show a "yes" or "no" appears to be entirely redacted.

The attachments do not include any materials regarding green programs.

8. First Point Power

Answered yes.

"First Point Power offers First Green, a Green-E Certified REC product that can be purchased alongside any of our current price offerings. First Green is a multi-mix product, meaning RECs will be sourced from a mix (up to 100%) of Biomass, Geothermal, Hydroelectric, Solar or Wind renewable products."

First Point did not include any materials promoting the product.

Part G is not filled out.

9. Mega Energy

Answered no

10. North American Power and Gas LLC

Answered yes

“100% Renewable Product:

North American Power purchases and retires Renewable Energy Certificates ("RECs") to match 100% of your electricity usage, above and beyond any state renewable portfolio standard requirements. A REC represents the environmental attributes associated with electricity generated by renewable facilities. The percentages of each type of REC that made up NAP's 100% Renewable Product last year set forth above. Each REC represents 1 MWh of renewable generation.”

North American Power and Gas, LLC did not include any promotional materials.

Part G is not filled out.

11. Smart Energy

The majority of the annual report is redacted and so one cannot determine whether Smart Energy offers voluntary green products.

12. Town Square Energy

The file identified as Item No. 7 (“TSE’s Annual CEP Reporting for Y2021 – PUBLIC – COMPLETE.pdf,” which may include this information, could not be opened by either author of this report, and so no assessment was made of whether Town Square offers voluntary green products, and if so, information about such products.

13. Xoom

Answered yes

Tab G was not located or was redacted.

Attachment 14 (included with this appendix) includes information about Xoom’s green products. The material states, among other things:

Product Description: XOOM’s SimpleClean/BizSimpleClean products are backed by Renewable Energy Credits equal to 50% of a XOOM customer’s kWh usage. XOOM does not guarantee a specific energy source or location from which Renewable Energy Credits will be retired.

The price and “cost recovery fee” vary among its products. Xoom also informs consumers:

“Confirmation Email Note: By enrolling on a XOOM Energy renewable product you are taking a step towards creating a cleaner environment. Doing what’s right today will help better our children’s future by decreasing the amount of pollutants in the atmosphere – urge others to join the movement!”

In its FAQ, Xoom includes, among other information, the following:

How does XOOM Energy provide renewable energy above and beyond what is required by law?

XOOM Energy purchases Renewable Energy Credits (RECs) on behalf of our voluntary green customers. A REC (pronounced: rêk) represents the property rights to the environmental, social, and other non-power qualities of renewable electricity generation. RECs provide flexibility in procuring green power across a diverse geographical area and applying the renewable attributes to the electricity use at a facility of choice. This flexibility allows organizations to support renewable energy development and protect the environment when green power products are not locally available. RECs can be generated from a variety of renewable sources, including but not limited to solar, wind & hydro.

Why does renewable energy cost more?

Renewable energy is associated with more costs than traditional energy due to limited resources and availability of renewable energy at this time.

Who does XOOM Energy purchase renewable energy from?

To offer you competitive rates XOOM Energy purchases its renewable energy from various energy vendors.

Ambit Northeast, LLC – Docket No. 2014-00184

Maine Public Utilities Commission- Annual Report (407 Chapter 305 §2E)

Attachment K

Voluntary Green Programs

Northeast Product Content Label

Ambit Green Northeast products are certified by Green-e® Energy and match 100% of your monthly electricity usage. The table below provides the Ambit Green Northeast renewable resource mix in 2021, as well as the projected resource mix for 2022.

Product Content Label

Renewable Energy Source	2021 Historical mix (location)	2022 Projected mix (locations)
Wind	59% (ME), 41% (NY)	100% (CT, NY, ME, VT, NH, MA, or RI)

Prospective figures reflect the renewables that we have contracted to provide. Actual figures may vary according to resource availability. We will annually report to you before August 1 of next year in the form of a Historical Product Content Label the actual resource mix of the electricity you purchased. Historical figures reflect the power delivered to Ambit Green Northeast customers in 2021.

New renewables come from generation facilities that first began commercial operation within the last 15 years.

For comparison, the 2020 average mix of resources supplying the Northeast region includes: Coal (0%), Nuclear (29%), Oil (0%), Natural Gas (47%), Hydroelectric (15%), Wind (4%), Biomass (4%), Other (0%), and Solar (1%). (Source: US Environmental Protection Agency, eGRID). The average home in the region uses 614 kWh per month (Source: U.S. EIA, 2020).

Green-e Energy certifies that Ambit Green Northeast meets the environmental and consumer protection standards established by the non-profit Center for Resource Solutions. For more information on Green-e Energy or the certification requirements, visit [green-e.org](https://www.green-e.org). For additional information about Ambit Energy's green products, please visit [ambitenergy.com](https://www.ambitenergy.com), call (877) 282-6248 or email us at ambitgreen@ambitenergy.com.

Price Terms and Conditions*



Company	Ambit New York, LLC; Ambit Northeast, LLC											
Available Certified Green NE Plans	<table border="0"> <tr> <td>Plan Name</td> <td>Early Termination Fee</td> </tr> <tr> <td>Ambit Green Northeast 12 Month</td> <td>\$0</td> </tr> <tr> <td>Ambit Green Northeast Variable</td> <td>\$0</td> </tr> </table>	Plan Name	Early Termination Fee	Ambit Green Northeast 12 Month	\$0	Ambit Green Northeast Variable	\$0					
Plan Name	Early Termination Fee											
Ambit Green Northeast 12 Month	\$0											
Ambit Green Northeast Variable	\$0											
Eligible Customer Types	Residential and Small Commercial											
Whom should I contact for more information?	Visit ambitenergy.com , call (877) 282-6248 Monday – Sunday 8:00 a.m. – 11:00 p.m. ET or email us at ambitgreen@ambitenergy.com											
How will I be billed?	Your green power charge will be included in your energy rate on your Ambit Energy bill.											
How will the green power charge on my bill be calculated?	Up to an additional 4 cents (\$.04) per kilowatt-hour (kWh) used will be added to your bill for the green renewable premium. The energy rate can vary depending on your plan details.											
Example of total electricity bill with 100% green	<p>The following is an example of an average monthly electricity bill and the additional green power charge for green participation based on monthly usage of 614 kWh. Actual bill may vary based on your actual electricity usage and energy rate.</p> <table border="0"> <tr> <td>Monthly Usage</td> <td>X</td> <td>Energy Rate with Green Power Charge</td> <td>=</td> <td>Monthly Energy Charges</td> </tr> <tr> <td>614 kWh</td> <td></td> <td>(\$0.10 + \$0.04)</td> <td></td> <td>\$85.96</td> </tr> </table>		Monthly Usage	X	Energy Rate with Green Power Charge	=	Monthly Energy Charges	614 kWh		(\$0.10 + \$0.04)		\$85.96
Monthly Usage	X	Energy Rate with Green Power Charge	=	Monthly Energy Charges								
614 kWh		(\$0.10 + \$0.04)		\$85.96								
Fixed or Variable Rate	Fixed rate plans will remain the same price for the number of months mentioned in plan name. Variable rate plan pricing may change month-to-month due to assessment of historic and projected supply and hedging costs, prior month's pricing and conditions in electricity market among other factors. Please see your contract documents for more information.											
Will the green power charge change over time?	We expect the green power charge for Ambit Energy to remain the same through June 2023. For more information on historical green power charges, please visit ambitenergy.com .											
We plan on using the following renewable sources for this product.	Wind (CT, NY, ME, VT, NH, MA, or RI)											
What other fees might I be charged?	Please see the pricing section on Terms of Service for more information. No additional fees apply for the green portion of your plan.											

From the time you receive this notification, you have three business days to change your mind about purchasing Ambit Green Northeast from Ambit Energy. You may cancel your agreement to purchase Ambit Green Northeast from Ambit Energy by calling (877) 282-6248 or writing P.O. Box 864589 Plano, TX 75086.

051722 *Applicable to all green plans.

Product changes should be submitted two weeks prior to your meter read to take effect at the start of your next billing period.



Choose the Ambit Green Northeast Plan

Ambit Energy respects our customers and the environment, so we're proud to offer a green energy product that promotes renewable energy generation. We're also proud to offer Green-e Energy certified renewable electricity, which means when you choose the Ambit Green Northeast Plan, you'll be assured you're reducing the environmental impact of energy use.

The Green-e Energy logo is more than just decoration—it means that an independent third party certified that the product meets strict consumer protection and environmental standards. Not everyone can display this logo. Ambit can.

We make it easy to go green. There's no cost to switch.

Green Has Its Benefits.

When you choose the Ambit Green Northeast Plan, you also get all the benefits of being an Ambit customer, like the chance to earn Free Energy, access to our customer support and more.

Free Energy - Just refer 15 or more customers to Ambit, and earn a Free Energy credit - on every bill - up to your total energy costs.

You should also know that Ambit's Green Northeast Plan offers a variable or term rate and that Ambit is independent of your local distribution utility. Your bill, which will continue to be sent by your utility, will reflect a commodity service charge from us and a delivery service charge from the utility. See your Terms of Service for complete details.

And learn more about why going green with Ambit is a great idea.

Go green with Ambit Energy!

Just call or email me and I'll show you how!

Name _____

Website _____

Email _____

Phone _____

GreenChoice

Maine business owners can make a difference

We know it can be difficult for Maine based business to find an affordable way to help the environment while watching the bottom line. Because every penny counts when you're a Maine business.

C.N. Brown is proud to offer our new **GreenChoice Energy**, a 100% renewable electricity product! Our Maine owned and operated company is pleased to participate in this voluntary green offering supporting regional power sources such as wind, solar, and hydro. These resources are registered and have been qualified to meet local or regional Renewable Portfolio Standards. Our **GreenChoice Energy** program offers true green energy with zero emissions.

The ABC's of **GreenChoice Energy**:

- ◆ **Abundance** – There is no shortage of renewable energy and there will never be a short age of wind, solar and hydro resources.
- ◆ **Beneficial** – Generated locally and regionally, **GreenChoice Energy** supports domestic energy production, helping secure America's energy future.
- ◆ **Clean** – Unlike traditional fossil fuels green energy can be extracted, generated and consumed without any significant negative impact to the environment.



C.N. Brown Electricity understands Maine's challenging economic environment. We offer customized, competitive quotes that will help you lead the way to a greener tomorrow.

A Brighter tomorrow starts by thinking Green Today!!!

Contact us today for your free quote:

C.N. Brown Electricity
1 CN Brown Way
South Paris, ME 04281
207-739-6444

www.cnbrownelectricity.com



GreenChoice



Green Electricity at GREAT Rates!



A Brighter Tomorrow Starts By Thinking Green Today!

Enroll Now at www.cnbrownelectricity.com

**C.N. Brown**
ELECTRICITY
PO Box 200
South Paris, ME 04281
207-739-6444
www.cnbrownelectricity.com

*****ECRWSS****
Local Postal Customer

PRSR STD
ECRWSS
U.S. POSTAGE
PAID
EDDM RETAIL

*Purchasing green energy made from renewable resources like **Wind, Hydro & Solar** is the easiest thing you can do to help **reduce your household's carbon footprint!***

- ✓ **100% Renewable Electricity—Clean & Reliable**
- ✓ **Great Low Rates**
- ✓ **Easy Enrollment**
- ✓ **A Maine Company — You Can TRUST**



GreenChoice

A Brighter tomorrow starts by thinking Green today!!!

ENROLL NOW at www.cnbrownelectricity.com or call 207-739-6444

Worry Free Renewable – 100% product with RECs utilized to satisfy claim.

Electricity Maine offered Pure Green 18, Green Maine 18 and Worry Free Renewable 24. Description on TOS "The rate you pay Company will include the Generation Charge and Transmission Charge, if applicable. If your plan includes a green, carbon neutral, or renewable component, then Company will purchase and retire renewable energy certificates ("RECs"), carbon offsets, verified emission reductions or other instruments or attributes to ensure that a specified percentage of your electricity usage, as disclosed in your CDS if applicable, is offset. The renewable, green or carbon neutral content of your plan, if applicable, is specified in your CDS."

ATTACHMENT 14


Green Product

XOOM Energy Renewable Product

Product Description:

XOOM's SimpleClean/BizSimpleClean products are backed by Renewable Energy Credits equal to 50% of a XOOM customer's kWh usage. XOOM does not guarantee a specific energy source or location from which Renewable Energy Credits will be retired.


Product Details:



SimpleClean 12

12 months
Utility: Central Maine Power

\$0.1449/kWh



[Details ↑](#) [Choose →](#)

Compare

Plan Description:

With our fixed rate SimpleClean 12 Plan, lock in your green energy rate for 12 full months, guaranteed! This plan offers electricity price stability for the duration of your term. With SimpleClean 12, you protect yourself from the uncertainty that comes with energy bills.

Rate above is only available to customers enrolling with XOOM Energy for the first time.
Rate above applies to all kWhs used.

Additional documents and information:

\$ Cost Recovery Fee \$110.00 **No Monthly Fee** [Terms & Conditions \(PDF\)](#)
[Disclosure Information Label \(PDF\)](#) [Customer Disclosure Statement \(PDF\)](#)

Things you need to know:

One year agreement required. Price includes tax. Other fees may apply. If you cancel your service before the contract ends, a cost recovery fee of \$110 may apply. Only the utility account holder or persons legally authorized on the account may enroll. If you are currently under a contract with a retail supplier, understand your obligations and rights before switching.

For more information on the standard offer service rates in Central Maine Power, please visit: <https://www.maine.gov/mpuc/regulated-utilities/electricity/standard-offer-rates/cmp>.

[Renewable Energy Frequently Asked Questions](#)



SimpleClean

Monthly

Utility: Central Maine Power

\$0.1809/kWh



Details ↑

Choose →

Compare

Plan Description:

With SimpleClean, our variable green energy rate plan, there's no long-term commitment or cost recovery fee. If you are not completely satisfied, you're free to switch. Your variable rate may vary monthly.

Rate above is only available to customers enrolling with XOOM Energy for the first time.

Rate above reflects the current variable rate and applies to all kWhs used.



Renewable Energy
Frequently Asked Questions

Additional documents and information:

\$ No Cost Recovery Fee

No Monthly Fee

Terms & Conditions (PDF)

[Disclosure Information Label \(PDF\)](#)

[Customer Disclosure Statement \(PDF\)](#)

Things you need to know:

Prices subject to change on a monthly basis and include tax. Other fees may apply. Rates above reflect the variable rate for the current month. Your monthly effective rate will correspond to the service period of your bill. Only the utility account holder or persons legally authorized on the account may enroll. If you are currently under a contract with a retail supplier, understand your obligations and rights before switching.

For more information on the standard offer service rates in Central Maine Power, please visit: <https://www.maine.gov/mpuc/regulated-utilities/electricity/standard-offer-rates/cmp>.



BizSimpleClean 12

12 months

Utility: Central Maine Power

\$0.1449/kWh



Details ↑

Choose →

Compare

Plan Description:

With our fixed rate BizSimpleClean 12 Plan, lock in your green energy rate for 12 full months, guaranteed! This plan offers electricity price stability for the duration of your term. With BizSimpleClean 12, you protect yourself from the uncertainty that comes with energy bills.

Rate above is only available to customers enrolling with XOOM Energy for the first time.

Rate above applies to all kWhs used.



Renewable Energy
Frequently Asked Questions

Additional documents and information:

\$ Cost Recovery Fee \$500.00 ⓘ

No Monthly Fee

Terms & Conditions (PDF)

[Disclosure Information Label \(PDF\)](#)

[Customer Disclosure Statement \(PDF\)](#)

Things you need to know:

One year agreement required. Prices include tax. Other fees may apply. If you cancel your service before the contract ends, a cost recovery fee of \$500 may apply. Only the utility account holder or persons legally authorized on the account may enroll. If you are currently under a contract with a retail supplier, understand your obligations and rights before switching.

For more information on the standard offer service rates in Central Maine Power, please visit: <https://www.maine.gov/mpuc/regulated-utilities/electricity/standard-offer-rates/cmp>.



BizSimpleClean
Monthly
Utility: Central Maine Power

\$0.1809/kWh



Details ↑

Choose →

Compare

Plan Description:

With BizSimpleClean, our variable green energy rate plan, there's no long-term commitment or cost recovery fee. If you are not completely satisfied, you're free to switch. Your variable rate may vary monthly.



Rate above is only available to customers enrolling with XOOM Energy for the first time.
Rate above reflects the current variable rate and applies to all kWhs used.

Additional documents and information:

- \$ No Cost Recovery Fee
- No Monthly Fee
- Terms & Conditions (PDF)
- [Disclosure Information Label \(PDF\)](#)
- [Customer Disclosure Statement \(PDF\)](#)

Things you need to know:

Prices subject to change on a monthly basis and include tax. Other fees may apply. Rates above reflect the variable rate for the current month. Your monthly effective rate will correspond to the service period of your bill. Only the utility account holder or persons legally authorized on the account may enroll. If you are currently under a contract with a retail supplier, understand your obligations and rights before switching.

For more information on the standard offer service rates in Central Maine Power, please visit: <https://www.maine.gov/mpuc/regulated-utilities/electricity/standard-offer-rates/cmp>.

Confirmation Email Note:

“By enrolling on a XOOM Energy renewable product you are taking a step towards creating a cleaner environment. Doing what’s right today will help better our children’s future by decreasing the amount of pollutants in the atmosphere – urge others to join the movement!”

Renewable FAQ Document:



XOOM Energy Renewable Energy FAQs

What is renewable energy?

Renewable energy is energy that is produced from sources that have less of a negative impact on the environment compared to fossil fuels.

What are the advantages of renewable energy?

Green energy can supply a significant proportion of the country's energy needs, which has many benefits such as, environmental improvement, an increase of fuel diversity and regional economic development.

How do I know XOOM Energy is truly providing renewable energy?

XOOM Energy provides consumers with renewable energy information based on state law and regional fuel mix on our disclosure labels. Click on your individual renewable plan for more details. These disclosure labels are often limited to the system mix and for those who are enrolled on a renewable energy plan, they may not include the additional, voluntary, renewable energy associated with your product.

How does XOOM Energy provide renewable energy above and beyond what is required by law?

XOOM Energy purchases Renewable Energy Credits (RECs) on behalf of our voluntary green customers. A REC (pronounced: rék) represents the property rights to the environmental, social, and other non-power qualities of renewable electricity generation. RECs provide flexibility in procuring green power across a diverse geographical area and applying the renewable attributes to the electricity use at a facility of choice. This flexibility allows organizations to support renewable energy development and protect the environment when green power products are not locally available. RECs can be generated from a variety of renewable sources, including but not limited to solar, wind & hydro.

Why does renewable energy cost more?

Renewable energy is associated with more costs than traditional energy due to limited resources and availability of renewable energy at this time.

Who does XOOM Energy purchase renewable energy from?

To offer you competitive rates XOOM Energy purchases its renewable energy from various energy vendors.

Can a customer switch from a Standard Product to a Renewable Energy Product?

Yes, customers can switch from a variable standard plan to a variable renewable plan or from a standard variable plan to a fixed renewable product.

Appendix 6.2
Ambit's Green-E information.

Ambit Green North Central products are certified by Green-e® Energy and match 100% of your monthly electricity usage. The table below provides the Ambit Green North Central renewable resource mix in 2021, as well as the projected resource mix for 2022.

Product Content Label

Renewable Energy Source	2021 Historical mix (location)	2022 Projected mix (locations)
Wind	8% (DC), 26% (IL), 11% (MD), 16% (NJ), 9% (OH), 30% (PA)	100% (IL, NJ, PA, VA, WV, OH, MI, KY, TN, IN, WI, or DC)

Prospective figures reflect the renewables that we have contracted to provide. Actual figures may vary according to resource availability. We will annually report to you before August 1 of next year in the form of a Historical Product Content Label the actual resource mix of the electricity you purchased. Historical figures reflect the power delivered to Ambit Green Northeast customers in 2021.

New renewables come from generation facilities that first began commercial operation within the last 15 years.

For comparison, the 2020 average mix of resources supplying the North Central region includes: Coal (17%), Nuclear (38%), Oil (0%), Natural Gas (39%), Hydroelectric (1%), Wind (4%), Biomass (1%), and Other (0%). (Source: US Environmental Protection Agency, eGRID). The average home in the region uses 805 kWh per month (Source: U.S. EIA, 2020).

Green-e Energy certifies that Ambit Green North Central meets the environmental and consumer protection standards established by the non-profit Center for Resource Solutions. For more information on Green-e Energy or the certification requirements, visit green-e.org. For additional information about Ambit Energy's green products, please visit ambitenergy.com, call (877) 282-6248 or email us at ambitgreen@ambitenergy.com.

Price Terms and Conditions*



Company	Ambit Northeast, LLC	
Available Certified Green NC Plans	Plan Name	Early Termination Fee
	Ambit Green North Central 12 Month	\$0
	Ambit Green North Central Variable	\$0
Eligible Customer Types	Residential and Small Commercial	
Whom should I contact for more information?	Visit ambitenergy.com , call (877) 282-6248 Monday - Sunday 8:00 a.m. - 11:00 p.m. ET or email us at ambitgreen@ambitenergy.com	
How will I be billed?	Your green power charge will be included in your energy rate on your Ambit Energy bill.	
How will the green power charge on my bill be calculated?	Up to an additional 4 cents (\$.04) per kilowatt-hour (kWh) used will be added to your bill for the green renewable premium. The energy rate can vary depending on your plan details.	
Example of total electricity bill with 100% green	The following is an example of an average monthly electricity bill and the additional green power charge for green participation based on monthly usage of 805 kWh. Actual bill may vary based on your actual electricity usage and energy rate. Monthly Usage X Energy Rate with Green Power Charge = Monthly Energy Charges 805 kWh (\$0.10 + \$0.04) \$112.70	
Fixed or Variable Rate	Fixed rate plans will remain the same price for the number of months mentioned in plan name. Variable rate plan pricing may change month-to-month due to assessment of historic and projected supply and hedging costs, prior month's pricing and conditions in electricity market among other factors. Please see your contract documents for more information.	
Will the green power charge change over time?	The green power charge may vary slightly and be less than 4 cents over the Ambit Energy non-green plans. The variation is due to the pricing requirements of some utilities.	
We plan on using the following renewable sources for this product.	Wind (IL, NJ, PA, VA, WV, OH, MI, KY, TN, IN, WI, or DC)	
What other fees might I be charged?	Please see the pricing section on Terms of Service for more information. No additional fees apply for the green portion of your plan.	

From the time you receive this notification, you have three business days to change your mind about purchasing Ambit Green North Central from Ambit Energy. You may cancel your agreement to purchase Ambit Green North Central from Ambit Energy by calling (877) 282-6248 or writing P.O. Box 864589 Plano, TX 75086.

051722 *Applicable to all green plans.

Product changes should be submitted two weeks prior to your meter read to take effect at the start of your next billing period.

Appendix 7.1
Maine L.D. 1917:
An Act To Eliminate Direct Retail Competition for the Supply of
Electricity to Residential Consumers



129th MAINE LEGISLATURE

SECOND REGULAR SESSION-2020

Legislative Document

No. 1917

S.P. 664

In Senate, December 24, 2019

An Act To Eliminate Direct Retail Competition for the Supply of Electricity to Residential Consumers

Submitted by the Office of the Public Advocate pursuant to Joint Rule 203.

Received by the Secretary of the Senate on December 20, 2019. Referred to the Committee on Energy, Utilities and Technology pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator WOODSOME of York.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 35-A MRSA §3202, sub-§1**, as amended by PL 2007, c. 481, §1, is
3 further amended to read:

4 **1. Right to purchase generation.** ~~Beginning on March 1, 2000, all~~ All
5 nonresidential consumers of electricity have the right to purchase generation services
6 directly from competitive electricity providers, except as provided in subsection 7.

7 **Sec. 2. 35-A MRSA §3202, sub-§1-A** is enacted to read:

8 **1-A. Transition of residential consumers served by competitive electricity**
9 **providers.** Beginning no later than January 1, 2022, all residential consumers must be
10 served by standard-offer service. Beginning no later than December 1, 2020, competitive
11 electricity providers are prohibited from adding new residential consumers, including any
12 former customers who are not current customers as of December 1, 2020. For purposes of
13 this subsection, "residential consumer" means a consumer defined as residential under the
14 terms and conditions of the consumer's transmission and distribution utility.

15 **Sec. 3. 35-A MRSA §3203, sub-§4**, as amended by PL 2011, c. 284, §§2 to 4, is
16 further amended to read:

17 **4. Consumer protection provisions.** As a condition of licensing, a competitive
18 electricity provider that provides or proposes to provide generation service ~~to a residential~~
19 ~~consumer or~~ to a small commercial consumer or, before January 1, 2022, to a residential
20 consumer:

- 21 A. May not terminate generation service without at least 30-day prior notice to the
22 consumer;
- 23 B. Must offer service to the consumer for a minimum period of 30 days;
- 24 C. Must allow the consumer to rescind selection of the competitive electricity
25 provider orally or in writing within 5 days of initial selection;
- 26 D. Must comply with all federal and state laws, federal regulations and state rules
27 regarding the prohibition or limitation of telemarketing;
- 28 E. Must provide to the consumer within 30 days of contracting for retail service a
29 disclosure of information provided to the commission pursuant to rules adopted under
30 subsection 3 in a standard written format established by the commission; and
- 31 F. Must comply with any other applicable standards or requirements adopted by the
32 commission by rule or order.

33 For purposes of this subsection, "residential consumer" means a consumer defined as
34 residential under the terms and conditions of the consumer's transmission and distribution
35 utility. For purposes of this subsection, "small commercial consumer" means, in the case
36 of a consumer served by an investor-owned transmission and distribution utility, a
37 nonresidential consumer that meets the availability criteria to take service under a core
38 customer class of the transmission and distribution utility that does not pay a demand
39 charge to the transmission and distribution utility or, in the case of a consumer served by

1 a consumer-owned transmission and distribution utility, a nonresidential consumer with a
2 demand of 20 kilowatts or less.

3 **Sec. 4. 35-A MRSA §3212, sub-§4**, as amended by PL 2001, c. 528, §1, is
4 repealed.

5 **Sec. 5. 35-A MRSA §3212, sub-§4-C**, as enacted by PL 2005, c. 677, Pt. B, §2,
6 is amended to read:

7 **4-C. Authority to ~~establish~~ consider various contract lengths and terms.** For the
8 purpose of providing over a reasonable time period the lowest price for standard-offer
9 service to residential and small commercial customers, the commission, with respect to
10 residential and small commercial standard-offer service, ~~may shall~~, in addition to
11 incorporating cost-effective demand response and energy efficiency pursuant to
12 subsection 4-B and to the extent authorized in section 3210-C, incorporating the energy
13 portion of any contracts entered into pursuant to section 3210-C, ~~establish various~~
14 consider bids of varying standard-offer service contract lengths and terms up to 10 years
15 and fixed and variable pricing proposals. The commission shall also take into account
16 state renewable energy generation and climate change goals, including the
17 encouragement, where appropriate, of economical distributed energy resources and
18 beneficial electrification. For the purposes of this subsection, "distributed energy
19 resources" means small-scale electrical generation sources located close to where the
20 generated electricity is used and "beneficial electrification" has the same meaning as in
21 section 10102, subsection 3-A.

22 To assist the commission in administering standard-offer service, the commission shall
23 designate or hire an employee whose primary responsibilities relate to monitoring
24 wholesale power markets, long-term power supply planning, developing requests for
25 proposals for standard-offer service, evaluating bids and administering standard-offer
26 service.

27 SUMMARY

28 This bill eliminates retail-level competition for residential electricity customers and
29 requires a more robust competitive process for selecting standard-offer service providers
30 for residential and small commercial electricity customers. It also requires the Public
31 Utilities Commission to designate or hire an employee to assist the commission in
32 administering standard-offer service.

Appendix 7.2
Massachusetts S2150:
An Act relative to electric ratepayer protections

SENATE No. 2150

The Commonwealth of Massachusetts

PRESENTED BY:

Brendan P. Crighton

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to electric ratepayer protections.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Brendan P. Crighton</i>	<i>Third Essex</i>	
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>3/3/2021</i>
<i>Maura Healey</i>	<i>Attorney General</i>	<i>3/29/2021</i>

SENATE No. 2150

By Mr. Crighton, a petition (accompanied by bill, Senate, No. 2150) of Brendan P. Crighton, Jason M. Lewis and Maura Healey for legislation relative to electric ratepayer protections. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to electric ratepayer protections.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 164 of the General Laws is hereby amended by inserting after
2 section 1K the following section:

3 Section 1L. Beginning on January 1, 2022, no supplier, energy marketer, or energy
4 broker shall execute a new contract for generation services with any individual residential retail
5 customer. This provision shall not apply to, or otherwise affect, any government body that
6 aggregates the load of residential retail customers as part of a municipal aggregation plan
7 pursuant to chapter 164, § 134. Any violation of this provision shall be deemed an unfair and
8 deceptive act pursuant to the provisions of chapter 93A, and the attorney general is hereby
9 authorized to bring an action under section 4 of chapter 93A to enforce this provision and to
10 obtain restitution, civil penalties, injunctive relief, and any other relief awarded pursuant to said
11 chapter 93A.

Appendix 7.3
Maryland Energy Supply Reform Bill ((SB31/HB397)).

Chapter 637

(Senate Bill 31)

AN ACT concerning

Electricity and Gas – Energy Suppliers – Supply Offers

FOR the purpose of requiring the Public Service Commission, on or before a certain date, to establish an administrative process to approve supply offers for electricity or gas for households in the State that receive energy assistance through a program administered by the Office of Home Energy Programs; prohibiting, beginning on a certain date, ~~approved third-party supply offers~~ unless the Commission has approved the supply offer, a third-party retail supplier from offering to provide electricity or gas to certain households, renewing a certain contract, or charging a certain fee; ~~unless the Commission has approved the supply offer~~; requiring, beginning on a certain date, approved supply offers to include a certain commitment for the entirety of the term of the supply offer to charge certain rates for certain customers; prohibiting a third-party retail supplier whose offer is not approved by the Commission from receiving certain funds or charging a certain customer under certain circumstances; authorizing the Office of Home Energy Programs to allocate funding toward supplier charges as part of arrearage assistance for certain contracts; requiring the Commission to publish a certain annual report on or before a certain date; ~~requiring the Commission to create certain test cases to verify certain supplier billing practices; requiring the Commission to adopt certain regulations on or before a certain date; requiring the Office of Home Energy Programs to provide certain educational materials to certain customers;~~ and generally relating to electricity and natural gas supply.

BY adding to

Article – Public Utilities

Section 4–308

Annotated Code of Maryland

(2020 Replacement Volume and 2020 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Public Utilities**4–308.**

(A) ON OR BEFORE JANUARY 1, ~~2022~~ **2023**, THE COMMISSION SHALL BY REGULATION OR ORDER ESTABLISH AN ADMINISTRATIVE PROCESS TO APPROVE SUPPLY OFFERS FOR ELECTRICITY OR GAS FOR HOUSEHOLDS IN THE STATE THAT

RECEIVE ENERGY ASSISTANCE THROUGH A PROGRAM ADMINISTERED BY THE OFFICE OF HOME ENERGY PROGRAMS.

(B) (1) BEGINNING JULY 1, ~~2022~~ 2023, ~~AN APPROVED SUPPLY OFFER UNLESS THE COMMISSION HAS APPROVED THE SUPPLY OFFER IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION, A THIRD-PARTY RETAIL SUPPLIER MAY NOT OFFER TO:~~

(I) PROVIDE ELECTRICITY OR GAS TO HOUSEHOLDS IN THE STATE THAT HAVE RECEIVED ENERGY ASSISTANCE DURING THE PREVIOUS FISCAL YEAR;

(II) RENEW A CONTRACT TO PROVIDE ELECTRICITY OR GAS TO HOUSEHOLDS IN THE STATE THAT ~~ENROLL THE HOUSEHOLD~~ ARE ENROLLED IN AN ENERGY ASSISTANCE PROGRAM ~~UNLESS THE COMMISSION APPROVES THE SUPPLY OFFER~~; OR

(III) CHARGE A TERMINATION FEE TO HOUSEHOLDS IN THE STATE THAT HAVE RECEIVED ENERGY ASSISTANCE DURING THE PREVIOUS FISCAL YEAR.

(2) AN APPROVED SUPPLY OFFER FROM A THIRD-PARTY RETAIL SUPPLIER SHALL INCLUDE A COMMITMENT, FOR THE ENTIRETY OF THE TERM OF THE SUPPLY OFFER, TO CHARGING AT OR BELOW THE STANDARD OFFER SERVICE RATE OR GAS COMMODITY RATE FOR CUSTOMERS RECEIVING ENERGY ASSISTANCE.

(3) IF A THIRD-PARTY RETAIL SUPPLIER'S OFFER IS NOT APPROVED BY THE COMMISSION, THE THIRD-PARTY RETAIL SUPPLIER MAY NOT:

(I) RECEIVE FUNDS FROM AN ENERGY PROGRAM ADMINISTERED BY THE OFFICE OF HOME ENERGY PROGRAMS; OR

(II) CHARGE A CUSTOMER RECEIVING ASSISTANCE FROM AN ENERGY PROGRAM ADMINISTERED BY THE OFFICE OF HOME ENERGY PROGRAMS.

(C) THE OFFICE OF HOME ENERGY PROGRAMS MAY ALLOCATE FUNDING TOWARD SUPPLIER CHARGES AS PART OF ARREARAGE ASSISTANCE FOR CONTRACTS THAT PRECEDED A CUSTOMER'S APPLICATION FOR ENERGY ASSISTANCE FROM THE OFFICE OF HOME ENERGY PROGRAMS.

(D) (1) ON OR BEFORE SEPTEMBER 1 EACH YEAR, THE COMMISSION SHALL PUBLISH A REPORT ON THE COMMISSION'S WEBSITE THAT INCLUDES:

(I) THE NAMES AND THE TOTAL NUMBER OF SUPPLIERS THAT APPLIED FOR APPROVAL TO SELL TO ENERGY ASSISTANCE HOUSEHOLDS;

(II) THE NAMES AND THE TOTAL NUMBER OF SUPPLIERS THAT WERE APPROVED UNDER SUBSECTION (A) OF THIS SECTION;

(III) THE TOTAL NUMBER OF SUPPLIERS THAT WERE REJECTED, IF ANY;

(IV) THE TOTAL NUMBER OF ENERGY ASSISTANCE HOUSEHOLDS THAT WERE SIGNED UP WITH ~~A~~ AN APPROVED A THIRD-PARTY SUPPLIER, AS REPORTED BY THE SUPPLIER;

~~(V) THE TOTAL NUMBER OF "NEW ENROLLMENT" REQUESTS FOR ENERGY ASSISTANCE HOUSEHOLDS OF SUBMITTED SUPPLIER ENROLLMENTS THAT WERE DENIED BECAUSE THE SUPPLIER WAS NOT APPROVED TO SERVE ENERGY ASSISTANCE HOUSEHOLDS, AS REPORTED BY THE UTILITY; AND~~

(VI) THE TOTAL NUMBER OF SELF-IDENTIFIED ENERGY ASSISTANCE HOUSEHOLDS THAT FILED COMPLAINTS ABOUT THEIR THIRD-PARTY SUPPLIER.

(2) THE COMMISSION SHALL SEND A COPY OF THE REPORT TO THE OFFICE OF PEOPLE'S COUNSEL, THE OFFICE OF HOME ENERGY PROGRAMS, AND, SUBJECT TO § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE SENATE FINANCE COMMITTEE AND THE HOUSE ECONOMIC MATTERS COMMITTEE.

~~(E) EACH YEAR THE COMMISSION SHALL CREATE TEST CASES FOR NEW ENROLLMENTS THAT SHALL BE RUN THROUGH EACH UTILITY'S BILLING AND ENROLLMENT SYSTEM ON A QUARTERLY BASIS TO VERIFY THAT SUPPLIERS ON THE APPROVED LIST ARE CORRECTLY CHARGING HOUSEHOLDS THAT RECEIVE ENERGY ASSISTANCE. ON OR BEFORE JANUARY 1, 2023, THE COMMISSION SHALL ADOPT REGULATIONS ESTABLISHING A CUSTOMER EDUCATION PROGRAM THAT:~~

~~(1) EDUCATES CUSTOMERS ON THE BENEFITS OF COMPARISON SHOPPING FOR ELECTRIC AND GAS SERVICE;~~

~~(2) TEACHES CUSTOMERS HOW TO SHOP FOR AND COMPARE ELECTRIC AND GAS SERVICE;~~

~~(3) INFORMS CUSTOMERS HOW TO ACCESS THE COMMISSION'S CUSTOMER CHOICE SHOPPING WEBSITE; AND~~

~~(4) PROVIDES THE INFORMATION SPECIFIED IN ITEMS (1) THROUGH (3) OF THIS SUBSECTION TO CUSTOMERS ON A QUARTERLY BASIS.~~

~~(F) THE OFFICE OF HOME ENERGY PROGRAMS SHALL PROVIDE TO A CUSTOMER THE MATERIALS DEVELOPED UNDER SUBSECTION (E) OF THIS SECTION.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2021.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 30, 2021.

Appendix 7.4

Massachusetts Attorney General's Office Oversight Questions



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL
ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108

MAURA HEALEY
ATTORNEY GENERAL

(617) 727-2200
(617) 727-4765 TTY
www.mass.gov/ago

July 14, 2021

Brendan Vaughan, Esq.
Keegan Werlin LLP
99 High Street, 29th Floor
Boston, MA 02110
P: (617) 951-1400

**Re: Oversight Questions Pursuant to G.L. c. 12, § 11E(c);
NSTAR Electric Company, d/b/a Eversource Energy.**

Dear Mr. Vaughan,

Enclosed please find Oversight Questions issued by the Office of the Attorney General of the Commonwealth (the "Attorney General's Office") to NSTAR Electric Company, d/b/a Eversource Energy (the "Company"),¹ pursuant to G.L. c. 12, § 11E(c). These Oversight Questions are issued pursuant to the Attorney General's Office's statutory authority codified in the Green Communities Act ("Act") of 2008. The Act provides:

The attorney general may request, orally or in writing, that any company subject to the jurisdiction of the department of public utilities or the department of telecommunications and cable respond to not more than 15 information requests, including subparts, per calendar month regarding any matter related to the rates, charges, tariffs, books or service quality of the company.

G.L. c. 12, § 11E(c) as amended by St. 2008 c. 169, §4.

¹ On December 31, 2017, Western Massachusetts Electric Company was merged with and into NSTAR Electric Company, with NSTAR Electric Company as the surviving entity pursuant to the Department's approval under G.L. c. 164, § 96 in D.P.U. 17-05. D.P.U. 17-05, at 36-44.

The Act requires the Company to answer the Attorney General's Office's Oversight Question within 30 calendar days of the date of issuance of this question. Should the Company fail to respond to this Oversight Question within 30 days, the Attorney General's Office may request that the Department of Public Utilities enforce the provisions of the Act.

If you should have any questions pertaining to this matter, please feel free to contact me. Thank you for your attention to this matter.

Sincerely,

/s/ Elizabeth A. Anderson
Elizabeth A. Anderson
Assistant Attorney General
Office of Ratepayer Advocacy
One Ashburton Place
Boston, Massachusetts 02108
(617) 727-2200

Encl.

cc: Kerry Britland, Eversource

**OVERSIGHT QUESTIONS TO
NSTAR ELECTRIC COMPANY
D/B/A EVERSOURCE ENERGY**

INSTRUCTIONS AND DEFINITIONS

1. These Oversight Questions call for all information, including information contained in documents, which relates to the subject matter of the requests, and is known or available to NSTAR Electric Company d/b/a Eversource Energy (the “Company”), the Company’s parent(s), subsidiaries, and any affiliates or predecessors.
2. Attached to the Oversight Questions is an Excel spreadsheet with various tabs corresponding to each Oversight Question. The Company should use the Excel spreadsheet as a format template for providing the requested information.
3. If it is not unduly burdensome, please provide each rate in terms of dollars per kWh to the fifth decimal place, *e.g.*, “.10672” and “.09500.”
4. “Discounts” shall mean any discount applied to the supply portion of a customer’s electricity bill, including, but not limited to, low-income discount rate, fuel assistance, Low Income Home Energy Assistance Program (“LIHEAP”) funds, or any other discount for which the customer qualifies.
5. The Company shall answer these information requests fully and completely in a reasonably prompt manner, not to exceed 30 calendar days from the date of issuance.
6. Provide an electronic copy of each response. Each response should be furnished on a separate electronic page headed by the individual Request being answered. Individual responses of more than one page should be consecutively numbered.
7. If the Company has any questions regarding these Oversight Questions, please call the sender for clarification.

**OVERSIGHT QUESTIONS TO
NSTAR ELECTRIC COMPANY D/B/A EVERSOURCE ENERGY**

1. Please provide an Excel spreadsheet that discloses, for each month between July 2020 and June 2021, for each competitive supplier licensed to market and sell electricity in the Company's service territory when the supplier is not operating as a municipal aggregator, the following:
 - a. the name of the competitive supplier,
 - b. the total kWh billed for each residential rate class (i.e., each unique rate charged by the competitive supplier),
 - c. the rate charged for each rate class,
 - d. the total dollar amount billed (before application of any applicable discounts) for each rate class,
 - e. the total number of accounts billed for each supplier for each rate class, and
 - f. the total number of *new* accounts billed for each supplier for each rate class.

In a separate tab, for each month between July 2020 and June 2021, for each competitive supplier where it is operating as a municipal aggregator in the Company's service territory, please provide:

- g. the name of the municipal aggregator,
- h. the total kWh billed,
- i. the total dollar amount billed, and
- j. the total number of accounts billed.

In a separate tab, for each month between July 2020 and June 2021, for customers supplied with EDC-provided Basic Service (i.e., not receiving service from a competitive supplier or municipal aggregator), please provide:

- k. the total kWh billed,
- l. the total dollar amount billed, and
- m. the total number of accounts billed.

Please confirm that the information provided in response to this Oversight Question includes all residential customers (low-income as well as non-low-income customers).

2. Regarding low-income customers. In similar Excel format to that used in response to No. 1, please provide the information requested in sections *a* through *m* for only low-income accounts, again disaggregating by competitive suppliers and distinct rates; municipal aggregators; and Basic Service customers, for each month between July 2020 and June 2021.
3. If the number of the Company's non-low-income customers (that is, all residential customers who do *not* receive a low-income rate) does not equal the difference between the number of all residential customers reported in response to No. 1 and the low-income customers reported in response to No. 2, please explain the discrepancy.

4. Please provide an Excel spreadsheet that discloses, for September 2020 only, for each unique combination of municipality and zip code,² the following:
 - a. the name of and total number of all residential accounts billed for each competitive supplier operating in that area at each rate offered by that supplier, the total kWh billed for each rate, and the number of new residential accounts billed;
 - b. when applicable, the name of and total number of all residential accounts billed by a municipal aggregator operating in that area, either in a separate sheet or clearly flagged as different from the competitive suppliers;
 - c. the number of all residential customers that subscribe to EDC-provided residential Basic Service (that is, customers who do not receive service from a competitive supplier or municipal aggregator).

Please confirm that the information provided in response to this Oversight Question includes all residential customers (low-income as well as non-low-income customers).

5. Please provide an Excel spreadsheet that discloses, for September 2020 only, for each unique combination of municipality and zip code,³ the following:
 - a. the name of and total number of all residential low-income customer accounts billed for each competitive supplier operating in that area at each rate offered by that supplier, the total kWh billed for each rate, and the number of new residential low-income customer accounts billed;
 - b. when applicable, the name of and total number of all residential low-income customer accounts billed by a municipal aggregator operating in that area, either in a separate sheet or clearly flagged as different from the competitive suppliers;
 - c. the number of all residential low-income customers that subscribe to EDC-provided residential Basic Service (that is, customers who do not receive service from a competitive supplier or municipal aggregator).
6. If the number of the Company's non-low-income customers (that is, all residential customers who do *not* receive a low-income rate) does not equal the difference between the number of all residential customers reported in response to No. 4 and the low-income customers reported in response to No. 5, please explain the discrepancy.

² That is, please disaggregate where a single zip code spans multiple municipalities, such that (Zip 01234, Town A and Zip 01234, Town B) are distinct units of observation.

³ That is, please disaggregate where a single zip code spans multiple municipalities, such that (Zip 01234, Town A and Zip 01234, Town B) are distinct units of observation.

Appendix 7.5
Sample Connecticut Bill

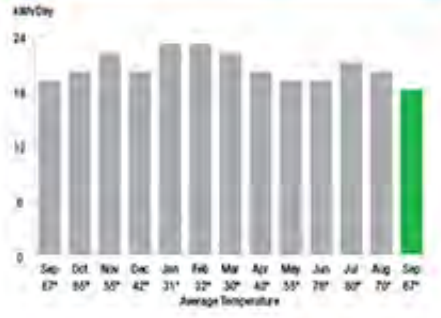
EVERSOURCE

Account Number: 1234 567 8900
 Statement Date: 09/30/16
 John J Customer
 123 Any St
 Any Town, CT 00000

Total Amount Due by 10/28/16 **\$151.00**

Amount Due On 09/26/16	\$168.00
Last Payment Received On 09/23/16	-\$168.00
Balance Forward	\$0.00
Total Current Charges	\$151.00

Electric Usage History → Kilowatt Hours (kWh)



Current Charges for Electricity



Supply Information
 Supplier Rate 9.990¢/kWh Fixed
 Term: 13 cycles
 Expiration: Dec 2016 meter read
 Next Cycle Rate: 9.990¢/kWh
 Cancellation Fee: \$0
 Standard Service Rate: 6.606¢/kWh
 Term/Expiration: 6 mos until Dec 31, 2016
 Your Supplier Charge: \$69.93
 Standard Service Competition: \$46.24

Your electric supplier is
 Any Energy Company
 Any Street
 Any Town, Any State 00000
 1-100-000-0000
 To return to Standard Service, visit CT's official Rate Board at www.EnergizeCT.com, Eversource.com or call 1-800-298-2000

Electric Usage Summary

This month your average daily electric use was **16 kWh**. This month you used **4% less** than at the same time last year.

News For You
 Welcome to your newly designed bill! This new design provides a clear view of your energy use and charges to help you manage your energy costs.

EVERSOURCE

Account Number: 1234 567 8900
 The "Total Amount Due" must be received by Oct 28, 2016 to avoid a 1.00% late payment charge.
 Seg Code

Remit Payment To: Eversource, PO Box 660032, Dallas, TX 75265-0032
 Make your check payable to Eversource. Please consider adding \$1 for Operational Fuel. To add more, visit Eversource.com

Total Amount Due by 10/28/16 **\$151.00**

Amount Enclosed

John J Customer
 123 Any St
 Any Town, CT 00000

 Eversource
 PO Box 660032
 Dallas, TX 75265-0032

Sample Bill

00 0 0000118192 00 70 1234 567 8900

Appendix 7.6
“Energy Switch” Massachusetts Website Rules

ENERGY SWITCH MASSACHUSETTS

WEBSITE RULES

I. GENERAL

- A. Only suppliers licensed by the Department of Public Utilities (“Department”) can list electric supply products (“supply products”) on the Energy Switch Massachusetts Website (“Website”). Participation in the Website is voluntary.
- B. Initially, the Website will list only fixed-priced supply products.
- C. The Website will list supply products available to (1) residential electricity consumers, and (2) small commercial and industrial electricity consumers whose monthly demand does not exceed 25 kilowatts (“small C&I”).
- D. Suppliers must offer the residential and small C&I supply products listed on the Website to all residential and small C&I electricity consumers, respectively, within the specified ISO New England Inc. (“ISO-NE”) load zone or electric company service territory (see Section III.A, below) with the exception that a supplier may designate a supply product as available to new customers only (see Section III.K, below).
- E. Only suppliers licensed by the Department to serve residential electricity consumers may list residential supply products.
- F. Suppliers may list up to eight unique supply products for each customer class within each ISO-NE load zone located within each electric company’s service territory. To be deemed unique, supply products must differ in at least one of the following ways:
 - 1. Length of contract term must differ by at least three months;
 - 2. Percent of renewable energy content must differ by at least 25 percent;
 - 3. Inclusion of additional products and services;¹ or

¹ Two supply products will be deemed unique if one product includes an additional product or service, and the other product does not. However, two supply products will not be deemed unique if the only difference is that the supply products include different types of additional products or services.

4. Available to new customers only.²
- G. The Website will update supply product information on a daily basis, at 12:00 a.m. (Eastern Standard Time).
- H. Suppliers must honor all supply products listed on the Website (see Section VI.C., below, for the one exception to this rule).
- I. The Department may rescind suppliers' ability to list supply products on the Website for reasons that include, but are not limited to:
 1. Failure to honor the supply product offerings listed on the Website; and
 2. Excessive removal of supply products on an intra-day basis (see Section VI.C, below).
- J. A supplier can include a size appropriate logo and a brief description of its company on the Website.

II. SUPPLIER INFORMATION

- A. The Website will list the supplier name with each supply product. The supplier name shall be the name listed on its most recent license application (new or renewal) at the Department (including the "d/b/a" or "doing business as" name provided). The Website will display additional supplier information when a user hovers over the supplier's name.
- B. Suppliers must provide a working hyperlink for display on the Website that brings users to the supplier's website homepage.
- C. Suppliers may, but are not required to, provide a logo for display on the Website.
- D. Suppliers may, but are not required to, enter a company description for display on the Website. The company description may not exceed 400 characters.
- E. Suppliers may, but are not required to, provide a telephone number for display on the Website.

² Two supply products will be deemed unique if one product is only available to new customers and the other product is available to all customers (see Section III. K, below).

III. SUPPLY PRODUCT INFORMATION

- A. For each supply product, suppliers must identify at least (1) one electric company service territory, (2) one ISO-NE load zone located within the service territory (where applicable),³ and (3) one customer class, for which the product is available. Suppliers may identify multiple electric company service territories, ISO-NE load zones, and customer classes for which the product is available.
- B. Suppliers must express prices for fixed-price supply products in cents per kilowatt-hour (“kWh”) or dollars per month.
- C. Suppliers must express the contract term for fixed-price supply products in number of months.⁴ To be listed on the Website as a fixed-priced supply product, the contract term must be three months or greater.
- D. For supply products with an introductory price offer, suppliers must (1) express the introductory price in cents per kWh or dollars per month, and (2) identify the number of months the introductory price offer will be in effect. To be listed on the Website as a fixed-price supply product with an introductory price offer (1) the contract term must be six months or greater, and (2) the introductory term must be equal to, or less than one-half of the contract term.
- E. For supply products with an enrollment fee, suppliers must express the fee as a fixed dollar amount.
- F. For supply products with an early termination fee, suppliers must express the fee as either (1) a dollar amount per month remaining on the contract, or (2) a fixed dollar amount.
- G. For supply products with an automatic renewal provision, suppliers must identify (1) the pricing structure to which the contract will automatically renew (i.e., fixed or variable), and (2) if renewed to a fixed pricing structure, the term (in months) during which the new fixed price will be in effect. To be

³ This is applicable only for the service territories of NSTAR Electric Company d/b/a/ Eversource Energy (which includes the Northeast Massachusetts and Southeast Massachusetts load zones) and Massachusetts Electric Company d/b/a National Grid (which includes the Northeast Massachusetts, Southeast Massachusetts, and West/Central Massachusetts load zones).

⁴ The Department uses months as a proxy for customer billing cycles (i.e., three months is the same as three billing cycles).

listed on the Website as a supply product with an automatic renewal provision, the initial contract term must be six months or greater.

- H. For energy supply products that are composed of at least 50 percent renewable energy resources (this includes the percentage of renewable energy resources required to meet the Commonwealth's Renewable Portfolio Standards) suppliers:⁵
1. Must express the percentage of the supply product that is composed of renewable energy resources in multiples of five percent;
 2. Must identify the type of renewable energy resource (biomass, hydro, solar, wind, other, or unspecified) that comprise the supply product; and
 3. For each identified resource type:
 - a. must identify the percentage of the voluntary component of the supply product that is composed of the resource type; and
 - b. may, but are not required to, enter the percentage of the resource that qualifies as a Renewable Portfolio Standards Class I resource.
- I. For supply products that include additional energy-related products or services, suppliers must (1) identify the type of products or services, and (2) provide a description of the identified products or services, limited to 140 characters. The Website will list the following types of additional energy-related products or services:
1. smart thermostats;
 2. photo-voltaic solar installations;
 3. heating, ventilation, and air conditioning services;
 4. insurance or home warranty protections;
 5. energy efficiency services; and
 6. carbon offsets.

⁵ This section of the Website Rules addresses the information requirements that apply to a product's renewable energy content. The manner in which the Website will display information regarding such content is addressed in Section IV, below.

- J. For supply products that include non-energy products or services, suppliers must (1) identify the type of products or services, and (2) provide a description of the specific products or services, limited to 140 characters. The Website will list the following types of additional non-energy products or services:
1. rewards programs;
 2. gift cards;
 3. cash back;
 4. charitable contributions; and
 5. sponsored promotions.
- K. Suppliers may designate that a product is available to new customers only (i.e., the product is not available to its existing customers).
- L. Suppliers may, but are not required to, provide a hyperlink for each supply product listed on the Website that takes users directly to a page on the supplier's website containing information related to the specific supply product (i.e., the unique hyperlink should not bring the user to the supplier's website homepage).
- M. Suppliers may, but are not required to, provide a phone number that is specific to a particular supply product.
- N. For each supply product, suppliers must specify a start date, which is the date on which the supply product information will be initially listed on the Website.
- O. For each supply product, suppliers may, but are not required to, specify an end date, which is the date on which the supply product information will no longer be listed on the Website. If a supplier does not specify an end date, the Website will continue to list the supply product information until the supplier submits updated information for the supply product.
- P. For each supply product, the Website will (1) calculate the estimated average monthly cost over the supply product's contract term based on the supply product's price (see Section III. B, D, and E, above),⁶ and (2) display the month and year through which the estimated average monthly cost applies based on the length of the contract term.

⁶ Initially, the Website will not calculate the costs associated with the delivery component of the bill. The Department may add this calculator function in the future.

- Q. The Website will calculate the estimated average monthly cost based on an “average” monthly usage value (in kWh). This value will be 600 kWh and 1,000 kWh for residential and small C&I consumers, respectively, unless a user specifies a different monthly usage value.


IV. DISPLAY OF RENEWABLE ENERGY CONTENT INFORMATION

- A. The Website will display the percentage of each electric supply product that is composed of renewable energy resources. This includes the percentage required by RPS and the percentage that exceeds the RPS requirement (the Website will display the percentage that exceeds the RPS requirement as the “voluntary” component of the product).
- B. For products that are composed of at least 50 percent renewable energy resources, the Website will:
 - 1. display those renewable resource types (e.g., wind, solar) that comprise at least 50 percent of the product’s voluntary renewable resources; and
 - 2. identify whether all of the product’s voluntary renewable resources are RPS Class I resources (the Website refers to these resources as “New regional resources”).
- C. Below, we provide examples for how the Website will display a product’s renewable resource content information:

- 1. Non-renewable product (i.e., includes no voluntary renewable resources);
- 2. 50 percent renewable product (including RPS requirement), for which the voluntary component is composed entirely of RPS Class I solar resources
- 3. 75 percent renewable product (including RPS requirement), for which the voluntary component is composed entirely of RPS Class I wind resources;

Required:22% | Voluntary:0%
TOTAL : 22%

Required:22% | Voluntary:28%
TOTAL : 50% ⓘ
 | 100%
New regional resources

Required:22% | Voluntary:53%
TOTAL : 75% ⓘ
 | 100%
New regional resources

4. 100 percent renewable product (including RPS requirement), for which the voluntary component is composed of 50 percent solar resources and 50 percent wind resource.



V. DISPLAY OF BASIC SERVICE INFORMATION

- A. For each customer class within each electric company, the Website will list the fixed basic service prices (1) that are currently in effect, and (2) that will be in effect during the upcoming six-month basic service term. The Website will display the upcoming basic service prices as “to be determined” when those prices are not yet known.⁷
- B. The Website will display the six-month terms during which the basic service prices will be in effect.
- C. The Website will display basic service as the top supply product regardless of a user’s sorting preferences, except as provided below.
- D. The Website will not display basic service when a user filters supply products to view only renewable energy supply products or supply products that include additional products or services.
- E. The Website will display basic service as the top supply product on the Compare page (see Section V.C, below) regardless of (1) a user’s filtering preferences, and (2) whether the user affirmatively selected basic service for comparison.
- F. The Website count of total and filtered supply products does not include basic service.

VI. USER PREFERENCE OPTIONS

- A. Filtering – Users can filter supply products listed on the Website to view only those supply products that meet the user’s preferences, based on the following categories:
 1. Pricing

⁷ The Department will be responsible for uploading basic service information to the Website.

- a. Estimated monthly cost
 - b. No monthly charge
 - c. No enrollment fee
 2. Contract term;
 - a. Length of term
 - b. No cancellation fee
 - c. No automatic renewal
 3. Renewable energy
 - a. Renewable supply products
 - b. 100 percent renewable supply products
 - c. New regional resource (RPS Class I) supply products
 4. Other
 - a. Additional energy-related products and services
 - b. Additional non-energy products and services
 - c. No additional products and services
 - d. Supplier (view supply products offered by all suppliers or by an identified subset of suppliers)
- B. Sorting – The Website initially will list supply products by average monthly cost, from low to high. Users can change the Website listing of supply products based on average monthly costs, contract term, and renewable energy content based on the following categories:
 1. Average monthly costs
 - a. low to high
 - b. high to low
 2. Contract term
 - a. short to long
 - b. long to short
 3. Renewable energy content
 - a. high to low
 - b. low to high
- C. Product Comparison - Users can select supply products for direct comparison on a Compare page.

VII. UPLOADING PRODUCT INFORMATION

- A. Suppliers are responsible for uploading their supply product information through the supplier portal of the Website.
- B. Suppliers can upload supply product information in three ways:
 - 1. Entering the information directly through the supplier portal;
 - 2. Entering the information into a spreadsheet (downloaded from the supplier portal) and importing the spreadsheet through the portal; or
 - 3. Entering the information using an application program interface (“API”).⁸
- C. Suppliers cannot revise or remove supply products from the Website during the course of a day. Through the supplier portal, however, suppliers can mark a supply product as unavailable for the remainder of the day. The Website will remove the supply product from the Website when it updates supply product information for the following day.

⁸ API is not yet available to suppliers.

Appendix 7.7
New York Public Service Commission Scorecard



Department of Public Service

October 2022

Office of Consumer Services **Monthly Report on Consumer Complaint Activity**

Rory M. Christian
Chair and Chief Executive Officer

Richard Berkley
Consumer Advocate and Director
Office of Consumer Services

Published November 28, 2022



Monthly Report on Consumer Complaint Activity

October 2022

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November 28, 2022

Dear Readers:

The Office of Consumer Services closely monitors the number and types of complaints received against all utilities operating in New York State. We strive to ensure that utilities fulfill their obligation to provide effective customer service in compliance with the laws, rules, regulations and policies we enforce.

Each month, this report provides an overview of complaint activity and utility responsiveness during the preceding month that is informative to both consumers and utility companies. Specific details regarding the way we measure the companies' activities are described in the section How Utility Complaint Data Is Reported.

The table titled Complaint Activity of New York's Major Utilities reports on the volume of complaints received against the largest utilities in each industry while the table titled Customer Service Response Index reports on the level of customer service and responsiveness delivered by each service provider.

The chart, Credit Adjustments Received for Consumers, reflects the amount of refunds or credits customers received because of our investigations. In September we returned more than \$228,000 to consumers for a total of almost \$3,000,000 so far this year.

The Office of Consumer Services also monitors complaints against the competitive energy service companies (ESCO's) operating in New York. These complaints are reported in two tables; Number of Initial Complaints Received Against ESCO's and Number of Escalated Complaints Received Against ESCO's.

I hope this report is helpful in providing you with a summary of utility complaint activity. If you have any questions, please e-mail Richard.Berkley@dps.ny.gov

Sincerely,

Richard Berkley

A handwritten signature in black ink that reads "Richard Berkley". The signature is written in a cursive style with a large, prominent "R" and "B".

Consumer Advocate and Director
Office of Consumer Services



If You Have a Complaint About Your Utility Service

If you're having difficulty resolving a dispute with your regulated energy, telephone, cable television or water company, Department of Public Service staff is available to assist you.

The Office of Consumer Services takes all utility consumer complaints seriously. You can contact us toll-free by telephone, in writing or via the Internet. When you contact our office with a complaint about a utility or other service provider, we take immediate steps to address your concerns.

After we complete entering the details of your complaint we send your complaint to the utility by e-mail or fax. In an effort to ensure that utilities fulfill their obligation to provide effective customer service, we will first ask your utility to contact you and resolve your concern. If your complaint is related to the provision of service, your utility should contact you within two business hours. If your complaint is related to billing or another matter, the utility should contact you by the close of the following business day.

If the utility does not contact you with its initial acknowledgement, does not provide its response to you within two weeks or the matter remains unresolved after you have received a response, you can contact us. We will then further investigate the matter and notify you in writing or by telephone of the decision and the reasons for the decision.

If you believe the initial decision is wrong, you can request an informal hearing. This request may be in writing and made within 15 days of the initial decision. You may be asked to submit certain documents to support your position. If you and the utility are unable to settle the complaint, the hearing officer will make a decision on your complaint and notify you in writing of the decision.

If you believe that the informal hearing officer's decision was wrong, you can appeal it within 15 days of the decision. Your written appeal must contend that there was an error by the hearing officer or reviewer that affected the decision or that evidence not previously available would affect the decision. All appeals, except those involving PSEG-LI, will be decided by the Public Service Commission. PSEG-LI appeals will be decided by Long Island Power Authority (LIPA).

If you have a complaint about your utility service you may contact us thru one of the following avenues:

By Telephone	Monday thru Friday 8:30am – 4:00pm	800-342-3377
Via the Internet	24 hours a day	www.dps.ny.gov
In Writing	Please be sure to include as much detail as possible, including your account number, service address, telephone number and the specifics of your complaint.	NYS Dept. of Public Service Office of Consumer Services Three Empire State Plaza Albany, NY 12223-1350



How Utility Complaints Are Measured

The Office of Consumer Services reports complaint data by volume and by responsiveness. A complaint rate is used to compare small utilities to large utilities. A response index is used to measure how well utilities address consumer complaints we forwarded to them.

The Office of Consumer Services closely monitors the number and types of complaints received against all utilities operating in New York State. We expect utility companies to be highly responsive to their customers' needs, especially when the customer feels that it is necessary to seek the assistance of the Department of Public Service staff. Each month, this report provides an overview of complaint activity and utility responsiveness which we believe is informative to both consumers and utility companies.

The table titled **Complaint Activity of New York's Major Utilities** reports on the volume of complaints received against the largest utilities in each industry. These utility companies vary in size from just over 10,000 customers to several million customers. Therefore, in order to compare complaint volumes among companies, a complaint rate per 100,000 customers is displayed. This allows the reader to compare the complaints of a large company to that of a small company.

There are two measures of complaints which are reported each month. At first all complaints are recorded and forwarded to the utility for resolution directly with the customer. These are noted as initial complaints (QRS) in the table titled **Complaint Activity of New York's Major Utilities**. If the customer informs us that the utility failed to satisfy their complaint the matter is escalated for further handling and investigation by staff and is noted as escalated complaints (SRS). These escalated complaints may have started as initial complaints during a previous reporting month. Initial complaints may be escalated within 60 days of case closure. Both numbers are converted into a complaint rate which allows the reader to compare performance regardless of the size of a company's customer base. The escalation rate is a measure of how successful a utility is in satisfying their customer upon receipt of an initial complaint made through the Office of Consumer Services. The 12 month complaint rate is often used as one of several customer service measures that may be taken into consideration when staff monitors the quality of customer service delivered by an individual utility. This rate represents the average number of escalated complaints received per month per 100,000 customer accounts.

The table titled **Customer Service Response Index** (CSRI) reports on the level of customer service and responsiveness delivered by each service provider. The Customer Service Response Index is determined by measuring four metrics. Complete CSRI data is posted on the first page of the report for those service providers that average ten or more initial complaints per month. For all other service providers, the performance in each area is reported on subsequent pages of the table, less the actual index measures because the index measures for companies with fewer than ten initial complaints have been found to show significant fluctuations on a month to month basis. These fluctuations may result in the reader reaching an inaccurate conclusion as to a service provider's performance. If a company is not listed in a particular monthly report it is because there was no activity for the company in the reporting month.

The **Index** is determined by measuring four metrics:

The Consumer Satisfaction Metric (CSM) is a ratio of the number of initial complaints to the number of escalated complaints in the reporting month. A score of 5 points is awarded when a service provider receives no escalated complaints during the reporting month. There is no score awarded if a service provider satisfies less than 50% of the customers that the Department refers to them.

The Complaint Response Time Metric (CRM) is the average number of days it took the service provider to respond to initial complaints closed in the reporting month. A score of 2 points is awarded when a provider's average response time for initial complaints is 14 days or less. No points are earned if the average response time for initial complaints is more than 28 days (twice the acceptable reply standard).

The Escalated Complaint Response Time Metric (ERM) is the average number of days it took the service provider to respond to escalated complaints closed in the reporting month. A score of 2 points is awarded when a service provider's average response time for escalated complaints is 10 days or less. No points are earned if the average response time for escalated complaints is more than 25 days (two weeks past due).

The Pending Case Metric (PCM) is the average age of all cases awaiting response, determined on the last day of the reporting month. A score of 1 point is awarded when a service providers' average age of all cases is 14 days or less. No points are earned if the average age of all cases exceeds 70 days (two months delinquent). A negative score is applied if the average age of all cases is over 70 days.

Complaint Activity of New York's Major Utilities

October 2022

Utility Companies	Initial Complaints (QRS)		Escalated Complaints (SRS)		Escalation Rate	12 Month Escalated Complaint Rate
	No.	Rate*	No.	Rate*		
Central Hudson Gas & Electric Corp.	144	44.4	23	7.1	16%	10.1
Con Edison of New York	429	11.7	59	1.6	14%	2.0
PSEG Long Island	45	3.9	7	0.6	16%	0.4
National Grid - L I	26	4.2	2	0.3	8%	0.4
New York State Electric & Gas Corp.	255	26.1	15	1.5	6%	1.2
National Grid-Upstate	126	7.2	12	0.7	10%	0.6
Orange & Rockland	15	6.2	0	0.0	0%	0.2
Rochester Gas & Electric Corp.	532	121.7	26	5.9	5%	2.1
National Grid-Metro NY	59	4.6	3	0.2	5%	0.4
National Fuel Gas Distribution	29	5.3	2	0.4	7%	0.2
Citizens Communications	11	15.8	1	1.4	9%	1.4
Frontier Communications of NY	1	6.4	0	0.0	0%	4.8
Frontier Telephone of Rochester, Inc.	9	12.0	2	2.7	22%	0.8
Windstream Communications, Inc.	9	42.5	0	0.0	0%	5.5
Verizon Communications	74	5.2	16	1.1	22%	1.1
AT&T	1		0		0%	
Optimum (Telephone only)	4		0		0%	
Spectrum (Telephone only)	10		1		10%	
Verizon Digital Voice	4		1		25%	
Optimum (Cable TV)	57		11		19%	
Spectrum (Cable TV)	31		0		0%	
Verizon New York, Inc. (Cable TV)	24		3		13%	
Liberty Utilities (Water)	4	3.2	1	0.8	25%	0.9
Veolia Water New York	6	4.7	0	0.0	0%	1.0

All complaint rates are based on December 2021 customer populations.

* - Complaints per 100,000 customer accounts where populations are reported by the utility

This table reports on the volume of complaints received against the largest utilities in each industry.

Initial Complaints (QRS) - This is the number (No.) of complaints we receive and forward to the utility company for resolution directly with the customer and the corresponding complaint rate (Rate) per 100,000 customer accounts.

Escalated Complaints (SRS) - This is the number (No.) of complaints that we escalated for further handling and investigation because the customer informed us that the utility failed to satisfy their initial complaint after we forwarded the initial complaint to the utility. These escalated complaints may have started as initial complaints during a previous reporting month. Initial complaints may be escalated within 60 days of case closure. The corresponding escalated complaint rate (Rate) per 100,000 customer accounts allows the reader to compare one utility to another regardless of the number of customer accounts.

Escalation Rate - This is a measure of how successful a utility is in satisfying their customer upon receipt of an initial complaint made through the Office of Consumer Services. The lower the rate the more successful the utility was in resolving initial complaints directly with the customer.

12 Month Escalated Complaint Rate - This rate represents the average number of escalated complaints received per month per 100,000 customer accounts. This is often used as one of several customer service measures that may be taken into consideration when staff monitors the quality of customer service delivered by an individual utility.

Customer Service Response Index

October 2022

Service Provider	Initial Complaints	Escalated Complaints	CSM Index	Complaint Response Time	CRM Index	E. Complaint Response Time	ERM Index	Avg. Age of Cases Pending	PCM Index	CSRI
Orange & Rockland	15	0	5.0	6.6	2.0	3.9	2.0	3.3	1.0	10.0
National Grid - Metro Ny	59	3	4.5	6.9	2.0	9.0	2.0	13.1	1.0	9.5
National Fuel Gas Distribution	29	2	4.3	5.4	2.0	7.3	2.0	6.0	1.0	9.3
National Grid - L I	26	2	4.2	10.3	2.0	13.7	1.7	10.2	1.0	8.9
Citizens Communications	11	1	4.1	15.4	1.8	12.9	1.8	9.0	1.0	8.7
Verizon New York Inc.	24	3	3.8	11.3	2.0	6.3	2.0	35.0	0.6	8.4
Spectrum - Telephone	10	1	4.0	18.9	1.5	10.3	1.9	6.6	1.0	8.4
PSEG Long Island	45	7	3.4	17.4	1.6	3.5	2.0	10.8	1.0	8.0
National Grid - Upstate	126	12	4.0	3.8	2.0	22.0	0.8	23.2	0.8	7.6
Rochester Gas & Electric Corp.	532	26	4.5	12.0	2.0	55.7	0.0	24.4	0.8	7.3
New York State Electric & Gas Corp.	255	15	4.4	12.2	2.0	82.9	0.0	47.5	0.3	6.7
Optimum Cable Of Long Island	27	5	3.1	9.3	2.0	45.7	0.0	6.0	1.0	6.1
Verizon Communications	74	16	2.8	14.0	1.9	47.7	0.0	11.0	1.0	5.7
Optimum Cable of New York City	15	3	3.0	16.7	1.7	25.2	0.0	10.0	1.0	5.7
Central Hudson Gas & Electric Corp.	144	23	3.4	21.9	1.2	59.5	0.0	14.4	0.9	5.5
Spectrum - New York City	15	0	5.0	12.6	2.0	279.5	0.0	152.9	-9.0	-2.0
Con Edison Of New York	429	59	3.6	14.6	1.9	41.7	0.0	99.5	-9.0	-3.5

This table reports on the current level of customer service and responsiveness delivered by each service provider under the Department's jurisdiction. The Customer Service Response Index is determined by measuring four metrics. Complete CSRI data is posted on the first page of the report for those service providers that average ten or more initial complaints per month. For all other service providers, the performance in each area is reported on subsequent pages of the table, less the actual index measures because the index measures for companies with fewer than ten initial complaints have been found to show significant fluctuations on a month to month basis. These fluctuations may result in the reader reaching an inaccurate conclusion as to a service provider's performance. If a company is not listed on this report it is because there was no activity for the company in the reporting month. Below is an explanation of the data in each column.

Initial Complaints - This is the number of initial complaints we receive and forward to the utility company for resolution directly with the customer.

Escalated Complaints - This is the number of complaints that we escalated for further handling and investigation because the customer informed us that the utility failed to satisfy their initial complaint after we forwarded the initial complaint to the utility. These escalated complaints may have started as initial complaints during a previous reporting month. Initial complaints may be escalated within 60 days of case closure.

CSM Index - The Consumer Satisfaction Index scores the ratio of the number of initial complaints to the number of escalated complaints in the reporting month. A score of 5 points are awarded when a service provider receives no escalated complaints during the reporting month. There is no score awarded if a service provider satisfies less than 50% of the customers that the Department refers to them.

Complaint Response Time - This is the average number of days it took for a utility to respond to initial complaints in the reporting month.

CRM Index - The Complaint Response Time Index scores the service provider's responsiveness to initial complaints closed in the reporting month. A score of 2 points is awarded when a provider's average response time for initial complaints is 14 days or less. No points are earned if the average response time for initial complaints is more than 28 days (twice the acceptable reply standard).

E. Complaint Response Time - This is the average number of days it took for a utility to respond to escalated complaints in the reporting month.

ERM Index - The Escalated Complaint Response Time Index scores the service providers responsiveness to escalated complaints closed in the reporting month. A score of 2 points is awarded when a provider's average response time for escalated complaints is 10 days or less. No points are earned if the average response time for escalated complaints is more than 25 days (two weeks past due).

Avg. Age of Cases Pending - This is the average age of all the cases awaiting a response from the service provider.

PCM Index - The Pending Case Index scores the average age of all cases awaiting response by the service provider. A score of 1 point is awarded when a service providers' average age of all cases is 14 days or less. No points are earned if the average age of all cases exceeds 70 days (two months delinquent). A negative score is applied if the average age of all cases is over 70 days.

CSRI - The Customer Service Response Index is the overall score received by the service provider. It is the sum of the four indices.

Service Provider	Initial Complaints	Escalated Complaints	CSM Index	Complaint Response Time	CRM Index	E. Complaint Response Time	ERM Index	Avg. Age of Cases Pending	PCM Index	CSRI
10 Dekalb Avenue LLC	0	0		0.0		0.0		49.0		
1414 Central Avenue Owner Realty LLC	0	0		0.0		0.0		49.0		
52-03 Center LLC	0	0		0.0		0.0		28.0		
75 Wall St Condo	0	1		0.0		5.8		0.0		
831 Bartholdi Associates LLC	0	0		0.0		0.0		1.0		
AEP Energy, Inc	1	0		2.2		0.0		0.0		
ALL AMERICAN POWER & GAS, LLC	0	0		15.2		0.0		0.0		
Ambit Energy	0	1		20.0		11.6		0.0		
American Power & Gas, LLC	2	0		2.5		0.0		0.0		
Ampion	1	0		17.7		0.0		0.0		
Approved Energy II LLC	0	0		0.0		0.0		48.0		
Arcadia Power	2	0		5.6		0.0		0.0		
Armstrong Telephone Company - New Yo	0	0		0.0		0.0		1.0		
ASC Energy Services, Inc.	1	0		13.2		20.9		6.0		
AT&T	1	0		10.7		0.0		0.0		
Atlantic Energy, LLC	0	0		12.0		0.0		0.0		
Bath Municipal Electric & Gas	0	0		0.0		0.0		49.0		
BTI Communications, Inc. d/b/a TELZEQ	3	1		3.9		0.0		30.7		
Cablevision Lightpath, Inc.	1	0		0.0		0.0		7.0		
Carousel Park Preservation L.P.	0	0		0.0		0.0		90.0		
Charter Communications	0	0		88.0		0.0		1.0		
Citizens Choice Energy, LLC	1	0		14.0		0.0		0.0		
City of Jamestown Board of Public Utilitie	2	0		1.0		0.0		0.0		
CleanChoice Energy	2	3		18.8		8.8		12.5		
Clearway Community Solar LLC	0	0		13.7		0.0		55.0		
Comcast Cable of New York - CATV	0	0		0.0		0.0		4.0		
Comcast Phone Of New York, Llc D/b/a C	1	0		0.0		0.0		7.0		
Common Energy LLC	3	0		12.1		0.0		6.0		
Constellation NewEnergy	5	1		9.7		0.0		6.7		
Court Plaza Senior Apartments	0	1		0.0		0.0		27.0		
Crystal Water Supply Company, Inc.	4	0		3.8		0.0		13.0		
Dara Owners Corp.	0	0		0.0		0.0		125.0		
Delaware River Solar	0	0		0.0		0.0		0.0		
East Midtown Plaza	0	0		0.0		471.0		0.0		
Emerald Green-Lake Louise Marie Water	1	1		18.9		0.0		6.0		
Empire Telephone Corp.	0	0		11.9		0.0		0.0		
EnergyMark, LLC	1	0		1.0		0.0		0.0		
Engie Resources Llc	1	0		0.0		0.0		13.0		
Family Energy, Inc.	2	0		15.9		11.1		5.0		
Fifth on the Park Condominium, LLC	0	0		0.0		0.0		53.0		
FirstLight Fiber, Inc.	0	0		0.0		0.0		59.0		
FreeWythe, LLC	0	0		0.0		0.0		77.0		
Frontier Communications of NY/aka High	1	0		15.3		0.0		0.0		
Frontier Communications of Rochester, I	3	1		21.5		4.1		53.0		
Frontier Communications of Seneca-Gor	0	0		17.8		0.0		0.0		
Frontier Communications of Sylvan Lake,	2	0		0.0		0.0		6.0		
Frontier Telephone Of Rochester, Inc.	9	2		8.7		15.4		22.5		
Great American Gas & Electric, LLC	0	0		17.9		0.0		0.0		
Greater Allen Cathedral Senior Residenc	0	1		0.0		0.0		1.0		
Green Mountain Energy	2	0		1.4		0.0		0.0		
Greenlight Energy Inc.	1	0		0.0		0.0		1.0		
Harmony Prima Lofts	0	0		0.0		0.0		25.0		

Service Provider	Initial Complaints	Escalated Complaints	CSM Index	Complaint Response Time	CRM Index	E. Complaint Response Time	ERM Index	Avg. Age of Cases Pending	PCM Index	CSRI
Homeport I LLC	0	0		0.0		0.0		5.0		
Hudson North, LLC	0	0		0.0		93.8		0.0		
Hudson Park Investors, Llc	0	0		0.0		0.0		1.0		
Hudson Valley Water Co.	0	0		0.0		0.0		90.0		
IDT America Corp.	1	0		0.0		0.0		5.0		
Idt Energy, Inc.	1	0		10.2		0.0		0.0		
Inspire Energy Holdings, LLC	1	0		14.8		0.0		0.0		
International Telecom LTD.	1	0		0.0		0.0		51.5		
La Central Owner LLC	0	0		0.0		0.0		1.0		
Lafayette-Boynton Apartment Corp.	0	0		0.0		415.3		0.0		
Liberty Utilities Water	4	1		3.2		1.2		69.9		
Major Energy Services LLC	0	1		60.8		0.0		7.0		
Marathon Energy Corporation	1	0		0.0		0.0		4.0		
Matrix Telecom, Inc DbA Trinsic Comm. I	1	0		2.6		0.0		0.0		
MCI	0	0		0.0		0.0		11.0		
Meadow Wood at Gateway	0	0		0.0		0.0		34.0		
Median Energy Corp.	1	0		10.1		0.0		0.0		
Mid Hudson Cablevision, Inc.	1	0		0.0		0.0		24.5		
Midboro Management, Inc	0	0		0.0		0.0		90.0		
Monolith Solar Associates, LLC	0	0		0.0		0.0		36.0		
Mpower Energy LLC	2	0		28.0		25.0		6.5		
N.E.A. Cross of N.Y. Inc.	1	0		1.0		0.0		0.0		
New Wave Energy Corp.	5	3		26.3		12.3		12.8		
Nexamp Inc.	2	0		7.8		8.6		0.0		
One City Place	0	0		0.0		0.0		119.0		
Optimum Cable Of Brookhaven	2	0		6.1		0.0		0.0		
Optimum Cable Of Dutchess County	5	1		8.9		2.4		7.0		
Optimum Cable Of East Hampton	1	0		1.1		0.0		0.0		
Optimum Cable Of Port Chester	1	0		0.0		0.0		1.0		
Optimum Cable Of Riverhead	1	0		9.8		0.0		0.0		
Optimum Cable Of Rockland	1	0		6.0		7.9		0.0		
Optimum Cable Of Rockland/Ramapo	1	0		0.0		0.0		6.0		
Optimum Cable of Southern Westchester	0	0		17.9		0.0		0.0		
Optimum Cable Of Westchester	3	2		10.3		4.4		12.0		
Optimum Voice	4	0		14.5		8.0		12.0		
Park City 3 & 4 Apartments, Inc.	0	1		0.0		0.0		14.0		
Penelec (A First Energy Company)	1	0		3.8		0.0		0.0		
Power Up Energy, LLC	2	0		4.8		0.0		82.0		
Public Power Llc	2	1		9.0		0.0		6.0		
Pure Energy USA LLC	1	0		3.5		0.0		0.0		
Queens Fresh Meadow Electric	1	1		0.8		0.0		18.0		
Rcn Telecom Services Of New York, Lp I	1	0		12.9		0.0		0.0		
Reliant Energy Northeast LLC	1	0		3.7		0.0		0.0		
Renaissance Power & Gas, Inc.	1	0		8.8		0.0		0.0		
Robison Energy	0	0		16.7		0.0		0.0		
Roosevelt Island Associates	1	0		0.0		0.0		5.0		
Saratoga Water Services, Inc.	0	0		0.0		0.0		188.0		
Sirius Energy LLC	1	0		16.9		0.0		0.0		
Slic Network Solutions, Inc.	1	0		2.8		0.0		0.0		
Solar Farms New York	0	0		0.0		9.2		0.0		
Spectrotel, Inc.	0	0		0.0		0.0		148.0		
Spectrum - Albany	4	0		11.0		0.0		0.0		

Service Provider	Initial Complaints	Escalated Complaints	CSM Index	Complaint Response Time	CRM Index	E. Complaint Response Time	ERM Index	Avg. Age of Cases Pending	PCM Index	CSRI
Spectrum - Buffalo	5	0		8.9		0.0		4.0		
Spectrum - Rochester	3	0		10.3		0.0		3.5		
Spectrum - Syracuse	4	0		13.6		0.0		5.0		
Sprague Operating Resources	1	0		0.0		0.0		3.0		
Spruce Power 4, LLC	1	0		0.0		0.0		62.5		
Sunrun, Inc.	0	0		0.0		0.0		20.0		
SunSea Energy, LLC	1	0		0.0		15.7		4.0		
TDS Metrocom, Inc.	1	0		0.0		0.0		7.0		
TDS Telecom-Port Byron Office	1	0		13.8		0.0		0.0		
The 1400 Fifth Avenue Condominium	0	0		0.0		93.4		0.0		
The Crossing at Jamaica Station	0	1		0.0		0.0		4.0		
The Grand Chelsea	0	0		0.0		93.6		0.0		
The Greenpoint	0	0		0.0		0.0		4.0		
Tristate Bell Inc	1	0		0.0		0.0		51.0		
Veolia Water New York	6	0		4.1		57.4		91.0		
Verizon Digital Voice	4	1		27.7		0.1		70.0		
Village of Endicott	0	0		0.0		0.0		36.0		
Village of Frankfort	0	0		0.0		0.0		99.0		
Village of Freeport Electric	3	0		12.8		0.0		6.0		
Village of Green Island Power Authority	2	0		10.0		0.0		32.0		
Village Of Solvay, Electric Department	0	0		0.0		0.0		40.5		
Warwick Valley Telephone Company	2	0		1.8		0.0		0.0		
Windstream Communications, Inc.	9	0		6.4		0.9		9.5		
XChange Telecom	4	0		0.9		12.0		0.0		
XOOM Energy New York, LLC	1	0		0.0		0.0		4.0		

2022 Credit Adjustments Received For Consumers

As a result of our investigation into consumers' complaints, when staff determines that a consumer was overbilled, the utility is directed to refund to the consumer, any monies it collected above and beyond what was allowed by tariffs, rules and regulations. The chart below identifies the credits obtained on behalf of consumers.

	Total	Consumers
Jan-22	\$203,719.15	67
Feb-22	\$318,246.95	72
Mar-22	\$184,885.25	40
Apr-22	\$622,550.41	55
May-22	\$541,241.99	80
Jun-22	\$442,533.71	73
Jul-22	\$136,624.48	50
Aug-22	\$306,307.52	80
Sep-22	\$228,698.12	68
Oct-22	\$486,506.75	64
Nov-22		
Dec-22		
2022 Total	\$3,471,314.33	649

Number of Initial Complaints Received Against ESCO's

Code	Company Name	2022	2021	Oct-22	Sep-22	Aug-22	Jul-22	Jun-22	May-22	Apr-22	Mar-22	Feb-22	Jan-22	Dec-21	Nov-21	Oct-21
7091AB	Abest Power & Gas, LLC	5	5	0	0	0	0	0	0	1	4	0	0	0	0	0
6746AC	Accent Energy Midwest II, LLC dba IGS	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
6860AE	AEP Energy, Inc	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0
D001	Agway Energy Services, LLC.	3	1	0	0	0	0	1	0	1	0	1	0	0	0	0
6030AL	All American Power & Gas, LLC	6	8	0	1	0	1	0	1	0	1	1	1	2	0	1
10050AL	All Choice Energy, LLC	3	3	0	0	0	0	0	1	0	1	0	1	1	0	0
5985AL	Alpha Gas And Electric, Llc	1	12	0	0	0	0	0	0	0	0	0	1	0	0	1
D230	Ambit Energy	4	15	0	1	1	1	0	0	0	1	0	0	1	1	0
5411AM	American Power & Gas, LLC	10	8	2	1	0	0	2	0	1	1	2	1	1	1	0
6604AP	AP Gas & Electric (NJ) LLC	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0
9705AP	Approved Energy II LLC	1	2	0	1	0	0	0	0	0	0	0	0	0	0	0
5465AS	ASC Energy Services, Inc.	6	2	1	1	2	0	1	0	0	0	0	1	0	1	0
6818AS	Astral Energy LLC	1	0	0	0	0	0	0	0	0	1	0	0	0	0	0
6481AT	Atlantic Energy, LLC	6	3	0	2	2	0	1	0	0	0	1	0	2	0	0
7844AT	Atlantic Power & Gas LLC	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
4838BR	Brown's Energy Services, LLC	2	1	0	0	1	0	0	0	0	0	0	1	0	0	0
5246BU	Buy Energy Direct, LLC	0	3	0	0	0	0	0	0	0	0	0	0	0	1	0
6023AP	Catalyst Power	1	1	0	0	0	0	0	0	0	1	0	0	0	0	0
6903CH	Champion Energy Services, LLC	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
5773CH	Chief Energy Power, Llc	1	3	0	0	0	0	0	0	0	0	1	0	1	0	0
5325CI	Citizens Choice Energy, LLC	3	0	1	1	0	0	1	0	0	0	0	0	0	0	0
5592CI	City Power & Gas, LLC	4	4	0	1	0	1	0	0	1	0	1	0	0	1	0
7005ET	CleanChoice Energy	45	30	2	12	13	2	3	1	4	3	3	2	4	4	3
D238	Clearview Electric Inc.	3	4	0	0	0	0	1	0	0	1	1	0	0	0	0
D231	Columbia Utilities Power, Llc (electric)	6	2	0	0	2	0	0	1	0	1	2	0	0	0	0
D040	Columbia Utilities, LLC	3	1	0	1	0	0	0	0	1	1	0	0	0	0	0
6771CO	Constellation Energy Gas Choice Inc.	3	4	0	0	1	0	0	1	1	0	0	0	0	2	0
D084	Constellation NewEnergy	18	14	5	1	1	1	2	1	3	0	3	1	5	0	0
D221	Constellation NewEnergy - Gas Division,	3	4	0	0	0	0	0	0	0	0	1	2	0	0	0
8168DI	Direct Energy Business Marketing, LLC	1	1	0	0	0	0	1	0	0	0	0	0	0	0	0
D176	Direct Energy Services LLC	17	27	0	2	1	2	1	2	1	4	4	0	1	2	0
6922EL	Eligo Energy Ny, Llc	2	16	0	0	0	1	0	0	1	0	0	0	0	0	0
D183	Energy Cooperative of America, Inc.	2	0	0	0	0	0	1	0	0	0	1	0	0	0	0
D243	Energy Plus Holdings LLC	1	2	0	1	0	0	0	0	0	0	0	0	0	0	0
5424EN	Energy Solutions Co. LLC	1	0	0	0	0	0	0	0	0	0	0	1	0	0	0
5182EN	EnergyMark, LLC	1	1	1	0	0	0	0	0	0	0	0	0	0	0	0
4963GD	Engie Resources Llc	6	10	1	1	0	0	0	0	1	1	2	0	0	2	1
4920FA	Family Energy, Inc.	98	83	2	3	6	7	8	16	9	13	14	20	16	14	12
6594FL	Flanders Energy LLC	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0
11271GR	Great American Gas & Electric, LLC	9	4	0	2	0	1	1	1	0	0	4	0	0	0	1
D127	Green Mountain Energy	10	13	2	0	0	1	0	2	0	2	1	2	1	0	0
4877GR	Greenlight Energy Inc.	7	4	1	2	2	0	0	1	1	0	0	0	1	0	0
D120	Hudson Energy Services, Llc	0	10	0	0	0	0	0	0	0	0	0	0	0	0	0
14132IC	Icon Energy LLC DBA Source Power Co	13	2	0	1	0	1	0	1	1	1	7	1	0	0	0
D177	Idt Energy, Inc.	9	20	1	1	1	0	0	3	0	0	1	2	1	1	1
8021IN	Inspire Energy Holdings, LLC	6	3	1	0	2	1	0	0	1	0	1	0	0	0	0
7041JO	Josco Energy Corp	2	6	0	0	0	0	0	0	0	1	0	1	0	0	1
5497JU	Just Energy New York Corp	3	3	0	0	1	0	0	1	0	0	0	1	0	1	0

Number of Initial Complaints Received Against ESCO's

Code	Company Name	2022	2021	Oct-22	Sep-22	Aug-22	Jul-22	Jun-22	May-22	Apr-22	Mar-22	Feb-22	Jan-22	Dec-21	Nov-21	Oct-21
D208	Just Energy Solutions, Inc.	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
6646KI	Kiwi Energy Inc.	7	10	0	0	1	0	2	0	1	1	1	1	0	1	0
D142	Liberty Power Corp.	0	5	0	0	0	0	0	0	0	0	0	0	0	0	1
10322LO	Logistic Energy Llc	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
D147	M&R ENERGY RESOURCES CORPOF	1	0	0	0	0	0	0	0	1	0	0	0	0	0	0
D214	Major Energy Services LLC	5	12	0	0	1	1	0	0	1	1	1	0	0	0	0
6007MA	Marathon Energy Corporation	4	9	1	0	0	0	1	0	0	0	1	1	2	1	1
9533ME	Median Energy Corp.	2	1	1	0	0	0	1	0	0	0	0	0	0	0	0
D267	Mpower Energy LLC	15	10	2	2	1	2	0	1	0	3	1	3	1	1	3
5436NE	New Wave Energy Corp.	20	8	5	2	5	4	1	0	0	1	2	0	0	1	0
7457NE	Next Utility Energy Llc	0	2	0	0	0	0	0	0	0	0	0	0	0	0	1
8221NE	NextEra Energy Services New York Llc	1	2	0	0	1	0	0	0	0	0	0	0	0	0	0
15255NO	Northeastern Power and Gas, LLC	2	0	0	2	0	0	0	0	0	0	0	0	0	0	0
2035	Penelec (A First Energy Company)	5	2	1	0	1	1	0	1	1	0	0	0	1	0	0
D171	Plymouth Rock Energy LLC	3	13	0	0	0	0	1	0	1	0	0	1	5	1	0
11878PO	Power Up Energy, LLC	18	14	2	0	2	2	1	1	2	3	3	2	5	3	5
7871PR	Premier Empire Energy Llc	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
8155PU	Public Power Llc	5	4	2	1	0	0	1	0	0	0	1	0	0	1	0
10044PU	Pure Energy USA LLC	20	5	1	5	6	1	1	2	0	2	2	0	0	0	0
9805QU	Quantum Power Corp	0	3	0	0	0	0	0	0	0	0	0	0	0	0	0
6233RE	Reliant Energy Northeast LLC	7	4	1	1	0	2	0	1	1	0	0	1	0	0	1
6616RE	Renaissance Power & Gas, Inc.	5	2	1	1	2	1	0	0	0	0	0	0	0	0	0
6574RE	Residents Energy, LLC	2	2	0	0	0	0	0	0	0	1	0	1	0	0	0
5199RO	Robison Energy	4	2	0	1	1	0	0	0	1	1	0	0	0	0	0
10564RO	Robison Energy (Commercial) LLC dba C	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0
11634SI	Sirrius Energy LLC	8	15	1	1	1	0	1	0	0	1	1	2	1	1	4
4976SM	Smart One Energy, LLC	2	1	0	0	0	0	0	0	0	0	2	0	0	0	0
11240SM	SmartestEnergy US LLC	0	3	0	0	0	0	0	0	0	0	0	0	0	0	0
6216SO	South Bay Energy Corp.	6	3	0	0	2	0	0	0	0	3	0	1	0	0	0
10305SO	South Energy LLC	2	1	0	0	0	0	0	0	0	1	1	0	0	0	0
D186	Spark Energy, L.P.	2	9	0	0	0	0	0	0	0	2	0	0	0	1	0
8302SP	Sprague Operating Resources	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0
5463ST	Starion Energy NY, Inc.	1	1	0	0	0	0	0	0	0	1	0	0	1	0	0
6809ST	Stream Energy New York LLC.	1	1	0	0	0	0	0	0	1	0	0	0	0	0	0
10213SU	SunSea Energy, LLC	15	20	1	0	3	0	0	1	0	2	4	4	1	0	1
5392US	U.S. Gas & Electric, Inc.	1	2	0	0	0	0	0	0	0	1	0	0	0	0	0
6008UN	United Energy Supply Corporation	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0
6894VE	Verde Energy USA New York, LLC	3	9	0	0	0	1	0	0	0	1	1	0	1	0	1
5391VI	Viridian Energy Ny, Llc	0	4	0	0	0	0	0	0	0	0	0	0	0	0	1
6668XO	XOOM Energy New York, LLC	6	18	1	0	2	0	0	1	1	1	0	0	0	0	1
	Total	502	544	42	52	65	35	34	42	39	64	73	56	55	42	41

ESCO's with no complaints on file since January 2021 are not listed on this report.

Number of Escalated Complaints Received Against ESCO's

Code	Company Name	2022	2021	Oct-22	Sep-22	Aug-22	Jul-22	Jun-22	May-22	Apr-22	Mar-22	Feb-22	Jan-22	Dec-21	Nov-21	Oct-21
7091AB	Abest Power & Gas, LLC	2	1	0	0	0	0	1	0	0	1	0	0	0	0	0
6746AC	Accent Energy Midwest II, LLC dba IGS	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
D001	Agway Energy Services, LLC.	1	0	0	0	0	0	0	0	0	1	0	0	0	0	0
6030AL	All American Power & Gas, LLC	1	0	0	0	0	1	0	0	0	0	0	0	0	0	0
10050AL	All Choice Energy, LLC	1	0	0	0	0	0	0	0	0	0	0	1	0	0	0
5985AL	Alpha Gas And Electric, Llc	0	3	0	0	0	0	0	0	0	0	0	0	0	0	0
D230	Ambit Energy	3	4	1	1	0	1	0	0	0	0	0	0	0	0	0
5465AS	ASC Energy Services, Inc.	1	1	0	1	0	0	0	0	0	0	0	0	1	0	0
6481AT	Atlantic Energy, LLC	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
4838BR	Brown's Energy Services, LLC	2	0	0	0	1	0	0	0	0	0	1	0	0	0	0
5246BU	Buy Energy Direct, LLC	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
7005ET	CleanChoice Energy	12	6	3	0	3	1	1	1	0	2	1	0	0	1	1
D231	Columbia Utilities Power, Llc (electric)	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0
D040	Columbia Utilities, LLC	2	1	0	1	0	0	0	0	1	0	0	0	0	0	0
D084	Constellation NewEnergy	1	2	1	0	0	0	0	0	0	0	0	0	1	0	0
8168DI	Direct Energy Business Marketing, LLC	1	0	0	0	0	0	0	0	0	0	0	1	0	0	0
D176	Direct Energy Services LLC	1	5	0	0	0	0	1	0	0	0	0	0	0	0	0
6922EL	Eligo Energy Ny, Llc	0	4	0	0	0	0	0	0	0	0	0	0	0	0	0
D183	Energy Cooperative of America, Inc.	1	0	0	0	0	0	1	0	0	0	0	0	0	0	0
4963GD	Engie Resources Llc	0	4	0	0	0	0	0	0	0	0	0	0	0	0	1
4920FA	Family Energy, Inc.	16	12	0	2	2	2	0	2	0	5	3	0	3	2	3
11271GR	Great American Gas & Electric, LLC	1	1	0	0	0	1	0	0	0	0	0	0	0	1	0
D127	Green Mountain Energy	1	4	0	0	0	0	0	1	0	0	0	0	0	0	0
4877GR	Greenlight Energy Inc.	1	1	0	0	1	0	0	0	0	0	0	0	0	0	0
D120	Hudson Energy Services, Llc	1	3	0	0	0	0	0	0	0	0	0	1	0	0	0
14132IC	Icon Energy LLC DBA Source Power Co	2	0	0	0	0	0	0	1	0	0	1	0	0	0	0
D177	Idt Energy, Inc.	2	4	0	0	1	0	0	1	0	0	0	0	0	0	1
7041JO	Josco Energy Corp	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
5497JU	Just Energy New York Corp	1	0	0	0	0	0	0	0	0	1	0	0	0	0	0
D208	Just Energy Solutions, Inc.	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
6646KI	Kiwi Energy Inc.	2	0	0	0	1	0	0	0	0	0	1	0	0	0	0
D214	Major Energy Services LLC	2	8	1	0	0	0	0	0	0	1	0	0	0	0	0
6007MA	Marathon Energy Corporation	2	1	0	0	0	1	0	0	0	1	0	0	0	0	0
D267	Mpower Energy LLC	3	1	0	1	0	0	1	0	1	0	0	0	0	1	0
5436NE	New Wave Energy Corp.	6	2	3	1	1	1	0	0	0	0	0	0	0	0	0
7457NE	Next Utility Energy Llc	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
8221NE	NextEra Energy Services New York Llc	1	1	0	0	1	0	0	0	0	0	0	0	0	0	0
15255NO	Northeastern Power and Gas, LLC	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0
D171	Plymouth Rock Energy LLC	0	5	0	0	0	0	0	0	0	0	0	0	2	0	0
11878PO	Power Up Energy, LLC	2	3	0	1	0	0	0	0	0	1	0	0	1	2	0
8155PU	Public Power Llc	1	1	1	0	0	0	0	0	0	0	0	0	0	0	0
10044PU	Pure Energy USA LLC	2	0	0	1	0	0	0	0	1	0	0	0	0	0	0
9805QU	Quantum Power Corp	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
6616RE	Renaissance Power & Gas, Inc.	1	1	0	0	1	0	0	0	0	0	0	0	0	0	0
5199RO	Robison Energy	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
11634SI	Sirrius Energy LLC	2	3	0	0	0	0	0	0	0	0	1	1	0	0	1
4976SM	Smart One Energy, LLC	1	1	0	0	0	0	0	0	0	0	1	0	0	0	0
6216SO	South Bay Energy Corp.	1	0	0	0	0	0	0	0	1	0	0	0	0	0	0

Number of Escalated Complaints Received Against ESCO's

Code	Company Name	2022	2021	Oct-22	Sep-22	Aug-22	Jul-22	Jun-22	May-22	Apr-22	Mar-22	Feb-22	Jan-22	Dec-21	Nov-21	Oct-21
10305SO	South Energy LLC	1	1	0	0	0	0	0	0	1	0	0	0	0	0	0
D186	Spark Energy, L.P.	1	4	0	0	0	0	0	1	0	0	0	0	0	1	0
10213SU	SunSea Energy, LLC	4	7	0	1	1	0	0	1	0	0	0	1	0	0	2
5392US	U.S. Gas & Electric, Inc.	1	1	0	0	0	0	0	0	0	1	0	0	0	0	0
6894VE	Verde Energy USA New York, LLC	0	4	0	0	0	0	0	0	0	0	0	0	0	0	1
5391VI	Viridian Energy Ny, Llc	0	3	0	0	0	0	0	0	0	0	0	0	0	1	0
6668XO	XOOM Energy New York, LLC	2	5	0	0	0	0	1	0	1	0	0	0	0	0	1
	Total	91	116	10	11	14	8	6	8	6	14	9	5	8	9	11

ESCO's with no complaints on file since January 2021 are not listed on this report.

Consumer Reports of Deceptive Marketing Practices by Energy Services Company

Code	Company Name	2022	2021	Oct-22	Sep-22	Aug-22	Jul-22	Jun-22	May-22	Apr-22	Mar-22	Feb-22	Jan-22	Dec-21	Nov-21	Oct-21
7091AB	Abest Power & Gas, LLC	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0
6860AE	AEP Energy, Inc	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0
6030AL	All American Power & Gas, LLC	1	0	0	0	0	1	0	0	0	0	0	0	0	0	0
5985AL	Alpha Gas And Electric, Llc	0	3	0	0	0	0	0	0	0	0	0	0	0	0	0
D230	Ambit Energy	2	1	0	0	0	2	0	0	0	0	0	0	0	0	0
5411AM	American Power & Gas, LLC	2	4	0	0	0	0	1	0	0	0	0	1	0	1	0
5465AS	ASC Energy Services, Inc.	0	2	0	0	0	0	0	0	0	0	0	0	1	1	0
4838BR	Brown's Energy Services, LLC	2	1	0	0	0	0	0	0	0	0	1	1	0	0	0
6023AP	Catalyst Power	1	0	0	0	0	0	0	0	0	1	0	0	0	0	0
5773CH	Chief Energy Power, Llc	1	0	0	0	0	0	0	0	0	0	1	0	0	0	0
7005ET	CleanChoice Energy	13	9	0	2	4	1	1	1	3	0	1	0	0	2	1
D238	Clearview Electric Inc.	2	1	0	0	0	0	1	0	0	1	0	0	0	0	0
D231	Columbia Utilities Power, Llc (electric)	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0
D040	Columbia Utilities, LLC	2	0	0	0	0	0	0	0	2	0	0	0	0	0	0
6771CO	Constellation Energy Gas Choice Inc.	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
D084	Constellation NewEnergy	4	2	4	0	0	0	0	0	0	0	0	0	1	0	0
D176	Direct Energy Services LLC	2	1	0	0	0	0	1	0	0	0	1	0	0	0	0
6922EL	Eligo Energy Ny, Llc	2	1	0	0	0	1	0	0	1	0	0	0	0	0	0
4963GD	Engie Resources Llc	1	1	0	0	0	0	0	0	0	0	1	0	0	0	0
4920FA	Family Energy, Inc.	16	23	0	0	1	3	3	2	1	1	4	1	6	5	0
11271GR	Great American Gas & Electric, LLC	2	0	0	0	0	1	1	0	0	0	0	0	0	0	0
D127	Green Mountain Energy	0	3	0	0	0	0	0	0	0	0	0	0	0	0	0
4877GR	Greenlight Energy Inc.	1	2	0	1	0	0	0	0	0	0	0	0	1	0	0
D120	Hudson Energy Services, Llc	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
14132IC	Icon Energy LLC DBA Source Power Co	6	0	0	0	0	0	0	0	1	1	3	1	0	0	0
D177	Idt Energy, Inc.	1	4	0	0	0	0	0	0	0	0	0	1	1	0	0
8021IN	Inspire Energy Holdings, LLC	3	2	1	0	1	1	0	0	0	0	0	0	0	0	0
D188	Interstate Gas Supply of New York	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
7041JO	Josco Energy Corp	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
5497JU	Just Energy New York Corp	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0
6646KI	Kiwi Energy Inc.	4	2	0	0	2	0	2	0	0	0	0	0	0	1	0
D142	Liberty Power Corp.	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
D147	M&R ENERGY RESOURCES CORPOF	1	0	0	0	0	0	0	0	1	0	0	0	0	0	0
D214	Major Energy Services LLC	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
6007MA	Marathon Energy Corporation	2	3	0	0	0	0	0	0	0	1	1	0	1	0	1
9533ME	Median Energy Corp.	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
D267	Mpower Energy LLC	3	4	0	1	0	0	0	0	0	1	0	1	0	1	0
5436NE	New Wave Energy Corp.	5	1	1	0	1	1	0	0	0	1	1	0	0	1	0
15255NO	Northeastern Power and Gas, LLC	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0
D171	Plymouth Rock Energy LLC	1	1	0	0	0	0	0	0	0	0	0	1	0	0	0
11878PO	Power Up Energy, LLC	1	2	0	0	0	0	0	0	0	1	0	0	2	0	0
7871PR	Premier Empire Energy Llc	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
8155PU	Public Power Llc	0	3	0	0	0	0	0	0	0	0	0	0	0	0	0
10044PU	Pure Energy USA LLC	2	1	0	0	1	1	0	0	0	0	0	0	0	0	0
9805QU	Quantum Power Corp	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
6233RE	Reliant Energy Northeast LLC	2	0	0	1	0	0	0	0	1	0	0	0	0	0	0
6616RE	Renaissance Power & Gas, Inc.	5	2	0	1	3	0	0	0	0	0	0	1	0	0	0
6574RE	Residents Energy, LLC	1	0	0	0	0	0	0	0	0	0	0	1	0	0	0

Consumer Reports of Deceptive Marketing Practices by Energy Services Company

Code	Company Name	2022	2021	Oct-22	Sep-22	Aug-22	Jul-22	Jun-22	May-22	Apr-22	Mar-22	Feb-22	Jan-22	Dec-21	Nov-21	Oct-21
5199RO	Robison Energy	1	0	0	0	0	0	0	0	1	0	0	0	0	0	0
11634SI	Sirrius Energy LLC	1	3	0	0	0	0	0	0	0	0	1	0	0	0	2
6216SO	South Bay Energy Corp.	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0
5463ST	Starion Energy NY, Inc.	1	0	0	0	0	0	0	0	0	1	0	0	0	0	0
10213SU	SunSea Energy, LLC	3	4	0	0	0	0	0	0	0	0	1	2	1	0	1
D500	Unidentified ESCO	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
6894VE	Verde Energy USA New York, LLC	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
5391VI	Viridian Energy Ny, Llc	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0
	Total	102	101	7	7	15	12	10	4	11	9	16	11	14	12	5

Deceptive marketing complaints are taken from customers who report situations where an energy service company or energy marketer solicits the customer's home or business in a manner which the customer believes is misleading or the customer was presented with information which the customer believes is untrue.

Appendix 7.8

Connecticut Substitute House Bill No. 6526 Public Act No. 21-117



Substitute House Bill No. 6526

Public Act No. 21-117

AN ACT CONCERNING ELECTRIC SUPPLIERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subparagraph (A) of subdivision (7) of subsection (h) of section 16-245o of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2021*):

(7) (A) No contract for electric generation services by an electric supplier shall require a residential customer to pay any fee for termination or early cancellation of a contract. [in excess of fifty dollars, provided when an electric supplier offers a contract, it provides the residential customer an estimate of such customer's average monthly bill, and provided further it] It shall not be considered a termination or early cancellation of a contract if a residential customer moves from one dwelling within the state and remains with the same electric supplier.

Sec. 2. Subdivision (1) of subsection (h) of section 16-245o of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2021*):

(h) (1) Any third-party [agent] who contracts with or is otherwise compensated by an electric supplier to sell electric generation services, or contracts with or is compensated by a third-party marketer of the

Substitute House Bill No. 6526

electric supplier to sell electric generation services for the electric supplier, shall be a legal agent of the electric supplier. No third-party [agent] may sell electric generation services on behalf of an electric supplier unless [(A) the third-party agent is an employee or independent contractor of such electric supplier, and (B) the third-party agent] such third party has received appropriate training directly from such electric supplier.

Sec. 3. Subsection (m) of section 16-245o of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2021*):

(m) The Public Utilities Regulatory Authority may initiate a docket to review the feasibility, costs and benefits of placing on standard service, or of otherwise limiting the ability to contract with electric suppliers, all customers [of all electric suppliers] (1) who are hardship cases for purposes of subdivision (3) of subsection (b) of section 16-262c, (2) having moneys due and owing deducted from such customers' bills by the electric distribution company pursuant to subdivision (4) of subsection (b) of section 16-262c, (3) receiving other financial assistance from an electric distribution company, or (4) who are otherwise protected by law from shutoff of electricity services. Notwithstanding the provisions of section 16-245r, the authority may, in a final decision issued pursuant to this subsection, (A) order all such customers to be placed on standard service, (B) order all customer contracts with electric suppliers, entered into on and after a determined date, to be at or below the standard service rate, or (C) order all customer contracts, entered into on and after a determined date, to comply with appropriate limitations the authority deems necessary. If the authority issues such an order, it shall reopen such docket not less than every two years.

Sec. 4. Subsection (g) of section 16-245o of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2021*):

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(g) (1) Between thirty and sixty days, inclusive, prior to the expiration of a fixed price term for a residential customer, an electric supplier shall provide a written notice of the contract expiration to such customer. [of any change to the customer's electric generation price] Any new contract shall contain a cover page highlighting each change from the prior contract, in a format prescribed by the Public Utilities Regulatory Authority. Such residential customer shall select the method of written notice at the time the contract is signed or verified through third-party verification as described in subdivision (2) of subsection (f) of this section. Such selection shall include the option for written notice through United States mail, electronic mail, text message, an application on a cellular telephone or a third-party notification service approved by the authority. Such customer shall have the option to change the method of notification at any time during the contract.

(2) No electric supplier shall charge a residential customer month-to-month variable rates for electric generation services following the expiration of a contract entered into after June 3, 2014, without providing written notification to such residential customer forty-five days prior to the commencement of such month-to-month variable rates. Such notice shall include the highest and lowest electric generation service rate charged by such supplier as part of a variable rate offer in each of the preceding twelve months to any customer eligible for standard service. The residential customer shall select the method of written notification at the time the contract is signed or verified through third-party verification as described in subdivision (2) of subsection (f) of this section. Such selection shall include the option for written notice through United States mail, electronic mail, text messages, an application on a cellular telephone or a third-party notification service approved by the authority. Such customer shall have the option to change the method of notification at any time during the contract.

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(3) No electric supplier shall charge an electric generation service rate to a residential customer that is twenty-five per cent more than the original contract price, [of a contract entered into after June 6, 2014] or more than the first price term offered in the contract, without notifying such customer of the rate change [fifteen] thirty days before it takes effect. [, provided such notice shall only be required for the first instance such rate is twenty-five per cent more than the original contract price. After such one-time notice, no electric supplier shall charge an electric generation service rate to a residential customer that is twenty-five per cent more than the most recent notice of the rate change without notifying such customer of the rate change fifteen days before it takes effect.] Any notification described in this subdivision shall be provided pursuant to the method agreed to by the customer in the contract and may include written notice through United States mail, electronic mail, text message, an application on a cellular telephone, or third-party notification service approved by the authority. The electric supplier shall maintain documentation of the original method of communication of the notice.

(4) On and after October 1, 2015, no electric supplier shall (A) enter into a contract to charge a residential customer a variable rate for electric generation services; or (B) automatically renew or cause to be automatically renewed a contract with a residential customer and, pursuant to such contract, charge such customer a variable rate for electric generation services. Notwithstanding any provision of title 16, on and after July 1, 2022, no electric supplier shall charge a residential customer a variable rate for electric generation services. On and after July 1, 2022, any contract between an electric supplier and a residential customer that provides for the use of such variable rates shall be deemed null and void.

Sec. 5. Subdivision (8) of subsection (h) of section 16-245o of the general statutes is repealed and the following is substituted in lieu

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thereof (*Effective July 1, 2021*):

(8) An electric supplier shall not make a material change in the terms or duration of any contract for the provision of electric generation services by an electric supplier without the express consent of the customer. Nothing in this subdivision shall restrict an electric supplier from renewing a contract by clearly informing the customer, in writing, not less than thirty days or more than sixty days before the renewal date, of the renewal terms, including a summary of any new or altered terms, and of the option not to accept the renewal offer, provided no fee pursuant to subdivision (7) of this subsection shall be charged. [to a customer who terminates or cancels such renewal within the first two billing cycles of the renewed contract.]

Sec. 6. Subsection (j) of section 16-245 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2021*):

(j) No license may be transferred, and no customer may be assigned or transferred, without the prior approval of the authority. Notice of such assignment or transfer shall be provided to the Public Utilities Regulatory Authority at least thirty days prior to the effective date of the assignment or transfer of a customer from one electric supplier to another electric supplier. The authority may, upon its review of such notice, require certain conditions or deny assignment or transfer of such customer. Customer assignment or transfer shall be approved, modified or denied by the authority within thirty business days of the authority's receipt of such notice from the electric supplier, unless the authority and electric supplier agree to a specified extension of time, or such assignment or transfer is deemed approved. The authority may assess additional licensing fees to pay the administrative costs of reviewing a request for such transfer.

Sec. 7. Subsection (a) of section 16-245 of the general statutes is

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repealed and the following is substituted in lieu thereof (*Effective July 1, 2021*):

(a) No person shall execute any contract relating to the sale of electric generation services to be rendered after January 1, 2000, to end use customers located in the state unless such person has been issued a license by the authority in accordance with the provisions of this section. No license shall be valid before July 1, 1999. The Public Utilities Regulatory Authority shall have the authority to condition an electric supplier's license and access to the systems and billing of the electric distribution companies on terms the authority determines to be just and reasonable, including, but not limited to, proof that the electric supplier's products are not overpriced or harmful to residential customers.

Sec. 8. Subsection (k) of section 16-245 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2021*):

(k) Any licensee who fails to comply with a license condition or who violates any provision of this section, except for the renewable portfolio standards contained in subsection (g) of this section, shall be subject to civil penalties by the Public Utilities Regulatory Authority in accordance with section 16-41, [or] including direction that a portion of the civil penalty be paid to a nonprofit agency engaged in energy assistance programs named by the authority in its decision or notice of violation, the suspension or revocation of such license [or] and a prohibition on accepting new customers following a hearing that is conducted as a contested case in accordance with chapter 54. Notwithstanding the provisions of subsection (b) of section 16-244c regarding an alternative transitional standard offer option or an alternative standard service option, the authority shall require a payment by a licensee that fails to comply with the renewable portfolio standards in accordance with subdivision (4) of subsection (g) of this section in the amount of: (1) For

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calendar years up to and including calendar year 2017, five and one-half cents per kilowatt hour, (2) for calendar years commencing on January 1, 2018, and up to and including the calendar year commencing on January 1, 2020, five and one-half cents per kilowatt hour if the licensee fails to comply with the renewable portfolio standards during the subject annual period for Class I renewable energy sources, and two and one-half cents per kilowatt hour if the licensee fails to comply with the renewable portfolio standards during the subject annual period for Class II renewable energy sources, and (3) for calendar years commencing on and after January 1, 2021, four cents per kilowatt hour if the licensee fails to comply with the renewable portfolio standards during the subject annual period for Class I renewable energy sources, and two and one-half cents per kilowatt hour if the licensee fails to comply with the renewable portfolio standards during the subject annual period for Class II renewable energy sources. On or before December 31, 2013, the authority shall issue a decision, following an uncontested proceeding, on whether any licensee has failed to comply with the renewable portfolio standards for calendar years up to and including 2012, for which a decision has not already been issued. On and after June 5, 2013, the Public Utilities Regulatory Authority shall annually conduct an uncontested proceeding in order to determine whether any licensee has failed to comply with the renewable portfolio standards during the preceding year. Not later than December 31, 2014, and annually thereafter, the authority shall, following such proceeding, issue a decision as to whether the licensee has failed to comply with the renewable portfolio standards during the preceding year. The authority shall allocate such payment to the Clean Energy Fund for the development of Class I renewable energy sources, provided, on and after June 5, 2013, any such payment shall be refunded to ratepayers by using such payment to offset the costs to all customers of electric distribution companies of the costs of contracts and tariffs entered into pursuant to sections 16-244r, 16-244t and section 16-244z. Any excess amount remaining from such payment shall be applied to reduce the

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costs of contracts entered into pursuant to subdivision (2) of subsection (j) of section 16-244c, and if any excess amount remains, such amount shall be applied to reduce costs collected through nonbypassable, federally mandated congestion charges, as defined in section 16-1.

Approved July 6, 2021

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Retail Supply and Standard Offer Service Reform for Maine

FEBRUARY 1, 2023

Prepared for:

Maine Office of the Public Advocate

in Response to 2021 P.L. Ch. 164 (LD 318)



Prepared by:

EXETER
ASSOCIATES, INC.

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LIST OF ACRONYMS

ACR	Avoided cost rate	NYSERDA	New York State Energy Research and Development Authority
BHE	Bangor Hydro-Electric Co.	OPA	Maine Office of the Public Advocate
BPU	Board of Public Utilities (<i>New Jersey</i>)	P.L.	Public Law
C&I	Commercial and industrial	PCA	Procurement Cost Adjustment (<i>Delaware</i>)
CAP	Customer Assistance Program (<i>Pennsylvania</i>)	Pepco	Potomac Electric Power Co. (<i>D.C., Maryland</i>)
CEP	Competitive electricity provider	PJM	PJM Interconnection, LLC
CMP	Central Maine Power Co.	POLR	Provider of Last Resort (<i>Texas</i>)
Commission	Maine Public Utilities Commission	POR	Purchase of Receivables
Coop	Customer-owned cooperative utility	PPA	Power Purchase Agreement
CY	Calendar year	PPL	PPL Electric Utilities (<i>Pennsylvania</i>)
D.C.	District of Columbia	PSC	Public Service Commission (<i>Delaware, D.C., Maryland, New York, Rhode Island</i>)
DEC	Delaware Electric Cooperative	PTC	Price to compare
DPL	Delmarva Power and Light Co. (<i>Delaware, Maryland</i>)	PUC	Public Utilities Commission (<i>Maine, New Hampshire, Pennsylvania</i>)
EDC	Electric distribution company	PUCO	Public Utilities Commission of Ohio
EIA	U.S. Energy Information Administration	PUCT	Public Utility Commission of Texas
ERCOT	Electric Reliability Council of Texas	PURA	Public Utilities Regulatory Authority (<i>Connecticut</i>)
FERC	Federal Energy Regulatory Commission	PURPA	Public Utility Regulatory Policies Act
FPR	Fixed-price rate	QF	Qualifying facility
FRC	Full-requirements, load-following contract	REC	Renewable energy credit
HPS	Hourly Priced Service (<i>Delaware</i>)	RFP	Request for proposal
ICC	Illinois Commerce Commission	RPS	Renewable Portfolio Standard
IOU	Investor-owned utility	RTC	'Round the clock
IPA	Illinois Power Agency	RTO	Regional transmission organization
ISO	Independent system operator	S&P	Standard & Poor's
ISO-NE	Independent System Operator of New England	SCB	Supplier consolidated billing
kW	Kilowatt	Seabrook	Seabrook Nuclear Power Station
kWh	Kilowatt-hour	SMECO	Southern Maryland Electric Cooperative
LSE	Load-serving entity	SOS	Standard Offer Service
MISO	Midcontinent Independent System Operator	T&D	Transmission and distribution
MP	Maine Power, LLC	TOU	Time-of-use
MPS	Maine Public Service Co.	UCB	Utility consolidated billing
MPUC	Maine Public Utilities Commission	VP	Versant Power
Muni	Municipally owned utility	VP-BHD	Versant Power – Bangor Hydro District
MW	Megawatt	VP-MPD	Versant Power – Maine Public District
MWh	Megawatt-hour	VPR	Variable-price rate
NBP Corp.	New Brunswick Power Corporation		
NEPOOL	New England Power Pool		
NMISA	Northern Maine Independent System Administrator		
NYISO	New York Independent System Operator		
NYMEX	New York Mercantile Exchange		

EXECUTIVE SUMMARY

This report has been prepared on behalf of the Maine Office of Public Advocate in partial fulfillment of 2021 P.L. Ch. 164 (LD 318). The report focuses on potential **improvements to Standard Offer Service (SOS) available to Maine’s electric utility customers** who do not participate in the competitive retail electricity market.

Maine implemented retail open access and restructured its electric utility market in 2000. In the subsequent years, numerous shortcomings in the operation of the competitive retail supply market have become evident. Maine has also faced challenges providing SOS, particularly in recent years given instability in the wholesale electric markets that serve the state.

Maine’s experience following electric industry restructuring is not unique and mirrors, to varying degrees, the experiences of 12 other states (plus the District of Columbia) that also implemented retail electric choice.¹ Variations in how these jurisdictions implemented retail electric choice and SOS are instructive.

Modifications to the rules and regulations of the competitive retail electricity market and the manner in which SOS is provided remain subject to review and revision. Based on the analysis of the experience of other states as well as the experience in Maine, the report contains 23 recommendations covering the following broad areas:

- The composition of the SOS supply portfolios;
- The entity responsible for the procurement of wholesale supplies to meet the SOS requirements;
- The method used to procure wholesale SOS supply;
- The providers of SOS services; and
- The retail products to be offered by the SOS provider.

In addition, one issue related to the retail competitive market is addressed: the use of supplier consolidated billing. Options for each of these areas are assessed in relation to state policy priorities.

A. Electric Power Industry in Maine

Maine, like approximately two dozen other states, restructured its electric utility **industry beginning in the late 1990s. Prior to restructuring, Maine’s investor-owned** electric utilities (IOUs) oversaw all stages of electric service, including power generation, transmission, delivery, and retail services, under traditional cost-of-service regulation. With

¹ These 12 states and the District of Columbia represent those jurisdictions that continue to have restructured electric utility industries similar in important respects to those in Maine.

restructuring, the generation component was moved to the competitive market and consumers were afforded the opportunity to purchase generation (i.e., electric power supply) and receive retail electric service from companies other than the regulated utility. In Maine, as elsewhere, state regulators made available a standard offer service for those customers who either could not or chose not to shop for electric supply from a competitive retailer.

The fundamental reasons underlying the move to restructure in Maine, like elsewhere, were shaped by economic and market trends in not only the electric utility industry but other industries as well. These reasons importantly included:

- The ability to garner the benefits of a competitive market observed in other restructured industries, such as the airline, telecommunications, trucking, and finance industries. These benefits included price reductions and access to innovative new products and services.
- Relieving ratepayers from the future risks of incurring the cost of large, uneconomic investments in certain generating stations resulting from unanticipated market and technological changes.

In Maine, the SOS providers are currently selected through a competitive bid process that solicits full-requirements, load-following service for a one-year term. These contracts are for fixed prices or, for large commercial and industrial (C&I) customers only, indexed prices tied to the wholesale forward market a month in advance. Third-party suppliers selected to provide SOS take on all load-serving entity (LSE) responsibilities.

This existing SOS arrangement has the effect of basing the next year's power supply prices on market conditions prevailing at the time of procurement (i.e., fall of the previous year). Further, for classes other than large C&I, SOS customers face the full impact of changes in market prices from one year to the next. In recent years, those impacts have been substantial; the generation portion of residential bills increased by over 80% between 2021 and 2022, and an additional approximately 40% between 2022 and 2023. Consumers are harmed by both the magnitude and variability of SOS prices.

There are multiple goals associated with the design, implementation, and provision of SOS. Often, these goals are competing or in tension with one another. These goals include:

- Low prices;
- Stable prices;
- Incentives for the beneficial use of electricity (for example, electric vehicle charging, or electric heat pumps for heating);

- Achieving environmental and climate objectives by increasing reliance on “green” power; and
- Having SOS prices based on reasonably current wholesale market prices to provide competitive electricity providers (CEPs) with a fair opportunity to compete and to support growth of the competitive market.

Ultimately, decisions regarding the best arrangements under which SOS should be provided depend on what decision-makers determine to be the most appropriate balance of these and other related goals.

B. Experience of Other States

Other restructured states are confronting or have confronted many of the same challenges faced by Maine. These jurisdictions have adopted a range of approaches to address issues related to the composition of the wholesale supply portfolios, how wholesale procurement is conducted, the role of the utilities in the provision of SOS, and the ways in which SOS promotes various state policies. While there does not appear to be unanimity of agreement regarding how to approach any one given aspect of electric industry restructuring and the provision of SOS, certain approaches have much wider acceptance than others. Characteristics where there are broadly accepted approaches include:

- The kinds of wholesale products used to meet SOS supply requirements;
- The organization responsible for the procurement of wholesale supplies;
- The organization responsible for the provision of SOS;
- The availability of time-of-use (TOU) rates;
- The scheduling of procurements of wholesale power and the frequency of SOS price changes; and
- The adoption of supplier consolidated billing.

Other aspects of the regulatory arrangements are more varied, including the methods by which wholesale SOS supply is procured or the range of retail supply products offered by SOS providers.

C. Summary of Recommendations

This report contains the following 23 recommendations based on the apparent best practices in other states, the unique circumstances in Maine (for example, the relatively small size of two of the three IOU areas in the state), evidence regarding the success of existing methods used in Maine, and both the direct and indirect impacts that can be expected to result from implementing considered changes.

Residential and Small Non-Residential

Recommendation No. 1: The residential and small non-residential SOS wholesale supply, where possible, should be composed of laddered full-requirements, load-following contracts (FRCs) of varying duration to reduce price volatility and mitigate market risk through temporal diversification.

Recommendation No. 2: For VP-MPD, where laddered FRCs might not be successfully employed due to the small size of the residential and small non-residential load, block-and-spot products should be used to meet residential and small non-residential SOS requirements, if possible. The block-and-spot solution should be deployed if market response to an RFP for FRCs is inadequate. If the market is not capable of supporting a block-and-spot approach, the existing framework for meeting the SOS requirement should be used.

Recommendation No. 3: The residential and small non-residential SOS supply portfolio should be structured using scheduled procurements of contracts following a plan pre-approved by the Commission.

Recommendation No. 4: Deviations from the pre-approved residential and small non-residential SOS plan should be permitted, with approval from the Commission, to allow the SOS provider to avoid possible market problems that could adversely affect a scheduled purchase or to allow the SOS provider to take advantage of unique opportunities that may arise to the benefit of residential and small non-residential SOS customers.

Recommendation No. 5: The SOS price for each customer class should be based on the weighted average cost of the portfolio and should change when older vintage contracts expire and are replaced by new contracts that reflect then-current market prices.

Recommendation No. 6: The SOS provider, for all customer classes, should continue **Maine's current practice of relying on sealed bids provided in response to an RFP to obtain SOS supply.**

Recommendation No. 7: For all customer classes relying on FRCs for SOS supply, the number of FRC tranches to be procured, the size of the tranches, and restrictions on the number of tranches that any one supplier may be awarded should balance the competing goals of minimizing administrative costs, maximizing market participation, and controlling the risk of supplier default.

Recommendation No. 8: The selection of winning bids resulting from an SOS solicitation for each customer class should be subject to Commission review and approval, which the Commission should commit to provide within 24 hours of the receipt of the final bids.

Medium C&I

Recommendation No. 9: The medium C&I wholesale supply for CMP SOS customers should be composed of laddered full-requirements, load-following contracts of varying duration to reduce price volatility and mitigate market risk through temporal diversification.

Recommendation No. 10: The medium C&I wholesale supply for VP-BHD and VP-MPD SOS customers should be composed of laddered block products and spot market purchases to reduce volatility and mitigate market risk through temporal diversification.

Recommendation No. 11: The medium C&I SOS supply portfolio for all utilities should be structured using scheduled procurements of contracts following a plan pre-approved by the Commission.

Recommendation No. 12: Deviations from the pre-approved medium C&I SOS plan should be permitted, with approval from the Commission, to allow the SOS provider to avoid possible market problems that could adversely affect a scheduled purchase or to allow the SOS provider to take advantage of unique opportunities that may arise to the benefit of medium C&I SOS customers.

Large C&I

Recommendation No. 13: The large C&I wholesale supply should be composed of full-requirements, load-following contracts priced on a monthly basis consistent with the current product procured by Maine to serve SOS customers in this class.

Recommendation No. 14: The large C&I wholesale SOS supply portfolio should be structured using scheduled procurements of contracts following a plan pre-approved by the Commission.

Recommendation No. 15: Deviations from the pre-approved large C&I SOS plan should be permitted, with approval from the Commission, to allow the SOS provider to avoid possible market problems that could adversely affect a scheduled purchase or to allow the SOS provider to take advantage of unique opportunities that may arise to the benefit of large C&I SOS customers.

Other

Recommendation No. 16: Designate either the T&D electric utilities or a new quasi-independent power authority to be the SOS provider for all customer classes.

Recommendation No. 17: If Maine opts to retain third-party, competitively procured entities to act as the SOS providers, as is presently done, the contracts for the provision of SOS should be for a period of between approximately six to 10 years for customer classes other than large C&I. Contracts of longer duration than one year will facilitate laddering contracts.

Recommendation No. 18: In lieu of longer duration contracts for third-party SOS providers for CMP and VP-BHD residential and small non-residential SOS customers and CMP medium C&I customers, Maine should consider laddering third-party SOS contracts. This will allow certain Maine SOS customers to obtain the benefits of temporal diversification without the adverse impacts of longer duration contracts if the utility/customer class is of sufficient size to accommodate that arrangement.

Recommendation No. 19: If retail open access for residential customers is eliminated, non-switched small non-residential SOS customers should continue to be grouped with residential customers (rather than broken out into a separate group or grouped with medium C&I customers) for purposes of procuring wholesale supply products.

Recommendation No. 20: **Rely on the findings of the Commission's newly opened inquiry into beneficial uses of CMP's and Versant Power's long-term renewable contracts** to determine an optimal path forward for use of the contracts. As an alternative, use selected new contracts to provide supply for a small portion of the supply portfolio assigned to one or more specific classes, limiting the contribution to the portfolio to a small percentage, e.g., not more than 10%.

Recommendation No. 21: Maine should continue to offer participation in the Maine Green Power Program under the same arrangements as those currently in place for SOS customers.

Recommendation No. 22: The SOS provider should make available optional TOU tariffs for residential and small non-residential SOS customers based on power supply price differentials reflected in the competitive market. A reconciliation mechanism is likely to be required to ensure that the SOS provider does not incur uncovered costs or realize excess revenue. TOU definitions used by distribution utilities should be synchronized with the supply-related TOU definitions.

Recommendation No. 23: Maine should delay moving towards implementation of SCB **until Maryland's experience is known and can** be assessed, thus allowing Maine to avoid any possible problems that Maryland may encounter. Should Maine opt to approve an SCB program, the relevant issues should be addressed and the rules and regulations developed prior to adoption through a stakeholder process designed to ensure fairness to all parties and provide consumer protections to retail customers.

I. INTRODUCTION

A. Background

The restructured electric power industry in Maine is, in many respects, similar to the restructured electric power industries in other states, particularly in the Northeast. Maine, like other peer states in the region, enacted legislation in the late 1990s to separate electricity service into competitive and non-competitive segments. Incumbent utilities retained exclusive monopoly franchise over non-competitive segments, such as transmission and distribution services (i.e., the “wires” business) thought to have natural monopoly characteristics. Competitive segments, including generation and retail services, were opened to new market entrants. Maine also became one of 13 states along with the District of Columbia to give retail electric customers the right to “shop,” meaning pick an electricity supplier among competing providers.

Most customers in Maine, accounting for about 95% of the state’s total electricity consumption, have electric power delivered by one of two investor-owned utilities (IOUs). Central Maine Power Company (CMP) is the larger of the two utilities and serves the southern and central portions of Maine. CMP accounts for approximately 80% of total electricity sales in Maine. The other electric utility, Versant Power, serves the northern and eastern portions of the state and operates in two distinct areas: the Bangor Hydro district in the east,² and the Public Service district in the north.³ The remaining customers in the state are served by either electric cooperatives (coops) or municipal utilities (munis) which are owned by customers or local government, respectively, rather than by shareholders.

Prior to electric restructuring (also referred to as electric deregulation), Maine’s IOUs were required to generate (or procure through the wholesale market) electric power sufficient to meet the requirements of their retail customers. The obligation to serve and to ensure the availability of adequate power supplies was coupled with the recognition of franchised monopoly service areas in which the licensed utility maintained the sole right to provide service to retail customers. Additionally, prices for service (supply, delivery, and related services) were set by the Maine Public Utilities Commission (MPUC or Commission) in accordance with cost-of-service pricing principles.⁴

² The area previously served by Bangor Hydro-Electric Power Company that includes Hancock, Piscataquis and Washington counties.

³ The area previously served by Maine Public Service Company, made up of Aroostook County and a small portion of Penobscot County.

⁴ The electric power industry in Maine and elsewhere, both historically and currently, is complex and entails regulated and competitive components, regulation at both the state and federal levels, and utility participation in multi-state organizations to facilitate the availability of more reliable and lower-cost power availability. The simplified description presented here will be expanded upon later in this report, as needed, to address particular aspects of service or institutional arrangements.

Maine enacted PL 1997, Ch. 316, An Act to Restructure the State's Electric Industry, in May 1997 and established March 2000 as the official start date of retail electric restructuring. In the lead-up to March 2000, Maine required its IOUs to divest themselves of generation assets and functionally separate competitive and non-competitive business segments. Then, with the commencement of restructuring and retail choice, Maine relieved the IOUs of their obligation to provide the power supply component of electric service, and designated the incumbent IOUs as responsible for only the delivery of electric power to retail customers (including fulfillment of certain related functions). In place of the traditional monopoly service model, customers could obtain supply in one of two new ways: through competitive electricity providers (CEPs) or from the provider of Standard Offer Service (SOS, or default service). MPUC made the latter option available to customers who chose not to, or could not, shop for power, and adopted a competitive process to select the SOS providers and set SOS rates.

A fundamental belief underlying the decision on the part of Maine, and approximately two dozen other states, to restructure its electric power industry was **that "broader market competition and customer choice in the electric market will benefit the public more than continued regulation."**⁵ By the time states considered electric restructuring, some potential benefits of introducing competition to historically regulated industries had already been observed in the trucking, airlines, and telecommunications sectors. Various stakeholders anticipated that electricity deregulation would also produce cost savings in the electric utilities sector as a result of increased efficiency and better management spurred by the discipline of the competitive markets. Another factor contributing to the move toward electric industry restructuring was the view that customers would be relieved of the burden **of future "stranded investments" or "stranded costs."**⁶ Under a competitive model, the costs of any uneconomic investments would be borne by the shareholders of the competitive firm making the investment and no longer be a burden on ratepayers. Additionally, Maine and approximately a dozen other states anticipated that new and innovative approaches in the retail power supply market would emerge by allowing retail competition.

Over the course of the more than 20 years since the introduction of electric utility restructuring in Maine, the benefits of restructuring and retail competition have not materialized to the degree anticipated by certain policymakers, regulators, and participants in the market. Additionally, some unanticipated challenges have emerged. These circumstances are not unique to Maine but, rather, have been experienced, to varying degrees, in other states that have restructured their retail electric power industries.

With retail competition, consumers are able to select their own supplier and can choose a power supply portfolio that reflects their own preferences (e.g., the percentage of

⁵ MPUC (1996). *Electric Utility Industry Restructuring, Docket No. 95-462, Report And Recommended Plan.* ldc.mainelegislature.org/Open/Rpts/kf2125_z99m221_1996.pdf.

⁶ That is, investments made by the utilities, and approved by the respective regulatory commissions, that ultimately turned out to be uneconomic and for which, as part of the regulatory compact, ratepayers were obligated to fund.

renewable energy included in their supply, the area of origin of the renewable energy and the type of renewable energy included in their supply). Consumers also have (within certain limitations) the ability to select the pricing arrangements with which they are most comfortable (e.g., variable rates reflecting changes in market conditions, fixed rates that eliminate rate variability and uncertainty). Along with the benefits that can be available from the operations of a competitive market, some adverse results have also materialized, particularly affecting the residential market. Some common problems relate to the retail market per se; other problems have emerged in the context of the provision of SOS. Retail market issues have included: disappointing price savings relative to SOS; low levels of customer participation in the competitive market, especially among the residential and small non-residential customer classes; customers being switched to significantly higher rates following the expiration of the initial fixed-price service period; misleading representations made in the context of marketing; and other issues adverse to the interests of residential consumers. These and other related problems, as well as potential consumer protections, are discussed in further depth in the companion report entitled *Reform of Electricity Supply: CEP-Served Residential Retail Electric Market* prepared by Susan M. Baldwin and Timothy E. Howington.

Problems related to SOS have included: high degrees of rate instability; high price levels; incompatibility with the competitive retail market making it difficult for CEPs to effectively compete with SOS; and fundamental incompatibilities between SOS rate design elements and the method of SOS supply procurement, resulting in the need for potentially high cost/revenue billing adjustments for reconciliation.

This report has been prepared pursuant to 2022 P.L. Ch. 164 (Sections 3.3 through **3.6**) to present Exeter's review of the method by which SOS is provided in Maine and to identify important factors relating to SOS supply in the state. The analysis presented herein, along with the requisite background material needed to fully understand the issues being addressed, has led to conclusions and recommendations to help improve the functioning of electric power supply arrangements in Maine and help mitigate some of the adverse impacts that have accompanied **the implementation of competitive retail access in Maine's electric power industry**. The conclusions and recommendations presented in this report are specific to Maine, though we note that some issues currently faced by Maine have affected electric power consumers in other states.

B. Report Organization

Following this introductory chapter (Chapter I), the report begins with two chapters **on needed background information**. **Chapter II presents a brief description of Maine's** electric power industry prior to restructuring and addresses how the industry now operates in the state following the introduction of restructuring, including a discussion of refinements made over time to the relevant legal and regulatory framework. Chapter III presents an overview and discussion of how other states have restructured their own electric power

industries as a way to help guide the discussion of what, where, and how possible improvements can be made to the Maine model. Twelve other states and the District of Columbia have restructured in a manner that is substantially similar to the way that Maine has restructured its electric industry.⁷ Several other states have opted for limited open retail access (e.g., California, Michigan, and Virginia), while others have restrictive open access provisions in place. Exeter omitted these states from the subsequent analysis and discussion and instead focuses on those states that, to varying degrees, have arrangements that are comparable in at least some important respects to the arrangements in Maine.

Chapter IV presents descriptions, analyses, conclusions, and recommendations relating to the important factors affecting the Maine electric power industry. These issues include, among others:

- The entity (government, transmission/distribution utilities, third party) responsible for the procurement of SOS wholesale supply;
- The entity (government, transmission/distribution utilities, third party) responsible for the provision of SOS;
- The wholesale supply products to be used to provide SOS supply (which may differ for different customer classes), including the types of products (e.g., full-requirements, load-following contracts (FRCs); block products; spot market purchases; long-term contracts), the duration of the contracts, diversity concerns, the laddering of contracts, and other related issues;
- The method by which the wholesale products would be procured, with broad consideration of different auction approaches;
- Alternative arrangements regarding supplier consolidated billing; and
- Rate design and related considerations that may enhance the ability of Maine to better achieve its policy goals related to beneficial electrification and environmental improvement.

The conclusion of Chapter IV presents a comprehensive presentation of the recommendations made throughout the report.

The appendices contain certain data referenced in the text, biographies of the report authors, and a list of sources relied upon.

⁷ The 12 states referenced are Connecticut, Delaware, Illinois, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and Texas.

II. ELECTRIC POWER INDUSTRY IN MAINE

A. Pre-Restructuring

Several market and policy changes set the groundwork for electric restructuring in Maine and elsewhere. First, the 1973 Oil Embargo destabilized the price of oil. Subsequent **volatility in oil prices exposed vulnerabilities inherent to New England’s reliance on oil as an input for electricity generation. It also set the stage for concerted efforts to diversify Maine’s resource mix.** Second, economic recession during the 1970s caused slower-than-forecast electricity demand growth. Retail customers, however, remained liable for previously approved utility investments in generation capacity. Third, federal policymakers and regulators created conditions conducive to wholesale market competition; notably, the passage of the Public Utility Regulatory Policies Act of 1978 (PURPA) and Energy Policy Act of 1993 (EPA 1993) created paths to the development of markets for competitive alternatives to utility-owned generation.

Finally, several major utility investments by Maine investor-owned utilities (IOUs), most notably the Maine Yankee Nuclear Power Plant (Maine Yankee) and Seabrook Nuclear Power Station (Seabrook) in Massachusetts, became financially unviable. Challenges with Seabrook were especially harmful to Maine consumers since the state used Seabrook as an avoided cost reference point—and therefore compensation level—for PURPA Qualifying Facilities (QFs).⁸ In the early 1980s, Maine received an influx of PURPA QF interconnections **taking advantage of the state’s favorable PURPA rates. These projects eventually encumbered state utilities (and therefore ratepayers) with high costs and excess generation capacity just as demand growth slowed.**⁹

Historically, Maine’s electric utility industry, like the electric utility industries in states throughout the country, relied on vertically integrated IOUs to oversee all stages of electricity service, including power generation, transmission, delivery, and retail services.¹⁰ This approach reflected the widely held belief that the network characteristics and high fixed costs of electricity service gave rise to natural monopolies.¹¹ Regulation, therefore, served as a substitute for competition as a means of determining prices. IOUs accepted an obligation to provide safe, reliable service in exchange for exclusive franchise over a

⁸ PURPA QFs are generation facilities that, based on their characteristics, qualify for federal protections that ensure their right to interconnect, and transact energy and/or related services, with local utilities. PURPA QFs effectively receive relief from certain state and local regulatory burdens. Avoided costs are the expected costs the utility would incur to serve additional load in the absence of the QF alternative.

⁹ Appendix C includes additional overview of the complex interactions of the above conditions as well as other **changes in markets and regulation that presaged broader efforts to restructure Maine’s** electric system.

¹⁰ Maine also relies on municipally owned utilities (munis) and customer-owned electric cooperatives (coops) to serve some portions of the state, especially remote and rural areas. Detailed discussion of the historical and present-day service arrangements of these utilities is beyond the scope of this study.

¹¹ Natural monopolies exist where high barriers to entry, such as the costs to build and network transmission and distribution (T&D), give advantage to a single dominant supplier.

designated territory and an opportunity—but not a guarantee—to earn a reasonable rate of return on prudent investments. This agreement is commonly referred to as the regulatory compact. As is still the case today for non-competitive portions of electric service (i.e., distribution service), the Maine Public Utilities Commission (MPUC or Commission) sets service rates in accordance with well-established cost-of-service ratemaking principals. That is, the MPUC determines an overall revenue requirement sufficient for the utility to recover its cost (including a reasonable return on investment) and allocates this requirement across customer classes via rates set in relation to costs incurred.

Under traditional regulation, resource acquisition decisions relied on regulatory judgement. Typically, utilities forecasted expected demand, identified a limited set of options to meet anticipated demand, and then proposed capital investments (or contractual **arrangements**) to support continued reliable service. The MPUC, as the state’s principal utility regulator, reviewed these resource plans, ruled on their reasonableness, and granted certificates of public convenience and necessity as applicable and warranted.

B. Restructuring Goals

In July 1995, the Maine Legislature issued a Resolve requiring the MPUC to study retail electric competition and develop a plan to implement competitive electricity markets.¹² **In the Resolve, the legislature voiced a growing belief at the time that “broader market competition and customer choice in the electric market will benefit the public more than continued regulation.”**¹³ The MPUC expanded on this perspective in its subsequent study. As evidence of the opportunity available from restructuring, the Commission noted reforms to the telecommunications, transportation, trucking, finance, and natural gas industries.¹⁴ Restructuring, according to consensus economic perspectives at the time, supported the goals of:

1. Shifting risk to investors, rather than consumers;
2. Meeting customer needs and preferences at lowest cost; and
3. Spurring innovation, including new uses of information as well as new products and services.

Thus, Maine policymakers, like policymakers elsewhere addressing a range of regulated industries, approached the electric utility industry with the belief that market mechanisms, when viable, are preferable to regulation as a way to establish products, services, and prices.

¹² Maine State Legislature (July 1995). *Resolve, to Require a Study of Retail Competition in the Electric Industry*. Legislative Resolve 1995, Ch. 48.

¹³ *Ibid.*

¹⁴ MPUC (February 1997). *1996 Annual Report*. maine.gov/mpuc/sites/maine.gov.mpuc/files/inline-files/1997-annual%20report.pdf.

Contemporaneous accounts identify cost savings as the principal goal of Maine electric sector reform from the perspective of most stakeholders.¹⁵ That is, many market participants wanted restructuring as a means to increase both utility and customer access to low-cost wholesale markets.¹⁶ **The MPUC's assessment of the opportunity also identified cost savings as a motivation, but placed greatest emphasis on the consumer protection elements of retail access: "The principal long-term benefit [of restructuring] is to shift the risk of business decisions about investment in generation away from ratepayers and onto shareholders. Another benefit is to bring competitive pressure to rates, which should move Maine's electric prices closer to the national average."**¹⁷ Similar motivations applied to the decision to restructure in other New England states.¹⁸

Most states in New England, except for Vermont, ultimately followed the same restructuring blueprint. Implemented reforms included some form of business separation of electric generation and retail services from transmission and distribution (T&D), unbundling of bills, implementation of transition charges to recover stranded costs, initiation of competitive retail electric choice, and creation of a default service option for non-switched customers.¹⁹ These reforms were complemented by state-led efforts to educate customers about the forthcoming market changes. The MPUC, like regulatory commissions in other states, retained regulatory oversight and ratemaking responsibility over commission-jurisdictional T&D utilities. **For suppliers, however, the Commission's principal responsibility became consumer protection.**

On May 29, 1997, Maine Governor King signed into law Revised Maine Statutes Annotated, Title 35-A, **enacting major reforms to Maine's electricity industry.**²⁰ The MPUC and other affected parties worked together over the successive three years to implement the law, including developing rules governing Standard Offer Service (SOS), supplier licensing, consumer protection, billing, collections, utility conduct, and more.

¹⁵ Richert (1996). *Electrical Industry Restructuring: From Policy to Implementation*. digitalcommons.library.umaine.edu/cgi/viewcontent.cgi?article=1395&context=mpr.

¹⁶ Ibid. One stakeholder noted that the prevailing market conditions at the time "may not be true forever or even for a long time...but [they are] true for now, and that fact is providing an impetus for retail competition." Despite potential market risk, stakeholders anticipated further evolution of the New England grid in ways that would sustain low wholesale energy prices. These included expected technology advances, further development of natural gas infrastructure in the region, and advancements toward open-access transmission networks (taking place at a federal level).

¹⁷ MPUC (February 1997). *1996 Annual Report*. maine.gov/mpuc/sites/maine.gov.mpuc/files/inline-files/1997-annual%20report.pdf.

¹⁸ Reishus Consulting, LLC (December 2015). *Electric Restructuring in New England – A Look Back*. nescoc.com/wp-content/uploads/2015/12/RestructuringHistory_December2015.pdf.

¹⁹ Ibid.

²⁰ Maine State Legislature (May 1997). *An Act to Restructure the State's Electric Industry*. PL 1997, Ch. 316. ldc.mainelegislature.org/Open/Laws/1997/1997_PL_c316.pdf.

C. History of Standard Offer Service

The history of SOS in Maine highlights several iterations of the service relevant to the discussion and recommendations offered in this report.²¹ The earliest restructuring plan for Maine, developed by the MPUC, included the first recommendation that the state implement default service for customers who choose not to select a competitive electricity provider (CEP) or cannot “obtain power in the market on reasonable terms.”²² This plan was intended to be comparable to existing, pre-restructuring utility service.

Discussion in the lead-up to the Commission’s initial proposal illustrates several relevant debates about the design and execution of SOS. Some stakeholders argued that SOS was unnecessary given the capabilities of retail markets. The MPUC disagreed and **noted its concern that, even in a robust market, some “consumers will be confused or make unfortunate choices.”**²³ These concerns, therefore, warranted SOS as a form of consumer protection.

All three IOUs in the state urged the MPUC to make T&D utilities responsible for SOS as both the procurer and provider, using power either obtained through a bid process or **provided on a “regulated basis”** subject to preapproval. Independent Power Producers similarly proposed that T&D utilities serve as the SOS procurer and provider, but **recommended that they solely obtain service through “bids for portions or ‘blocks’ of the standard offer load.”**²⁴ This proposal is akin to the full-requirements, load-following tranche auctions widely used by retail choice states today, as discussed in the following chapter of this report. Various consumer representatives in the state supported competitive bidding to set default service rates. The Commission ultimately decided in favor of competitive procurement mechanisms based on the justification that these approaches:

1. Reflect the lowest-cost market offer available at any given point in time;²⁵
2. Minimize regulatory oversight, especially when compared to T&D utility-directed procurement;²⁶
3. Shield customers from selection risk while also securing a fixed, backstop rate; and

²¹ An abbreviated history of CEP service is included in Appendix D for reference in relation to SOS.

²² MPUC (December 1996). *Electric Utility Industry Restructuring, Docket No. 95-462, Report And Recommended Plan*. http://dc.mainelegislature.org/Open/Rpts/kf2125_z99m221_1996.pdf.

²³ Ibid.

²⁴ Ibid.

²⁵ Correspondingly, the Commission cited the lack of compelling reason to believe utilities can outperform competitive procurement mechanisms as a justification to move away from a utility-directed approach.

²⁶ The Commission specifically aimed to avoid any obligation to review “...whether the T&D utility secured the best possible resource portfolio.”

4. Do not provide advantage to local utilities.²⁷

The Commission envisioned that all T&D service territories would have their own SOS service “supplied by different providers under terms unique to each.” A benefit of this variety would be an ability to “encourage bidders to craft creative proposals tailored to a territory’s specific characteristics.”²⁸

Some commentators raised concerns that switching activity would create risk that could factor into SOS costs. The MPUC agreed that allowing “unfettered freedom to enter and exit” SOS service may increase associated risk premium costs. The Commission also indicated, however, a preference to minimize market participation restrictions during the initial years of retail competition. With this caveat, the Commission retained the right to later, as appropriate, introduce anti-gaming rules. Likewise, the MPUC reserved for later ruling issues such as SOS procurement timing; standards related to standard offer supplier eligibility, credit, collections, and disconnection practices; options in the event of default or lack of bids, such as spot purchases; and customer class distinctions.

1. Initial SOS RFPs and Clarifications

The MPUC issued the first request for proposals (RFP) to select a default service provider on August 2, 1999, for a service start date of March 1, 2000. In this initial solicitation, MPUC subdivided customers into the same three service groups that it uses for default procurement today, discussed below. The bidding process involved two stages: an initial screen for whether potential suppliers satisfied eligibility requirements, and price submissions by eligible suppliers. In the lead-up to the first RFP, marketers and other potential SOS providers expressed various concerns, including reservations about meeting **Maine’s “green” requirements**,²⁹ the level of competition SOS providers might face from CEPs, and consumer education issues facing the market.³⁰ They also identified ambiguity **regarding the nature of each SOS provider’s retail and wholesale commitments.**

Following the initial solicitation process, the MPUC selected two providers for Maine Public Service Company (MPS) customers (all classes) and one for Central Maine Power Company (CMP) (residential and small commercial classes). The Commission did not receive acceptable bids for the remaining customer classes, including all Bangor Hydro-Electric

²⁷ MPUC (December 1996). *Electric Utility Industry Restructuring, Docket No. 95-462, Report And Recommended Plan.* ldc.mainelegislature.org/Open/Rpts/kf2125_z99m221_1996.pdf.

²⁸ Ibid.

²⁹ Maine required all retail suppliers to comply with the **MPUC’s substantive rules in Chapter 311: Renewable Resource Portfolio Requirement**, which obligated suppliers to procure at least 30% of generation from eligible **renewable energy resources.** **See:** Chapter 47, H.P. 546 - L.D. 767, Resolve, Regarding Legislative Review of Chapter 311: Renewable Resource Portfolio Requirement, a Major Substantive Rule of the Public Utilities Commission. mainelegislature.org/legis/bills/bills_119th/chapdocs/RESOLVE47.doc.

³⁰ A C-E-C Group/University of Maine survey regarding electric restructuring more broadly “revealed mixed feelings about the procedure for soliciting standard-offer bids” among potential retail suppliers. Tagliaferre & Greenwood (1999). *Electric Utility Restructuring: What Does It Mean for Residential and Small Retail Consumers in Maine?* digitalcommons.library.umaine.edu/cgi/viewcontent.cgi?article=1320&context=mpr.

(BHE) classes and the medium and large commercial and industrial (C&I) CMP class. In place of third-party supply for these groups, the Commission obtained backstop SOS service from the incumbent T&D utilities at Commission-set prices.³¹ The process applied by each T&D utility markedly differed; CMP sought to “lock in its supply and price up-front” by acquiring fixed-price, FRCs from wholesale suppliers, while BHE adopted a portfolio approach that blended “wholesale contracts and spot market purchases.”³²

Following this initial solicitation and a subsequent solicitation to obtain acceptable SOS bids that also went partially unfilled, the Commission initiated an emergency rulemaking to revisit its SOS rules (Chapter 301) and revise several barriers to supplier participation in SOS solicitations.³³ As part of this rulemaking, the Commission instated opt-out fees for medium and large customers that still apply today to avert gaming. The Commission also issued an advisory opinion regarding the rights and obligations of SOS providers.³⁴ Important clarifications included confirmation that:

- Winning bidders are the designated SOS provider(s) and therefore assume an obligation to provide full-requirements, load-following service;³⁵
- **Winning bidders take on a service obligation for a “specified portion of the standard offer load,” but not individual SOS customers;**
- SOS providers have carte blanche to meet their obligation in any form (e.g., hedges, spot purchases, long-term contracts, etc.) allowed by the regional market operator, the Independent System Operator of New England (ISO-NE);
- T&D utilities continue to meter and bill on behalf of SOS providers “even though [SOS] is a retail sale by the [SOS] provider(s) to these customers”; and
- Bidders should expect the MPUC to “reasonably execute its statutory obligations subject to court review” even in the absence of an explicit contract.

³¹ MPUC (February 2000). *1999 Annual Report*. maine.gov/mpuc/sites/maine.gov.mpuc/files/inline-files/1999-annual%20report.pdf.

³² Under this method, BHE adjusted its standard offer prices twice during the SOS service period to reflect higher-than-estimated spot prices. MPUC (February 2001). *2000 Annual Report*. maine.gov/mpuc/sites/maine.gov.mpuc/files/inline-files/2000-annual-report.pdf.

³³ MPUC Docket No. 2000-808.

³⁴ MPUC (November 2000). *Advisory Opinion Regarding Rights and Obligation of Standard Offer Providers*. maine.gov/mpuc/electricity/rfps/standard_offer/2020-00200/cmp/app_j/appj-advisory-ruling-2000-00808.pdf.

³⁵ In other words, the standard offer provider acts as “the Load Serving Entity (LSE) for its designated class or class share and must fulfill all the obligations and bear all the costs of an LSE for this load.” Ibid.

These statements aimed to help ease supplier concerns about taking part in Maine's unique SOS model under which suppliers serve at retail and all costs are priced competitively.³⁶

2. Establishing Commission SOS Policy

In 2001, after market conditions settled and the Commission's guidance provided clarity, Maine conducted its first fully successful SOS procurement.³⁷ In the following year, **SOS prices fell as the MPUC received "very competitive, market-based" offerings.** The Commission, however, noted trade-offs of this outcome in relation to broader market development: **lower prices, while "good news for many," also "led to a drop in the load served by competitors,"** therefore undermining the fledgling CEP market. This market dynamic was subsequently addressed more fully in a comprehensive 2002 Commission study of the future role of SOS in Maine's retail electricity market.³⁸

The Commission, in its 2002 study, made the following recommendations for SOS service effective March 1, 2005 and thereafter:

- For market sectors and customer segments with robust retail choice activity, **SOS should serve as a "last resort or contingency service."** Along these lines, **SOS should "encourage or sustain" customer choice** by offering prices that track the wholesale market and using design features that parallel retail electric markets. This provision most directly applied to medium and large C&I customers in the CMP and BHE service territories.
- For market sectors and customer segments with developing or less robust retail choice activity, **SOS should be designed to "capture competitive market benefits for customers."** That is, **SOS should not necessarily encourage retail choice** and prices should not be designed to facilitate competition. This provision most directly applied to residential and small non-residential customers in all service territories, and all customers in the MPS territory.

³⁶ The MPUC described the unique nature of the SOS design as follows: "Maine's standard offer model is unique in that suppliers serve at retail. As a result, suppliers who were accustomed to traditional wholesale supply arrangements were initially apprehensive about participating in Maine's standard offer process." The Commission also noted that "[t]he Maine standard offer model contrasts with most other states, where some or all of the default-type service is priced administratively rather than competitively." MPUC (December 2002). *Standard Offer Study and Recommendations Regarding Service after March 1, 2005*. maine.gov/mpuc/electricity/archive/new_standard_offer/sostudy-final.pdf.

³⁷ The MPUC selected Constellation Power Source Maine as the SOS provider for CMP and BHE residential/small non-residential customers for a 3-year term beginning March 1, 2002. Separate procurements for the medium and large classes also resulted in winning bidders.

³⁸ An Amendment to Maine's Standard Offer Service statute in 2001 initially established a statute of limitations for SOS service of March 1, 2005. This same amendment also required the Commission to conduct a study in 2002 to determine the future of the service and address questions related to SOS relative to customer participation, the availability of a renewable energy SOS product, and whether the state should allow opt-out municipal aggregation. Docket No. 2002-00169. maine.gov/mpuc/electricity/archive/new_standard_offer/sostudy-final.pdf.

- SOS should continue to exist in some form for all segments (in contrast to the emerging model adopted by Texas, as discussed later in this report).
- **SOS should not be a “safe-haven” from credit or financial requirements** otherwise imposed by the market, especially for medium and large C&I customers. Likewise, it should not insulate participants from underlying customer characteristics that increase service risk.³⁹

Maine’s policy was to encourage supply entry and shopping but also maintain an SOS arrangement that protected non-shopping residential and small non-residential customers. The Commission offered the following explanation for how Maine’s model served these competing priorities:

Maine’s model is unique in that suppliers compete to serve at retail, and the bids of the winning suppliers are the standard offer service prices that customers actually pay. By design, this approach captures the effects of competition and flows them fully to customers. In most other states, standard offer service is provided by incumbent utilities or their affiliates and prices are set administratively, making it difficult to measure the success of retail competition in these states in terms of price or switching activity because there is no necessary link between retail prices and the market.⁴⁰

SOS solicitation participation increased as the construct became more familiar. In March 2003, the Commission selected 6-month bids for all BHE and CMP classes to follow-on after existing contracts expired. The choice of 6-month contracts was intended to allow **the SOS rate to “more closely follow changes in market prices,” consistent with the Commission’s new SOS policy.**⁴¹ For MPS, the Commission selected one bidder for all classes for a 34-month term (March 2004 through December 2006).⁴²

³⁹ In other words, SOS rates should rise when participants with characteristics “unattractive to the market” take default service. MPUC (February 2002). *Standard Offer Study and Recommendations Regarding Service after March 1, 2005*. maine.gov/mpuc/electricity/archive/new_standard_offer/sostudy-final.pdf.

⁴⁰ MPUC (December 2002). *Annual Report on Electric Restructuring. Report to the Utilities and Energy Committee on Actions Taken by the Commission Pursuant to 35-A M.R.S.A. § 3217*. ldc.mainelegislature.org/Open/Rpts/hd2767_m24m34_2002.pdf.

⁴¹ The Commission also noted at the time that these contracts appeared to achieve some balance between supplier and provider concerns: “Six-month standard offer terms seem to work well for both non-standard offer suppliers, who have told us that a shorter term helps them attract customers, and standard offer suppliers, who have told us that the shorter term mitigates against load and market risk but is not so short as to discourage their participation.” See: MPUC (February 2004). *2003 Annual Report*. maine.gov/mpuc/sites/maine.gov/mpuc/files/inline-files/2003-annual-report.pdf.

⁴² Unique challenges facing all retail providers in the MPS service territory are detailed separately below.

During the solicitation process for SOS service in 2006 and 2007, the Commission implemented staged procurements, i.e., laddering, as a way to “reduce price volatility.”⁴³ This hedging program principally applied to residential and small non-residential loads served by BHE and CMP, consistent with the Commission’s SOS policies from the 2002 study.⁴⁴ The Commission’s typical practice involved separately soliciting and awarding bids every year for three-year terms incorporating one-third of SOS load for each service territory. Solicitations at this time also introduced the option for SOS bidders to incorporate capacity and energy from legacy long-term contracts, described below.⁴⁵ To facilitate these changes, the Commission amended its SOS rules.

Discussions about these rule amendments again illustrate considerations relevant to potential changes in SOS design and implementation today. Notably, “Some participants argued that customers are willing to pay a higher Standard Offer price in order to receive a full portfolio of energy contracts, selected through an auction process, which will reduce price volatility over the long run. Others, however, were not convinced that customers are willing to build any price-hedging, volatility-dampening costs into the Standard Offer prices they must pay.”⁴⁶

3. Transition to Current Approach

Maine’s approach to SOS procurement remained the same until 2013, when the MPUC initiated an inquiry into residential and small non-residential SOS.⁴⁷ This inquiry addressed increased CEP participation by these classes (see Appendix D) in relation to the Commission’s 2002 SOS policy that SOS should “encourage or sustain” retail customer choice for markets and customer segments with robust retail choice activity. The Commission found that existing procurement approaches, although successful in mitigating market volatility, did “not track the market as well as if the entire supply requirements were procured at one time.” Given increased CEP activity in Maine, the Commission decided to

⁴³ The Commission, when describing this change in procurement approach, offered the following example: “Under a three-year, staggered approach, one-third of the supply would be secured each of three years. To implement this approach, the RFP requested proposals for: a one-, two- and three-year term, each for one-third of the class; a one-, two-, three-, four-, and five-year term, each for one-fifth of the class; and a one-year term for the entire class.” MPUC (February 2004). *2003 Annual Report*. maine.gov/mpuc/sites/maine.gov/mpuc/files/inline-files/2003-annual-report.pdf.

⁴⁴ Only one company supplied all standard offer and non-standard offer loads in the VP-MPD service territory as of 2006. This same supplier was also the sole bidder for future SSO obligations, creating competitive conditions that the PUC described as “unacceptable.” The Commission therefore considered alternative SOS options for the area as part of its Northern Maine proceedings. MPUC (February 2005). *2004 Annual Report*. maine.gov/mpuc/sites/maine.gov/mpuc/files/inline-files/2004-annual-report.pdf.

⁴⁵ This option became available after the Maine Legislature passed P.L. 2003, ch. 665 which, among other things, “required the Commission to promulgate major substantive rules establishing standards and procedures for incorporating renewable resources into the standard offer supply mix.” See: MPUC (January 2006). *Reexamination of Provisional Rules on Incorporating Renewable Resources into Standard Offer Supply*. lldc.mainelegislature.org/Open/Rpts/hd9685_u6m344_2006.pdf.

⁴⁶ Maine OPA (2005). *Annual Report July 1, 2004 to June 30, 2005*. maine.gov/meopa/sites/maine.gov/meopa/files/inline-files/2005%20Annual%20Report.pdf.

⁴⁷ Docket No. 2013-0020. This inquiry responded to a March 2013 petition from Electricity Maine, LLC, a CEP, requesting amendments to standard offer (Ch. 301) and consolidated billing (Ch. 322) rules.

phase-out staggered terms and instead implement annual solicitations for a one-year service term. Annual solicitations were favored over a 6-month procurement period for **providing “a greater level of rate stability and predictability.”**⁴⁸ This procurement approach continues to date.

Another SOS change approved during this proceeding was the use of a single annual solicitation for all customer classes, and for both CMP and BHE loads. The Commission **justified this approach as a way to “minimize administrative and transaction cost[s]” as well as “attract a more robust set of bidders.”** Additionally, the Commission declined to adjust how it set medium customer SOS rates after considering the options of grouping procurement for residential, small non-residential, and medium C&I customers together or, alternatively, setting medium customer SOS rates based on an index (similar to large customers). Other topics addressed included uncollectible risk and customer protections related to CEP service. Around this same time, Maine also inaugurated an optional time-of-use (TOU) option for SOS.

D. Standard Offer Service Law, Rules, and Regulations

Maine addresses standard offer service in Section §3212 of the Maine Public Utilities Code (Title 35-A) Part 3, Chapter 32 – Electric Industry Restructuring.⁴⁹ This code designates the MPUC as responsible for ensuring the availability of electricity SOS to all Maine customers as well as creating rules and regulations related to such service. The code, as amended in 1999, specifies several important parameters related to the selection of an SOS provider and design of SOS service.⁵⁰ These include:

1. Use of an MPUC-administered “bid process” to select the SOS provider;
2. **Consideration by the MPUC of “market risks and the need for price stability and contract flexibility,” among other factors, when determining SOS contract length;**
3. Allowances for the MPUC to require the local T&D utility to provide backstop service in the event of SOS provider default, no bids, inadequate bids, or unacceptable bids;
4. **A requirement that the MPUC ensure “at least 3 providers of standard-offer service in each transmission and distribution utility service territory”;** and
5. **Permissions for the MPUC to operate outside the “rules adopted by the State Purchasing Agent” for purposes of conducting the competitive bid process for SOS service.**

⁴⁸ MPUC (November 2013). *Inquiry Conclusions*. Docket No. 2013-00200. *Inquiry into Residential and Small Commercial Customer Standard Offer Service and Customer Protection*. [mpuc-cms.maine.gov/COM_Public_WebUI/Common/ViewDoc.aspx?DocRefId={2303551A-40F2-4551-A1B1-78B5847C1142}&DocExt=pdf&DocName={2303551A-40F2-4551-A1B1-78B5847C1142}.pdf](https://mpuc.cms.maine.gov/COM_Public_WebUI/Common/ViewDoc.aspx?DocRefId={2303551A-40F2-4551-A1B1-78B5847C1142}&DocExt=pdf&DocName={2303551A-40F2-4551-A1B1-78B5847C1142}.pdf).

⁴⁹ Maine Revised Statutes, §3212. Standard offer. mainelegislature.org/legis/statutes/35-a/title35-Asec3212.html.

⁵⁰ PL 1999, c. 577, §3.

The current statute also reflects several amendments intended to align state energy policy into SOS service. First, in 2005, Maine added provisions allowing the MPUC to **“incorporate cost-effective energy conservation and energy efficiency resources into the standard offer service product for electricity customers.”**⁵¹ Second, also in 2005, the legislature added language enabling the Commission to incorporate into SOS service the energy portion of any renewable energy contracts entered into by T&D utilities in **compliance with Maine’s Renewable Portfolio Standard (RPS).**⁵² Finally, in 2009, Maine permitted the MPUC to incorporate community-based renewable energy into the SOS.⁵³

Other decisions around parameters of SOS are delegated to the MPUC. This includes, but is not limited to, the data shared with prospective bidders; customer entry and exit restrictions rules; protections against SOS provider default or failure to deliver power; rate design and price; and credit, collection, and disconnection policy. Additionally, the Commission has full discretion to establish different terms and conditions for different service territories and customer classes.

The regulations applicable to SOS are outlined in Chapter 301 of MPUC rules.⁵⁴ The **Commission defines SOS as “generation service provided to any electricity customer who does not obtain electric generation service from a competitive electricity provider.”** Although Chapter 301 addresses all Maine utilities, the bulk of its provisions are directed at customers of large investor-owned T&D utilities, specified as utilities serving more than 50,000 retail customers.⁵⁵ The rules and regulations set forth various provisions that affect how Maine currently procures default supply.

1. Customer Classes

Unless otherwise specified in the request for bids, default customers are grouped into **three “core customer classes” based on actual T&D rates and/or eligibility: a residential and small non-residential class, differentiated by the absence of demand charges; a medium C&I class that does include a demand charge but is limited to customers with maximum demand less than 500 kW; and a large C&I class that includes all remaining customers.** These rules are flexible to allow various cut-offs between small and medium non-residential customers. **Additionally, the rules allow there to be, “at the utility’s option, a single standard offer**

⁵¹ PL 2005, c. 677, §§B-1, B-2, C-1.

⁵² §3212 of the Maine Public Utilities Code (Title 35-A), **Part 3, Chapter 32 justifies these provisions as being “for the purpose of providing over a reasonable time period the lowest price for standard-offer service to residential and small commercial customers.”**

⁵³ PL 2009, c. 329, Pt. A.

⁵⁴ 65-407 Public Utilities Commission Chapter 301 Standard Offer Service: Standard Offer Service. All subsequent quotes in this subsection are drawn from these regulations.

⁵⁵ Several provisions specifically pertain to consumer-owned utilities. In summary, customer-owned utilities, with approval from their governing board, are permitted to aggregate member loads for purposes of a competitive bid **process to select a standard offer provider. These aggregations are limited to five years’ duration, and customers must have an opportunity to opt out.** New customers can automatically be assigned to the standard offer load aggregation, subject to specific notification requirements.

service class that shall contain all customers.” There are no rules or regulations that separately address low-income customers.

2. Rate Structure and Rates

Maine regulations specify distinct SOS rate structures based on customer class. For residential and small non-residential, the MPUC requires that the standard offer rate “be an amount per kWh that does not vary by level of usage, or by time of year or day.” This rate shall not include demand charges. No such limitations apply to medium and large non-residential customers who may be subject to seasonal and/or time-of-day differentiated rates as long as they are “compatible with the transmission and distribution utility’s core rate structure.” No SOS rates, for any customer class, should include charges set “on a per customer or fixed-charge basis.” Rates should not vary within a particular T&D utility’s territory, and the applicable rates should reflect a weighted average when more than one provider is selected. The regulations specify that SOS providers are responsible for the T&D utility’s incremental costs for administering SOS, including billing and collections activities.

3. Switching and Gaming

Customers retain the option to return to SOS supply from competitive service “at any time” upon satisfactory notice to the applicable T&D utility.⁵⁶ This is consistent with SOS acting as a backstop for the competitive market. Allowing unfettered switching, however, introduces additional load risk if there are incentives for strategic switching behavior. Thus, Maine restricts switching by certain customers in certain circumstances. Chiefly, if a medium or large C&I customer has received SOS service for less than 12 months, an opt-out fee applies.⁵⁷ This fee is equal to two (2) times the amount of the customer’s highest SOS bill during their period of SOS service.⁵⁸ The MPUC retains the right to increase this fee as necessary to deter gaming and reduce load-risk premiums attached to SOS offers. Residential and small non-residential customers, by comparison, can terminate SOS and switch to competitive service at any time without payment of a fee (subject to notice and timing conditions).⁵⁹ Switch requests take effect on a one-billing-period lagged basis, meaning a request provided two or more days before a normal meter read date will take effect by the next meter read date.

⁵⁶ Transfer fees may apply if a customer switches to SOS service “on a date other than the meter read date.” The competitive supplier is responsible for these costs if the supplier requested the transfer. The specific charges are listed in each utility’s tariff.

⁵⁷ Customers located in the Northern Maine service area, defined as the Maritimes control area (i.e., the area where New Brunswick Power Corporation operates the bulk power system), are exempt from opt-out fees.

⁵⁸ If the customer has not taken service for a full month, then the amount is calculated using average daily consumption and the prorated cost during the period of service.

⁵⁹ However, “if the Commission finds that there is good cause to deter frequent transfers in or out of standard offer service,” the Commission can require charges or impose other switching restrictions.

4. SOS Provider Eligibility

Providers of Maine SOS must be licensed according to Chapter 305 of MPUC rules. The Commission specifies the required financial security and the methods to determine those amounts. This security may be fixed, decline over the SOS term, or vary based on changes in market prices or SOS load. Providers can meet their security requirement with an irrevocable letter of credit,⁶⁰ corporate guarantee (subject to Commission limits),⁶¹ or cash.⁶² All three options are subject to further requirements outlined in the Commission's regulations.

5. SOS Provider Service Obligations

SOS providers take on full-requirements responsibilities, including line losses, for Maine SOS load. As part of this responsibility, providers are required to comply with Maine's RPS pursuant to Chapter 311 of MPUC rules. Likewise, all applicable ISO-NE rules and requirements apply to the SOS provider **who, effectively, serves as the "designated load serving entity with a settlements account."** These requirements, however, do not extend to credit, collection, disconnection, deposit, late payment, and other related components of service. Rather, these various responsibilities are handled exclusively by the T&D utility on behalf of the SOS provider in accordance with Chapter 815 of MPUC rules.

6. SOS Billing

SOS billing is exclusively through utility consolidated billing. These bills "shall prominently display the names of the standard offer service providers" but otherwise are not within SOS provider purview. The T&D utility is responsible for administering all SOS billing, metering, and service transfer functions. Although Maine does not have purchase of receivables (POR)-type arrangements, Chapter 301 of MPUC rules does specify processes for reconciling uncollectible SOS accounts. In particular, each SOS provider "shall be allocated a share of the uncollectible accounts" for the SOS classes it services based on a "pre-established percentage" set forth in the SOS contract between the SOS provider and T&D utility. This percentage is intended to allow the T&D utility the opportunity to recover reasonable costs associated with SOS uncollectible accounts. These provisions effectively eliminate each SOS provider's collection risk by assigning a fixed uncollectible rate for computing payments. Other uncollectible expenses incurred by CEPs are considered a normal cost of doing business and therefore are borne entirely by the CEPs.

⁶⁰ The provider must have a BBB+ (S&P or Fitch), Baa1 (Moody's), or equivalent credit rating.

⁶¹ Debt obligations of a guarantor must have a BBB- (S&P or Fitch) or Baa3 (Moody's) or higher credit rating (gauged by whichever is lower) and guarantee the security with either five times the guarantee amount when leveraging assets or 2.5 times the guarantee amount when leveraging equity.

⁶² Must be documented to meet the security interest requirements.

7. SOS Solicitation

Maine regulations identify three principal sources of information that T&D utilities are obligated to make available as part of the SOS solicitation process: (1) monthly demand and energy consumption for each customer class; (2) number of customers by class, both SOS and non-SOS service; and (3) representative load shapes for each class by month. T&D utilities can meet these requirements by providing historical data so long as the utility **describes “factors that would cause the information to be unrepresentative of electricity usage” in the applicable service territory and period.**

8. SOS Bidding Process

The MPUC, subject to statute, has sole discretion over the bidding process to solicit and evaluate SOS bids. Commission regulations outline several guidelines for this process, including:

- **Encouraging processes “designed to maximize participation from qualified bidders”;**
- Allowing the MPUC to evaluate and respond to non-price portions of proposals separately, before potential providers submit final bids; and
- Requiring the MPUC to select three providers per T&D service territory unless this selection increases SOS prices by more than 1.5%.

The MPUC specifies the form of bid prices as “defined by formula or reference to market or economic indices.” Bidders provide separate bids for each class they propose to serve. These bids may be for a portion of the requirement but must be in multiples of at least 20% of the total class requirement. Prices can vary for each percentage of the standard offer class requirement that the provider proposes to serve. When comparing bids that reflect different rate structures or rate designs, the Commission applies “the bid prices to the usage of the standard offer class” provided during the solicitation stage (i.e., historical data).

9. SOS Characteristics

The MPUC has discretion to specify the applicable time frame and duration of the products procured by SOS bid. There are no current rules and requirements regarding the form that SOS must take. However, as an overarching goal, the Commission sets forth **objectives of “obtaining the lowest price for standard offer service for each standard offer class, the lowest cost for standard offer service overall, the stability of standard offer prices, and the establishment of standard offer prices that track changes in the regional wholesale market.” Several MPUC rules, such as those related to the SOS bidding process, also presuppose the continuation of full-requirements, load-following service.**

10. Backstop Service

The Commission has an obligation to expeditiously select a replacement standard offer provider in the event of insufficient or inadequate SOS bids, or if an existing SOS provider defaults on its obligations. The MPUC regulations identify three principal alternative means of meeting SOS obligations:

1. Pick a new supplier, either from the pool of existing SOS providers or other potential providers operating in the state;
2. Conduct a new bidding process; or
3. Issue an order directing the T&D utility to provide SOS service.

In the event of provider default, **the defaulting SOS provider's security is used to defray the costs incurred by the replacement provider.** In all circumstances, replacement service is only intended to last until a new bidding process can successfully select a new provider. Replacement providers, subject to Commission review, have authority to provide **SOS through "purchases from the regional wholesale bulk power markets, contracts with wholesale suppliers or other appropriate arrangements."** The Commission can adjust standard offer rates to cover the costs of providing replacement service, including incremental administrative costs and applicable carrying costs, subject to annual true-up. This recovery can be from both standard offer and non-standard offer customers.

E. Current Standard Offer Service Implementation

The MPUC issued the most recent standard offer bid solicitation on September 7, 2022 for SOS service to all customer classes of each of the three IOUs in the state.⁶³ This solicitation, in the form of an RFP, sought to select SOS providers to cumulatively provide full-requirements, load-following service for all load for a one-year term beginning January 1, 2023. The Commission has generally (but not exclusively) procured SOS for one-year terms since 2014. The RFP includes several provisions that represent the exercise of the **Commission's discretion in accordance with statute and regulation. First, the RFP expands on what full requirements means in practice:**

Standard offer service includes all obligations and charges that would be assessed to the load serving entity for the applicable load, including all Locational Marginal Pricing (energy, loss and congestion components), all costs and obligations that arise from nodal settlements for load, all capacity, ancillary services and other products and charges for the load, including any new or redefined products or charges, required to supply the electrical requirements of customers receiving standard offer

⁶³ MPUC Docket No. 2022-00091.

service at all times during the term of service in a manner that complies with all applicable rules and requirements.⁶⁴

Winning SOS providers are also responsible for T&D line losses and transformer losses. They are not, however, responsible for local T&D charges and regional network service charges that the T&D utility handles. Although the specific components have evolved over time with regional markets, the MPUC has consistently required SOS providers to meet all obligations of a load-serving entity (LSE).

Second, the RFP outlines the requested form of offer pricing for each class. As is consistent with MPUC regulations, the RFP requires fixed prices for residential and small non-residential SOS rates. For other customer classes, however, the Commission gives bidders various degrees of discretion. For the medium C&I class, bidders can offer rates using either per-kW and per-kWh charges, or just per-kWh charges. These rates may not vary by time of day but can vary by month. For large C&I customers, pricing can be in the form of fixed or indexed prices that can vary by time of day or month. Bidders can also pass-through costs via indexed rates plus a fixed adder.⁶⁵ For CMP and Versant Power – Bangor Hydro District (VP-BHD), the MPUC specifies that indexed energy rates should be set monthly using on- and off-peak prices from New York Mercantile Exchange (NYMEX) forward markets for the ISO-NE regions.⁶⁶ Indexed capacity rates, meanwhile, should be set consistent with ISO-NE's coincident peak contribution measurement methodologies. For Versant Power – Maine Public District (VP-MPD), the Commission does not specify how the index should be determined. In all cases, the proposed rates and rate structures must be consistent with those in effect for the T&D utility.

Third, the RFP establishes bidding parameters for each customer class and service territory. For CMP and VP-BHD, the solicitation splits residential and small non-residential service into three tranches, each equal to one-third of the total class obligation; medium C&I service into five tranches, each equal to one-fifth of the obligation; and large C&I into a single tranche, equal to 100% of the obligation. Given the small size of VP-MPD, the RFP only offers one tranche for 100% of the total class obligation for each of the three classes, respectively. Consistent with state statute and SOS regulation, bidders are invited to submit offers for one or more tranches for each class and utility.

⁶⁴ MPUC (September 2022). *Request for Proposals to Provide Standard Offer Service to Central Maine Power Company Customers for the term January 1, 2023 – December 31, 2023*, maine.gov/mpuc/sites/maine.gov/mpuc/files/inline-files/CMP%20SO%20RFP%202023%20final.pdf.

⁶⁵ The most recent solicitation for CMP and VP-BHD notes that MPUC has historically approved rate structures that include "a fixed adder component in \$ per kWh and a fixed capacity component in \$ per kW, with an energy component payment to the supplier based on the ISO-NE settlement quantities for the load asset and the applicable hourly Maine LMP [locational marginal price]." However, there are multiple variations of index pass-through rate structures that MPUC identifies as acceptable.

⁶⁶ More specifically, then-current prices settled on the 15th day of the prior month.

Other information in the SOS RFP includes: specific references to the applicable load zone for purposes of settlement;⁶⁷ clarification that, in the case of multiple winning providers, requirements are assigned based on load share; statements that all SOS providers must comply with Maine's RPS pursuant to Chapter 311 and net billing rules pursuant to Chapter 313; and detailed requirements to meet MPUC rules governing licensing and financial security. Additional standard requirements for bidders include executing a statement of commitment and, as applicable, identifying any bid contingencies and/or conditions within the control of the Commission. Because the T&D utility does not play a part in SOS provision, the SOS provider's obligation rests solely "on the fact that it has been awarded the service by Commission order."⁶⁸ The principal enforcement mechanisms for this obligation are the statement of commitment and financial security.

As is typical, the Commission accepted initial proposals with indicative prices approximately a month after issuing the RFP for 2023 SOS service. Negotiation of non-price terms occurred shortly after. On November 15 and 16, 2022, the MPUC issued two orders designating standard offer providers for service beginning January 1, 2023. According to the Commission's Order for each T&D utility, the RFP bidding process was "very competitive."⁶⁹ Although the Commission selected less than three providers, it did so in accordance with MPUC rules after assessing the customer cost impact of selecting additional providers.

The most recent SOS solicitation differs from recent precedent in several ways. First, the MPUC requested that bidders offer alternative proposals that would mitigate anticipated price increases, "including proposals for terms of six months, eighteen months, and two years." Second, the RFP for SOS in 2023 was the first in recent history that did not allow bids to be linked to contracts for the output of non-divested entitlement contracts held by T&D utilities.⁷⁰ Third, the Commission's solicitation for the VP-MPD service territory mostly mirrors the solicitation for CMP and VP-BHD. The MPUC's most recent preceding SOS solicitation for the VP-MPD area took place in 2019, at which time the Commission awarded a three-year contract that indexed VP-MPD-area SOS rates to the rates offered to CMP and VP-BHD customers (by class). The Commission did not receive any bids to serve large C&I customers at this time but ultimately reached agreement with New Brunswick Energy Marketing Corporation (New Brunswick), the winner for the other two classes, to supply all classes. Finally, the award includes several new allowances related to the pass-through of

⁶⁷ That is, the Maine load zone of ISO-NE for CMP and VP-BHD. For VP-MPD, all settlement is in accordance with Northern Maine Independent System Administrator tariffs, rules, and requirements.

⁶⁸ Verill (2018). *Maine Regulation of Public Utilities*, Second Ed., Chapter 8 – "Less Regulation and More Competition." verill-law.com/content/uploads/2020/05/Public_Uilities.pdf (PDF pp. 165-180).

⁶⁹ MPUC (November 2022). *Order Designating Standard Offer Providers*. Docket No. 2022-00091. [mpuc-cms.maine.gov/COM.Public.WebUI/Common/ViewDoc.aspx?DocRefId={F4C4CD8B-1BE7-40D2-928F-08C770F39271}&DocExt=pdf&DocName={F4C4CD8B-1BE7-40D2-928F-08C770F39271}.pdf](https://mpuc.cms.maine.gov/COM.Public.WebUI/Common/ViewDoc.aspx?DocRefId={F4C4CD8B-1BE7-40D2-928F-08C770F39271}&DocExt=pdf&DocName={F4C4CD8B-1BE7-40D2-928F-08C770F39271}.pdf).

⁷⁰ The MPUC is currently considering "issues related to the utilities' management and sale of generation output" of these resources (Docket No. 2022-00221). As a result of this ongoing investigation, the Commission granted requests from Versant Power (on behalf of both subsidiaries) (Docket No. 2022-00131) and CMP (Docket No. 2022-00153) for waiver of their Chapter 307 obligation to "assemble bid packages to offer to sell their generation entitlements" for the 2023 SOS auction.

costs assessed by ISO-NE and future regional fuel security initiatives.⁷¹ T&D utilities are responsible for tracking pass-through balances in a retainage account, and pass-through costs are subject to MPUC-approved adjustments.

F. Retail Restructuring in Northern Maine

VP-MPD, unlike Maine's other investor-owned T&D utilities, is located within the Maritimes control area, that is, the area of Maine where New Brunswick Power Corporation (NBP Corp.) operates the bulk power system.⁷² NBP Corp does not belong to the New England Power Pool and operates separately from ISO-NE. Following retail restructuring, Maine took additional steps to facilitate the introduction of retail choice into the Northern Maine region despite these distinctions. **Among the first amendments to Maine's restructuring law was authorization for "Northern Maine T&D utilities to enter into agreements with Canadian utilities to promote retail competition."**⁷³ The Maine Legislature also required the creation of the Northern Maine Independent System Administrator (NMISA). Today, VP-MPD's retail markets continue to operate in accordance with NMISA tariffs, rules, and requirements. What follows is a brief overview of the current configuration of the Northern Maine grid and review of several historical developments in the provision competitive supply to the region.

1. Current Market Conditions

NMISA's most recent *Seven Year Outlook* summarizes the "dominant characteristics" of the Northern Maine electric market as "electrical isolation, large geographic size, small electric demand, and modest population."⁷⁴ Generation resources in the region are extremely limited, including several hydro resources, Evergreen Wind, a biomass facility with multi-fuel capabilities, and distributed solar generation. The total nameplate capacity of these resources is just over 100 MW. The maximum peak demand for the NMISA region, meanwhile, is approximately 150 MW serving less than 50,000 electric consumers.⁷⁵ **NMISA's registered members include just four public utilities (including VP-MPD) and two CEPs.**

⁷¹ This decision, according to the Commission, is "in view of the extraordinary nature of the level and volatility of these extra-market charges." *Ibid.*

⁷² NBP Corp. is a vertically integrated electric utility owned by the Canadian province of New Brunswick, which borders Maine. **Among NBP Corp.'s responsibilities for the region are serving as system operator and, in conjunction with the New Brunswick Energy and Utilities Board, the reliability coordinator.** In this capacity, NBP Corp. supports electric system operations in Northern Maine as well as the Canadian provinces of Nova Scotia, Prince Edward Island, and New Brunswick. Source: *Energie NB Power* (January 2023). *Transmission & System Operator*. tso.nbpower.com/public/en/op/.

⁷³ PL 1999, c. 398, §§A-72-A-75, B-1, D-1, E-1, F-1, Parts G, I, J, K, L, M, and N; Ch. 398 (LD 2154) Omnibus restructuring law "correction" bill.

⁷⁴ NMISA (April 2022). *Seven-Year Outlook: An Assessment of the Adequacy of Generation and Transmission Facilities on the Northern Maine Transmission System*. nmisa.com/wp-content/uploads/2022/04/2022-Seven-Year-Outlook-final-1.pdf.

⁷⁵ *Ibid.*

The New Brunswick province, via Northern Maine, is highly integrated with ISO-NE via interconnecting transmission lines. These external interfaces allow ISO-NE to access cheaper imported power from the region when available. The current import capability of ISO-NE (from New Brunswick) is 1,000 MW, compared to 550 MW of ISO-NE export capability. The net difference reflects ISO-NE's typical position as net importer from the region.⁷⁶

New Brunswick enacted legislation in 2013 that amalgamated the previously separate New Brunswick System Operator and New Brunswick Power Corporation.⁷⁷ This decision effectively ended retail competition in the New Brunswick province. The broader NBP Corp. bulk power system, however, continues to allow open and non-discriminatory transmission access.

2. Historical Consideration of Northern Maine

Almost immediately after the start of retail choice in Maine, the Northern Maine market began to deviate from other utility service territories in the state. At first, participation in retail competition exceeded neighboring T&D service territories; nearly 15% of residential and small non-residential MPS customers switched suppliers by the end of 2003.⁷⁸ The province of New Brunswick opened to competition in 2003, bolstering competitive supply options in the region.

Serving the isolated Northern Maine region, however, proved challenging due to its limited connection to the emerging ISO-NE market. In 2003, a competitive provider in Northern Maine ceased offering service to new customers and subsequently began returning customers to SOS.⁷⁹ Few competitive suppliers marketed to customers in the region when regional price volatility increased between 2004-2007. The challenges facing competitive suppliers in Northern Maine in the mid-2000s also applied to SOS. Only one single company supplied all standard offer and non-standard offer loads during 2006. This same supplier was also the sole bidder for future SOS obligations, creating competitive conditions that, at the time, the MPUC described as "unacceptable."⁸⁰

The Commission's considered alternative SOS options for Northern Maine are part of its 2007 study of the status of retail competition in the state. The resulting report acknowledged that Northern Maine faced several structural disadvantages for retail electric competition: "The northern Maine region is relatively small, electrically isolated from liquid

⁷⁶ ISO-NE Internal Market Monitor (May 2022). *2021 Annual Markets Report*. ISO-NE. iso-ne.com/static-assets/documents/2022/05/2021-annual-markets-report.pdf.

⁷⁷ Energie NB Power (January 2023). *Transmission & System Operator*. tso.nbpower.com/public/en/op/.

⁷⁸ MPUC (February 2004). *2003 Annual Report*. maine.gov/mpuc/sites/maine.gov.mpuc/files/inline-files/2003-annual-report.pdf.

⁷⁹ Ibid.

⁸⁰ MPUC (February 2007). *2006 Annual Report*. maine.gov/mpuc/sites/maine.gov.mpuc/files/inline-files/AnnualReport2006-Final.pdf.

markets, and dominated by two companies that own and control all in-region generation and serve all in-region loads.”⁸¹ This characterization is largely consistent with current market conditions, described above. This Commission notably identified several potential approaches to address the challenges facing Northern Maine, including entering longer-term energy contracts and aggregating MPS loads with BHE loads for purposes of SOS. These historical considerations remain relevant to potential recommendations for revisions to VP-MPD SOS provision today.

G. Long-Term Supply Contracts and Stranded Costs

Prior to restructuring, Maine’s electric utilities managed the development or procurement of adequate supply resources to serve expected consumer demand. Each utility’s resource plan consisted of a proposed portfolio of both built (i.e., utility developed, owned, and operated) and contracted generation resources located in Maine and surrounding states. The MPUC maintained an oversight and approval role in this planning process. The shift to competitive wholesale markets and retail supply changed the existing approach. In place of centralized ownership or procurement of resources, Maine required its IOUs to divest from their supply assets. Maine also shifted the responsibility for long-term planning to decentralized, deregulated markets.

Not all utility supply assets could be sold or transferred during the divestment stage of restructuring. **Even after unbundling, Maine’s T&D utilities were still obligated to pay for** carried investments in the closed Maine Yankee and Seabrook nuclear facilities.⁸² Likewise, **Maine’s T&D utilities could not readily shed uneconomic QF contractual obligations.**⁸³ Maine **therefore allowed T&D utilities to recover “stranded” nuclear and QF costs, also referred to** as legacy stranded costs, through separate riders on the distribution side of customer bills.⁸⁴ In the case of QF contracts, Maine required each utility to auction their QF entitlement to wholesale suppliers on a periodic basis, usually in alignment with SOS auctions. QF costs not recovered through these auctions were designated as stranded.

Legacy stranded costs persisted in Maine until 2017, when the final two large long-term QF contracts **“expired and spent fuel trust fund proceeds of \$21.5 million were reimbursed to customers.”**⁸⁵ The recovery of stranded costs through distribution rates,

⁸¹ MPUC (February 2008). *2007 Annual Report*. maine.gov/mpuc/sites/maine.gov/mpuc/files/inline-files/2008-AnnualReport.pdf.

⁸² That is, the revenue from **each utility’s sale of generation assets was insufficient to offset all existing costs and** make each utility whole for the transition to competitive generation.

⁸³ Verill (2018). *Maine Regulation of Public Utilities*, Second Ed., Chapter 8 – “Less Regulation and More Competition.” verill-law.com/content/uploads/2020/05/Public_Utillities.pdf (PDF pp. 165-180).

⁸⁴ In general, a stranded cost is a regulatory asset representing costs incurred in the past but no longer accruing **from providing service. In Maine’s case, the specific level of stranded costs represented both the difference** between contract price of QF power and market/auction price, and the difference between book value of divested generation assets and market price.

⁸⁵ **Several smaller QF contracts remain ongoing but will also expire in the near future. For example, CMP’s contract** with Kennebago Hydro Corporation (0.7 MW installed capacity) expires December 31, 2023. *Source:* MPUC

however, continues today. Maine uses similar cost recovery mechanisms to support T&D utility contracts with renewable energy generation assets, including wind, solar, hydropower, and biomass capacity. The primary purpose of these policies is to support renewable energy development in Maine by securing long-term, fixed-rate contracts with a creditworthy counterparty (i.e., a regulated utility). Long-term contracts represent a way to provide financial commitments to preferred resources that may not otherwise receive support from the competitive market, thus allowing the project developers to more easily obtain project financing on favorable terms. Other justifications include potential price volatility mitigation benefits and portfolio diversification.⁸⁶

Maine first allowed long-term contracts in 2005 with the passage of an Act to **Enhance Maine's Energy Independence and Security**.⁸⁷ As part of this legislation, Maine directed the MPUC to establish an electric resource adequacy plan and authorized the Commission to direct investor-owned T&D utilities to enter into long-term contracts for capacity resources and associated energy. In December 2008, the MPUC issued its first related RFP.⁸⁸ **The goals of this solicitation, as described in the RFP, included "lower electricity supply costs for Maine consumers" and securing resources that can "hedge against market prices of electricity."** The Commission received a "a large number and wide range of proposals" by its April 2009 response deadline and, in October 2009, approved the first contract: an agreement by CMP and BHE to acquire the output of the 60-megawatt (MW) Rollins Wind Project in Penobscot County.⁸⁹

The Rollins Wind Project raised questions about how to square T&D management of supply resources in relation to restructuring laws that required divestiture. During the 2011 session, the **Maine Legislature directed the Commission to "conduct a major substantive rulemaking to amend its long-term contracting rule (Chapter 316) and prohibited the Commission from directing utilities to enter into long-term contracts" until after it adopted revisions to its major substantive rules.**⁹⁰ **During the Commission's subsequent investigation, the MPUC evaluated the new long-term contracts in comparison to stranded costs.**⁹¹ The Commission found that, although the new long-term contract costs were "not

(February 2018). *2017 Annual Report*. [maine.gov/mpuc/sites/maine.gov/mpuc/files/inline-files/2017AnnualReportFinal012418-Submitted-February2018.pdf](https://www.maine.gov/mpuc/sites/maine.gov/mpuc/files/inline-files/2017AnnualReportFinal012418-Submitted-February2018.pdf).

⁸⁶ **These arrangements also addressed a broader concern regarding restructuring: "the shifting of [generation planning and development] risk to market participants may have had the unintended consequence of inhibiting the development of adequate generation resources, creating an entirely new set of consumer risks in the form of undiversified or even inadequate sources of supply."** Verill (2018). *Maine Regulation of Public Utilities*, Second Ed., Chapter 8 – "Less Regulation and More Competition." verill-law.com/content/uploads/2020/05/Public_Uilities.pdf (PDF pp. 165-180).

⁸⁷ P.L. 2005, Ch. 677, Part C; see also 35-A M.R.S.A. § 3210-C (2010 & Supp. 2017).

⁸⁸ Docket No. 2008-104.

⁸⁹ MPUC (February 2010). *2009 Annual Report*. [maine.gov/mpuc/sites/maine.gov/mpuc/files/inline-files/AR09-FINAL.pdf](https://www.maine.gov/mpuc/sites/maine.gov/mpuc/files/inline-files/AR09-FINAL.pdf).

⁹⁰ P.L. 30 2011, Chapter 413. MPUC (February 2012). *2011 Annual Report*. [maine.gov/mpuc/sites/maine.gov/mpuc/files/inline-files/PUCFINAL2011ANNUALREPORTPDFcopy.pdf](https://www.maine.gov/mpuc/sites/maine.gov/mpuc/files/inline-files/PUCFINAL2011ANNUALREPORTPDFcopy.pdf).

⁹¹ Investigation into Recovery of Expenses and Disposition of Resources from Long-Term Contracts by Maine's T&D Utilities, No. 2011-00222.

'stranded costs' as defined by statute," there was "no reason to treat them differently than stranded costs" for cost recovery purposes.⁹²

The Maine Legislature extended "stranded cost" treatment from general long-term contracts to renewable energy contracts through P.L. 2019, Chapter 477. The law required that the MPUC conduct two competitive solicitations "to procure an amount of energy or [renewable energy credits (RECs)] from Class 1A resources equal to 14% of retail electricity sales during calendar year 2018, or 1.715 Million MWh."⁹³ The Commission was further required to meet at least 7%, but not more than 10%, of this requirement by December 31, 2020. In response, the MPUC ultimately approved 17 separate long-term contracts.⁹⁴

Ongoing stranded costs include "net costs from newer contracts authorized pursuant to specific statutory provisions."⁹⁵ That is, contract costs not recovered from the sale of resource energy and capacity are recoverable through distribution rates, similar to legacy stranded costs. Rather than auctioning these new entitlements, however, Maine utilities sell their newer contract positions directly into the wholesale market. CMP and Versant Power collectively have 21 active (i.e., operational) long-term contracts in place that obtain energy and/or capacity from wind, biogas, solar, and hydropower generation. The contracts are typically 20-year contracts, but some run as long as 40 years. A summary of these projects can be found in Appendix E.

⁹² MPUC Docket No. 2011-00222. Order (Me. P.U.C. Oct. 26, 2011).

⁹³ MPUC (February 2021). *2020 Annual Report*. maine.gov/mpuc/sites/maine.gov/mpuc/files/inline-files/2020-Annual-Report-Final-Version.pdf.

⁹⁴ Ibid.

⁹⁵ Ibid. Applicable statutes include the "long-term contracting statute (35-A M.R.S. § 3210-C), the Community-based Renewable Energy Pilot Program statute (35-A M.R.S. § 3601-3609), and unallocated language, Section A-6, of the Ocean Energy Act (Public Law 2009, c. 615)."

III. ELECTRIC POWER INDUSTRIES IN OTHER RESTRUCTURED STATES

A. Restructured States

Thirteen states and the District of Columbia (D.C. or District) have restructured portions or all of their electric utility industries and allow customer retail choice.⁹⁶ In addition, several states have taken steps toward restructuring their retail markets—or implemented retail choice and then subsequently reversed course—but do not have full open access and retail choice.⁹⁷ **Although each state’s goals for restructuring its electricity industry reflect state-specific priorities, all generally intended to increase competition as a way to achieve lower prices and improved products and services for consumers without compromising reliability and other state energy goals.** The following sections identify the retail choice characteristics of each of these 13 states and D.C., and indicate which characteristics are most prevalent and thereby signify the common practices employed to help achieve the broad policy goals listed above.

B. Characteristics of Retail Open Access States

The following subsections and corresponding tables exhibit key market, regulatory, and policy characteristics for retail open access states and D.C. The purpose of these tables is to summarize the retail choice and Standard Offer Service (SOS) landscape in the U.S. and to compare this landscape with both **Maine’s current policies and the recommendations** contained in this report.⁹⁸

1. ISOs/RTOs

Independent System Operators (ISOs) and Regional Transmission Organizations (RTOs) are private entities that oversee the operation of the regional electric grid; administer spot energy, capacity, and ancillary services markets; provide certain ancillary services; monitor transmission reliability; and dispatch generation resources to ensure reliability and minimize costs. There are seven ISOs/RTOs that oversee activity on regional electric grids in the U.S. The ISOs/RTOs evolved from regional power pools (for example, the New England Power Pool, or NEPOOL) following the implementation of Federal Energy Regulatory Commission (FERC) Order 888 and Order 2000 in the late 1990s/early 2000s. All

⁹⁶ The 13 states are Connecticut, Delaware, Illinois, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and Texas.

⁹⁷ These states include California, Michigan, Nevada, and Virginia. Several other states have considered retail choice or adopted very limited retail choice, including Georgia, Oregon, and Washington.

⁹⁸ The exact term used for Standard Offer Service, which is relied upon in Maine, differs from state to state. Further, some states use multiple terminologies, such as **“Default Service”** or **“Provider of Last Resort” (POLR)** in addition to SOS. To avoid confusion, Standard Offer Service or SOS is used throughout this report regardless of the term used by the state being discussed unless an alternative term is needed for clarity.

states that have restructured their retail electric utility industries also required utilities and suppliers to maintain membership in the applicable ISO/RTO. Today, the retail open access states are located in five of the ISOs/RTOs: ISO New England (ISO-NE), New York ISO (NYISO), Midcontinent ISO (MISO), PJM Interconnection (PJM), and Electric Reliability Council of Texas (ERCOT), as listed in Table III-1. Suppliers and utilities in retail open access states procure power, ancillary services, and capacity (except Texas), among other services, from wholesale markets administered by these regional authorities.

2. Year of Restructuring and Retail Choice

Restructuring unfolded in stages for most retail choice states. Table III-1 identifies the years when states restructured (i.e., approved legislation initiating restructuring of their electric utility industries) and allowed retail choice (i.e., first gave customers the opportunity to select an alternative supplier). The complicated nature of electric industry restructuring means that, for many of these states, the listed dates are only approximations. For example, Ohio passed its retail choice legislation in 1999 and required utilities to unbundle and opened markets to retail choice by 2001, but did not implement default supply (and full customer choice) until between 2008 and 2011, depending on the utility.

Table III-1. Open Access States: ISO/RTO, Restructuring Timeline, and Enabling Legislation

State	ISO/RTO ^[1]	Year of Restructuring ^[2]	Year of Retail Choice ^[3]	Enabling Legislation/Law
Connecticut	ISO-NE	1998	2000	Public Act No. 98-28, An Act Concerning Electric Restructuring
Delaware	PJM	1999	1999	Electric Utility Restructuring Act of 1999
District of Columbia	PJM	1999	1999	Retail Electric Competition and Consumer Protection Act of 1999
Illinois	PJM/MISO	1997	1999	Illinois Public Utilities Act (PUA) of 1997
Maine	ISO-NE	1997	2000	PL 1997, c. 316 (LD 1804)
Maryland	PJM	1999	2002	Electric Customer Choice and Competition Act of 1999
Massachusetts	ISO-NE	1997	1998	Massachusetts Electric Industry Restructuring Act; 20 CMR 11
New Hampshire	ISO-NE	1996	1998	RSA 374-F
New Jersey	PJM	1999	1999	Electric Discount and Energy Competition Act of 1999
New York	NYISO	1996	2001	N/A ^[4]
Ohio	PJM	1999	2001	Am. Sub. SB 3, the Ohio Electric Restructuring Act
Pennsylvania	PJM	1996	2001	Electricity Generation Customer Choice and Competition Act
Rhode Island	ISO-NE	1996	1998	Rhode Island Utility Restructuring Act of 1996; R.I. Gen. Laws 39-1-27.3
Texas	ERCOT	1996	2002	SB 7 of 1999

^[1] This column lists the predominant ISO/RTO in which the state operates. Many states operate in more than one ISO/RTO; for example, in Maine, CMP and VP-BHD operate within ISO-NE while VP-MPD does not. In Pennsylvania, all of the state's IOUs operate within PJM with the exception of Pike County Light and Power, which operates within NYISO.

^[2] Dates are approximations of when restructuring began based on the year of legislative mandate, as applicable.

^[3] Dates are the first year that any customer was able to switch to a competitive retail supplier. In many states, this process was gradual, with different customer classes able to switch at different times. For example, in Illinois, large & multi-locational customers were offered retail choice in 1999, followed by all non-residential customers in 2000 and residential customers in 2002.

^[4] Not applicable; retail competition was introduced by the regulatory commission, not legislation.

3. Types of Restructured Utilities

States that unbundled electric supply from delivery either required local utilities to comply or made implementation voluntary. In most cases, the approach chosen varied among investor-owned utilities (IOUs), municipally owned utilities (munis), and electric cooperatives (coops). In general, state regulatory commissions have more limited

jurisdiction over munis and coops than over IOUs, and therefore were not able to impose restructuring-related regulations on customer-owned or municipally owned utilities. Table III-2 summarizes how each of the restructuring states addressed IOU requirements compared to those of munis and coops.

Table III-2. Open Access States: Types of Restructured Utilities

State	Utility Type Mandated to Provide Retail Choice	Other Voluntary Providers
Connecticut	IOUs	None
Delaware	IOUs	Coops
District of Columbia	IOUs	N/A ^[1]
Illinois	IOUs	Munis and Coops
Maine	IOUs	Munis and Coops
Maryland	IOUs and Coops ^[2]	Munis
Massachusetts	IOUs	Munis
New Hampshire	IOUs and Coops	None
New Jersey	IOUs	None
New York	IOUs	Public Utility
Ohio	IOUs	None
Pennsylvania	IOUs	None
Rhode Island	IOUs	Munis and Coops
Texas	IOUs	Munis and Coops

Note: IOUs = investor-owned utilities; munis = municipally owned utilities; coops = customer-owned electric cooperatives.

^[1] Not applicable; D.C. has only one IOU and does not have other electricity providers.

^[2] In addition to the four IOUs in the state, retail choice is also required for the state's largest electric cooperative, SMECO.

4. SOS Provider and Power Supply Procurement

In most instances, when a customer does not or cannot choose a third-party retail supplier, the customer's supply is met through an SOS offering. The SOS provider is the entity that sets the requirements for the competitive procurement of SOS services, maintains responsibility for the overall fulfillment of SOS customers' requirements, and pieces together the product that is ultimately provided to SOS customers. That is, the SOS provider acts as the load-serving entity (LSE). While the provider typically conducts the procurement of power supply to ensure the availability and continuity of an SOS offering for SOS customers, and may secure certain wholesale services/products to facilitate the delivery of SOS, the procurement function may be at least partially separate from the function of providing SOS.

The entity responsible for the procurement of SOS supplies is typically responsible for overseeing the development of supply specifications, preparation of the bid documents, solicitation of offers to meet those specifications, post-selection contracting, and ongoing

fulfillment of contracted obligations. These responsibilities are generally conducted in accordance with specific rules set forth by law or regulation, subject to oversight by the **state's regulatory** commission.

The SOS provider is the entity that fulfills the actual ongoing service requirements of SOS customers (i.e., providing SOS customers with electric energy and power). That is, the procurer has a preparation role in SOS, while the provider has an execution role. When SOS supply is sourced from wholesale markets, the SOS provider owns the supply contract(s). The SOS provider can be the regulated utility, which is the most common arrangement, a state agency, or an unregulated third-party supplier, as is the case in Maine. **Each states'** SOS provider is exhibited in Table III-3. The party responsible for SOS procurement is shown in Table III-4.

States may designate different entities to be the SOS procurer and provider because of differences in capabilities and expertise. For example, in New York, the utility is responsible for setting requirements, conducting procurements, and providing the actual supply, and is therefore the SOS procurer and provider. In contrast, in Illinois, the utility manages the provisions of supply, but the Illinois Power Agency (IPA), a quasi-independent government agency, handles procurement and supply contracts, and therefore the SOS provider is the utility and the SOS procurer (for most supply) is the IPA. If both supply procurement and fulfillment are handled by the transmission and distribution (T&D) utility, then states generally require close oversight by their respective regulatory commission to ensure that consumer interests are protected. Such oversight often includes requiring an independent monitor to administer the procurement process and subjecting procurement to commission review and authorization. The SOS provider often serves as the backstop supplier when other wholesale suppliers are unavailable or contracted wholesale suppliers cannot meet their obligations.

**Table III-3. Open Access States:
SOS Provider**

State	T&D Utility	Third Party
Connecticut	X	
Delaware	X	
District of Columbia	X	
Illinois	X	
Maine		X
Maryland	X	
Massachusetts	X	
New Hampshire	X	
New Jersey	X	
New York	X	
Ohio	X	
Pennsylvania	X	
Rhode Island	X	
Texas		X

Note: T&D = transmission & distribution.

**Table III-4. Open Access States: SOS
Procurement Responsible Party**

State	T&D Utility	State Agency	Third Party
Connecticut	X		
Delaware	X		
District of Columbia	X		
Illinois ^[1]	X	X	
Maine		X	
Maryland	X		
Massachusetts	X		
New Hampshire	X		
New Jersey	X		
New York	X		
Ohio	X		
Pennsylvania	X		
Rhode Island	X		
Texas			X

Note: T&D = transmission & distribution.

^[1] The Illinois Power Agency oversees the bulk of SOS procurement, while the T&D utility makes supplemental spot market transactions.

5. Low-Income Customer Rules

There may be specific rules regarding SOS procurement and participation in retail choice for low-income customers. How state regulators define low-income customers varies but is often tied to participation in specific assistance programs for low-income households, eligibility for which is generally tied to an index of the federal poverty level. States pay special attention to low-income customers to protect them from possible exploitation and to ensure that assistance program funds are being wisely spent. Table III-5 identifies restructured states that have rules regarding participation in retail choice by low-income residential customers.

6. Anti-Gaming Rules

States may have rules in place to prevent customers from switching between **standard offer and retail supply services to minimize “gaming,” meaning taking advantage** of temporary differences in prices in a manner that may disadvantage other customers. These rules are present to reduce load risk and transaction costs that increase SOS supplier bids and adversely affect other SOS customers. The rules may vary between small and large customer classes because of differences in the structure of SOS rates such that the opportunities to benefit from strategically switching between SOS and competitive service are not present. States establish anti-gaming provisions in statute, in commission rules, or in utility and supplier tariffs (which are subject to commission review and authorization).

Table III-5 indicates whether specific rules are in place that limit the ability of customers to migrate into or out of SOS.

Table III-5. Open Access States: Existence of Low-Income and Anti-Gaming Rules

State	Low-Income Customer Rules ^[1]	Anti-Gaming Rules
Connecticut	Yes	Yes
Delaware	No	No
District of Columbia	No	Yes
Illinois	Yes	Yes
Maine	No	Yes
Maryland	Yes	No
Massachusetts	No	Yes
New Hampshire	No	No
New Jersey	No	Yes
New York	Yes	No
Ohio	Yes	No
Pennsylvania	Yes	No
Rhode Island	No	No
Texas	No	No

^[1] Specifically addressing residential customers.

7. Products Used to Meet SOS Obligations

SOS providers can meet their SOS obligations in a variety of ways. The specific products purchased may be established by law or regulatory commission regulation. In some cases, the SOS provider has discretion over how it meets its obligations and can periodically propose alternative methods subject to review and approval by the regulatory commission. These products are often procured through one of several possible competitive procurement mechanisms, described below. Different products may be combined to build an SOS portfolio. Wholesale products used to meet SOS obligations by the states that have restructured their electric utility industries include:

- **Full-requirements, load-following contracts (FRCs):** An FRC is a contract to meet a specified percentage of the load (usually referred to as a “tranche”) for a particular class for a designated duration. This means that each successful bidder must adjust the amount of energy that it is supplying to the SOS provider on a real-time basis, as the load level varies with the day of the week, the time of day, weather conditions, business conditions, and other relevant factors that affect electricity usage. Typically, the wholesale supplier provides not only the energy but also the associated capacity, ancillary services, transmission to the distribution utility service area, and adequate Renewable Energy Credits (RECs) to meet the state’s renewable portfolio standard (RPS).⁹⁹ This arrangement means that the wholesale supplier bears risk not only

⁹⁹ In place of or in addition to RECs, the wholesale supplier may also supply resources necessary to support alternative clean energy standards.

associated with normal fluctuations in load, but also the load risk associated with migration into and out of SOS.

- Spot market purchases: Supply is bought in the spot market (i.e., day-ahead or real-time markets administered by the ISO/RTO) to balance supply and load requirements. Note that energy may be purchased from the spot market or sold to the spot market. Because the spot market is characterized by prices that are constantly changing in response to overall load conditions as well as supply conditions (e.g., power plant availability, fuel prices), SOS portfolios that rely on the spot market to meet some portion of the overall SOS load requirement will have a mismatch between costs and revenues. This mismatch will need to be brought into alignment, typically over a calendar quarter, through a reconciliation adjustment. This adds a degree of uncertainty, which is typically small, to the SOS price on a going-forward basis.
- Long-term contracts: Long-term contracts refer to contractual arrangements for supply over a multi-year period. These contracts can be for fixed quantities of energy **or for a specified percentage of a particular generation resource's output up to 100%**. There is no universally agreed-upon definition of how long a contract needs to be to **qualify as "long term."** Typically, power supply contracts are considered long term if **they are of five years' duration or longer.** Common long-term contract arrangements specify a price per megawatt-hour (MWh) which can escalate over time. The contracts may also include capacity and RECs. These types of arrangements, also known as power purchase agreements (PPAs), are increasingly common for renewable energy projects since they provide the project developer with a reasonably assured income stream over time and provide the purchaser **with a seller's commitment to supply** energy (and perhaps capacity and RECs) over a long term at known prices.
- Block products: A block product provides for a specific fixed amount of supply for a specific time period. Block products can be specific to time of use (TOU) (e.g., on-peak versus off-**peak hour blocks**). **Blocks can also be specified as 'round-the-clock (RTC)** blocks, i.e., all hours. If an SOS provider relies on block products to meet a portion of its SOS load obligation, then it will also need to procure spot purchases to match actual load with procured supply resources.
- Financial hedges: Financial mechanisms are a way to help insulate the SOS provider, and by extension the customers served through SOS, from certain market fluctuations. These types of arrangements are not common for SOS providers. The same sorts of benefits associated with financial contracts can be obtained through the contracting terms associated with the types of power supply products described above.

A combination of the above products can be used to meet agreed-upon supply portfolio characteristics that typically include favorable prices, stable prices, and prices that are reasonably reflective of market conditions, among other goals that may include environmental and reliability considerations.

There are two approaches that can be used to achieve stable SOS prices. One method entails heavy reliance on long-term contracts at fixed prices. Using this approach, however, conflicts with having SOS prices reflective of market conditions. To the extent that SOS prices are not reflective of the then-current wholesale power markets, competitive electricity suppliers (CEPs) can have difficulty competing with SOS.

The alternative approach to obtain enhanced levels of price stability while still being able to reasonably reflect market conditions is the use of laddered contracts. Laddered contracts entail the procurement of wholesale products that are temporally diversified, that is, not all products are purchased at the same time (thus reducing exposure to market risk) and the contracts expire at different times. This means that when one contract, or set of contracts, for wholesale power expires and is replaced with another at prevailing market prices, other contracts in the portfolio remain unaffected. Hence, the change in the weighted average price of the portfolio is only affected by the portion of the portfolio being repriced. This method, therefore, can represent a reasonable compromise between price stability and having the portfolio embody then-current market conditions.¹⁰⁰ The laddered procurement approach, which reduces market risk through diversification in the timing of purchases, is used by most of the states that have restructured their electric utility industries. Table III-6 provides a summary of the most common wholesale supply products used to meet SOS requirements and indicates which states ladder supply products.

¹⁰⁰ As a concrete example, Baltimore Gas and Electric Company in Maryland purchases wholesale products to meet its residential SOS obligation using two-year FRCs with 25% of the portfolio expiring (and being replaced) every six months. Every six months, therefore, the SOS price changes, but changes only to incorporate a change in one-quarter of the overall portfolio rather than all of the portfolio.

Table III-6. Open Access States: Predominant Wholesale Supply Characteristics for SOS

State	FRCs	Block and Spot	
		Laddered	
Connecticut	X		X
Delaware	X		X
District of Columbia	X		X
Illinois		X	X
Maine	X		
Maryland	X		X
Massachusetts	X		X
New Hampshire	X		
New Jersey	X		X
New York		X	X
Ohio	X		X
Pennsylvania	X		X
Rhode Island	X		X
Texas	N/A	N/A	N/A

Note: FRCs = full-requirements, load-following contracts;
N/A = not applicable.

8. SOS Procurement Method

There are several commonly used methods by which the wholesale SOS power supply is procured. The two main approaches used are:

- **Reverse auction:** In a reverse auction, participants bid successively lower prices during the auction period until either no additional bids are made or the specified time period for the auction expires. One type of reverse auction is the descending-price clock auction. In some variations of the descending-price clock auction, there is a "hard clock," that is, the auction concludes after a pre-established duration (e.g., 30 minutes). Other descending-price clock auctions will have a "soft clock" and add some small amount of time to the clock (e.g., two minutes) if a bid is received close to the prescheduled termination of the auction. Some reverse auctions are only for the load requirements of a specified SOS class or classes (e.g., residential and small non-residential), while other reverse auctions will be conducted for multiple classes simultaneously and allow bidders to shift their bids from one class to another as the auction progresses. Typically, in descending-price clock auctions each winning bidder is paid the price that it bids. Another reverse auction variant is structured such that the auction consultant specifies a price, and the bidders indicate the number of tranches (and for which customer classes) they are willing to supply at that price. In successive auction rounds, the price is adjusted until the number of

tranches bid equals the number of tranches required. In this auction variant, all winning bidders are paid the auction clearing price.¹⁰¹

- Sealed bid: This approach entails suppliers submitting confidential bids in response to an RFP issued by the procurement entity. Under this method, the procurer evaluates the bids based on a set of criteria and awards wholesale supply contracts to those suppliers with the most favorable bids. Once the bids are received and the successful bidders identified, the results are typically submitted to the regulatory commission for review and authorization for acceptance by the SOS procurer. Because the wholesale suppliers are only willing and able to hold the bids open for a relatively short time, the commission generally needs to evaluate and approve (or reject) the proposed winning bids within a tight window, for example, just a few hours or a single day.

One of the principal factors affecting the selection of the method of wholesale supply procurement is the size of the procurement. Because the reverse auction approach tends to be more costly to administer, smaller procurements typically rely on the sealed-bid approach.

For most procurement approaches, the bidders intending to participate are required to submit certain information to the SOS procurer prior to the date of the auction or the deadline for the sealed bid that demonstrates their ability to fulfill the terms of the contract. This can include evidence of financial capability, financial security or a binding financial commitment to protect ratepayers in the event of supplier default during the term of the contract, evidence of membership in the ISO/RTO, and certain other documents. These documents are reviewed in advance of the date of procurement to eliminate those potential suppliers that do not meet specified threshold criteria. In so doing, the SOS procurer can more quickly evaluate and identify acceptable bids. If the SOS procurer is not able to commit to a relatively quick selection, the bidders would be forced to include additional risk premiums into their bids to the detriment of SOS customers. Table III-7 summarizes the SOS procurement methods used in each state. Utilities within a state may use different methods or use the spot market to supplement their procurement; therefore, multiple methods may be indicated for one state.

¹⁰¹ New Jersey employs this approach in its Basic Generation Service (BGS), or SOS, auctions.

Table III-7. Open Access States: SOS Procurement Methods

State	Sealed-Bid Auction	Descending Price Clock	Spot Markets
Connecticut	X		
Delaware		X	
District of Columbia	X		
Illinois	X		X
Maine	X		
Maryland	X		
Massachusetts	X		
New Hampshire	X		
New Jersey		X	
New York	X	X	X
Ohio		X	
Pennsylvania	X	X	X
Rhode Island	X		
Texas	N/A	N/A	N/A

Note: N/A = not applicable.

9. SOS Rate Design

The design of SOS rates has the primary purpose of fully recovering the cost of providing service. Additionally, the rate design may be used to influence how customers consume energy and to incentivize certain behavior. Most SOS rates are based on one of several standard rate structures:

- **Flat fixed prices:** Rates are established in advance of usage. A typical residential flat fixed price would entail, for example, a set charge per kilowatt-hour (kWh) over a defined period, e.g., CY 2023. Flat fixed prices are invariant over seasons and the time of day. Another version of flat fixed prices is a block-price arrangement, where an initial amount of usage, for example, 200 kWh, is priced at one level and all additional kWh are priced at a different level. The initial block may be set up as a fixed charge, which would include the customer-related charges (e.g., meter costs, bill preparation, etc.) and a modest amount of usage (e.g., 50 kWh), with all additional kWh priced on a per-kWh basis at fixed prices.
- **Seasonal fixed prices:** Seasonal fixed prices, established in advance of usage, vary by month or by season to reflect the differences in the cost of generation over the course of the year. Generation costs differ by season due to multiple

factors, including variations in demand,¹⁰² differences in power plant availability,¹⁰³ and differences in renewable generation.¹⁰⁴

- Time-of-use pricing: TOU pricing, again established in advance of usage, entails pricing consumption at different rates during different times of the day to promote modification of usage patterns, usually to off-peak periods from on-peak or shoulder-peak periods. TOU rates can be used to more accurately reflect the cost of providing service and reduce the amount of cross-subsidization from one group of customers to another. In general, peak period rates are in effect during weekday morning, daytime, and early evening hours. All remaining hours are either off-peak or could be separated into shoulder-peak and off-peak. The TOU periods may also vary by season (i.e., summer peak hours may not be the same as winter peak hours).
- Real-time pricing: Under real-time pricing, rates change as wholesale market prices change and typically adjust for each settlement period, for example, each hour. Real-time prices are sometimes the default industrial SOS rate under the notion that large commercial and industrial (C&I) customers are in the best position to participate in the competitive retail market. If the only SOS rate available to large C&I customers is a real-time rate, those customers have a strong incentive to move to the competitive market to avoid exposure to real-time prices and the extreme price volatility inherent in real-time prices.

The applicable SOS rate design, like the SOS product, generally varies by customer class; residential and small non-residential customers usually receive flat fixed prices or seasonal fixed prices, while larger C&I customers receive TOU prices or hourly prices. It should be noted that TOU pricing is sometimes available to residential customers, either as a default rate or as an optional rate. Table III-8 lists the rate design options for two broad categories: small customers, which include residential and non-residential customers, that include medium and large C&I customers. If small non-residential customers are not distinguished from other commercial customers within a state, then it is not included in the small customer category in Table III-8.

¹⁰² For example, demand for electricity in Maine is much higher in the winter months than in the summer months.

¹⁰³ Power plants are periodically unavailable due to forced outages, scheduled routine maintenance and, in the case of nuclear power plants, refueling. Power plant scheduled outages are coordinated with the ISO/RTO.

¹⁰⁴ For example, fewer hours of sunlight in the winter months reduces the output of solar facilities.

Table III-8. Open Access States: General SOS Rate Design		
State	Small Customer Rate Design^[1]	Other Non-Residential Customer Rate Design
Connecticut	6-month FPR	Monthly FPR; TOU
Delaware	6-month FPR	Monthly FPR; variable, hourly pricing ^[2]
District of Columbia	Seasonal FPR	Seasonal FPR; TOU
Illinois	Seasonal FPR	Variable, hourly pricing ^[3]
Maine	12-month FPR	Monthly FPR; TOU or index pricing
Maryland	Seasonal FPR; TOU	Seasonal FPR; 3-month FPR; annual FPR; TOU variable, hourly pricing ^[4]
Massachusetts	6-month FPR ^[5]	3- or 6-month or monthly FPR ^[6]
New Hampshire	6-month FPR ^[7]	Monthly FPR
New Jersey	Seasonal FPR; TOU	Seasonal FPR; TOU; variable, hourly pricing
New York ^[4]	Monthly or bi-monthly FPR; blended rates from all purchases	Monthly or bi-monthly FPR; variable, hourly rates
Ohio	Seasonal FPR	Seasonal FPR
Pennsylvania ^[4]	Either 3- or 6-month FPR	3- or 6-month FPR; variable, hourly pricing; spot market
Rhode Island	6-month FPR	6-month or monthly FPR ^[8]
Texas	Monthly VPR	Monthly VPR

Note: FPR = fixed-price rate; TOU = time-of-use; VPR = variable-price rate.

^[1] Small customers include residential and/or small non-residential customers, depending on how individual states differentiate their customer classes.

^[2] The default rate varies by rate class.

^[3] There are some exceptions for customers not classified as competitive.

^[4] The rate design for customer classes varies by utility.

^[5] Customers are put on the 6-month rate design; however, customers can elect to switch to the other type of rate. Unitil has a pilot residential TOU program under basic service.

^[6] Customers are put on monthly rates; however, customers can elect to switch to the other type of rate.

^[7] Unitil allows small and medium customer classes to choose between one FPR for six months or monthly FPRs. Unitil also has a pilot residential TOU program.

^[8] General and large C&I customers can switch between monthly and 6-month rates once per year.

10. Costs Included in the SOS Rate

SOS service can include various cost components in addition to energy and, as such, the price that SOS customers pay may encompass multiple cost categories. These cost categories typically include:

- Ancillary service – includes a broad range of costs that are necessary for the proper functioning of the grid, such as voltage regulation.
- Network transmission – covers the costs associated with high-voltage transmission from trading hubs to the utility service area.
- Capacity – the costs of making available generating capacity on the grid.

- RPS – includes the cost of RECs and administrative costs associated with procurement of RECs.
- Administrative – includes auction, RFP, and other related service costs needed to procure the power supply to meet SOS obligations.
- Certain ISO/RTO charges and fees.
- Uncollectibles – charges to make up the difference between billed charges and payment receipts.

SOS charges can also be subject to an adjustment or reconciliation rider.

Reconciliation is the difference between the supply and procurement costs and the revenue generated by the SOS provider for that service. The reconciliation may result in either a credit to the SOS customer, or an additional cost. Where all the wholesale supply contracts are fixed-price FRCs, reconciliation charges/credits tend to be modest. If, however, there is a spot market resource in the SOS supply portfolio, or if there are TOU rates that are supplied through fixed-price contracts, the reconciliation charges/credits can be larger.

The obligation to secure and pay for the various charge components differs from state to state. For example, in Maryland, the cost of transmission to the utility service area is recovered through distribution rates. In Pennsylvania, transmission costs to the utility service area are paid by the wholesale supplier and those costs are included in the price bid by the supplier to the SOS provider. Similarly, in some states, some or all of the RPS compliance costs may be borne by the SOS provider while in other states that cost is included in the bid price of the wholesale supplier.

11. Renewable Portfolio Standard Fulfillment

RPS requirements for SOS supply can be the responsibility of the local utility and satisfied through its regular procurement methods, or through separate auctions to meet the RPS requirements of SOS customers.¹⁰⁵ The RPS requirements may also be the obligation of other entities entirely, such as a state agency or a third-party LSE, or multiple parties.¹⁰⁶ The entity responsible for RPS compliance in each state is listed in Table III-9.

¹⁰⁵ In this report, the term “renewable portfolio standard” (RPS) is used interchangeably with “clean energy requirements” or other terms used to denote state-mandated requirements related to the procurement of renewable or clean energy.

¹⁰⁶ For example, a state agency might procure a portion of the requirement and the local utility procuring the remaining portion.

Table III-9. Open Access States: Renewable Portfolio Standard Responsible Party

State	Responsible Party
Connecticut	Retail/wholesale suppliers ^[1]
Delaware	EDC
District of Columbia	Retail/wholesale suppliers
Illinois	IPA/EDC ^[2]
Maine	Retail supplier
Maryland	Retail/wholesale suppliers
Massachusetts	EDC
New Hampshire	EDC
New Jersey	Retail/wholesale suppliers
New York	EDC/state agency ^[3]
Ohio	EDC
Pennsylvania	Retail/wholesale suppliers
Rhode Island	Retail/wholesale suppliers
Texas	Retail supplier

Note: EDC = electric distribution company; IPA = Illinois Power Agency.

^[1] Connecticut, through its Department of Energy and Environmental Protection, held a one-time, long-term procurement of RPS projects in 2015 through the authority under Connecticut Public Act 15-107.

^[2] The IPA is responsible for procurement, but the EDC has the financial obligation under the contracts.

^[3] Utilities procure some renewable energy credits (RECs) by auction, but also procure a portion of the RECs needed to meet the state RPS from a state agency.

12. Billing

For customers that switch to a CEP, there can be up to three options for how customers can receive the distribution and supply portions of their bills: Dual billing, utility consolidated billing (UCB), and supplier consolidated billing (SCB). The first, dual billing, is when the customer receives the distribution portion of the bill, along with other approved riders, taxes, and charges, from the local utility and the supply portion of the bill from the CEP. The customer receives two bills with charges that are recovered and paid to each entity separately. Under the UCB billing structure, customers receive one bill from their local utility that has both the distribution and supply charges. The bill is paid to the local utility and the CEP is reimbursed for the supply portion of the bill.¹⁰⁷ Finally, SCB is equivalent to UCB except it is managed by the CEP. The customer receives one bill from their retail supplier with both distribution and supply charges. The supplier then remits the distribution portion to the local utility. To date, only Texas permits SCB. Maryland has approved SCB following an extensive stakeholder process, and SCB will begin in Maryland sometime in

¹⁰⁷ There may be instances when the customer has outstanding charges or does not pay the bill in full. Depending on the requirements in the state, there is a payment hierarchy that determines which portions of the obligation to the utility and supplier are paid first.

2023.¹⁰⁸ Table III-10 in the following section exhibits the billing options available in each state.

13. Purchase of Receivables Arrangements

States may authorize arrangements between the local distribution utility and CEPs for the purchase of receivables (POR) from the CEPs. One purpose of these arrangements is to reduce settlement conflicts when using UCB, e.g., who receives remittance first in the event of partial payment. POR by the utility can also reduce risk for retail suppliers by eliminating the potential of having to incur bad debt. This, in turn, can decrease economic discrimination (i.e., selectivity based on perceived or actual payment risk) and decrease switching frictions for customers by reducing the need for credit checks. Both factors can facilitate greater participation in the supply market and facilitate competition. They also, however, can create perverse incentives to target customers with low likelihood of bill payment.

Under a utility POR arrangement, the local utility reimburses retail suppliers for some **or all of their outstanding debts from retail supply customers within that local utility's** service territory. The local utility may pay for CEP receivables at full price or at a discounted rate that would allow the utility to recover the average non-payment exposure. These arrangements typically require that the CEP use UCB. There have been instances where CEPs have experienced well above average uncollectible rates. Some utilities, for example, the FirstEnergy utilities in Pennsylvania, have implemented rules (with regulatory commission authorization) that, if CEPs avail themselves of the POR arrangements, there **are penalties for excessive uncollectible billings if the CEP's** retail supply price is also significantly in excess of the SOS price. Table III-10 lists which retail restructured states offer POR.

¹⁰⁸ See: Maryland Public Service Commission Administrative Docket RM 70, *Revisions to COMAR 20.51, 20.53, 20.54 and 20.59*. COMAR Rulemaking Session 160 February 3, 2022.

Table III-10. Open Access States: Billing Options and Purchase of Receivables

State	UCB	Dual	SCB	POR
Connecticut	X			X
Delaware	X	X		X
District of Columbia	X	X		X
Illinois	X	X		X
Maine	X			
Maryland	X		X	X
Massachusetts	X	X		X
New Hampshire	X	X		X
New Jersey	X	X		X
New York	X	X		X
Ohio	X	X		X
Pennsylvania	X	X		X
Rhode Island	X			X
Texas			X	

Note: UCB = utility consolidated billing; Dual = dual billing;
SCB = supplier consolidated billing; POR = purchase of receivables.

14. Net Metering

Customers may meet some of their energy requirements through, for example, customer-owned, behind-the-meter solar panels or community-owned generation (in which individuals are effectively allocated a share of operation production). When net metering policies exist, energy from these resources can displace energy requirements from the SOS provider or a CEP. Typically, the customer's energy consumption over the course of the billing period is netted against self-generation (or community generation) over the same period. If there is excess generation over the billing period, that is, self-generation by the customer exceeds the amount of energy consumed in the month, the utility may buy the excess at a market rate or carry forward the generation and net the residual against consumption in a future month. In net metering transactions, some entity must be responsible for the physical and financial transaction of reconciling the energy used and generated by the customer as well as payment for use over or under the generated amount (as applicable). The responsible party could be the local utility, the CEP, or the wholesale supplier, as shown in Table III-11.

Table III-11. Open Access States: Net Metering Arrangements

State	Responsible for Net Metering Reconciliation
Connecticut	EDC
Delaware	EDC
District of Columbia	EDC and retail supplier ^[1]
Illinois	EDC and/or retail supplier ^[2]
Maine	EDC
Maryland	EDC
Massachusetts	EDC
New Hampshire	EDC or retail supplier
New Jersey	EDC
New York	EDC
Ohio	EDC
Pennsylvania	EDC or retail supplier
Rhode Island	EDC
Texas	Retail supplier

Note: EDC = electric distribution company.

^[1] If the supplier offers net metering, then it is both the supplier's and EDC's responsibility. If a supplier does not offer net metering, then it is only the EDC's responsibility.

^[2] Both suppliers and EDCs are required to provide net metering service and compensation for customers up to a certain usage level, but how the suppliers and EDCs share that responsibility is not well defined.

C. Overview of Key Characteristics, by State

This section addresses how each of the restructuring states has addressed the broader issues related to implementing retail open access in electricity.¹⁰⁹ As shown earlier in Table III-1, all of the states that have implemented electric industry restructuring enacted legislation in the late 1990s and began to open retail markets in the early 2000s.

Connecticut

Connecticut's two IOUs are mandated to allow customers to participate in retail choice. All customer classes, except low-income customers, can participate in retail choice. The Connecticut Public Utilities Regulatory Authority (PURA) disallowed low-income

¹⁰⁹ For ease of state-by-state comparison, the subsequent overview applies consistent language in several cases, including referring to third-party retail suppliers as CEPs, local T&D utilities as EDCs, default supply as SOS, etc. Actual language used by each state varies, as identified for some states using footnotes.

customers to participate in retail choice in 2018 due to consumer protection considerations but is presently revisiting this decision in response to legislation.¹¹⁰

Customers that do not select a CEP are served by the electric distribution company (EDC) under one of the class-specific SOS tariffs. The EDCs, which are the SOS procurers and providers, obtain SOS supply through sealed-bid tranche auctions that take place every three months, typically in January, April, July and October. SOS supply for all customer classes is procured at the same auctions through separate bids.¹¹¹ The wholesale suppliers bid on tranches representing 10% of the load-following class load for the contract period, that is, FRCs. Participating suppliers must bid on the entire load (i.e., submit pricing for all available tranches) for customers with demands in excess of 500 kW (i.e., large customers). The SOS portfolio is laddered, except for the portfolio of large customers. All bids are required to be submitted as fixed prices. All SOS customers other than the large customers are charged a fixed rate that changes every six months, on January 1 and July 1. The large customer class is charged a fixed rate that changes monthly. Winning wholesale suppliers are obligated to meet the Connecticut RPS requirement. The SOS rate also includes an energy adjustment.¹¹²

CEPs are precluded from offering variable rate contracts and may not charge termination fees to residential customers.¹¹³ CEPs' **accounts** receivable are purchased by the distribution utility at a discounted rate. That rate is updated regularly through PURA proceedings. As of 2022, just over 10% of residential customers have switched service from SOS. A higher percentage of C&I customers have switched, including approximately 40% of medium C&I customers and over 80% of large, or Last Resort, commercial customers, as shown in Figure III-1 on page 66 of this report. (Figure III-1 shows the corresponding percentages calculated on the basis of energy rather than the number of customers.) There are no statutory restrictions on residential customers switching between SOS and third-party supply. However, both EDCs in Connecticut have switching restrictions for certain customer classes.

Delaware

Delmarva Power and Light Company (DPL), Delaware's sole Public Service Commission (PSC)-jurisdictional, investor-owned EDC, is mandated to allow customers to participate in retail choice. Electric retail choice is also offered by the Delaware Electric

¹¹⁰ Pursuant to Connecticut General Statutes 16-245(o)(m), the PURA opened Docket No. 18-06-02RE01 in which it is re-evaluating its decision to disallow low-income customers to participate in retail choice. Low-income customers are those experiencing financial hardship and file for, and are accepted as, "hardship" customers.

¹¹¹ A member of the PURA Staff acts as a procurement manager and oversees the auction process.

¹¹² The energy adjustment is a true-up mechanism so that revenues match supply costs.

¹¹³ Variable rate contracts are retail contracts where the price varies from month to month based on short-term market futures conditions. Customers are typically advised a week or so in advance of the end of the month as to **what the next month's rate will be. Often, there is no firm nexus between market conditions and the new rate.** Several states have taken legal actions against certain suppliers using variable rates for residential customers due to excessively large billings to customers, particularly during periods of temporary market disruption due to extreme weather conditions.

Cooperative (DEC), although currently no suppliers have registered with DEC to provide competitive retail power. All customers are allowed to participate in the competitive retail market. Customers that do not select a CEP receive SOS from the EDC. For purposes of SOS supply procurement, DPL separates its SOS customer types into residential and small non-residential, and three separate C&I categories: medium, large, and general.

DPL procures SOS supply through biannual reverse auctions conducted by an independent consultant. Auctions are typically held in November and January. Approximately 50 MW of SOS load is contracted for in each tranche using FRCs.¹¹⁴ These contracts are laddered. DPL solicits two-year contracts to supply residential and small non-residential SOS customers and one-year contracts for all the remaining SOS customer categories. Tranches are divided into separate bid blocks assigned for each SOS service type, either Fixed Price SOS (FP-SOS) or Hourly Priced Service (HPS).¹¹⁵ The SOS rate reflects costs for energy, capacity, ancillary services, and applicable taxes. A Procurement Cost Adjustment (PCA) also applies.¹¹⁶ The PCA acts as a true-up mechanism and includes interest at a PSC-approved interest rate.

DPL offers UCB and dual billing. Delaware legislation requires that EDCs buy CEPs' accounts receivable when customers utilize UCB. There are no restrictions on customers entering or exiting SOS. As of 2021, just over 10% of residential customers have switched service from SOS. A higher percentage of C&I customers have switched—approximately 30% of small non-residential and medium C&I customers and over 60% of large C&I customers, as shown in Figure III-1.

District of Columbia

D.C. (or the District) has only one regulated IOU, Potomac Electric Power Company (Pepco), which serves as the SOS provider. All customers, including low-income customers, are eligible for retail choice, regardless of customer class.

Each year, Pepco files a Wholesale Full Requirements Service Agreement and RFP for the upcoming SOS solicitation. The D.C. PSC oversees the accompanying auction for a three-year contract supplying one-third of the residential and small non-residential SOS load each year. Under this laddered arrangement, one-third of the residential and small non-residential SOS load is rebid each year. Pepco uses a sealed-bid auction, with up to three tranches of bidding. Large C&I load is procured using 12-month contracts representing 100% of the applicable SOS load. As such, the large C&I SOS portfolio is not laddered. Residential and small non-residential customers are charged under a seasonal (summer or

¹¹⁴ DPL typically procures two tranches each year, one at each auction, unless it does not procure all the necessary load, in which case the utility will hold a third auction for additional load.

¹¹⁵ Very large C&I customers are required to be served under HPS in accordance with Rider HPS. Other C&I customers may elect or be required to be served under HPS. Non-residential customers receive fixed-price service.

¹¹⁶ The PCA is determined annually and set to recover the difference between the actual cost of serving customers in each fixed-price classification and the amount billed to customers for the same time period.

winter) monthly FRC. Large C&I customers are charged either a seasonal monthly FRC or seasonal TOU rates. Pepco procures full-requirements, load-following products, and the SOS suppliers are responsible **for satisfying D.C.'s RPS requirements.**

Customers have a choice of dual billing or UCB.¹¹⁷ Residential customers may switch from SOS to a CEP and return to SOS without restrictions or penalties. Non-residential customers returning to SOS are subject to a 12-month minimum stay requirement. The D.C. PSC allows for municipal aggregation.¹¹⁸ As of 2022, only a little over 10% of residential customers and approximately 30% of non-residential customers have switched from SOS, as shown in Figure III-1. Although only about 30% of non-residential customers have opted for competitive service in the District, approximately 75% of load is served by CEPs. This mismatch is due to the prevalence of federal government load in D.C.

Illinois

Low-income residential customers are precluded from participating in retail open access in Illinois. The three IOUs in Illinois are mandated to allow customer retail choice, while munis and coops can voluntarily offer retail choice.

The EDCs serve as the SOS providers but are not primarily responsible for procuring wholesale SOS supply.¹¹⁹ Rather, most supply is procured by a state agency, the Illinois Power Agency (IPA), subject to oversight by an independent procurement administrator. Supply is procured in blocks twice per year, in spring and fall, for three-year periods that overlap (i.e., supply is laddered). Because most supply is procured as block products, SOS customers bear the risk related to changing load levels. Additionally, because spot market purchases need to be made to balance load with supply, SOS consumers also bear a degree of market risk. The EDCs are responsible for balancing supply blocks with actual load by purchasing/selling in the spot market. The costs of spot purchases and revenues from spot sales are netted monthly to calculate a Purchased Electricity Adjustment. The IPA is also **responsible for meeting the state's RPS. These costs are borne by the SOS provider (i.e., EDCs).** SOS rates are updated twice per year for the summer and non-summer periods. SOS customers can also opt for TOU rates.

Of the electricity customers in Illinois in 2022, approximately 40% of residential and large C&I customers have switched to a CEP, as shown in Figure III-1. This includes aggregation, as Illinois allows customers to receive supply through government

¹¹⁷ Pepco's "Terms and Conditions" tariff allows for the option of SCB, and the Code of the District of Columbia § 34-1501 definitions state: "(8) 'Competitive billing' means the right of a customer to receive a single bill from the electric company, a single bill from the electricity supplier, or separate bills from the electric company and the electricity supplier." However, the PSC has not issued any rules that would indicate that it has implemented SCB or an SCB pilot program.

¹¹⁸ Munis can also adopt competitive retail supply service on behalf of residential customers through opt-out aggregation. Opt-out aggregation means that residential customers are automatically served by the CEP selected by their municipality unless they make the deliberate decision not to participate, i.e., "opt out."

¹¹⁹ SOS service is referred to as Basic Generation Service in Illinois, but is addressed as SOS in this report for the sake of simplicity.

aggregation. Customers who use a CEP can receive their bills through dual billing or UCB. If a customer returns to the SOS provider from a CEP, then the customer must stay with the SOS provider for 12 months.

CEPs can enter into POR agreements with Ameren Illinois and Commonwealth Edison Company, for residential and small non-residential customers. The EDCs buy the receivables at a discounted rate that is regularly updated and approved by the Illinois Commerce Commission (ICC). POR programs are contingent on receiving UCB for Ameren Illinois and Commonwealth Edison Company, the only two companies that offer POR.

Maryland

Maryland's IOUs and its largest coop are required by law to allow customers to participate in retail choice. Munis are not required to offer retail choice; however, they are able to do so upon filing a proposed plan with the Maryland PSC and obtaining PSC approval. All customers in an eligible jurisdiction are free to participate in retail choice.

The SOS procurement auctions of the IOUs are generally held every January, April, June, and October. EDCs procure FRCs using sealed-bid RFPs. Maryland legislation calls for SOS customers to be divided into four classes: Residential, and Types I, II, and III.¹²⁰ Customers are allocated to each of the three non-residential classes based on the **customer's demand characteristics. Maryland's largest** coop, Southern Maryland Electric Cooperative (SMECO), uses different demand criteria for C&I customer class sizing. Residential SOS customers are charged seasonal FPRs or TOU rates.¹²¹ Types I, II, and III customer rates vary depending on EDC and type, but may be charged variable, hourly prices; seasonal FPRs; TOU rates; three-month FPRs; or annual FPRs. The SOS portfolios include laddered products for residential and Type I procurements, but not for Type II and Type III procurements. The specifics of the laddering arrangements vary by EDC and procurement.

SMECO uses a self-managed portfolio approach rather than relying on FRCs, which **are used by the state's IOUs. SMECO's managed portfolio** approach is similar to SMECO acting as a full-requirements supplier. **SMECO's SOS rate is a combination of its Base SOS** rate and its Purchased Power Cost Adjustment (PPCA). SMECO offers seasonal FPRs or TOU SOS rates. The EDCs are required to satisfy **Maryland's RPS**.

¹²⁰ Type I customers are small C&I customers with demands less than or equal to 25 kW. These customers are eligible for Type I fixed-price SOS. Type II customers are mid-size C&I customers with demands greater than the level for Type I SOS but less than 600 kW. These customers are eligible for Type II fixed-price SOS. Type III customers are large C&I customers with demands equal to or greater than 600 kW. These customers are eligible for either Type III fixed-price SOS or hourly priced service (based on PJM hourly locational marginal prices, or LMPs).

¹²¹ Only Baltimore Gas and Electric Company (BGE) and Potomac Electric Power Company (Pepco) have a significant number of residential TOU SOS customers.

Maryland currently allows for UCB and, more recently, SCB.¹²² The EDCs purchase accounts receivable at a discounted rate. Municipal aggregation is currently not allowed in Maryland; however, House Bill 768 – *Montgomery County – Community Choice Energy – Pilot Program*, recently passed by the Maryland General Assembly, allows for a Community Choice Energy Aggregation Pilot Program. The Maryland PSC reports that as of 2022, roughly 15% of residential customers, almost 30% of small non-residential customers, over 45% of medium C&I customers, and 80% of large C&I customers are serviced by CEPs, as shown in Figure III-1.

Massachusetts

The three IOUs in Massachusetts are mandated to allow retail choice, while munis can voluntarily offer retail choice. The Massachusetts Legislature debated whether to eliminate retail choice for low-income customers during its 2022 session, with related legislation proposed but not passed.¹²³ Customers who do not choose a CEP receive SOS from their EDC. Customers may also receive supply from their local government through aggregation.

The EDCs, which operate as the SOS providers (and procurers), are responsible for procuring wholesale SOS supply from third-party wholesale suppliers. The EDCs typically solicit SOS offers every six months for residential and small non-residential customers, and every three to six months for large C&I customers. Procurement is through tranche auctions for each load zone (i.e., Northeast Massachusetts [NEMA], Southeast Massachusetts [SEMA], and West/Central Massachusetts [WCMA]) and residential/commercial/industrial customer classes.¹²⁴ EDCs typically procure 50% of residential and small non-residential load for 12 months, and 100% of large C&I load for three months. The supply portfolio for residential and small non-residential SOS loads is laddered over 6-month periods and customers can choose either a 6-month fixed rate or a rate that varies monthly.^{125,126} Large C&I customers can choose either a 3-month fixed rate or a monthly rate. The large C&I SOS portfolios are not laddered. Winning suppliers are obligated to provide full-requirements, load-following service at a fixed rate that can vary by month. Winning suppliers are not required to meet the Massachusetts RPS requirement, which is instead met by the EDC, that is, the SOS provider.

Any mismatch between SOS revenues and SOS costs is reconciled annually, with interest, and is either credited or billed to SOS customers. Customers can switch between the six-month fixed and monthly rate once during their uninterrupted tenure as an SOS

¹²² SCB will begin in Maryland in 2023.

¹²³ The Massachusetts Senate amendment to S.2842.

¹²⁴ Load zones are distinguished by geographic location (as defined by ISO-NE) and intersect multiple utility service territories.

¹²⁵ Monthly rates are fixed up to six months in advance.

¹²⁶ Unitil has a pilot residential TOU program under SOS, while all three IOUs have optional C&I TOU schedules under SOS.

customer. C&I customers that leave SOS during a three-month price window must pay a market price adjustment. Certain EDCs do not allow C&I customers to switch to a CEP within six months of returning to SOS.

By statute, EDCs are required to purchase the accounts receivable from the CEPs that choose to bill customers through SCB. Once switched to a CEP, customers may opt to either receive a single consolidated bill from the EDC or dual billing, if provided by the CEP. As of 2022, over 55% of residential customers, approximately 65% of small non-residential customers, 75% of medium C&I customers, and roughly 90% of large C&I customers have switched from SOS service, as shown in Figure III-1.

New Hampshire

The IOUs and coops in New Hampshire, all of which are mandated to provide retail choice, are responsible for providing SOS and procuring the SOS electricity supply.¹²⁷ New Hampshire does not have any restrictions that prohibit participation in retail choice for low-income customers.

SOS supply is procured via FRCs with a 6-month duration.¹²⁸ Depending on the EDC and the size of the SOS supply for each customer class, supply is procured either as a single tranche for 100% of load or several tranches. Each tranche generally starts in either August or February for all customer classes.¹²⁹ Customers are separated into two groups: small and large.¹³⁰ Procurements are not laddered, meaning all supply is procured for the upcoming contract period during each auction for both the small and large customer classes. Bids do not include RPS compliance, which is met by the EDC in its capacity as SOS provider.¹³¹ Small customers are typically served under fixed six-month rates, while large customers receive monthly fixed rates.¹³² SOS revenues and costs are reconciled annually.

As of 2022, a little over 15% of residential customers, roughly 30% of small non-residential customers, 80% of medium C&I customers, and approximately 30% of large C&I customers have switched to a CEP, as shown in Figure III-1. Customers who switched to a CEP may receive their bill through dual billing or UCB. Customers may also switch by participating in opt-out municipal aggregation. EDCs must offer POR to CEPs.

¹²⁷ New Hampshire Cooperative, Inc. (NHEC) allows its customers to enroll in retail choice.

¹²⁸ SOS service is referred to as default service in New Hampshire but is addressed as SOS in this report for the sake of simplicity.

¹²⁹ One of the four EDCs, Liberty Utilities (Liberty), procures SOS supply for large customers in two (2) 3-month blocks during each auction.

¹³⁰ One EDC, Unitil Energy Systems, Inc. (Unitil), has a third customer group, medium customers.

¹³¹ Liberty allows bidders to separately bid for RPS compliance in conjunction with its supply bids but may select a bid with or without RPS compliance included in costs.

¹³² One EDC, Unitil, is unique in that it allows its small and medium customer groups to choose between the six-month fixed and monthly fixed rates. Unitil also has a pilot program for residential TOU SOS.

New Jersey

New Jersey requires all IOUs to provide the option of retail choice. For customers that do not opt to receive service from a CEP, the EDCs are responsible for procuring SOS. EDCs procure this supply through annual statewide auctions.¹³³ All customers in New Jersey are eligible for retail choice. Residential customers are also eligible for government aggregation.

Each year, the New Jersey Board of Public Utilities (BPU) initiates a proceeding that directs the EDCs and stakeholders to file proposals by July 1 to determine how to procure SOS to meet default load for the following year. The BPU makes a decision in late fall **regarding the EDCs' auction proposals. The BPU typically uses an independent consultant for** these procurement services. The independent consultant also assists the EDCs in formulating the design of the auctions and managing the auction process. The typical auction approach utilizes a simultaneous, multiple-round, descending-price clock auction format. For the SOS requirement for residential and small non-residential customers, the EDCs use a laddered procurement structure, where each year one-third of the load is procured for a three-year period. Bidders in the SOS auction bid for the right to serve full-requirements, load-following tranches of SOS load for the residential and small non-residential classes for one or more of the EDCs for a term of three years. Residential and small non-residential SOS customers are charged either seasonal FPRs or TOU rates. The SOS procurements for large C&I customers are not laddered. C&I SOS customers are typically on hourlypriced service, but can elect for seasonal FPRs or TOU rates. **Auction winners are responsible for satisfying the state's RPS.**

C&I customers who return to SOS may be prohibited under certain conditions from switching again for a one-year period; residential customers are not subject to the one-year minimum. New Jersey currently offers its customers the option of dual billing or UCB. All customer classes receiving UCB are eligible for POR. As of 2022, less than 10% of residential customers and approximately 20% of C&I customers have switched from SOS to a CEP, as shown in Figure III-1.

New York

New York's EDCs began restructuring in 1996 through several rate and restructuring settlement agreements authorized by the New York PSC. This is unlike other restructured states where restructuring began following enabling legislation. The IOUs in New York are mandated to allow customers to participate in retail choice; however, residential and small non-residential customers can only participate in retail choice if CEPs can guarantee savings

¹³³ SOS service is referred to as Basic Generation Service in New Jersey but is addressed as SOS in this report for the sake of simplicity.

relative to SOS prices, with the exception of value-added products such as additional renewable energy or home warranty products.^{134,135}

The EDCs in New York are the SOS providers and also procurers of the SOS supply.¹³⁶ To procure SOS supply, EDCs can use long-term contracts, block products, and daily spot market purchases, among other hedging arrangements. The EDCs can ladder their products but are not mandated to do so. Some procurement strategies used by EDCs include descending-price-clock auctions and procurement of block-and-spot pricing. EDCs may also procure energy by load zone and rate class. The strategy is unique to each EDC. SOS supply procurement is subject to PSC review but is largely confidential to ensure the integrity of the procurement process.

Typically, residential customers may have fixed monthly or bimonthly SOS supply rates, while C&I **customers' rates are more variable and depend on hourly or daily market price fluctuations**. Depending on the EDC, the costs of RECs can be included as part of the wholesale procured product or purchased separately by the utility.¹³⁷

If a customer chooses to purchase from a CEP, that customer can receive the bill through UCB or dual billing. EDCs buy CEPs' **receivables** but can either hold the CEP liable ("with recourse") or not liable ("without recourse"). As shown in Figure III-1, as of 2022, less than 15% of residential customers, approximately 20% of small non-residential and medium C&I customers, and approximately 85% of large C&I customers have switched to a CEP.

Ohio

Ohio IOUs are required to allow customers to participate in retail choice, whereas munis and coops are not. The EDCs are responsible for providing SOS.¹³⁸ Low-income residential customers are ineligible for retail choice.¹³⁹

Each EDC typically holds auctions twice per year for full-requirements, load-following service obligations broken down into tranches. SOS supply for all customer classes is

¹³⁴ Retail suppliers cannot serve low-income customers without a waiver. To get a waiver, a retail supplier must exhibit to the PSC that it can guarantee savings to customers.

¹³⁵ SOS service is referred to as default service in New York but is addressed as SOS in this report for the sake of simplicity.

¹³⁶ Municipalities or local governments can also adopt competitive retail supply service on behalf of customers through opt-out aggregation.

¹³⁷ There are two types of RECs that the utilities must procure: one is procured from the New York State Energy Research and Development Authority (NYSERDA) based on load share, and the other can be procured from NYSERDA, self-generation, bilateral trades, or other REC markets. Additionally, New York also procures zero-emission credits (ZECs) for nuclear generators and is in the process of implementing a REC specific to New York City, both of which will be managed by NYSERDA.

¹³⁸ Munis served by an IOU can also adopt competitive retail supply service on behalf of residents through opt-out or opt-in aggregation.

¹³⁹ Low-income customers are customers on the Percentage of Income Payment Plan (PIPP). Eligibility for the program is based on income.

procured in one solicitation. The auctions are conducted in a descending-price-clock format and an independent monitor oversees the auction process.¹⁴⁰ SOS supply is procured under 12-, 24- or 36-month contracts, with service under each contract beginning in June of the starting year; therefore, Ohio relies on laddered contracts for SOS supply. The overlapping contract rates are blended to calculate an average fixed rate that is then allocated to customer classes using cost causation principles and is subject to Public Utilities Commission of Ohio (PUCO) review in the **EDCs' Electric Security Plan cases**.¹⁴¹ Winning suppliers are not obligated to meet the Ohio RPS requirement, which is instead met by the EDC, that is, the SOS provider. EDCs are required to procure **low-income customers' SOS supply separately** from the supply used to serve other SOS customers.

Customers can switch freely between their SOS provider and CEPs. As of 2022, approximately 50% of residential and over 65% of C&I customers have switched to a CEP, as shown in Figure III-1. **Ohio's high percentage of residential shopping customers is due to** high levels of municipal load aggregation in the state. All customers that switch to a CEP have the option of receiving either UCB or dual billing. One utility, Ohio Power Company, offers retail SCB through a pilot program. Additionally, programs for utility purchases of CEP receivables are utility-specific, and only offered by Ohio Power Company and Duke Energy.

Pennsylvania

In Pennsylvania, all customer classes served by utilities under Pennsylvania Public Utility Commission (PUC) jurisdiction are eligible for retail choice.¹⁴² EDCs are obligated to provide SOS unless the EDC successfully argues for a waiver and secures a CEP to provide the service.¹⁴³ To date, this circumstance has not occurred. EDCs are required to file SOS procurement and implementation plans with the PUC and may include a mix of spot market purchases, short-term contracts, and long-term purchase contracts to meet the SOS obligation.¹⁴⁴ Any competitive bid processes used as part of an implementation plan are subject to monitoring by the PUC or a third-party evaluator selected by the EDC in consultation with the PUC.

¹⁴⁰ In a descending-price-clock auction, bidders bid lower prices during the course of the online auction, which has a specified ending time. Some auctions will allow an addition to the amount of allotted time, for example, an additional one or two minutes if a bid is received very close to the end of the auction period. Other auctions are **characterized by a "hard clock," which means that regardless of the bidding history of the auction, the auction will terminate at a prespecified time.**

¹⁴¹ The Electric Security Plan is a filing **that explains the utilities' electric supply and pricing for PUCO review.**

¹⁴² Municipalities or local governments can also adopt competitive retail supply service on behalf of customers through opt-out aggregation.

¹⁴³ EDCs under Pennsylvania PUC jurisdiction are referred to as default service providers, but are addressed as EDCs in this report for the sake of simplicity. Likewise, SOS is referred to as default service in Pennsylvania but is addressed as SOS in this report.

¹⁴⁴ **A "prudent mix" of spot market, short-term, and long-term products can be met with just one category of product for any particular SOS customer class. Long-term contracts can be entered into as a result of auction, RFP or bilateral contract for a period for at least four years but less than 20 years. Long-term procurement contracts are required to be 25% or less of the DSP's projected default service load unless otherwise determined by the PUC.** (52 Pa. Code § 54.186. Default service procurement and implementation plans).

Pennsylvania IOUs submit an SOS plan to the PUC approximately every four years. This arrangement has historically deterred the EDCs from entering contracts that extend beyond the plan period. As a result, overlapping contracts tend to terminate at the same time. This introduces challenges for efficiently diversifying the overall SOS supply portfolio.¹⁴⁵ **EDCs' SOS portfolios are not required by Pennsylvania law or PUC regulations to contain laddered products;** however, the portfolios of the larger utilities do contain such products.¹⁴⁶

The PUC-approved competitive procurement processes include auctions, RFPs, and/or bilateral agreements. In most instances, EDCs procure full-requirements, load-following products. EDCs use either a descending-price-clock auction format or a sealed-bid RFP approach. Other components of the procurement process, such as customer class distinctions and procurement timing, also vary by EDC.

EDCs offer either six-month FPRs or quarterly FPRs for residential and small non-residential customers. C&I customers receive either six-month FPRs, quarterly FPRs, or hourly, variable pricing, depending on customer size and the EDC. Duquesne Light Company (Duquesne), PPL Electric Utilities (PPL), and PECO (formerly the Philadelphia Electric Co.) all offer optional SOS TOU rates to customers. Currently, Pennsylvania offers either UCB or dual billing to its SOS customers. Duquesne, PECO, PPL, and the FirstEnergy utilities all offer POR programs to suppliers for customers enrolled in UCB, but the specifics of the programs differ among EDCs.

Most low-income customers are eligible to switch suppliers; however, a recent settlement agreement in a case involving the FirstEnergy utilities (Pennsylvania Power Co., Metropolitan Edison Co., Pennsylvania Electric Co., and West Penn Power Co.) provides that, **effective June 1, 2023, all customers enrolled in the companies' customer assistance program (CAP) must enroll in SOS.** Currently, CAP customers may shop and take service from a CEP, subject to a price cap. PECO has proposed that low-income customers be unable to shop for a retail supplier.

As of 2021, approximately 25% of residential customers, 40% of small non-residential and medium C&I customers, and 80% of large C&I customers were supplied by CEPs, as shown in Figure III-1.

¹⁴⁵ Some of the utilities in Pennsylvania will now enter into contracts extending beyond the plan year, while others do not.

¹⁴⁶ Pike County Light & Power Company (PCLP), a small IOU in northeast Pennsylvania, is a subsidiary of Corning Energy Corp. PCLP serves a total of approximately 5,000 customers and is too small to garner market interest in obtaining a fixed-price full-requirements, load-following contract at reasonable rates. PCLP instead fulfills its SOS obligation under a special arrangement whereby it purchases power on the NYISO spot market through Orange and Rockland Utilities and enters into financial hedges to fix the prices of some of its spot market supply. See Pennsylvania PUC, Joint Petition of All Parties for Settlement (Public Version), Docket No. P-2018-3002709, November 20, 2018.

Rhode Island

The state's one IOU, Rhode Island Energy, is responsible for providing SOS to customers that do not choose a CEP.^{147,148}

Rhode Island Energy holds sealed-bid auctions to procure fixed-price FRCs for SOS supply tranches. Industrial customer SOS requirements are met through auctions for a single tranche covering the full service period (three months); that is, the industrial product offering is not laddered. Residential and commercial customer SOS requirements, by comparison, are procured in several (five or six) tranches that are laddered for contract periods of six to 18 months. Auctions are held quarterly with new rates put into effect April 1 and October 1 of each year for residential and commercial customers, and January 1, April 1, July 1, or October 1 for industrial customers. The EDC may also engage in financial hedging and spot market purchases to procure any necessary energy not previously procured through contracts for the service period.

As of 2022, less than 10% of residential customers, approximately 30% of small non-residential and medium C&I customers, and over 70% of large C&I customers have switched to a CEP, as shown in Figure III-1. Residential customers must be billed using a fixed six-month price, while industrial customers must be billed using fixed monthly prices. Certain commercial customers can choose between the fixed six-month or monthly prices but can only change between the options once every 12 months. The rates include the costs for the supply, administrative services, RPS compliance, and an adjustment charge, which is addressed through an annual supply and an administrative cost reconciliation mechanism. **The renewable energy to meet the state's RPS is procured by wholesale suppliers that win SOS bids, and is therefore factored into bidding prices.**

For all customers, billing is performed on a consolidated basis by the utility. Additionally, Rhode Island accommodates a POR program wherein the utility buys the **CEPs'** receivables at a slightly discounted rate. The discount is based on the amount of uncollectible revenue and is recalculated annually for each customer class.

¹⁴⁷ Rhode Island historically offered two separate default services: Last Resort Service and SOS. SOS expired in 2020 and, at that time, customers still on SOS were transferred to Last Resort Service. For ease of reference, the **nomenclature "SOS" is used in place of "Last Resort Service" in subsequent references. There is no major difference between SOS and Last Resort Service.**

¹⁴⁸ Municipalities or local governments can also adopt competitive retail supply service on behalf of customers through opt-out aggregation.

Texas

Electric retail choice is available to customers serviced by IOUs located in the ERCOT portion of Texas.¹⁴⁹ Other large IOUs in the state,¹⁵⁰ as well as coops and munis,¹⁵¹ are eligible to offer retail choice but are not currently required to do so.

Texas is unique among restructured states in that it requires all customers to choose a CEP to receive service. Backstop service, called Provider of Last Resort (POLR), is available to customers whose CEP is unable to continue service.¹⁵² POLR service is intended to be a temporary offering and is subject to variable, formula-based pricing. For residential and small non-residential customers, the energy portion of POLR costs is set using the average real-time prices for each customer's applicable load zone during the preceding calendar year, multiplied by 120% or 125%, respectively.¹⁵³ **Medium C&I customers' POLR** energy charges are calculated in a similar manner to small non-residential customers except using average, hourly real-time prices.¹⁵⁴ The energy charges for large C&I POLR customers are assessed using the applicable 15-minute interval real-time price during the actual billing period, multiplied by 125%.¹⁵⁵ All customer classes are also subject to non-bypassable charges and customer charges assessed by the POLR provider, some of which recover T&D and ERCOT costs.

The Public Utility Commission of Texas (PUCT) designates CEPs to provide POLR service for each customer class of each applicable IOU territory; there are no related auctions or procurements. Aside from provider designation, the PUCT does not regulate POLR service differently than other third-party supply service. There is no mismatch between POLR revenues and costs since POLR providers recover their costs on a monthly basis. POLR, as a monthly variable product, is not subject to laddering.

CEPs, including **POLR suppliers, are obligated to meet Texas' RPS requirements.** All billing is handled by suppliers (i.e., SCB) and there is no POR arrangement. Consequently, suppliers can request service disconnects for non-payment subject to certain conditions.

There are no limits on customer switching activity aside from contractual requirements. Almost all customers in Texas actively shop for CEP supply. According to

¹⁴⁹ ERCOT is an ISO overseeing portions of Texas including the utility service territories of AEP Texas Central and North, CenterPoint Energy (CenterPoint), Oncor Electric Delivery (Oncor), and Texas-New Mexico Power (TNMP).

¹⁵⁰ El Paso Electric Co. (EPE), Southwestern Electric Power Co. (SWEPCO), Southwestern Public Service Co. (SPS), and Entergy Gulf States (Entergy).

¹⁵¹ Currently, Nueces Electric Cooperative is the only coop to voluntarily adopt retail choice. Lubbock Power & Light will be the first Texas muni to offer retail choice, beginning in late 2023.

¹⁵² Customers may also opt in to POLR service. For more information, see: puc.texas.gov/consumer/electricity/polr.aspx.

¹⁵³ The applicable price is also capped at 120% or 125% of **the previous calendar year's energy charge, based on** the corresponding multiplier for the customer class.

¹⁵⁴ That is, POLR energy costs are set using a simple average of the actual interval real-time price over each hour of the preceding calendar year.

¹⁵⁵ Subject to a price floor of \$7.25/MWh.

recent ERCOT statistics, as of 2022, 96% of residential customers, 97% of small non-residential customers, and 99% of large C&I customers have a least one observable selection of a supplier since the start of retail choice in Texas.¹⁵⁶

Customer Participation in Retail Choice

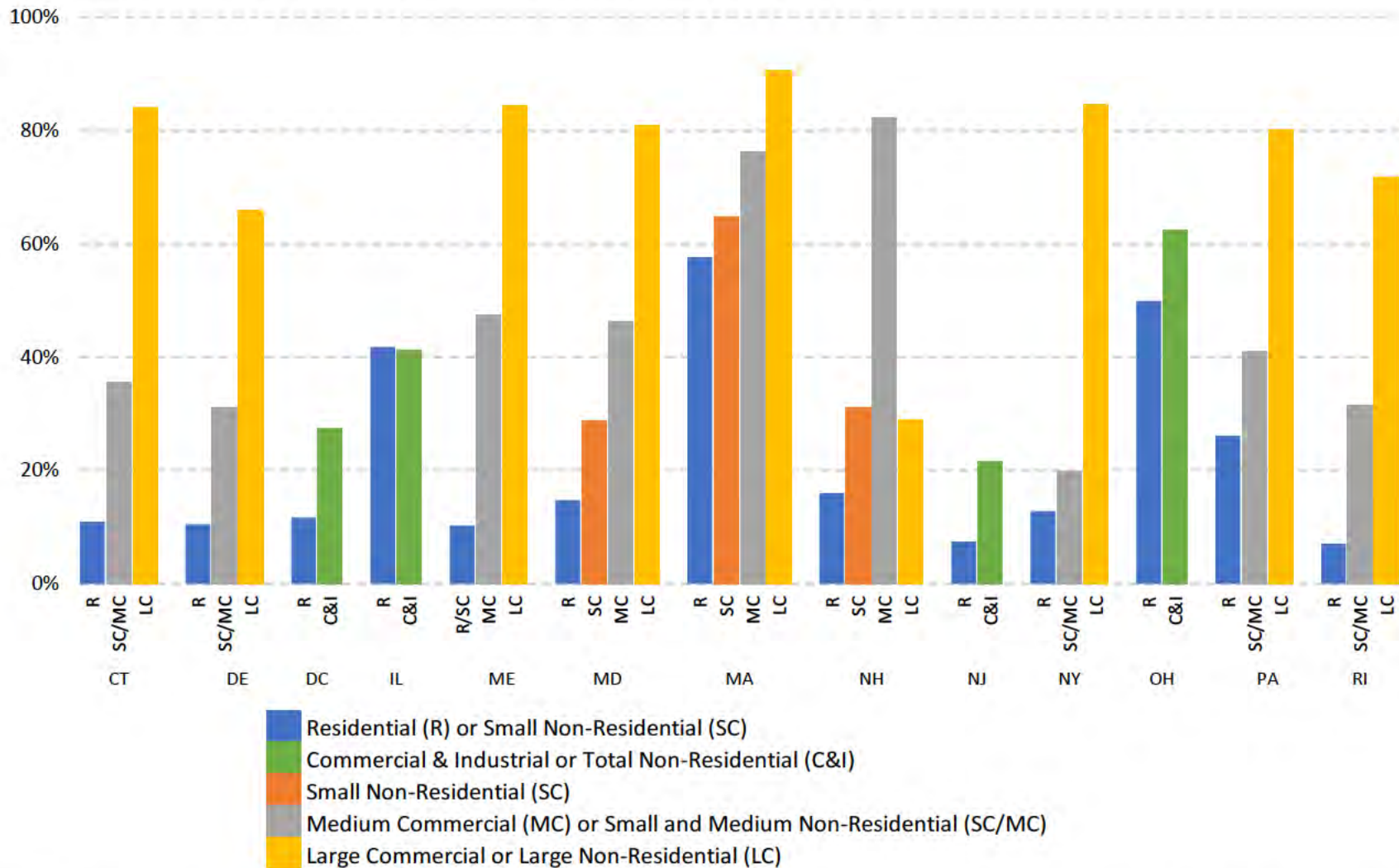
Customer participation in retail choice varies greatly by state due to regulation, characteristics of the available SOS service, characteristics of available retail choice, and other factors. Figure III-1 and Figure III-2 show the percentage of customers, and percentage of load of customers, respectively, who participate in retail choice through a CEP or government aggregation.¹⁵⁷ Where detailed state or utility data were not available, Exeter used U.S. Energy Information Administration (EIA) 2021 year-end data as a proxy.

Typically, large C&I customers buy their supply through retail choice at much higher rates than small residential/non-residential customers. Some outliers, as shown in Figure III-1 and Figure III-2, include Illinois, Massachusetts, New Hampshire, and Ohio. Illinois, Massachusetts, and Ohio residents participate in government aggregation at a high rate compared to other states. States where C&I customer class data include small non-residential customers (D.C., Illinois, New Jersey, and Ohio) show lower-than-average switching rates due to the amalgamation of groups with distinct switching patterns. That is, the average is lower compared to other C&I classes that do not include small non-residential. The low percentage of large C&I customers that participate in retail choice in New Hampshire is due to class definitions. As exhibited in Figure III-1 and Figure III-2, although New Hampshire has a low percent of large commercial customers that have switched to a CEP, most of the large commercial load is served by a CEP. Additional information about the assumptions and data sources used to create these graphs is included in Appendix G.

¹⁵⁶ ERCOT. *Supplemental Information Retail Electric Market December 2021 – December 2022*. ercot.com/files/docs/2022/03/01/Observed_Selection_of_Electric_Providers_December_2022.pptx.

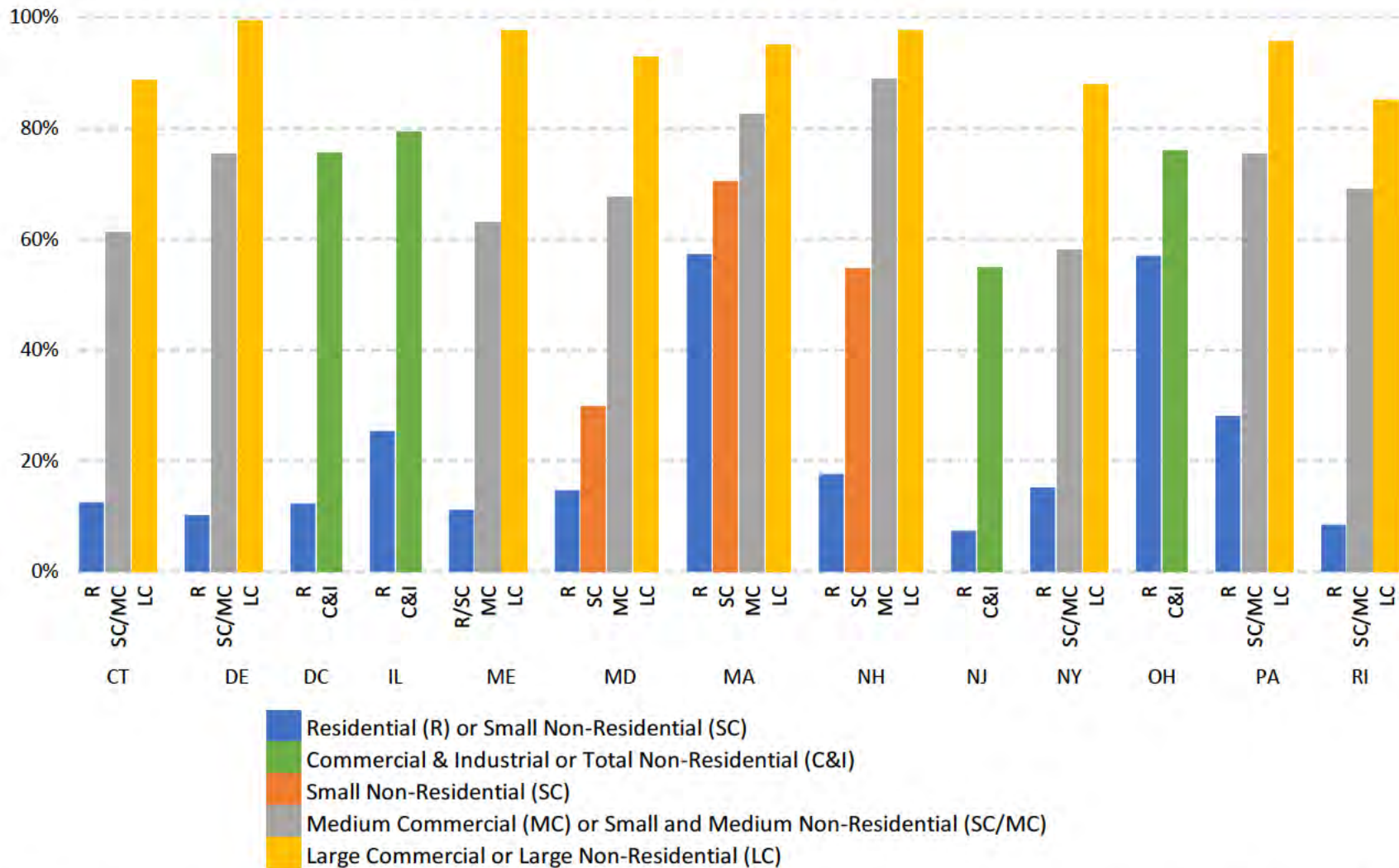
¹⁵⁷ Texas is excluded because all customers must participate in retail choice.

Figure III-1. Percentage of Customers Taking Service from CEPs, by State



Note: The class groupings are rough approximations of the applicable customer class for each state based on available data. Actual class definitions vary. Data are all from 2021 and 2022; however, 2021 is year-end and 2022 data range from August to December 2022, depending on available data. Additional information about the assumptions and data sources used to create these graphs is included in Appendix G.

Figure III-2. Percentage of Customer Load Taking Service from CEPs, by State



Note: The class groupings are rough approximations of the applicable customer class for each state based on available data. Actual class definitions vary. Data are all from 2021 and 2022; however, 2021 is year-end and 2022 data range from August to December 2022, depending on available data. Additional information about the assumptions and data sources used to create these graphs is included in Appendix G.

States with Limited Access

California, Michigan, and Virginia have limited access to retail choice, and either reversed certain retail choice policies or never fully implemented retail choice. At a high level, the limitations in Virginia are that the state only allows C&I customers with peak demand above 5 MW to participate in retail choice. Although there are provisions allowing customers to aggregate multiple accounts to meet the peak demand threshold requirements, the state regulatory commission has previously disallowed such aggregations for public interest reasons. In Michigan, there is a cap on electricity sales that can come from retail choice. This cap, which originated due to reliability concerns, is oversubscribed, and there is a significant waiting list to participate in retail electricity markets. California initially both limited which customer groups can participate in retail choice and set a cap on the percent of supply in the state that can be obtained through retail choice. These California policies were implemented following **the state's** energy crisis in the early 2000s. This report does not address retail choice opportunities in Georgia, Oregon, or Nevada, all of which allow retail choice for select very large customers in very specific circumstances, often subject to utility-specific requirements.

D. Common Characteristics

As shown in Table III-1 through Table III-11, several defining characteristics of SOS have been adopted by a substantial majority of the states that have restructured their electric utility industries. Though some specific details of these characteristics, or the precise manner in which they are implemented, differ from state to state, the following general approaches show a high degree of consistency:

- Entity providing SOS: In 12 of the 14 states that have restructured their electric utility industries, SOS is provided by the T&D utility. The remaining two states, Maine and Texas, select third-party SOS suppliers using a competitive process and rely on competitive suppliers to meet SOS obligations.
- SOS supply procurement: In 11 of the 14 states, procurement of SOS supplies is conducted by the T&D utilities. In Illinois, the procurements for SOS supplies are conducted by a state agency, the Illinois Power Agency. In Maine, third parties procure and structure the SOS supply portfolio to fulfill their SOS service obligations at prices awarded as part of the competitive procurement of SOS services. SOS prices in Texas are set by formula rates and assigned to third-party suppliers.
- Product type for residential and small non-residential SOS customers: All of the restructured states, with the exception of Illinois and New York, rely on FRCs to meet the loads of their residential and small non-residential

customers. New York and Illinois rely on block-and-spot products. Eleven of 14 states employ laddered products as a means of mitigating the variability in the SOS price for residential and small non-residential customers. Maine and New Hampshire are the two states with broad SOS adoption that do not employ laddered contracts; SOS prices for residential and small non-residential customers are therefore subject to the full impact of market changes that have taken place since the prior procurement. Texas relies on a CEP and SOS obligations are exclusively met through month-to-month variable prices.

The precise character of the laddered products, for example, the duration of the contracts, the month designating the start of service, and the amount of time between procurement and the beginning of performance, differ from state to state and often from utility to utility within a state. This strongly suggests that there is no consensus with respect to the optimal arrangements regarding these details even though there is wide agreement regarding the value of laddered contracts.

- Product type for large customers: Most states rely on either monthly FRCs or variable, hourly pricing to meet the loads of large, non-residential customers.
- Method of procurement: Nine of the 14 restructured states rely on sealed-bid auctions and five of the states use a descending-price-clock auction. Pennsylvania employs both approaches, depending on the utility in question. Maine uses the approach favored by the majority of the states that have restructured.
- Consolidated billing: All of the restructured states offer UCB. Only one state, Texas, currently offers SCB. Maryland will permit SCB beginning sometime in 2023.

E. Outlying Characteristics

There are other aspects of SOS and retail choice that are seen less frequently in open access states. Only a handful of states preclude low-income customers from participating in retail choice. The principal concern behind the prohibition of low-income customers participating in retail open access involves the potentially high costs of competitive retail power relative to the SOS price.¹⁵⁸ Ohio takes an additional step whereby distribution utilities must procure SOS for low-income customers separately.

New York is an outlier regarding SOS supply procurement in the sense that procurement details are largely confidential. It is known that New York EDCs may engage in long-term contracts and hedging to procure their SOS supply, but each utility has its own

¹⁵⁸ These high costs potentially undermine the effectiveness of state support.

methods that are not publicly reviewable. The New York PSC also mandates that retail suppliers must guarantee savings for customers in order to receive authorization to serve them.

Illinois relies on a unique arrangement that uses the Illinois Power Agency to procure **supply for the state's SOS customers. The** EDCs still provide the SOS service, but the IPA determines the wholesale product portfolio necessary to meet the SOS supply needs. IPA procures supply subject to oversight by an independent procurement administrator but otherwise has discretion over how it builds a supply portfolio.

Texas' SOS differs from the SOS in all other states because its purpose and function **is entirely different. Texas's SOS is available** only when a CEP is unable to complete service to its customers or if customers opt into the service. Otherwise, Texas requires all **customers to participate in retail choice. Texas's SOS is objectively unattractive** as a means to induce customers to purchase service from a CEP. **Like Maine, Texas's SOS provider is a** CEP.

Unlike other state auctions for SOS suppliers, in New Jersey the bidders in the auction do not bid prices, but rather bid the number of tranches for a specific customer class that they are willing to provide for the price that is indicated by the auction administrator. If, at the specified price, more tranches are bid than are required, the administrator lowers the price, and the auction participants adjust the number of tranches that they would be willing to supply at the new price. This process continues until the number of tranches bid equals the number of tranches needed to be purchased. Under this arrangement, all successful bidders receive the same price, which is the clearing price that is needed to equate the supply of tranches with the number of tranches needed for the respective customer class. Different customer classes can be expected to have different clearing prices; that is, there is no reason to expect that the price to equate the number of bid tranches with the number of tranches needed would be the same for the residential class as it would be for the medium C&I class.

IV. RECOMMENDED IMPROVEMENTS TO MAINE'S SOS

A. Introduction

This chapter of the report addresses methods to improve upon Maine's current approach to providing Standard Offer Service (SOS). To put the recommendations in context, this chapter begins with a brief description of the methods presently used by Maine, along with the implications and risks to Maine SOS customers associated with reliance on existing methods. Then, the chapter reviews possible alternatives and offers recommendations as applicable. For some of the issues addressed, the recommendations can be affected by whether Maine opts to eliminate retail open access for residential customers, as recommended in the aforementioned companion report.¹⁵⁹ Where that is the case, Exeter has included a discussion and alternative recommendations, if warranted, within the relevant section.

In addition, this chapter addresses supplier consolidated billing (SCB). Because this is a competitive market issue rather than an SOS issue, supplier consolidated billing is addressed under a separate, standalone, heading, provided at the end of this chapter.

B. Wholesale Supply Products

Maine's current approach to providing SOS to residential and non-residential customers, as introduced in Chapter 2, entails the Maine Public Utilities Commission (MPUC or Commission) conducting an annual competitive solicitation. The Commission subsequently awards one-year contracts for SOS service for each of the customer classes, for each of the utilities, to the low-cost bidders (subject to certain qualification criteria and procurement diversification goals). Residential/small non-residential contracts are for fixed prices for the one-year term; medium commercial and industrial (C&I) contracts are for fixed prices which vary over the course of the year; and large C&I contracts are selected on the basis of an adder to monthly market forward prices.¹⁶⁰ As such, the Commission is essentially procuring the retail products and the winning bidders are procuring the wholesale products. Because the SOS providers, that is, the firms winning the competitive bids for the provision of SOS, incur the risks associated with providing SOS service for the year, the Commission is largely indifferent to the method by which the wholesale supply is procured.¹⁶¹ For example, a winning bidder could procure service by hedging 50% of the

¹⁵⁹ Susan M. Baldwin and Timothy E. Howington. *Reform of Electricity Supply: CEP-Served Residential Retail Electric Market*.

¹⁶⁰ The new large C&I customer SOS prices are approved by the MPUC for each month of the year about a week in advance of the start of the new month.

¹⁶¹ The bearing of risk differs slightly for the large C&I class since the SOS price changes each month based on changes in the wholesale market. Consequently, the supplier is largely insulated from the incurrence of risk over the year but may opt to expose itself to risk over the course of any given month based on the amount of hedging in which the supplier engages.

supply at a fixed price for the entire year and then use short-term markets to procure the remaining portion of the load. The risk that market prices would increase over the year in this example would be borne by the supplier, not by the SOS customers.

To the extent that Maine adopts alternative arrangements for SOS providers, wholesale supply arrangements may become important. As discussed later in this chapter in greater detail, if the SOS supplier is either the respective transmission and distribution (T&D) utility, as is the case for almost all other states that have restructured their electric power industries, or a new quasi-independent power authority (loosely structured on the Illinois model), the SOS entity will need to be made whole, or at least approximately whole. Consequently, risk over the course of the year is transferred to the SOS customers and the method of wholesale procurement affects the allocation of risk.¹⁶²

1. Current Arrangements

Under ideal circumstances, SOS procurement would be largely the same for the SOS customers of each of the Maine investor-owned electric utilities (IOUs) within a particular class of customers. In Maine, however, there are price and market disparities among the utility territories which have implications for how the SOS supplier is selected. This background, in turn, influences recommended changes to the wholesale procurement approach. As such, the following overview describes the most recent arrangements for each of the companies.

For each of Maine's IOUs (Central Maine Power Company [CMP], Versant Power – Maine Public District [VP-MPD], and Versant Power – Bangor Hydro District [VP-BHD]), the MPUC issued a Request for Proposals (RFP) in September 2022 and requested one-year contract offers. For CMP and VP-BHD residential and small non-residential load, the Commission allowed bidders to bid on either one-third of the load, two-thirds of the load, or all of the load.¹⁶³ For CMP and VP-BHD medium C&I SOS load, the Commission allowed bidders to make offers for either 20%, 40%, 60%, 80%, or 100% of the load.¹⁶⁴ By comparison, the Commission only offered one tranche for 100% the total class obligation for these two classes in the VP-MPD service territory.¹⁶⁵ For the large C&I class, the requested bids for all three utilities were for the full SOS load for CY 2023; that is, the Commission only entertained bids for 100% full-requirements, load-following service to large C&I SOS customers.¹⁶⁶ Pursuant to Maine regulations and MPUC rules, the Commission attempts to

¹⁶² Under the current arrangement, while the SOS provider incurs the risk over the course of the year for which its contract is in place, the SOS customers bear the risk of market price changes from year to year. Specifically, the full cumulative impact of market price changes that have occurred during the course of the year will be reflected in the new bids that are received in response to the solicitation issued by the MPUC for the following calendar year.

¹⁶³ State of Maine Public Utilities Commission, Order dated November 16, 2022, Docket No. 2022-00091 – Maine Public Utilities Commission, Standard Offer Bidding Procedure for Central Maine Power (all classes), Versant Power – Bangor Hydro District (all classes), and Versant Power – Maine Public District (all classes), p. 3.

¹⁶⁴ Ibid.

¹⁶⁵ Ibid.

¹⁶⁶ Ibid.

make SOS awards to at least three bidders for each of the T&D companies, conditioned on the requirement that there are no adverse impacts to SOS customers.¹⁶⁷

For CMP, the largest IOU in Maine, the MPUC announced the selection of three companies to provide SOS to CMP customers. One-third of the residential and small non-residential SOS load in calendar year (CY) 2023 will be served by NextEra Energy Marketing (NextEra) and the remaining two-thirds by New Brunswick Energy Marketing Corp. (**New Brunswick**). **New Brunswick was awarded all of the SOS load for CMP's medium C&I customers.** Maine Power, LLC (MP) was selected to provide SOS for the large C&I class. For the residential class, the default SOS price is fixed for the full CY 2023 and does not vary by time-of-use, month, or time of year.¹⁶⁸ For the medium C&I class, the default SOS price varies by month, but not by time period or day of the week within the month. The lowest per-kWh prices are for the shoulder months (May, June, September, and October) and the highest are for the winter months (January, February, and December). For the large C&I class, a per-kWh adder (as bid by MP) is used by the Commission—in conjunction with expected capacity prices, a retail energy price component reflecting market futures for the coming month, and certain pass-through amounts—to establish the monthly SOS price for this customer class.¹⁶⁹

For VP-MPD, New Brunswick was selected to provide SOS for all customer classes. For the residential and small non-residential class, a fixed-price, per-kWh default SOS rate will be in effect for CY 2023, which does not vary by time of day, day of the week, or month. For the VP-MPD medium C&I class, New Brunswick bid and was awarded fixed monthly prices that are highest in the winter months and lowest in the shoulder months. For the large C&I class, unlike the SOS pricing for CMP, the VP-MPD SOS customers will pay a fixed per-kWh price that varies by month, following the same pattern of prices that will be in effect in 2023 for the medium C&I class.¹⁷⁰ Note that for VP-MPD, the MPUC selected a single supplier to serve the SOS load for each of the three customer classes after determining that this selection was in the public interest.¹⁷¹

For VP-BHD, 100% of the residential and small non-residential SOS load as well as 100% of the medium C&I SOS load were awarded to New Brunswick.¹⁷² MP was awarded 100% of the large C&I SOS load.¹⁷³ Like the pricing mechanism in place for SOS for the classes in the CMP service area, the VP-BHD SOS prices are fixed for the full year for the

¹⁶⁷ 35-A M.R.S. §3212(2) and Chapter 301, Section 8(C)(4) of MPUC rules.

¹⁶⁸ The SOS price for the CMP residential and small non-residential classes represents a weighted average of the bid prices.

¹⁶⁹ MPUC Order in Docket No. 2022-00091, November 16, 2022, p. 4.

¹⁷⁰ *Ibid.*, pp. 5-6.

¹⁷¹ *Ibid.*, p. 7.

¹⁷² MPUC Order dated November 15, 2022, Docket No. 2022-00091 – Maine Public Utilities Commission, Standard Offer Bidding Procedure for Central Maine Power (all classes), Versant Power – Bangor Hydro District (all classes), and Versant Power – Maine Public District (all classes), p. 1.

¹⁷³ *Ibid.*

residential and small non-residential classes; fixed on a month-by-month basis for the medium C&I class; and will be determined by the application of an adder (as bid by MP), **expected capacity prices, the next month's market forward prices, and certain pass-through** amounts. The adders are highest in the winter and summer months and lowest in the shoulder months.¹⁷⁴ As was the case for VP-MPD, the Commission deemed an award to fewer than three suppliers to be in the public interest.¹⁷⁵

Advantages and Disadvantages of the Current Approach – The approach currently employed by Maine to secure SOS for the three IOU service areas has certain benefits but also carries significant risks. The advantages of the current approach are:

- For each of the customer classes, the procurement approach is relatively simple. From a mechanical perspective, reliance on sealed bids prepared in response to an RFP is straightforward and minimizes administrative costs relative to more complex descending-price-clock auctions that are sometimes relied upon to procure SOS supplies. There is no definitive evidence that using a descending-price-clock auction, regardless of the rules related to the auction, will produce more favorable prices than use of an RFP approach.¹⁷⁶
- For each of the customer classes, all market risk and load risk is placed on the suppliers during the period in which the SOS contracts are in place.
- There currently appears to be sufficient market interest in providing SOS in each of the three utility service areas to allow the Commission to make awards that it assesses to be competitive.
- For each of the customer classes, because the contracts are for periods of only one year, the prices obtained are reflective of then-current market prices and are in place for only a relatively short time before they are rebid. In the absence of rapid increases in market prices over the course of the contract term, this arrangement is more conducive to supporting competitive electricity provider (CEP) competition than alternative arrangements where bid prices are in place for longer periods of time and may no longer be reasonably reflective of market prices.
- For the residential, small non-residential, and medium C&I classes, prices are known in December for each month of the coming year, which reduces short-term uncertainty. For large C&I customers, prices may be known only a month in advance where the terms of the contract are for monthly price determination based on a market price adder, market price forwards for the

¹⁷⁴ Ibid., pp. 2-4.

¹⁷⁵ Ibid. p. 5.

¹⁷⁶ For example, see Cramton (2015). *Colombia Firm Energy Auction: Descending Clock or Sealed-Bid?*. Report for the Colombian Energy and Gas Regulatory Commission.

upcoming month, and certain independent system operator (ISO)-related costs.¹⁷⁷

The disadvantages of Maine's current method of procuring SOS impose significant adverse impacts on Maine's SOS customers, most notably in the form of high annual price increases. This adverse impact particularly affects the residential and small non-residential customer classes. These disadvantages include:

- Residential, small non-residential, and medium C&I customers, with each annual solicitation, bear the full impact of the market changes that have occurred over the preceding year. In recent years, these changes have been substantial.¹⁷⁸
- With each new solicitation for SOS, the residential, small non-residential, and medium C&I customers bear the full market risk for changes in price affecting the entirety of load for the next year. This approach provides no mechanism for hedging market risk across years. It also absorbs the full impact of short-term price risk inherent in procurement timing. That is, there is very limited means to spread out the costs of anomalous market volatility at the time of an RFP.
- The MPUC has previously struggled to attract sufficient supplier interest to serve all VP-MPD SOS load and, as a result, resorted to various backstop service provisions.

The recommendations presented below are designed to preserve, to the extent possible, the advantages associated with Maine's current approach to providing SOS while mitigating the disadvantages inherent in that approach.

2. Residential and Small Non-Residential Wholesale Supply Products

Laddered, Full-Requirements, Load-Following Contracts

Recommendation No. 1: The residential and small non-residential SOS wholesale supply, where possible, should be composed of laddered full-requirements, load-following contracts (FRCs) of varying duration to reduce price volatility and mitigate market risk through temporal diversification.

¹⁷⁷ It is common for large C&I customers to face rates with much more variability than do customers in other classes given that these customers have the ability (and the incentive) to much more closely evaluate and avail themselves of competitive market offerings. Certain states that have restructured their electric utility markets (for example, Maryland) provide only spot market prices to non-switched large industrial customers. This approach exposes large C&I customers to price changes each hour. In Massachusetts, New Hampshire, and Rhode Island, non-switched large C&I customers receive rates that change monthly.

¹⁷⁸ For example, for the 2023 service period, residential and small non-residential customers in the CMP service area face price increases for the supply portion of their electricity bills of over 84% compared to 2021 and 49% compared to 2022. See: Commission Sets New Standard Offer Electricity Supply Rates for 2023 for CMP and Versant Power – Maine Public Districts Standard Offer Customers, November 16, 2022. Also see: residential SOS electric rates for 2021 and earlier, maine.gov/mpuc/regulated-utilities/electricity/delivery-rates.

An FRC for SOS requires that the winner of the contract meet the load of the relevant customer class (e.g., residential and small non-residential SOS customers) for the specified duration on the contract (e.g., two years) in each hour for the percentage of the load specified in the contract (e.g., 4.0%) for the bid price specified in the contract. Load changes hour by hour over the course of the contract period due to factors such as weather conditions, time of day, day of week, general business conditions, or customers migrating into or out of competitive service. Each holder of an FRC would be required to adjust the amount of energy that it sends to the T&D utility hour by hour to meet its share of the SOS load obligation.

Meeting the residential and small non-residential SOS load with FRCs places the market price risk and load risk with the wholesale supplier during the time that the FRC is in place. When the contract is rebid, changes in the underlying market prices and the load characteristics are reflected in the new bids received from the competitive wholesale market to meet the relevant portion of the SOS load. FRCs are the predominant approach to serve residential and small non-residential SOS load in retail restructured states due to their **ability to reduce customers' exposure to risk.**¹⁷⁹

Supply contracts can be layered to obtain overlapping contract periods. This approach ensures that not all SOS supply is purchased on the market at the same time, thereby reducing the market price risk.¹⁸⁰ This strategy ensures that only a portion of the overall supply portfolio is subject to a change in costs at any particular time, thus providing for increased price stability, that is, reduced price volatility. Laddered SOS supply contracts are a common feature of SOS power supply arrangements in most retail restructured states, including Connecticut, Massachusetts, and Rhode Island.¹⁸¹ States use laddering to help **achieve price volatility reduction goals and reduce customers' exposure to risk.**

Under the laddered FRC approach to meet SOS supply requirements, the total class supply requirement is broken down into equal (or approximately equal) tranches with each tranche representing a specific approximate load level. For example, if the total residential SOS load is estimated to be approximately 600 MW, that load could be broken down into twelve (12) 50-MW (approximately) tranches, with each tranche representing one-twelfth of the load in each hour. Four tranches could be solicited each year, that is, one-third of the total requirement. This arrangement allows for rules to be put into place that restrict the number of tranches which any one firm serves, either in a particular solicitation or in aggregate at any one time. Establishing such rules allows for broader market participation

¹⁷⁹ See Table III-6 of this report.

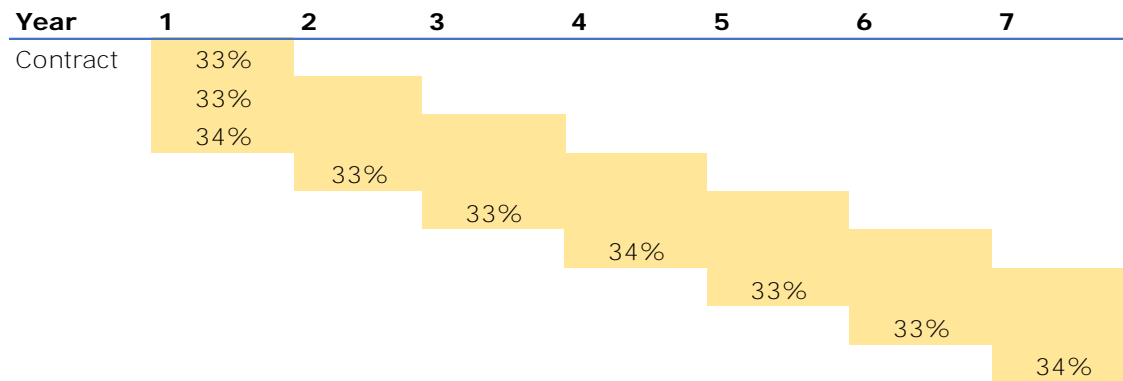
¹⁸⁰ Temporal diversification as a means of reducing risk is consistent with modern portfolio theory and is applicable not only to power supply but also other commodities, materials supply portfolios of businesses, investment portfolios, and other activities with inherent risk. See: corporatefinanceinstitute.com/resources/wealth-management/modern-portfolio-theory-mpt/.

¹⁸¹ See Table III-6 of this report.

and reduces the risk to SOS customers from a firm defaulting on its SOS obligations over the course of the contract period.

Figure IV-1 below and Figure IV-2 later in this chapter provide examples of laddered contract approaches relying on fixed-price FRCs. The highlighted rectangles represent the active contract period. The percentages represent the share of load procured in each respective group of contracts. **Contracts are “stacked” to secure FRC commitments that collectively service the entirety of SOS load for the applicable customers.**

Figure IV-1. Three-Year, Equal Load Portion Contracts



In both Figure IV-1 and Figure IV-2, the initial contracts are assumed to begin in Year 1, which designates the start of service after initial deployment of the applicable approach. All initial procurements would not be made at the same time. Rather, they would be timed to mitigate market risk to the extent possible. For example, looking at Figure IV-1, procurements would take place in a staggered fashion prior to service beginning in Year 1. This means that some of the contracts would be solicited a year in advance for deliveries to start in a specified month in Year 1, while other contracts would be procured much closer to the time of initial delivery. This schedule is designed to achieve some degree of temporal diversification in the initial years associated with implementation of the purchasing program. It should be recognized that fixed-price contracts entered further in advance of the delivery period place greater market risk on the supplier.¹⁸² The added risk generally results in a price premium, other factors being equal. For this reason, care must be taken to balance risk mitigation with least-cost procurement of supply.

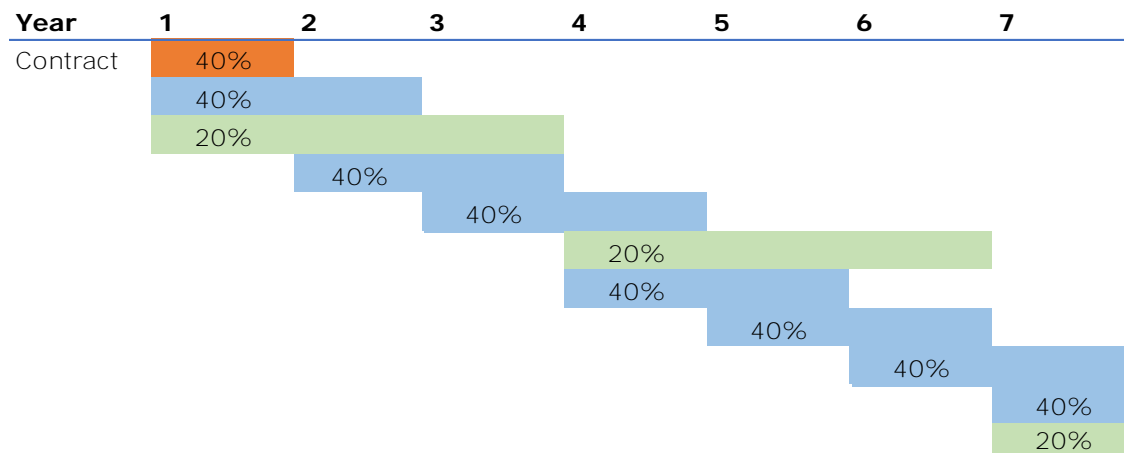
As seen above in Figure IV-1, for Year 2 and beyond, the example approach achieves a **“steady-state” schedule of purchases such that in each year, approximately one-third** of the supply requirement is met by a new three-year contract just as older-vintage contracts expire. The SOS supply price, therefore, would change to reflect the new pricing for only the portion of the portfolio (one-third) that is made up of newly awarded FRCs. The remaining portion of the portfolio (two-thirds) is not subject to cost change, and hence the overall

¹⁸² Suppliers can hedge this risk with another party, but hedges also entail a cost. A risk premium adder will be incorporated into the final bid price regardless of whether the supplier bears the risk directly or hedges the risk with a third party.

change in the price of the retail supply is only one-third as large as applicable with turnover of the entire portfolio at the same time; that is, the magnitude of the SOS price change is tempered.

The various tranches associated with reliance on FRCs for wholesale SOS supply need not all be of the same duration. Pennsylvania, for example, requires a mix of short-term, long-term, and spot market purchases for the utilities' SOS portfolios with the goal of achieving minimum reasonable cost over time.¹⁸³ As such, the residential SOS portfolios of the Pennsylvania utilities typically include a mix of one-year, two-year, and, in some cases, three-year FRCs. Additionally, not all the contracts of a specific duration, e.g., two years, need to be solicited and procured at the same time. For example, one possible pattern of purchases could be for half of the two-year contracts to be purchased in one year and the remaining half to be purchased in the following year. In the third year, the contracts entered into in the first year would expire and require replacement, and so on. Figure IV-2 shows how a SOS portfolio made up of different duration FRCs could operate relying on a combination of one-year, two-year, and three-year FRCs.

Figure IV-2. FRC Contracts of Varied Duration



Other Laddered Contracts

Laddered wholesale supply procurement need not use FRCs. One alternative is to procure SOS supply using one or more block purchases and then rely on the spot market to either sell excess block energy in any hour or procure additional energy as needed to meet block shortfalls in any hour. For example, a load with a maximum demand of 100 MW and an off-peak average demand of 50 MW might be served with the purchase of:

¹⁸³ See 66 Pa. C.S. § 2807(e)(3.2). The utilities in Pennsylvania have generally interpreted this liberally, with the understanding that FRCs, upon which the Pennsylvania utilities almost exclusively rely, must necessarily incorporate a spot market component to allow load following. This permits the utilities to omit the explicit inclusion of a spot market component in the residential, small commercial, and medium commercial portfolios. SOS for large customers in Pennsylvania is generally provided exclusively through spot market purchases, as is also the case in several other states.

- A two-year, 25-MW block of 'round-the-clock (RTC) energy;
- A one-year, 20-MW RTC block;
- A three-year, 15-MW RTC block;
- A two-year; 20-MW block of on-peak energy; and
- A one-year, 15-MW block of on-peak energy.

During off- and on-peak periods, the SOS provider would likely sell energy into and purchase energy from the spot market, respectively. This arrangement places a greater degree of risk on the SOS customer since reliance on the spot market necessarily entails market risk. The SOS customer also absorbs load risk due to the correlation of load and price. That is, during periods of low load, perhaps due to mild weather, additional energy sales into the spot market may be necessary when market prices are likely to be lower than the contract price. Conversely, in periods of extreme weather, energy prices may be high and additional energy purchases may be needed to meet the SOS load. Because the suppliers are not incurring this risk, overall power supply prices can be expected to be lower under this arrangement than under an FRC-type arrangement.

Reliance on a block-and-spot supply approach to meet SOS obligations by SOS providers is not common for several reasons.¹⁸⁴ First, it places significant risk, both market risk and load risk, on SOS customers. Second, because of the price uncertainty of reliance on the spot market, true-up charges to allow the SOS provider to match revenues and costs can be large, leading to rate uncertainty and volatility. Third, there is a greater burden on the SOS provider to piece together a portfolio of different size blocks of differing durations that, when combined with spot purchases, can meet load obligations. For example, if loads decline due to customers migrating out of SOS, the SOS provider would need to modify the size of new block purchases as older block contracts expire. This places a burden on the SOS supplier to determine what changes in block size are appropriate for RTC products, off-peak products, and on-peak products. Under an approach that relies on FRCs, the wholesale suppliers, not the retail SOS suppliers, are responsible for assembling a product (typically with block-and-spot elements) to meet load in each hour. The discipline of the competitive wholesale market (and absence of guaranteed cost recovery) suggests an increased likelihood of obtaining a more favorable economic arrangement.

If other resources are being used to a significant degree to meet a portion of the SOS load, such as the output from renewable generation projects under long-term contracts (discussed below), a block-and-spot approach could be useful. That is, block-and-spot approaches would function as a means to diversify the overall portfolio, allow the portfolio to be reflective of current market conditions, and help mitigate the potential for large risk premiums that may be characteristic of FRC products that must account for load

¹⁸⁴ Block-and-spot products are significantly relied upon for providing SOS in only two states: Illinois and New York.

uncertainty. Additional load uncertainty would result from a portion of the customer load being satisfied by renewable energy generation.

Advantages and Disadvantages of FRCs Compared to Block-and-Spot Purchases for SOS Wholesale Supply

The principal benefits of laddered FRCs and laddered block purchases combined with spot market purchases are enumerated below.

1. *Both approaches* reduce the exposure of customers to large rate increases since only a portion of the portfolio is subject to replacement in any one year. Consequently, the impacts of increases in market prices are muted by the portion of the portfolio that is not being replaced.
2. *Both approaches* reduce the exposure to market risk because the portfolio is not fully replaced at any one time. SOS customers are not fully exposed to market conditions that happen to be in effect on the day of the solicitation.
3. *Both approaches* are predicated on purchasing decisions resulting from the need to replace expiring contracts, rather than reliance on active portfolio management based on assessments of future price movements and market **trends. This avoids the temptation on the part of the SOS provider to “second guess” the market and have SOS customers incur the cost of potentially erroneous decisions.**
4. *Both approaches* reflect market conditions at the time that the purchases are made. Because a portion of the portfolio is replaced each year, or possibly more frequently, a significant percentage of the portfolio is reflective of current market conditions, which helps CEPs to compete more effectively with SOS.
5. *For FRCs*, the wholesale supplier for a particular FRC bears the risk associated with market changes during the time that the FRC is in place. For example, market price changes related to severe weather or unanticipated fuel price changes fall on the wholesale supplier and not the SOS customers. SOS providers under this arrangement have a strong incentive to optimize wholesale supply procurement to meet their SOS obligations.
6. *For block-and-spot products*, the wholesale supplier for a particular block bears the risk associated with market changes during the time that the block purchase is in place.
7. *Both approaches* are common in the marketplace and relied upon in at least some of the states that have implemented retail electric industry restructuring. As such, wholesale market participants are comfortable providing either FRCs or block products.
8. *For FRCs*, the burden of having the SOS supplier meet hourly load is eliminated and placed on the wholesale suppliers.

9. *Both approaches* can be easily structured to entail products being supplied by multiple suppliers, thereby reducing the risk of supplier default.

There are also certain disadvantages associated with procuring wholesale supply using these approaches that warrant mention:

1. *For both approaches*, while SOS customers are insulated against the full impact of market price increases because only a portion of the overall portfolio is replaced at any one time, these customers are also precluded from benefiting from the full decline in market prices when the market price is declining.
2. *For both approaches*, because some of the contracts are of an older vintage and may have been entered into two or three years prior, the weighted average price of the portfolio is not fully reflective of current market conditions and could adversely affect the ability of CEPs to effectively compete with SOS.
3. *For both approaches*, the wholesale suppliers bear the risk of market price changes in effect during the time that each of the contracts is in place; SOS customers bear the market risk when the contracts are replaced.
4. *For block-and-spot products*, SOS customers bear the market risk for the spot portion of the portfolio (either spot market sales or spot market purchases) that is needed to balance load and supply.¹⁸⁵

Exeter's assessment is that the benefits of laddered FRCs outweigh the disadvantages, and that assessment is borne out by the policies currently used in other retail open access states. Laddered FRCs are used to meet SOS requirements in Connecticut, Delaware, the District of Columbia, Maryland, Massachusetts, New Jersey, Pennsylvania, Rhode Island, and Ohio.

Limitations to FRC Applicability

Recommendation No. 2: For VP-MPD, where laddered FRCs might not be successfully employed due to the small size of the residential and small non-residential load, block-and-spot products should be used to meet residential and small non-residential SOS requirements, if possible. The block-and-spot solution should be deployed if market response to an RFP for FRCs is inadequate. If the market is not capable of supporting a block-and-spot approach, the existing framework for meeting the SOS requirement should be used.

¹⁸⁵ There are mechanisms available to hedge the risk associated with reliance on the spot market for meeting supply obligations, including contracts for differences and fixed-for-floating contracts. Reliance on these types of financial tools to reduce risk entails costs, which would be borne by the SOS customers. Additionally, certain types of hedging instruments may trigger Dodd Frank reporting compliance requirements, which may entail added costs for the SOS provider. See: Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 203, U.S. Statutes at Large 124 (2010): 1376-2223.

Restructured states that use laddered FRCs often rely upon contracts sized such that the maximum load for any given contract, i.e., tranche, would be about 50 MW.¹⁸⁶ For residential and small non-residential customers, that would equate to an average load of approximately 25 MW assuming a 50% load factor. The combined CMP residential and small non-residential peak SOS load is estimated to be approximately 900 MW, which is sufficiently large to accommodate laddered FRCs.¹⁸⁷ Annual loads for CMP and the two Versant Power districts for all load classes are shown in Table IV-1.

¹⁸⁶ The 50-MW rule of thumb, for example, is used in Delaware, Maryland, New Jersey, and Pennsylvania.

¹⁸⁷ Based on 2021 residential and small commercial MWh sales and assuming a 0.5 load factor. Data obtained from [maine.gov/mpuc/regulated-utilities/electricity/rfps/standard-offer/2022-00091](https://www.maine.gov/mpuc/regulated-utilities/electricity/rfps/standard-offer/2022-00091), Appendix E.

Table IV-1. Energy Sales and Peak Demand Data – Maine Utilities 2021

	MWh	Peak MW
<u>CMP</u>		
Residential SOS ^[1]	3,542,468	802
Residential Total ^[1]	3,935,502	899
Small Non-Residential SOS ^[1]	465,756	106
Small Non-Residential Total ^[1]	662,648	151
Medium C&I SOS	735,901	238
Medium C&I Total	1,990,776	586
Large C&I SOS	67,937	31
Large C&I Total	2,296,859	613
<u>VP-BHD</u>		
Residential SOS ^[1]	634,941	145
Residential Total ^[1]	677,336	155
Small Non-Residential SOS ^[1]	129,371	30
Small Non-Residential Total ^[1]	164,778	38
Medium C&I SOS	129,410	45
Medium C&I Total	404,273	119
Large C&I SOS	24,586	13
Large C&I Total	215,672	63
<u>VP-MPD</u>		
Residential SOS ^[1]	219,082	50
Residential Total ^[1]	220,685	50
Small Non-Residential SOS ^[1]	88,252	20
Small Non-Residential Total ^[1]	88,258	20
Medium C&I SOS	53,069	16
Medium C&I Total	77,102	19
Large C&I SOS	4,864	6
Large C&I Total	127,824	16

^[1] Peak demand was estimated assuming an annual load factor of .5 (50%).
Peak demand = (Energy / (8,760 hours x .5)).

Source: [maine.gov/mpuc/regulated-utilities/electricity/rfps/standard-offer/2022-00091](https://www.maine.gov/mpuc/regulated-utilities/electricity/rfps/standard-offer/2022-00091). Sales and peak data contained in Appendix E separately for CMP and both of the Versant Power districts.

The data in Table IV-1 indicate that there is adequate load to accommodate a laddered FRC approach for the residential and small non-residential classes of CMP. There also appears to be sufficient load to accommodate this approach for the residential and small non-residential classes in the VP-BHD area; the 175 MW combined SOS peak load for this group is large enough to accommodate three or four tranches sized at approximately 50 MW each.

The VP-MPD area has a combined peak of about 70 MW for the residential and small non-residential classes which, at most, could accommodate two relatively small tranches of about 35 MW each. That size may be adequate to induce active market participation, though this assessment cannot be made definitively. With two tranches, two (2) two-year FRCs could be deployed with each serving 50% of the load in each hour, and one of the two tranches replaced each year. In the event that such a solicitation generates insufficient market interest, Exeter recommends reliance on a block-and-spot approach to meet the SOS requirement. Note that this recommendation does not change if Maine eliminates residential retail choice since there are a very limited number of switched residential and small non-residential customers in the VP-MPD territory.

The market in which VP-MPD operates, which is small with limited participants, may also not accommodate reliance on a block-and-spot approach to meet the SOS requirements of the residential and small non-residential classes. If that situation prevails, the current supply arrangements (i.e., annual, non-laddered FRCs) should be extended.

Portfolio Management

Recommendation No. 3: The residential and small non-residential SOS supply portfolio should be structured using scheduled procurements of contracts following a plan pre-approved by the Commission.

Recommendation No. 4: Deviations from the pre-approved residential and small non-residential SOS plan should be permitted, with approval from the Commission, to allow the SOS provider to avoid possible market problems that could adversely affect a scheduled purchase or to allow the SOS provider to take advantage of unique opportunities that may arise to the benefit of residential and small non-residential SOS customers.

The portfolio of SOS supply contracts is intended to be procured on a schedule pre-approved by the MPUC. Restructured states generally adopt one of two pre-approval methods. One approach entails the SOS provider coming before the Commission periodically (e.g., every three or four years) for approval of its SOS plan for a pre-specified, multi-year planning period. Formal administrative hearings are held to allow the Commission to determine whether it will approve the plan, approve the plan with modifications, or reject the plan. Pennsylvania and Ohio use on this method. The second approach entails reliance on a “steady state” schedule whereby recurring purchases are made on a set schedule. As

older contracts expire, they are replaced by new contracts. While the Commission typically reviews and approves (or rejects) the results of the procurement, there are no formal hearings to facilitate decisions regarding what types of products to procure, the size of the products, or when to procure the products. This type of “steady state” arrangement is in place in Maryland, Massachusetts, and New Jersey, among other states.

Occasionally, it is necessary to modify an established SOS procurement schedule due to external factors that can influence, either positively or negatively, the outcome of the procurement. For example, a delay in the ISO/RTO process for establishing capacity charges, which are part of the cost basis for the FRCs, may dictate that the procurement of the FRCs themselves be delayed until such time that capacity costs are known. This delay would be necessary to avoid suppliers either building in a risk premium or, in the alternative, refusing to participate in the procurement. Extreme weather conditions may also serve as a reason for minor delay. Although there is no rational basis for severe weather over the course of a few days or a week to affect market prices for products with deliveries extending over a multi-year period, this market result sometimes appears to exist. In this circumstance, a procurement might be postponed in an effort to avoid a slightly higher procurement price than would otherwise be the case.

Frequency of Price Changes

Recommendation No. 5: The SOS price for each customer class should be based on the weighted average cost of the portfolio and should change when older vintage contracts expire and are replaced by new contracts that reflect then-current market prices.

States or commissions can designate how often the SOS rate changes per year. Most open access states allow their SOS providers to change residential rates no more than twice per year. Typically, the price changes follow a change in the composition of the supply portfolio. When an older wholesale supply contract expires and a new contract begins, the weighted average cost of the portfolio changes and this triggers a revision to the prevailing SOS price. This arrangement serves three important purposes. First, it helps ensure that the SOS provider will receive revenues to match its costs. Second, the change in price to reflect the weighted average cost of the wholesale supply contracts (plus certain other relatively minor costs to ensure a matching of costs and revenues) moves the SOS cost closer to current market prices. This allows CEPs to compete with SOS more effectively. Third, because the SOS prices more closely align with the market prices, consumers receive more appropriate price signals that facilitate better response to market signals (e.g., altering consumption levels).

Circumstances can occur such that the revenues from SOS service, based on the rates paid by SOS customers, do not match the costs incurred by the SOS provider. For example, a revenue and cost imbalance may occur if the SOS portfolio contains a small spot market price component or a time-of-use (TOU) price option. Under these rates, a portion of

revenues may vary in ways that do not correspond with the fixed price per kWh for service from wholesale suppliers to the SOS provider. Another frequent cause of a mismatch between SOS revenues and costs is if the SOS provider procures non-market-based ISO services.¹⁸⁸ Because these costs are not market-based, neither the wholesale suppliers nor the SOS provider can hedge the costs. In these cases, a reconciliation mechanism is needed to make the SOS provider whole (in cases of revenue shortfall) or ensure the SOS provider does not accrue excess revenues.

Revenue shortfalls or surpluses are typically accumulated in a regulatory asset account over a quarterly, six-month, or annual period, and collected (amortized) by the SOS provider over some reasonable period through a reconciliation charge. The reconciliation charge need not match the amortization period; for example, charges/credits may be accrued over a six-month period and amortized over a 12-month period as a way of smoothing out the price fluctuations resulting purely from the cost/revenue mismatch. Net reconciliation charges are typically not very large, with credits canceling out charges. Nevertheless, some care needs to be taken to ensure that revenues are approximately equal to costs over the course of the month or quarter.

Method of Procurement

Recommendation No. 6: The SOS provider, for all customer classes, should continue Maine’s current practice of relying on sealed bids provided in response to an RFP to obtain SOS supply.

Recommendation No. 7: For all customer classes relying on FRCs for SOS supply, the number of FRC tranches to be procured, the size of the tranches, and restrictions on the number of tranches that any one supplier may be awarded should balance the competing goals of minimizing administrative costs, maximizing market participation, and controlling the risk of supplier default.

Recommendation No. 8: The selection of winning bids resulting from an SOS solicitation for each customer class should be subject to Commission review and approval, which the Commission should commit to provide within 24 hours of the receipt of the final bids.

Retail restructured states generally use one of two approaches to competitively procure wholesale SOS power supplies. The first approach entails the issuance of an RFP to which bidders respond by submitting sealed bids with the number of tranches offered and the price (or pricing method) associated with each offered tranche. The winning bidders are typically paid their bid prices. In advance of the submission of bids, offerors submit financial documents, financial security information, evidence of capability, prior experience, and

¹⁸⁸ For example, certain ancillary services might be supplied by the ISO for a fee established by the ISO, and that charge changes periodically.

other required information. Based on the evaluation of this submission, the bidder is authorized to participate in the solicitation. The advance approval of participation serves to streamline the process so that an award can be made quickly after receipt of bids. This type of solicitation is sometimes referred to as a first-price sealed-bid auction (FPSBA). This approach is used to procure SOS services in Maryland, Delaware, New York, certain utilities in Pennsylvania, the District of Columbia, and other states.¹⁸⁹

An alternative approach is to rely on a reverse auction.¹⁹⁰ There are numerous variations of this procurement method, which is now universally conducted online. There is a specified duration of the auction, for example, 30 minutes, during which time pre-authorized bidders submit their bids and can revise the bids based on bidding information **that is disseminated during the auction. Some auctions use a "hard clock," which means** that the auction definitively concludes at the end of a specified duration and any bids not received during that period are not considered. Other versions allow for extending the clock by a specified amount (for example, two minutes) if a bid is received close to the termination of the auction. Typically, these types of auctions can accommodate multiple time extensions. Winning bidders may receive their bid prices or all winning bidders may receive the same price. An additional variant is that the buyer (e.g., the SOS provider) specifies the price (e.g., in dollars per kWh) for a particular product (e.g., a 2% tranche for the residential SOS load of a specified utility), and the bidders indicate the number of tranches that they would be willing to supply at that price. If the number of bid tranches exceeds the number of tranches needed then, in the next round of bidding, the price is dropped. This process continues until the number of tranches offered matches the number of tranches needed to meet SOS requirements. This approach is used in New Jersey and Ohio, for example.

The sealed-bid auction approach is typically relied on for smaller auctions due to the lower administrative cost associated with this method. Additionally, little empirical evidence exists to suggest that the more complex descending price clock auctions provide meaningfully superior procurement results.

3. Medium Commercial & Industrial Wholesale Supply Products

Recommendation No. 9: The medium C&I wholesale supply for CMP SOS customers should be composed of laddered full-requirements, load-following contracts of varying duration to reduce price volatility and mitigate market risk through temporal diversification.

Recommendation No. 10: The medium C&I wholesale supply for VP-BHD and VP-MPD SOS customers should be

¹⁸⁹ See Table III-7 of this report.

¹⁹⁰ That is, bidders submit successively lower prices until the lowest bid price is selected as the winner. This is in contrast to the more common auctions where buyers bid successively higher prices and the highest offered price establishes the successful bidder.

composed of laddered block products and spot market purchases to reduce volatility and mitigate market risk through temporal diversification.

Recommendation No. 11: The medium C&I SOS supply portfolio for all utilities should be structured using scheduled procurements of contracts following a plan pre-approved by the Commission.

Recommendation No. 12: Deviations from the pre-approved medium C&I SOS plan should be permitted, with approval from the Commission, to allow the SOS provider to avoid possible market problems that could adversely affect a scheduled purchase or to allow the SOS provider to take advantage of unique opportunities that may arise to the benefit of medium C&I SOS customers.

The medium C&I customer class is defined differently by each of Maine's three IOUs. CMP defines medium C&I customers as those with monthly loads between 20-399 kW.¹⁹¹ For VP-BHD, medium C&I customers are those with monthly loads between 25-500 kW.¹⁹² For VP-MPD, medium C&I customers are defined as having loads larger than 50 kW but lower than 500 kW.¹⁹³ These differences have no significant implications for the assessment and recommendations presented herein.

For the same reasons underlying the above recommendations for residential and small non-residential SOS customers served by CMP, Exeter recommends the medium C&I SOS customer portfolio for CMP include scheduled purchases of well-defined wholesale products. More specifically, Exeter recommends the purchase of laddered FRCs. To avoid possible unfavorable market conditions or capitalize on a favorable market circumstance, a degree of flexibility on the part of the SOS provider is recommended. This flexibility should be conditioned by a pre-approval requirement for deviations from the schedule of wholesale product purchases.

The FRCs used in the medium C&I SOS portfolio for CMP should be limited to two years' duration to ensure that the SOS prices emerging from the application of the recommended portfolio approach are reasonably reflective of current market conditions. This restriction will help ensure the ability of CEPs to effectively compete with SOS while still maintaining customer protections against large swings in SOS prices that could accompany the replacement of expiring FRCs with new contracts. The mitigation of rate variability is of higher priority for the residential class than for the medium (and large) C&I classes. The inclusion of contracts of longer duration than two years importantly contributes to the mitigation of rate variability in the residential SOS portfolios. The same level of protection

¹⁹¹ Central Maine Power Company, Electric Delivery Rate Schedule, Rate MGS-P, p. 90.00, 15th revision.

¹⁹² The Versant Power electric customer class definitions are included in the company's tariff book, available at versantpower.com/business/rates/rates-schedules#.

¹⁹³ Ibid.

against rate variability is not needed for medium C&I customers for at least two reasons. First, many residential customers, particularly low-income, elderly, and medically disabled customers, lack the ability to quickly adjust usage to accommodate changes in prices. Consequently, such customers may not be able to take steps to lessen the impact of large price increases. Second, residential customers are less equipped to navigate the competitive marketplace for electric power supply, that is, assess and evaluate the possible options that may be available from those CEPs operating in the customer's service area.

The medium C&I SOS loads for VP-BHD and VP-MPD are too small to accommodate a ladderred FRC methodology to meet the SOS obligation. The peak demand for this class is about 45 MW and 16 MW in the VP-BHD and VP-MPD service territories, respectively (see Table IV-1). Use of a ladderred block strategy combined with spot purchases and sales would serve to temper the degree to which SOS procurement exposes medium C&I SOS to market price risk. As was discussed in the context of SOS for residential and small non-residential customers in the VP-MPD area, the relevant market in which VP-MPD operates may not support reliance on a block-and-spot strategy for meeting SOS obligations. If that is shown to be the case, the current SOS supply arrangements should be continued.

4. Large Commercial and Industrial Wholesale Supply Products

Recommendation No. 13: The large C&I wholesale supply should be composed of full-requirements, load-following contracts priced on a monthly basis consistent with the current product procured by Maine to serve SOS customers in this class.

Recommendation No. 14: The large C&I wholesale SOS supply portfolio should be structured using scheduled procurements of contracts following a plan pre-approved by the Commission.

Recommendation No. 15: Deviations from the pre-approved large C&I SOS plan should be permitted, with approval from the Commission, to allow the SOS provider to avoid possible market problems that could adversely affect a scheduled purchase or to allow the SOS provider to take advantage of unique opportunities that may arise to the benefit of large C&I SOS customers.

Large C&I customers are defined differently among the three IOU service areas in Maine. CMP defines large C&I customers as those with monthly loads of 400 kW and above.¹⁹⁴ For VP-BHD and VP-MPD, large C&I customers are those with monthly loads in

¹⁹⁴ Central Maine Power Company, Electric Delivery Rate Schedule, Rate MGS-P, p. 90.00, 15th revision.

excess of 500 kW.¹⁹⁵ These differences have no significant implications for the assessment and recommendations presented herein.

Large C&I customers have the ability and incentive to assess and evaluate competitive power supply options that are most beneficial for their unique operational characteristics and service requirements. As such, large C&I customers are typically provided SOS options intended to pass-through near-term market costs. This service is intended as a backstop in the event of a temporary gap in service from a CEP. For example, Maryland provides default service to large C&I customers based on spot market prices, which change hourly. Similar approaches apply to large C&I customer SOS offerings in Pennsylvania.¹⁹⁶

The approach currently used in Maine allows for the annual selection of an SOS provider for large C&I customers based on firm price bids for full-requirements, load-following service. Bidders are free to bid a fixed price for each month of the coming year or a monthly determined price based on a bidder-supplied adder in conjunction with forward prices derived following methods specified in the MPUC-issued RFP.¹⁹⁷ Under either of these two bidding methods, large C&I customers know the price per kWh at least a week in advance of the upcoming month. In the case of the former method, large C&I customers would know the monthly per-kWh prices for the full year in November or December of the prior year.

The current SOS arrangements in Maine are more favorable to large C&I customers than those offered in many other states that restructured their electric utility industries. Even with the more favorable arrangement, almost all the class load for large C&I customers is purchased from the competitive market. In 2021, more than 93% of the large C&I load in each of the three utility service areas received CEP service. Based on the combination of relatively favorable SOS arrangements for large C&I customers and high levels of participation in the competitive retail market, there is no compelling reason to meaningfully alter the current arrangements.

5. The SOS Provider

Recommendation No. 16: Designate either the T&D electric utilities or a new quasi-independent power authority to be the SOS provider for all customer classes.

Recommendation No. 17: If Maine opts to retain third-party, competitively procured entities to act as the SOS providers, as is presently done, the contracts for the

¹⁹⁵ The Versant Power electric customer class definitions are included in the Company's tariff book, available at [versantpower.com/business/rates/rates-schedules#](https://www.versantpower.com/business/rates/rates-schedules#).

¹⁹⁶ See Table III-8 of this report.

¹⁹⁷ MPUC's 2022 RFP for Central Maine Power (All Classes), Versant Power – Bangor Hydro District (All Classes), and Versant Power – Maine Public District (All Classes) SOS Starting on January 1, 2023. See [maine.gov/mpuc/regulated-utilities/electricity/rfps/standard-offer/2022-00091](https://www.maine.gov/mpuc/regulated-utilities/electricity/rfps/standard-offer/2022-00091).

provision of SOS should be for a period of between approximately six to 10 years for customer classes other than large C&I. Contracts of longer duration than one year will facilitate laddering contracts.

Recommendation No. 18: In lieu of longer duration contracts for third-party SOS providers for CMP and VP-BHD residential and small non-residential SOS customers and CMP medium C&I customers, Maine should consider laddering third-party SOS contracts. This will allow certain Maine SOS customers to obtain the benefits of temporal diversification without the adverse impacts of longer duration contracts if the utility/customer class is of sufficient size to accommodate that arrangement.

Maine currently contracts with multiple third parties to provide SOS, each for a period of one year. The Commission's RFP is issued in September and the winning bidders are announced in late November for service to begin on January 1 of the subsequent year and terminate on December 31. Different companies may be selected to provide SOS for different classes and, for all classes besides large C&I, multiple SOS providers can be selected. For the non-large C&I classes, offerors have the option of submitting bids for only a portion of the overall class SOS load. For the residential and small non-residential SOS load, bids may be for either one-third, two-thirds, or all of the class load. For the medium C&I customer class load, bids may be for 20%, 40%, 60%, 80%, or 100% of the class SOS load. Bids for the provision of SOS for the large C&I customer class are required to be for all of the class SOS load. The per-kWh prices are based on the weighted average of the winning bids.

The existing approach has advantages over certain alternatives in that it is relatively simple to implement and supports supplier diversification. This form of diversification helps insulate SOS customers from default risk. A significant disadvantage, however, is that all of the SOS pricing, for all of the customer classes, must be refreshed each year. The annual price refresh, which occurs with the annual RFP solicitations for the subsequent year's service, exposes SOS customers in each of the customer classes to the full impact of market changes over the course of the prior year. In recent years, changes in the electric power market due to a variety of external factors have resulted in very large increases in power supply costs for SOS customers. Between 2021 and 2022, power supply costs increased by over 80% for residential and small non-residential SOS customers, by over 70% for medium C&I customers, and by over 90% for large C&I SOS customers. From 2022 to 2023, residential and small non-residential SOS prices, along with medium C&I SOS prices, increased by an additional 40%.¹⁹⁸

¹⁹⁸ Maine Public Utilities Commission, Order in Docket Nos. 2021-00073 and 2022-00091. For a press release describing the Order Designating Standard Offer Providers from each case, see: [maine.gov/mpuc/regulated-utilities/electricity/standard-offer-rates](https://www.maine.gov/mpuc/regulated-utilities/electricity/standard-offer-rates).

Maine’s current methodology for selecting the SOS provider(s) does not guarantee increases in SOS prices, nor does it guarantee that price changes from year to year will be large.¹⁹⁹ It does, however, ensure that there will be greater variability in prices over time than employing an approach that maximally relies on laddered wholesale contracts. The use of laddered contracts is easier to accommodate with reliance on a permanent entity to provide SOS and conduct power supply procurement than the current practice of periodically awarding SOS provider contracts to third-party suppliers.

One strength of the current approach used by Maine is that, where possible, multiple SOS providers are selected as a means of reducing default risk and bolstering the number of firms participating in the competitive procurement. This benefit can be maintained under an arrangement whereby either a quasi-independent state power authority established to provide SOS for all three of the utility service areas, or the T&D utilities tasked with providing that service, procure wholesale products (for example, FRCs) from multiple firms rather than from a single entity.

Except for Texas and Maine, all of the states that have restructured their electric utility industries have placed the responsibility for providing SOS on the T&D utilities. Texas, like Maine, relies on a third-party entity to provide SOS. Pennsylvania has addressed the concept of a third-party SOS provider but has opted to retain the arrangement whereby the T&D utilities are responsible for SOS, including the procurement of electricity to meet the SOS requirements.

Illinois relies, in part, on a quasi-independent power authority, the Illinois Power Agency (IPA), to procure SOS supplies; the IPA also functions in other capacities. The IPA procures long-term renewable resources consistent with its long-term renewable resource plan **approved by the Illinois Commerce Commission (ICC), Illinois’s regulatory body** analogous to the MPUC. The IPA also operates programs to promote distributed generation and community solar projects, including projects geared toward low-income customers, and conducts competitive procurements for RECs. The RECs that IPA procures are used by the **utilities to meet the state’s Renewable Portfolio Standard (RPS) requirements. In the** context of SOS-related activities, the IPA conducts the competitive procurement of electricity supplies for SOS residential and small non-residential customers of Ameren Illinois Company and Commonwealth Edison Company. For MidAmerican Energy Company, the IPA procures the SOS electricity supply for residential, commercial, industrial, streetlighting, and public authority customers.

Establishing a quasi-independent power agency with the ability to operate as the SOS provider or assigning the task of SOS provision to the T&D utilities will entail either entity, as alluded to earlier, setting up a trading desk to accommodate the required transactions and to appropriately interface with wholesale suppliers and the ISO. This will

¹⁹⁹ For example, the change in SOS prices for residential and small non-residential customers, as well as for medium C&I customers, declined between 2020 and 2021 for each of the three utility areas in Maine. See the SOS rates: maine.gov/mpuc/regulated-utilities/electricity/standard-offer-rates.

require the hiring of experienced personnel and is likely to also require modifications to existing information technology (IT) infrastructure. It is highly unlikely that the transition could be accomplished within a one-year time frame. Adopting either of these two paths (T&D utility or quasi-independent state power authority as permanent SOS provider) requires sufficient time to allow for the implementation of the programmatic changes required to ensure a successful and efficient transition.

In the case of a quasi-independent state power authority, significant additional time may be required. Establishing this type of organization would be a ground-up exercise, with needs for both technical and administrative personnel. Additionally, the parameters defining the operations and responsibilities of the organization would be needed. This includes determining of whether the new power authority would be engaged in areas such as renewable energy contracts, purchases of RECs, administration of incentives for beneficial **electrification, or other activities designed to further the advancement of Maine's energy-related goals.**

Should Maine determine to continue to rely on third parties to act as SOS providers, the contracts with those providers should be for periods of multiple years rather than for a single year. This method would achieve at least some of the benefits of having a permanent entity provide SOS. The reason for this recommendation is that a third party with a multi-year contract to provide SOS can ladder its wholesale supply products to obtain some of the benefits of temporal diversification. However, at the time that the SOS provider contract expires, all the supply contracts on which the company relies would necessarily also expire. Further, the types of wholesale supply contracts that the SOS supplier would enter into would need to be specified by the Commission.

As an example of how the above approach might work, assume a company is selected as the third-party supplier for 100% of the CMP residential SOS load for a period of six years. This company could receive the award a year in advance of the start date of service. During that year, the winning bidder could procure one-year FRCs for a portion of the load within the first few months of receiving the SOS provider contract. Several months later, the winning bidder might procure FRCs for an additional portion of the residential SOS load for a period of two years. Still later during the year prior to the commencement of service, three-year FRCs for the remaining portion of the residential SOS load could be procured. As the FRCs expire, they would be replaced with new contracts of specified duration in a pattern of purchases that maximizes diversity and minimizes the degree of market risk to which the residential SOS customers are exposed. All FRCs in place near the end of the contract term would need to expire at the termination date of the SOS provider contract. Approximately one year prior to the expiration of the SOS supplier contract, that is, in Year 5 using this example, a new solicitation would be conducted to facilitate the same sort of temporal diversification with **the replacement third party. The lack of "overhanging"** contracts between SOS provider contracts makes this approach more cumbersome and less comprehensive in terms of diversification. The multi-year contract term for providing SOS,

however, does represent an important improvement relative to the current one-year arrangement.

Under the multi-year, third-party SOS arrangement, the pricing of the contract would need to change from the current one-year arrangement. Currently, for all classes other than large C&I, SOS bidders offer a fixed, per-kWh price, or prices, in effect for the one-year term. From the bids, the MPUC is able to identify the low-cost bidder. Under a multi-year arrangement spanning six or more years, bidders would generally not be able to offer fixed prices or could only offer fixed prices with significant risk premiums built into the bids. The bidding arrangement would most likely necessitate the use of an adder in addition to market costs incurred for the procurement of specific types of products required by the MPUC. Additionally, certain non-market costs, that is, ISO-NE costs that the supplier would not be able to hedge, would likely require treatment as pass-throughs. Pass-through arrangement, as described above, are relatively common as a means to reduce the level of risk incurred by the supplier and are already used in Maine for certain exceptional costs.

A variation on the long-term, third-party SOS arrangement is to enter into shorter-term arrangements under a laddered schedule. This arrangement would be similar to what was historically relied upon in Maine between the mid-2000s and 2013, when SOS contracts were laddered to help stabilize prices.²⁰⁰ As an example of how this arrangement could be structured, Exeter notes that the CMP SOS load for residential and small non-residential customers is, in aggregate, approximately 900 MW.²⁰¹ That size load could easily accommodate two or three separate SOS contracts, as permitted under the current bidding arrangements that allow an offeror to bid on one-third, two-thirds, or all of the CMP residential/small non-residential load. In an illustrative example that uses two contracts, one contract for 50% of the CMP residential/small non-residential SOS load for one year could be awarded in the initial year of this arrangement for one year, and a second for two years. Those awards can be made at fixed prices given the relatively short time frames involved. At the conclusion of the first year, when the one-year contract expires, a new contract would be solicited for 50% of the load for two years. That same arrangement would be in place for all subsequent years such that each year, half of the total residential/small non-residential SOS load would be re-competed and re-priced.

This alternative allows Maine to retain an arrangement close to what is in place now. Further, it does not require that the state establish a new quasi-independent government agency, nor that the T&D utilities establish a trading desk with the capabilities to operate in the wholesale markets. As with the current arrangement, the market risk and load risk for this arrangement are borne by the supplier and not by the SOS customers for the time that the contracts are in place.

²⁰⁰ See Section II-C-2 of this report.

²⁰¹ See Table IV-1 of this report.

A principal disadvantage relates to the duration of products that could be used to meet the SOS requirements of residential and small non-residential customers. For example, following the structure of the above example, a three-year, fixed-price contract could not be used. It may, however, be possible to structure the arrangements differently to accommodate longer products, for example, entering into four-year contracts every two years (using laddering), and the longer contract period would be conducive to longer-term, fixed-price arrangements.

A second disadvantage is that this approach is not workable for the VP-MPD residential and small non-residential loads, or the medium C&I SOS loads, because they are too small.

Finally, under the third-party arrangement, it may be more difficult to use long-term renewable contracts to meet a portion of the SOS loads. This would be easier to accommodate if either a quasi-independent government agency or the T&D utilities operated as the SOS provider.

6. Implications of Eliminating Retail Open Access for Residential Customers

If Maine decides to eliminate residential retail open access, consistent with the **recommendation made in the Maine Office of the Public Advocate's (OPA's) companion** report, there are impacts to certain recommendations made herein. None of the recommendations related to the choice of wholesale products for residential, medium C&I, or large C&I customers are affected. SOS products for small non-residential customers, however, would be affected if those customers were separated into their own customer class.

For VP-BHD small non-residential customers, the SOS peak load in 2021 was 30 MW (estimated). This is too small a load to accommodate laddered FRCs. To avoid having these customers rely on laddered blocks combined with spot market purchases and sales, Recommendation No. 19 calls for these customers to remain combined with residential customers for purposes of wholesale product procurement; that is, residential customers and small non-residential SOS customers would share the same wholesale resources, as is currently done.

Similarly, for VP-MPD, the two classes should remain combined even though as a combined class (residential plus small non-residential SOS), the aggregate peak (about 70 MW) may be too small to solicit two laddered FRCs and attract sufficient market interest. If a laddered block-and-spot arrangement is ultimately used to provide service to the residential plus small non-residential class, assuming the ability of the relevant market to accommodate that strategy, the larger load level of the combined group would provide for added flexibility in defining an optimal product mix.

Recommendation No. 19: If retail open access for residential customers is eliminated, non-switched small non-residential SOS customers should continue to be grouped with residential customers (rather than broken out into a separate group or grouped with medium C&I customers) for purposes of procuring wholesale supply products.

It should be noted that adoption of this recommendation may entail a degree of cross-subsidization between residential customers and small non-residential SOS customers. The reasons for this are:

1. Because the load factor for residential customers tends to be lower than the load factor for non-residential customers, the small non-residential customers may be subsidizing residential customers since a load with a higher load factor is less expensive to serve (other factors equal).
2. If retail open access for residential customers is eliminated, there would be no migration risk to a wholesale supplier under an FRC for residential customers, but that risk would remain for small non-residential customers. As a consequence, FRC costs to the overall class would be higher with inclusion of the small non-residential SOS customers than they would otherwise be, other factors held constant.

These two cross-subsidy effects work in opposite directions so there is, to some degree, a netting out of the impacts. Which effect is largest is not clear, but Exeter does not anticipate the overall net impact to be large.

7. Treatment of Long-Term Renewable Energy Contracts

In its Order dated December 15, 2022 in Docket No. 2022-00221 (“December 15 Order”), the MPUC directed Staff to “initiate an informal inquiry into how Central Maine Power Company (CMP) and Versant Power (Versant) (collectively, the Utilities) should manage and sell the output of the generation facilities with which they have contracts in a manner that will maximize the value of the facilities’ output to ratepayers.”²⁰² Until the completion of this process, the Commission directed the utilities “to continue their current practice of selling that output into the wholesale energy market.”²⁰³

Exeter’s review of the list of long-term Power Purchase Agreements (PPAs), both operational and not-yet-operational, as well as the Commission’s description of the utilities’ existing and pending generating capacity and energy contracts with generating facilities, revealed that these contracts will represent a large proportion of the utilities’ loads in terms

²⁰² December 15, 2022 Order, p. 1.

²⁰³ Ibid.

of both capacity and energy.²⁰⁴ One potential way to utilize these resources is to assign some or all of these contracts to the permanent SOS provider to be utilized as a component of the SOS supply portfolio. Folding the long-term contracts into the supply portfolio, however, would necessitate changes to the above-recommended FRC procurement approach.

There are two prominent ways to deal with this complication. First, FRCs can be **defined to represent “residual” load, i.e., metered customer load less the share of the generation from the contracts attributable to the customers related to the FRC.** This approach increases the risk for FRC suppliers (particularly for multi-year FRCs) because of the uncertainty associated with the contracts that will commence operation during the term of the FRC (depending on how the output of these facilities is treated) and the real-time generation profile of these generators. This modified (residual) FRC product may not generate enough supplier interest and/or entail large supplier risk premiums. Thus, Exeter does not recommend a residual FRC product. We note that as energy from long-term contracts grows as a share of load, the residual energy to be served by the FRC supplier shrinks, which makes the FRCs less and less attractive to potential suppliers due to the reduced contract size.

Second, Maine can rely on laddered monthly, seasonal, or annual block energy purchases (RTC, on-peak, and off-peak) to mitigate market risk for the projected residual load and balance the portfolio with wholesale spot (day-ahead and real-time) market purchases and sales.

The inclusion of long-term contracts in the SOS supply portfolio has advantages and disadvantages compared to the current practice of liquidating energy from these contracts in the wholesale spot market, and ignoring their existence while constructing the SOS supply portfolio. FRCs are procured months before the delivery period starts and thus the Standard Offer rate is determined based in large part on forward market prices at the time the FRCs are procured.²⁰⁵ Long-term contracts, by comparison, are sold into the spot market throughout the year under prevailing market conditions and prices. To the extent market conditions change from when the FRCs are procured to when the energy from the long-term contracts is liquidated, a market timing-related disconnect is created between the price that load pays and the price the long-term contracts receive.

The advantage of including long-term contracts in the SOS supply portfolio is that this disconnect, and the pricing risk associated with it, will be eliminated because both the price the load pays and the price the long-term contracts receive will be the same spot market price. The disadvantage of this approach is that the supplies for the residual load will be procured, in part, in the form of spot market purchases (instead of FRCs). FRCs put

²⁰⁴ Ibid.

²⁰⁵ The bidders on FRCs typically assemble block products and otherwise hedge future spot prices to prepare the FRC bids.

all price and volumetric risk on the suppliers, while spot market purchases place all such risk on the customers. Since spot market prices are volatile, particularly during the winter months in New England due to dependency on natural gas-fired generators and natural gas supply constraints in the region, this approach increases price volatility and uncertainty for customers.

Currently, net gains or losses from the long-term contracts are returned to all (shopping and non-shopping) customers, on an energy (kWh) ratio share basis, through **non-bypassable stranded cost charges or credits in the utilities' distribution tariffs. Assigning** (existing) long-term contracts to SOS customers leads to either a benefit shift (if the long-term contracts are profitable in aggregate) or a cost shift (if the long-term contracts are **"out of the money" in aggregate) from shopping customers to non-shopping customers.** This cost or benefit shift can be mitigated by assigning only a share of each of the long-term contracts to the SOS supply portfolio. Note that employing this approach will result in one group incurring a cost and the other group gaining a benefit. If the long-term prices, in aggregate, are favorable compared to market prices, then non-shopping customers are harmed since the credits to delivery charges are reduced. SOS customers benefit, however, by a lower cost component of the SOS portfolio. If the long-term contract prices are less favorable than the market, shopping customers benefit by avoiding, to some degree, stranded costs, but SOS customers incur higher costs than would otherwise be the case.

Other considerations related to the use of long-term contracts for the provision of SOS supply is that the SOS price, in part, becomes divorced from market prices, making it more difficult for CEPs to compete with SOS. If Maine determines that residential retail open access should be eliminated, this concern is no longer an issue for residential customers in the state but would remain an issue for the other customer classes.

Currently, the existing contracts are held by the T&D utilities. If Maine opts to establish a quasi-independent power agency as the SOS provider, the output of the contracts would need to be sold to the power agency for inclusion in the supply portfolios. If the utilities sell the output to the agency at market prices, leaving intact the current allocation of benefits/cost to the T&D customers, then there is no benefit to SOS customers from the use of the power from the long-term contracts. If the contracts are sold to the power agency at cost, the same issues related to the distribution of costs and benefits between shoppers and SOS customers exist as were previously described. Because the percentage of shoppers varies by rate class, there are also interclass cost/benefit distribution issues that emerge.

Any use of the existing long-term contracts for purposes of meeting SOS load requirements necessarily entails both benefits and costs to different groups of customers. That is, no particular use of these contracts will result in an unambiguous improvement to the current arrangement. One potential avenue that would limit adverse impacts, but also limit benefits, is to designate the output from certain new long-term renewable contracts to specific SOS classes, but allow these contracts to only represent a relatively small

proportion of SOS supply, for example, less than 10%. This approach would not adversely affect the distribution of benefits related to the *status quo ante*, allow the use of FRCs, provide a modest increase in the stability of rates, and not significantly affect the ability of CEPs to compete with SOS. This approach can be used with either the T&D utilities or a quasi-independent power agency acting as the SOS provider, and could also be used with reliance on one or more third-party SOS providers.

The Commission has directed the initiation of “an inquiry to identify and review the available options for maximizing the value to ratepayers of the generation facility output received by Central Maine Power Company and Versant Power.”²⁰⁶ Inclusion of long-term contract resources in the SOS supply portfolio should be considered as an option, among others, and assessed on the basis of value-maximizing use of these resources for ratepayers.

Recommendation No. 20: Rely on the findings of the Commission’s newly opened inquiry into beneficial uses of CMP’s and Versant Power’s long-term renewable contracts to determine an optimal path forward for use of the contracts. As an alternative, use selected new contracts to provide supply for a small portion of the supply portfolio assigned to one or more specific classes, limiting the contribution to the portfolio to a small percentage, e.g., not more than 10%.

C. Retail Supply Products

1. Current Arrangement

Under current SOS arrangements, the T&D utilities offer rate types that vary by utility and customer class. None of the utilities offer a renewable energy product, but blocks of RECs can be purchased from the Maine Green Power Program, administered by the MPUC. The RECs offered through the Maine Green Power Program are from Maine renewable resources in contrast to RECs that are sometimes offered under renewable energy products from CEPs that might be sourced from renewable resources located hundreds of miles away, e.g., Texas, Oklahoma, or North Dakota.

Exeter notes that for SOS, the T&D utilities only pass through the power supply-related costs from the SOS providers. The only rate design issues concern the delivery rates. For residential service, CMP offers a flat default SOS delivery rate but also offers a TOU option through the delivery charge.

VP-MPD, in addition to a flat residential delivery rate, also offers a residential space heating rate with lower per-kWh monthly distribution costs for kWh usage in excess of 600 kWh during the October to April heating season. No TOU rates are offered to residential

²⁰⁶ December 15, 2022 Order, p. 5.

and small non-residential customers or medium C&I customers. The large customer delivery rates all include TOU components.

VP-BHD offers a TOU option for residential customers, but no TOU rate is offered for small non-residential and medium C&I customers. Large C&I customers have a non-optional TOU rate for delivery services.

All the TOU rate designs are based on the companies' transmission- and distribution-related marginal cost studies that are subject to the hearing process and are reviewed and approved by the MPUC.

2. Recommended SOS Products

Recommendation No. 21: Maine should continue to offer participation in the Maine Green Power Program under the same arrangements as those currently in place for SOS customers.

The Maine Green Power Program targets the availability of locally sourced renewable energy consistent with the state's policy priorities. As such, there is no reason to alter the approach presently being relied upon. The SOS provider should ensure that the program is easily accessed and used by SOS customers to minimize any frictional impediments to customers availing themselves of the program.

Recommendation No. 22: The SOS provider should make available optional TOU tariffs for residential and small non-residential SOS customers based on power supply price differentials reflected in the competitive market. A reconciliation mechanism is likely to be required to ensure that the SOS provider does not incur uncovered costs or realize excess revenue. TOU definitions used by distribution utilities should be synchronized with the supply-related TOU definitions.

In addition to tax incentives and rebates, reliance on TOU rates is one of the principal avenues available to policymakers to help achieve increases in the saturation of desirable capital equipment aimed at reducing electricity consumption or modifying usage patterns to reduce the overall cost of providing electricity to the full body of ratepayers. As noted above, presently, both CMP and VP-BHD provide a TOU rate option to residential customers through their distribution charges. All of the utilities rely on TOU rates for delivery of electricity to large C&I customers. TOU rates associated with the consumption of electricity directly, however, are not available to SOS customers. The charges for SOS supply to retail customers is simply a pass-through of the charges bid by the SOS providers selected by the MPUC through the competitive procurement process.

To further incentivize the adoption of beneficial electrification by residential SOS customers, such as electric vehicles, heat pumps, and storage, Exeter recommends that the

SOS provider offer optional TOU rates based on the market costs of energy and capacity during defined on-peak, off-peak, and possibly shoulder-peak periods. Reliance on optional TOU rates for residential SOS customers serves to not only incentivize the procurement of beneficial equipment, but also promotes the desirable use of the equipment during periods of lowest market prices.

TOU rates should be made optional for residential customers because not all customers are capable of modifying usage to benefit from TOU rates. Further, when a customer is on a TOU rate schedule and cannot reasonably alter usage patterns to benefit from the TOU rates, the overall cost for that customer tends to increase. Those residential customers least likely to be able to modify usage to benefit from TOU rates tend to be the elderly, low-income customers, and the infirm. To avoid the potential for serious adverse unintended consequences, the rates should be optional rather than mandatory.

The proportion of residential customers that have selected optional TOU rates in other states has sometimes been very small. The modest loads coming under residential TOU rates has caused the wholesale competitive marketplace to often fail to provide an adequate response to competitive wholesale acquisition of TOU supplies. Consequently, the power supplied under TOU rates for residential SOS customers, where the market has not responded by providing wholesale supply prices mirroring the TOU rate arrangement in the retail market, requires using the broader SOS power supply provided under fixed rates to the successful wholesale bidders. Because revenues from TOU ratepayers will not match the revenues that would be received through flat rates, a mismatch between revenues and costs for the SOS provider will result. This mismatch needs to be addressed using a reconciliation mechanism, which is a commonly employed approach. Typically, the reconciliation adjustment, which could be either positive or negative, is calculated over a calendar quarter and amortized over the subsequent quarter. These reconciliation adjustments generally tend to be small relative to the overall power supply cost.

An additional issue related to the often very small number of residential SOS customers that opt to receive service under TOU rates is that if the cost of implementing a TOU rate program is large, any benefits that might be associated with the program can be overshadowed by the costs. Even once the necessary metering is in place, there remain significant costs related to the development of the appropriate usage tracking algorithms and the billing infrastructure to support TOU rates. Because CMP and VP-BHD already offer TOU rates related to T&D-related costs, Exeter would not anticipate that the extension of the TOU offering to accommodate the supply component would entail a large additional cost. If that is not the case and a significant additional expenditure is needed to effectuate use of TOU rates for either of these two utility areas, an assessment should be made by the Commission to determine whether the added costs associated with moving forward with a TOU program based on energy supply cost differentials is warranted.

A final issue relates to the alignment of the TOU periods (peak, off-peak, and shoulder peak) for the delivery rates with the TOU periods for the supply component. The

T&D utilities offer TOU rates for their delivery service, but TOU rates for supply may clash with the current TOU delivery periods if the periods are not coordinated. The alignment of the TOU periods for delivery and for supply may require certain compromises to be made since the supply TOU periods should be based on market costs rather than usage levels.²⁰⁷ The TOU periods for delivery would be based on usage since usage determines costs.²⁰⁸ The optimum time periods for the combined delivery plus supply package may differ from the optimal time periods for either delivery or supply evaluated on a standalone basis.

D. Supplier Consolidated Billing

Recommendation No. 23: Maine should delay moving towards implementation of SCB until Maryland's experience is known and can be assessed, thus allowing Maine to avoid any possible problems that Maryland may encounter. Should Maine opt to approve an SCB program, the relevant issues should be addressed and the rules and regulations developed prior to adoption through a stakeholder process designed to ensure fairness to all parties and provide consumer protections to retail customers.

Supplier consolidated billing (SCB) refers to the shopping customer receiving a bill for both delivery and supply from the CEP rather than from the T&D utility. The principal benefit of SCB is to allow the CEP to cultivate a business relationship with the customer. Currently, with a consolidated bill coming from the utility, the customer views the primary business relationship as being with the T&D utility rather than with the CEP. Presently, only one state other than Texas, Maryland, has adopted SCB, which is expected to begin in 2023 following completion of the necessary groundwork to make this a viable program.²⁰⁹

Some of the issues that Maryland has had to address through an extended stakeholder process are:

1. For those suppliers that will be offering consolidated billing, the licensing requirements that the supplier would need to meet;
2. What performance metrics would be required in the event of billing errors, for example, call center wait times and the process for resolution;
3. What performance metrics, in terms of billing accuracy, would be required;

²⁰⁷ For example, even though usage, i.e., the demand for electricity, may be greatest during the day, high output from solar projects at those times may result in market prices lower than at other times when usage is lower.

²⁰⁸ Higher usage levels require higher levels of investment in the T&D systems, and hence higher levels of cost.

²⁰⁹ Pennsylvania recently addressed SCB and following the conclusion of hearings, was unable to determine that SCB is prudent from a public policy perspective, citing concerns about consumer protection and certain legal issues. Pennsylvania Public Utility Commission, Order in Docket No. M-2018-2645254, June 21, 2021. Several other states and utilities also offer SCB on a pilot basis, such as American Electric Power Ohio. See: aepohio.com/account/bills/programs/SCB#:~:text=What%20is%20Supplier%20Consolidated%20Billing,on%20the%20own%20CRES%20bill..

4. What types of information would be required to be provided on the bill, e.g., the price to compare, the unbundled energy supply rate, etc.;
5. Whether low-income customers or customers receiving energy assistance would be allowed to participate in SCB;
6. Whether financial security would be provided by the supplier, the type of security required, and the amount of the security; and
7. What electronic data interchange requirements and coordination with the distribution utility would be needed.

Because of the complexity associated with SCB and the need to ensure that customers are protected to the same degree that they are under current arrangements, which do not allow for supplier consolidated billing, Exeter is not prepared to recommend implementation at this time. If the Maryland program appears to be successful following an **adequate amount of time needed to evaluate that state's experience with the SCB** arrangement, Maine might look to replicating that success. At present, the general consensus among the states that have restructured their electric utility industries is that there does not appear to be a strong reason to move forward with SCB. Further, enough concerns have been raised related to consumer protection that only two states have moved toward implementation. If Maine chooses to implement SCB, the rules and regulations should be developed with stakeholder inputs to ensure that the interests of all sides are met.

E. Summary of Recommendations

The recommendations presented in this chapter are summarized below.

Residential and Small Non-Residential

Recommendation No. 1: The residential and small non-residential SOS wholesale supply, where possible, should be composed of laddered full-requirements, load-following contracts (FRCs) of varying duration to reduce price volatility and mitigate market risk through temporal diversification.

Recommendation No. 2: For VP-MPD, where laddered FRCs might not be successfully employed due to the small size of the residential and small non-residential load, block-and-spot products should be used to meet residential and small non-residential SOS requirements, if possible. The block-and-spot solution should be deployed if market response to an RFP for FRCs is inadequate. If the market is not capable of supporting a block-and-spot approach, the existing framework for meeting the SOS requirement should be used.

Recommendation No. 3: The residential and small non-residential SOS supply portfolio should be structured using scheduled procurements of contracts following a plan pre-approved by the Commission.

Recommendation No. 4: Deviations from the pre-approved residential and small non-residential SOS plan should be permitted, with approval from the Commission, to allow the SOS provider to avoid possible market problems that could adversely affect a scheduled purchase or to allow the SOS provider to take advantage of unique opportunities that may arise to the benefit of residential and small non-residential SOS customers.

Recommendation No. 5: The SOS price for each customer class should be based on the weighted average cost of the portfolio and should change when older vintage contracts expire and are replaced by new contracts that reflect then-current market prices.

Recommendation No. 6: The SOS provider, for all customer classes, should continue **Maine's current practice of relying on sealed bids provided in response to an RFP to obtain SOS supply.**

Recommendation No. 7: For all customer classes relying on FRCs for SOS supply, the number of FRC tranches to be procured, the size of the tranches, and restrictions on the number of tranches that any one supplier may be awarded should balance the competing goals of minimizing administrative costs, maximizing market participation, and controlling the risk of supplier default.

Recommendation No. 8: The selection of winning bids resulting from an SOS solicitation for each customer class should be subject to Commission review and approval, which the Commission should commit to provide within 24 hours of the receipt of the final bids.

Medium C&I

Recommendation No. 9: The medium C&I wholesale supply for CMP SOS customers should be composed of laddered full-requirements, load-following contracts of varying duration to reduce price volatility and mitigate market risk through temporal diversification.

Recommendation No. 10: The medium C&I wholesale supply for VP-BHD and VP-MPD SOS customers should be composed of laddered block products and spot market purchases to reduce volatility and mitigate market risk through temporal diversification.

Recommendation No. 11: The medium C&I SOS supply portfolio for all utilities should be structured using scheduled procurements of contracts following a plan pre-approved by the Commission.

Recommendation No. 12: Deviations from the pre-approved medium C&I SOS plan should be permitted, with approval from the Commission, to allow the SOS provider to avoid possible market problems that could adversely affect a scheduled purchase or to allow

the SOS provider to take advantage of unique opportunities that may arise to the benefit of medium C&I SOS customers.

Large C&I

Recommendation No. 13: The large C&I wholesale supply should be composed of full-requirements, load-following contracts priced on a monthly basis consistent with the current product procured by Maine to serve SOS customers in this class.

Recommendation No. 14: The large C&I wholesale SOS supply portfolio should be structured using scheduled procurements of contracts following a plan pre-approved by the Commission.

Recommendation No. 15: Deviations from the pre-approved large C&I SOS plan should be permitted, with approval from the Commission, to allow the SOS provider to avoid possible market problems that could adversely affect a scheduled purchase or to allow the SOS provider to take advantage of unique opportunities that may arise to the benefit of large C&I SOS customers.

Other

Recommendation No. 16: Designate either the T&D electric utilities or a new quasi-independent power authority to be the SOS provider for all customer classes.

Recommendation No. 17: If Maine opts to retain third-party, competitively procured entities to act as the SOS providers, as is presently done, the contracts for the provision of SOS should be for a period of between approximately six to 10 years for customer classes other than large C&I. Contracts of longer duration than one year will facilitate laddering contracts.

Recommendation No. 18: In lieu of longer duration contracts for third-party SOS providers for CMP and VP-BHD residential and small non-residential SOS customers and CMP medium C&I customers, Maine should consider laddering third-party SOS contracts. This will allow certain Maine SOS customers to obtain the benefits of temporal diversification without the adverse impacts of longer duration contracts if the utility/customer class is of sufficient size to accommodate that arrangement.

Recommendation No. 19: If retail open access for residential customers is eliminated, non-switched small non-residential SOS customers should continue to be grouped with residential customers (rather than broken out into a separate group or grouped with medium C&I customers) for purposes of procuring wholesale supply products.

Recommendation No. 20: **Rely on the findings of the Commission's newly opened inquiry into beneficial uses of CMP's and Versant Power's long-term renewable contracts to determine an optimal path forward for use of the contracts.** As an alternative, use selected new contracts to provide supply for a small portion of the supply portfolio assigned to one or

more specific classes, limiting the contribution to the portfolio to a small percentage, e.g., not more than 10%.

Recommendation No. 21: Maine should continue to offer participation in the Maine Green Power Program under the same arrangements as those currently in place for SOS customers.

Recommendation No. 22: The SOS provider should make available optional TOU tariffs for residential and small non-residential SOS customers based on power supply price differentials reflected in the competitive market. A reconciliation mechanism is likely to be required to ensure that the SOS provider does not incur uncovered costs or realize excess revenue. TOU definitions used by distribution utilities should be synchronized with the supply-related TOU definitions.

Recommendation No. 23: Maine should delay moving towards implementation of SCB **until Maryland's experience is known and can be assessed**, thus allowing Maine to avoid any possible problems that Maryland may encounter. Should Maine opt to approve an SCB program, the relevant issues should be addressed and the rules and regulations developed prior to adoption through a stakeholder process designed to ensure fairness to all parties and provide consumer protections to retail customers.

V. APPENDICES

Appendix A – 2021 P.L. Ch. 164 (LD 318)

APPROVED
APRIL 20, 2022
BY GOVERNOR

CHAPTER
164
RESOLVES

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-TWO

H.P. 222 - L.D. 318

**Resolve, To Direct the Office of the Public Advocate To Study Reforming
Maine's System of Retail Electricity Supply To Provide More Options to
Maine Customers and Support Maine's Climate Goals**

Sec. 1. Public Advocate to conduct study on reform of retail electricity supply. Resolved: That the Office of the Public Advocate shall conduct a study of options for reforming the State's current system of retail electricity supply in ways that will provide greater competition among retail electricity supply providers and more options and protections for customers, including access to renewable and clean energy supply options. The office shall examine options relating to the State's standard offer system for facilitating the achievement of the State's climate goals and beneficial electrification. In conducting the study, the Public Advocate shall consult with the Public Utilities Commission, the Governor's Energy Office and stakeholders, including but not limited to advocates for low-income persons, appropriate representatives of the federally recognized Indian tribes in this State, representatives of disadvantaged groups, representatives of small and large businesses and industries, advocates for the environment and renewable energy, representatives of retail electricity supply providers and representatives of transmission and distribution utilities. The Public Advocate may also consult with other agencies and organizations, including but not limited to the Office of the Attorney General and the Efficiency Maine Trust. For the purposes of this resolve, "beneficial electrification" means electrification of a technology that results in reduction in the use of a fossil fuel, including electrification of a technology that would otherwise require energy from a fossil fuel, and that provides a benefit to a utility, a ratepayer or the environment, without causing harm to utilities, ratepayers or the environment, by improving the efficiency of the electricity grid or reducing consumer costs or emissions, including carbon emissions.

Sec. 2. Authority to retain consultant with regard to study on reform of retail electricity supply. Resolved: That, in conducting the study under section 1, the Public Advocate may retain one or more consultants, including, to the greatest extent possible, persons from academic or research institutions in the State for analysis and report preparation.

Sec. 3. Issues to be reviewed as part of study on reform of retail electricity supply. Resolved: That, in conducting the study under section 1, the Public Advocate shall ensure that, at a minimum, the following issues are examined.

1. The Public Advocate shall examine methods of protecting customer rights and interests including through the establishment of a public access website portal through which customers may obtain information on and shop for competitive electricity supply. The Public Advocate shall examine the feasibility of a publicly accessible website maintained by the Public Utilities Commission or by the Office of the Public Advocate that provides current, independent and objective information that allows customers to compare terms, conditions and prices and value-added service offers provided by competitive electricity providers, as well as any other information the Public Advocate or the commission determines would be useful to customers. The Public Advocate shall consider how to ensure customers may use the website to easily access external publicly accessible websites where customers may review offers and contract details and execute agreements electronically.

2. The Public Advocate shall examine the development and adoption of customer protections that include at least the following:

A. Conditions for, or prohibitions on, any fees for residential customers seeking to change a product or pricing plan;

B. Credits for excessive call center wait times;

C. Education programs to inform customers about customer choices and protections and public service announcements by state agencies encouraging customers actively to shop for electricity supply options before winter and summer seasons when prices may be higher;

D. Options for allowing retail electricity suppliers to bill for their electricity supply, value-added services and products along with the local distribution company's regulated charges, as well as an examination of whether retail electricity suppliers should be allowed to collect electricity bills that include value-added services and products other than generation supply service and whether nonpayment of those portions of electricity bills should be subject to the threat of disconnection of service;

E. Publication, at least annually, of a competitive electricity provider report card that includes, but is not limited to, levels of verified complaints filed with the Public Utilities Commission against electricity providers;

F. Examining the advantages and disadvantages of variable-rate contracts for residential customers;

G. Requiring renewable energy products marketed by retail electricity suppliers to be consistent with the State's renewable energy resources laws;

H. Examining whether retail electricity suppliers should be allowed to conduct door-to-door sales only if the individual personally attempting to make a sale is employed by and supervised by the retail electricity supplier and whether the State's existing consumer protection laws adequately protect the State's retail electricity consumers; and

I. Programs to protect low-income customers that incorporate energy equity considerations, including but not limited to a hardship program that provides grants to

qualifying low-income customers on an annual basis; a payment extension program that allows a qualifying low-income customer additional time to pay a bill without the threat of termination; a payment plan program that allows qualifying low-income customers to pay the balance owed in installments along with the regular monthly bill; a bill discount program that provides qualifying low-income customers with a fixed discount on their monthly bill; and other programs designed to increase access to renewable energy for such customers.

3. The Public Advocate shall examine issues related to climate change and beneficial electrification, including:

A. Analyzing how each studied electricity supply option would help achieve the state emissions level goals under the Maine Revised Statutes, Title 38, section 576-A and the climate action plan under Title 38, section 577 as well as beneficial electrification, including rapid implementation of time-of-use rates, on-bill financing and other methods to assist customers in reducing carbon emissions and achieving beneficial electrification;

B. Consideration of requirements for all competitive electricity providers to provide one or more clean energy options to customers, including at least one option that provides 100% of its electricity from renewable resources as defined in the Maine Revised Statutes, Title 35-A, section 3210, subsection 2, paragraph C and to advertise to customers renewable energy supply options in a manner that is as prominent as the manner that other options are advertised to customers; and

C. Consideration of whether default or other supply options could be used to assist in funding access to renewable energy or efficiency programs administered by the Efficiency Maine Trust.

4. The Public Advocate shall examine possible alternatives to the State's standard offer service that reduce customer exposure to price volatility, provide product diversity including increased access to variously priced renewable energy and assist low-income and disadvantaged customer groups through product and pricing mechanisms.

5. The Public Advocate shall examine the alternatives to the State's standard offer service identified by stakeholders consulted in accordance with section 1 and identify the likely advantages and disadvantages of each option with respect to the impact on customers in this State, with specific attention to low-income customers and principles of energy equity; the achievement of the State's climate goals; and adoption of beneficial electrification. The study must focus on a comprehensive but limited number of options to achieve the goals of the study.

6. The Public Advocate shall examine ways to improve customer satisfaction and service quality when customers choose new retail electricity supply options during any transition to each supply system alternative identified in the study, including:

A. Potential amendments to laws or rules to replace the standard offer service with one or more identified supply options, such as one or more designated default service providers, as a transition to implementation of the supply system option;

B. Requirements for customer service improvements that could be accomplished during a transition to the supply system option, including improved customer service

based on metrics relating to call wait time and billing accuracy that exceed the current standard offer service provider performance;

C. Requirements for standard offer service providers, default service providers or other competitive electricity providers to keep customers informed of the price for any transitional retail service and whether the provider is certified by the Public Utilities Commission to offer consolidated billing services under the supply system option; and

D. Any other transition period requirements or customer protections to ensure customers in the State are adequately protected during any transition.

Sec. 4. Report to Legislature. Resolved: That the Public Advocate shall complete the study under section 1 and submit a report along with any recommendations and suggested legislation to the joint standing committee of the Legislature having jurisdiction over electric utility matters by February 1, 2023. The Public Advocate shall provide an opportunity for public comment on the draft study and include a summary of public comments received in the final report. The report must include all alternatives that the study examined and the advantages and disadvantages of each alternative as well as any other issues that the Public Advocate and the stakeholders determine should be brought to the attention of the Legislature. The joint standing committee of the Legislature having jurisdiction over electric utility matters may report out a bill during the 131st Legislature in 2023 relating to the results of the study.

Sec. 5. Appropriations and allocations. Resolved: That the following appropriations and allocations are made.

EXECUTIVE DEPARTMENT

Public Advocate 0410

Initiative: Provides an allocation for the cost of contracted services.

OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
All Other	\$0	\$200,000
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$200,000

Appendix B – Experience and Qualifications

STEVEN L. ESTOMIN, Ph.D.

Dr. Estomin has more than 40 years' experience managing and conducting consulting assignments related to public utility economics and regulation. In 1981, Dr. Estomin joined Exeter Associates, Inc. and served as a Senior Economist, Principal, and corporate officer of the firm through 2018. While at Exeter, he supervised multi-million dollar support contracts with the State of Maryland and the U.S. Air Force, and directed the technical work conducted by both Exeter professional staff and numerous subcontractors. Additionally, Dr. Estomin took a lead role at Exeter by consulting to the firm's other clients in the areas of electric utility industry restructuring, utility power purchase contracts, and renewable energy project evaluation. Dr. Estomin has testified as an expert witness on over 50 occasions before federal and state regulatory agencies, state legislatures, and U.S. District Court on issues related to load forecasting, statistical analysis, economic damage analysis, class cost-of-service, rate design, power supply procurement, and default electric service. He has also provided technical support to federal agencies in utility contract negotiations and in the development of requests for proposals for competitive power supply procurement for U.S. military bases and large civilian government installations. Since leaving Exeter Associates in 2018, Dr. Estomin has worked as an independent consultant.

Education

- B.A. (Economics) – University of Maryland, 1975
- M.A. (Economics) – University of Maryland, 1978
- Ph.D. (Economics) – University of Maryland, 1986

Sample Major Publications and Reports

- "Energy Storage in Maryland – Policy and Regulatory Options for Promoting Energy Storage and Its Benefits," prepared for the Power Plant Research Program, Maryland Department of Natural Resources, December 2018 (with Kevin Porter and Rebecca Widiss of Exeter Associates, Inc.).
- "Audit Report for Selected Electric Power Supply Accounts Served by Constellation NewEnergy and Constellation Energy Projects Services Group," prepared for the U.S. General Services Administration, Pacific Rim Region, October 2017 (with Jerome Mierzwa of Exeter Associates, Inc.).
- "Sommers Cove Marina Solar Power Options," prepared for the Power Plant Research Program, Maryland Department of Natural Resources, June 2017.
- "Long-term Electricity Report for Maryland," prepared for the Power Plant Research Program, Maryland Department of Natural Resources, December 2016 (with Rebecca Widiss of Exeter Associates, Inc.).
- "Assessment Report of the Potential Benefits of Electric Service Aggregation for Delmarva Power & Light Company's Residential and Small Commercial Customers," prepared for the Delaware Public Service Commission, May 2015.

Sample Expert Testimony

Before the Pennsylvania Public Utility Commission in Docket No. P-2020-3019356, PPL Electric Utilities Corporation, 2020, for the Pennsylvania Office of Consumer Advocate. Testified on Default Service issues.

Before the Maryland Senate Finance Committee, 2018, for the Maryland Department of Natural Resources. Testified on renewable energy resources and the Maryland Renewable Energy Portfolio Standard.

Before the Pennsylvania Public Utility Commission in Docket Nos. P-2017-2637855, P-2017-2637857, P-2017-2637858, and P-2017-2637866, Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company, 2018, for the Pennsylvania Office of Consumer Advocate. Testified on Default Service issues.

Before the Pennsylvania Public Utility Commission in Docket No. M-2016-2578051, PPL Electric Utilities Corporation, 2017, for the Pennsylvania Office of Consumer Advocate. Testified on Time-of-Use Rates.

Before the Public Service Commission of Maryland in Case No. 9411, Application of Mills Branch Solar, LLC for a Certificate of Public Convenience and Necessity to Construct a 60-MW Solar Photovoltaic Generating Facility in Kent County, Maryland, 2016, for the Power Plant Research Program, Maryland Department of Natural Resources. Testified on economic impacts.

Before the Pennsylvania Public Utility Commission in Docket No. C-2014-2438640, Respond Power, LLC, 2015, for the Pennsylvania Office of Attorney General and the Office of Consumer Advocate. Testified on electric power market pricing issues.

Before the Pennsylvania Public Utility Commission in Docket No. C-2014-2427657, IDT Energy, Inc., 2015, for the Pennsylvania Office of Attorney General and the Office of Consumer Advocate. Testified on electric power market pricing issues.

Before the Public Utility Commission of Ohio in Case No. 11-5201-EL-RDR, Ohio Edison Company, Cleveland Electric Illuminating Company, and Toledo Edison Company, 2013, for the Public Utility Commission of Ohio Staff. Testified on renewable energy procurement issues.

Before the Pennsylvania Public Utility Commission in Docket No. P-2009-2094494, PECO Energy Company, 2009, for the Pennsylvania Office of Consumer Advocate. Testified on acquisition of solar energy credits.

Before the Maryland Public Service Commission in Case No. 9117, Investigation of Investor-Owned Electric Companies' Standard Offer Service for Residential and Small Commercial Customers in Maryland, 2008, for the Maryland Energy Administration. Testified on Standard Offer Service issues.

Before the Maryland Public Service Commission in Case No. 9099, Baltimore Gas and Electric Company, 2007, for the Maryland Department of Natural Resources. Testified on market-related issues, Standard Offer Service prices, and Standard Offer Service Procurement Issues.

Before the Maryland Public Service Commission in Case No. 9063, Investigation into the Optimal Structure of the Electric Utility Industry in Maryland, 2006, for the Power Plant Research Program, Maryland Department of Natural Resources and the Maryland Energy Administration. Testified on standard offer service issues, customer choice, demand-side management and energy efficiency, and market-related issues.

Before the Maine Public Utilities Commission in Docket No. 2004-339, Central Maine Power Company, 2004, for the Maine Public Advocate. Testified on sales forecasting issues.

Note: Dr. Estomin has testified before the Maine Public Utilities Commission on nine occasions.

MATTHEW T. HOYT

Mr. Hoyt is a Senior Analyst and Principal with Exeter Associates, Inc., with over 10 years of experience in the energy industry. At Exeter, Mr. Hoyt develops utility service assessments, provides bill and rate analysis, and conducts economic and feasibility assessments of renewable energy, retail supply, electrification, and demand response opportunities. Additionally, Mr. Hoyt evaluates utility sector policy and regulation for private, federal, and state clients, as well as supports clients in complex utility service and rate negotiations.

Mr. Hoyt holds separate Bachelor of Arts degrees in Government and English from Georgetown University and a Master of Public Administration from Ohio State University. Mr. Hoyt's graduate coursework focused on electricity policy, applied economics, and utility regulation. He wrote two capstone papers: an econometric assessment of community aggregation policy in retail electric markets and a theoretical assessment of the economic theory of regulatory capture.

Education

B.A. (Government/English) – Georgetown University, 2012

M.P.A. (Public Administration) – Ohio State University, 2016

Previous Employment

2015-2016 Market Research Analyst, Customer Data Science,
AEP Energy
Columbus, Ohio

2011-2014 Senior Analyst and Project Manager,
TargetPoint Consulting
Alexandria, Virginia

Professional Experience

Mr. Hoyt's work at Exeter is primarily related to competitive retail electricity markets; energy supply acquisition; utility bill and rate analysis; residential electrification; and policy design, implementation, and evaluation. Recent projects that Mr. Hoyt has led or provided support include: a multi-year review of demand-side management and demand response opportunities at all U.S. Army sites; assessments of energy storage, nuclear energy, and renewable portfolio standard policies for the state of Maryland; a comprehensive evaluation of opportunities to optimize the U.S. Army's utility procurement practices and policies; and an assessment of resource adequacy constructs in organized wholesale markets for the Consumer Advocates of the PJM States. In addition to these projects, Mr. Hoyt works with the U.S. Corps of Engineers Commercial Utilities Program, Department of Energy Federal Energy Management Program,

and U.S. Air Force Utilities Rate Management Team to support utility service reviews at Army, Department of Energy, and Air Force sites, respectively.

Prior to joining Exeter Associates, Mr. Hoyt worked in a variety of analytical roles managing and analyzing large-scale utility data as well as conducting econometric assessment. As a data scientist at AEP Energy, Mr. Hoyt assessed electricity and gas customer data to address research questions regarding consumer behavior and preferences. At TargetPoint Consulting, Mr. Hoyt supervised stratified surveys, built and maintained large-scale relational databases, and developed predictive models for a variety of corporate clients, including electric utilities and energy-sector trade associations.

Journal Publications

Hoyt, M., Dormady, N., Roa-Henriquez, A., Pesavento, M., Morin, B., & Koenig, G. (In Progress) Price Determinants of Default Electricity Supply in Restructured Markets.

Dormady, N., Welch, W., **Hoyt, M.**, & Roa-Henriquez, A., (In Progress) The Economic & Environmental Impacts of Electric Retail Choice Markets.

Dormady, N., **Hoyt, M.**, Roa-Henriquez, A., & Welch, W. (2019) Who Pays for Retail Electric Deregulation? Evidence of Cross-Subsidization from Complete Bill Data. *The Energy Journal*, 40(2): 161-194. <https://doi.org/10.5547/01956574.40.2.ndor>

Dormady, N., Jiang, Z., & **Hoyt, M.** (2018). Do markets make good commissioners?: A quasi-experimental analysis of retail electric restructuring in Ohio. *Journal of Public Policy*, 1-33. <https://doi.org/10.1017/S0143814X18000168>

Academic Conference Paper Presentations

International Association for Energy Economics (IAEE)/USAEE
2022 | 2018 | 2017

Midwest Public Affairs Association (MPAC)
2016

Grants

Sloan Foundation. 2022-2025. *Who Pays for Electrification & Resilience?: An Evaluation of the Equity, Justice & Efficiency Impacts of Retail Electric Deregulation*. \$0.5M. (Collaborator) (PIs: Dormady, N., Shafieezadeh, A., Lamadrid, A.)

Select Published Papers and Consulting Reports

Resource Adequacy Constructs in Organized Wholesale Markets, prepared for Consumer Advocates of the PJM States, April 2021 (with Christopher Parent and Cali Clark of Exeter Associates)

Final Report Concerning the Maryland Renewable Portfolio Standard As Required by Chapter 393 of the Acts of the Maryland General Assembly of 2017, prepared for the Maryland

2

Department of Natural Resources, Power Plant Research Program, December 2019 (with Rebecca Widiss and Kevin Porter of Exeter Associates, among other contributors).
<https://dnr.maryland.gov/pprp/Documents/FinalRPSReportDecember2019.pdf>

Energy Storage in Maryland: Policy and Regulatory Options for Promoting Energy Storage and its Benefits, prepared for the Maryland Department of Natural Resources, Power Plant Research Program, 2018 (with Steven Estomin, Rebecca Widiss, Kevin Porter, Stacy Sherwood, and Cali Clark of Exeter Associates, and Steven Miller and Aditya Saxena of Mondre Energy)

Strategy memos and guidance documents, including:

U.S. Army Utility Procurement Assessment: Current and Ideal Practices, Gaps, and Opportunities, prepared for the U.S. Army's Commercial Utilities Program, December 2020 (with Christina Mudd).

GOCO Contracts and Energy Conservation Measures, prepared for Army Materiel Command, September 2018 (with Christina Mudd).

Army Demand Response Implementing Guidance, prepared for the Office of the Assistant Chief of Staff for Installation Management, September 2018 (with Christina Mudd and Shawn Kelly).

USAR and ARNG: Guidance for Participation in Demand Response Programs, prepared for the Office of the Assistant Chief of Staff for Installation Management, United States Army Reserve, and the Army National Guard, August 2018 (with Christina Mudd, Felipe Salcedo, and Katherine Fisher).

USAR: Utility Provider Assessment – Summary of Opportunities, prepared for the United States Army Reserve, April 2017 (with Christina Mudd and Felipe Salcedo).

SERHAN OGUR

Dr. Ogur is a Principal of Exeter Associates, Inc. with 20 years of experience in the energy industry specializing in organized wholesale (Regional Transmission Organization/Independent System Operator) and retail electricity markets. Dr. Ogur's diverse background comprises energy management and consulting; analysis, design, and reporting of RTO electricity markets and products; and state and federal regulation of electric utilities.

Dr. Ogur's coursework in graduate school focused on Microeconomic Theory, Game Theory, and Industrial Organization. His doctoral dissertation investigates imperfect competition in deregulated wholesale electricity markets and oligopolistic competition between private and public generators.

Education

B.A. (Economics) – Bogazici University, Istanbul, Turkey, 1996

Ph.D. (Economics) – Northwestern University, Evanston, IL, 2007

Previous Employment

2014-2015 Senior System Operator
Fellon-McCord & Associates, LLC
Louisville, KY

2005-2014 Senior Economist
PJM Interconnection, LLC
Audubon, PA

2001-2005 Economic Analyst
Illinois Commerce Commission
Springfield, IL

Professional Experience

Dr. Ogur's work at Exeter includes analysis of electricity supply contracts; utility rates and tariffs; energy markets and prices; power procurement; default electric service design; project evaluation; demand response opportunities; congestion hedging strategies; and price forecasting.

Prior to joining Exeter, Dr. Ogur's responsibilities at Fellon-McCord encompassed overseeing and performing the daily tasks of the "24/7" wholesale electricity desk, including all aspects of scheduling, managing, and monitoring direct market participant load and generation assets (mostly in ISO/RTO markets) as well as their settlements and custom reporting. He was also in charge of developing strategies and making recommendations, through analytical, financial, and market research, for longer-term management of clients' load obligations and generation assets such as Auction Revenue Rights (ARR) nominations;

participation in energy, ancillary services, and capacity markets; load forecasting; energy, basis, and capacity price forecasting; hedging; and peak load management. Dr. Ogur also served as the company's lead analyst in various special consulting projects.

In PJM Interconnection's Market Strategy and Market Analysis departments, Dr. Ogur was responsible for analyzing and reporting on all PJM-administered electricity market products, including day-ahead and real-time energy, operating reserve, regulation, synchronized reserve, virtual transactions, financial transmission rights, capacity, demand response, energy efficiency, and renewables. He was part of the team that developed the protocols and business rules for participation of energy efficiency in PJM markets as well as a lead reviewer for energy efficiency plans and post-installation measurement and verification (M&V) reports for PJM's capacity market auctions. He also has training and experience in PJM's stakeholder management process.

Dr. Ogur's responsibilities at the Illinois Commerce Commission (ICC) included monitoring all Illinois-related developments under federal jurisdiction, mostly Federal Energy Regulatory Commission (FERC) filings and rulings concerning major Illinois electric public utilities. In addition, Dr. Ogur reviewed all actions concerning Illinois public utilities at the FERC level (applications to join RTOs, market-based rate authority filings, merger applications, transmission rate cases, etc.), and developed positions and official comments for the consideration of the ICC to file in the related FERC dockets. Dr. Ogur also filed written testimony and served as staff witness (including standing cross-examination) in the ICC dockets establishing auction-based competitive wholesale energy procurement mechanisms for major Illinois electric public utilities.

Expert Testimony

Before the Pennsylvania Public Utility Commission, Docket Nos. P-2021-3030012, P-2021-3030013, P-2021-3030014 and P-2021-3030021, Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company, 2022, on behalf of the Pennsylvania Office of Consumer Advocate. Testimony addressed default service issues.

Before the Ontario Superior Court of Justice, In the Matter of Just Energy Group Inc. et al, Court File No. CV-21-00658423-00CL, 2021, on behalf of the *Donin and Jordet* Plaintiffs. Testified on overcharges by a retail electric supplier in a class action suit with plaintiffs in 11 states in the U.S.

Before the Pennsylvania Public Utility Commission, Docket Nos. A-2021-3025659 and A-2021-3025662, Pike County Light & Power Company and Leatherstocking Gas Company, LLC, 2020, on behalf of the Pennsylvania Office of Consumer Advocate. Testimony addressed public utility merger and acquisition issues.

Before the U.S. District Court for the District of New Jersey, Civil Action No. 3:17-cv-02680-MAS-LHG, 2021, on behalf of Janet Rolland, et al. Testified on systematic overcharges by a retail electric supplier in a class action suit with plaintiffs in eight states.

Before the Pennsylvania Public Utility Commission, Docket No. P-2020-3022988, Pike County Light & Power Company, 2020, on behalf of the Pennsylvania Office of Consumer Advocate. Testimony addressed default service issues.

Before the Pennsylvania Public Utility Commission, Docket No. P-2020-3019907, UGI Utilities, Inc. – Electric Division, 2020, on behalf of the Pennsylvania Office of Consumer Advocate. Testimony addressed default service issues.

Before the Pennsylvania Public Utility Commission, Docket No. P-2020-3019522, Duquesne Light Company, 2020, on behalf of the Pennsylvania Office of Consumer Advocate. Testimony addressed default service issues.

Before the Pennsylvania Public Utility Commission, Docket Nos. P-2020-3019383 and P-2020-3019384, Citizens’ Electric Company of Lewisburg, PA and Wellsboro Electric Company, 2020, on behalf of the Pennsylvania Office of Consumer Advocate. Testimony addressed default service issues.

Before the Pennsylvania Public Utility Commission, Docket No. P-2016-2534980, PECO Energy Company, 2016, on behalf of the Pennsylvania Office of Consumer Advocate. Testimony addressed default service issues.

Before the Illinois Commerce Commission, Docket No. 05-0159, Commonwealth Edison Company, 2005, on behalf of the Staff of Illinois Commerce Commission. Testimony addressed default service design and competitive procurement issues.

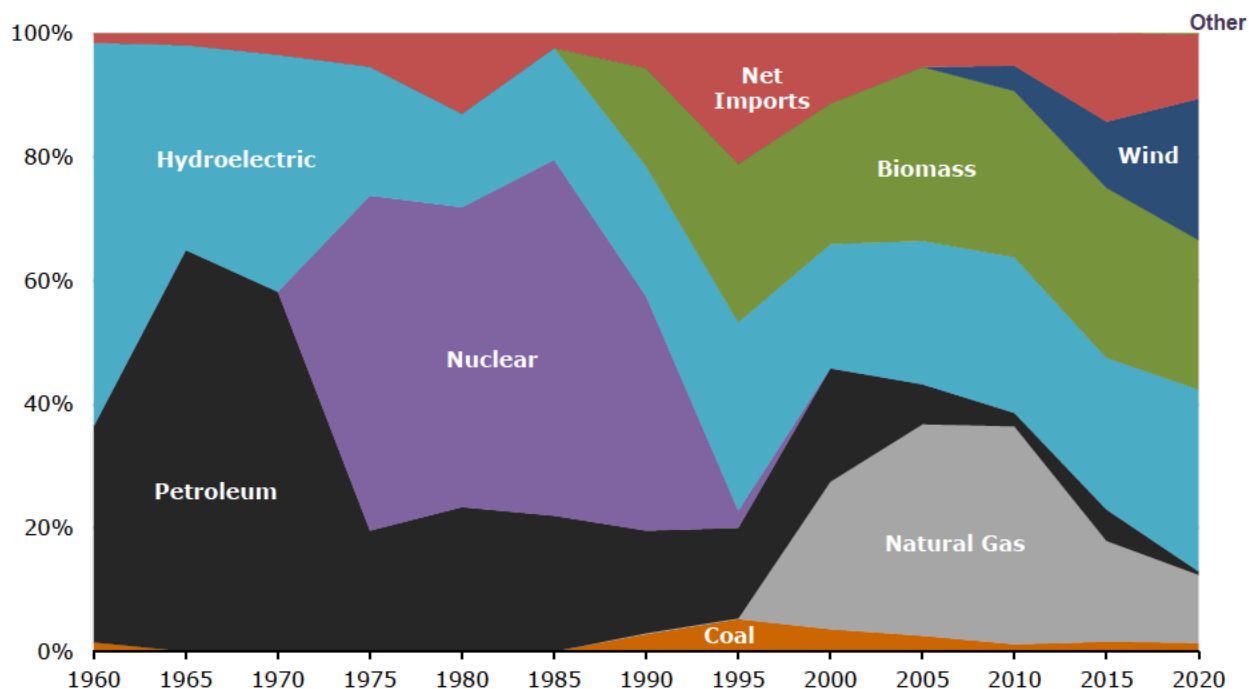
Before the Illinois Commerce Commission, Docket Nos. 05-0160, 05-0161, and 05-0162 (Consolidated), Central Illinois Light Company d/b/a AmerenCILCO, 2005, on behalf of the Staff of Illinois Commerce Commission. Testimony addressed default service design and competitive procurement issues.

Before the Illinois Commerce Commission, Docket No. 02-0428, Central Illinois Light Company and Ameren Corporation, 2002, on behalf of the Staff of Illinois Commerce Commission. Testimony addressed competition issues in a utility merger case.

Appendix C – Summary of Conditions Preceding Restructuring

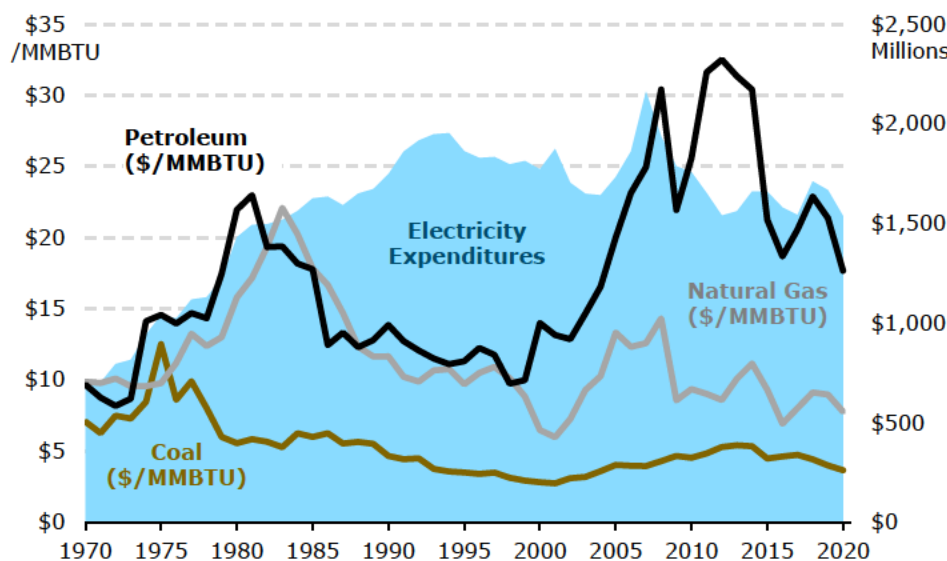
Electric utility regulation throughout the U.S. remained relatively stable during the 1950s and 1960s as demand grew steadily and electricity price inflation remained low. This steadiness came to an end with the Arab Oil Embargo in 1973. Maine, like many New England states, relied heavily on oil as an input fuel for electric generation. Figure C-1, which shows the share of total electric power sector generation met by oil and other resources over the last 60 years, highlights this reliance. Higher fuel costs following the embargo, coupled with broader inflationary conditions, led to increases in electricity expenditures (see Figure C-2). In the aftermath, policymakers and regulators in Maine and surrounding states expressed a desire to diversify away from oil. In its place, utilities and regulators supported the development of new coal-fired generation capacity (capable of using domestic coal resources), investment in new renewable generation technologies, energy conservation, and, most prominently, the development of new (or expansion of existing) nuclear power capacity.

Figure C-1. Maine Electric Power Sector Input Fuel Consumption, by Fuel Type and Year (Share of total Btu)



Note: The continuity of each estimate is affected by changing data sources and estimation methodologies. For a summary of these technical considerations, see the original EIA dataset and documentation.

Source: U.S. Energy Information Administration (EIA) (2022). "Table CT8. Electric Power Sector Consumption Estimates, Selected Years, 1960-2020, Maine." State Energy Data System. eia.gov/state/seds/sep_use/eu/pdf/use_eu_ME.pdf.

Figure C-2. Maine Energy Prices and Expenditures (2020\$)

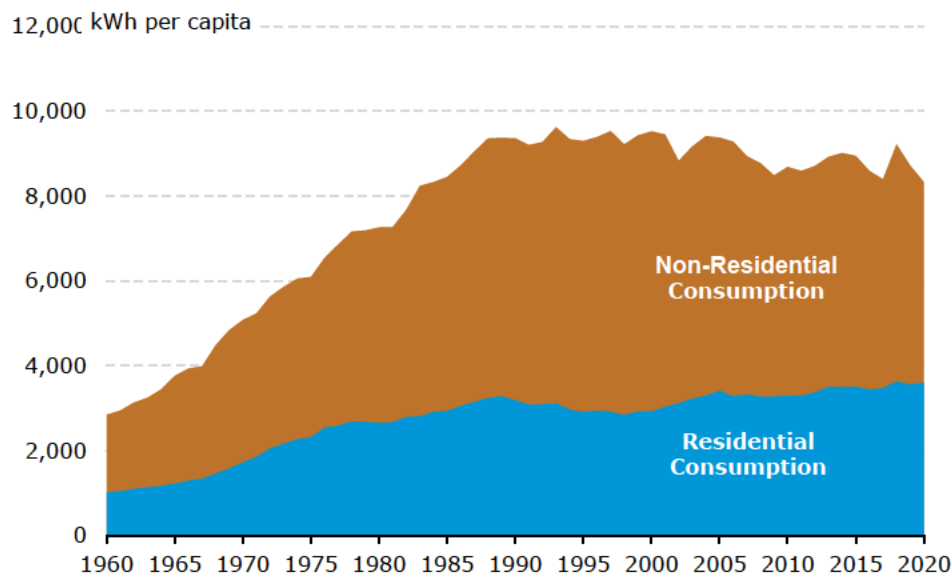
Note: Adjusted to 2020\$ using the U.S. Bureau of Labor Statistics' national Consumer Price Index (CPI) (through 1978) and CPI-U (1979-2020).

Sources: 1. EIA (2022). "Coal and Electricity Retail Sales Price and Expenditure Estimates, 1970-2020." State Energy Data System.

[eia.gov/state/seds/sep_sum/html/xls/pr_ex_cl_es.xlsx](https://www.eia.gov/state/seds/sep_sum/html/xls/pr_ex_cl_es.xlsx).

2. EIA (2022). "Petroleum and Natural Gas Price and Expenditure Estimates, 1970-2020." State Energy Data System. [eia.gov/state/seds/sep_sum/html/xls/pr_ex_pa_nq.xlsx](https://www.eia.gov/state/seds/sep_sum/html/xls/pr_ex_pa_nq.xlsx).

Consistent with the regulatory model, Maine's utilities met the state's resource diversification goals through rate-based investments in generating assets. This approach, however, encountered new challenges. First, demand growth slowed during the late 1970s due to economic recession (see Figure C-3), raising questions about the scale and magnitude of proposed capacity investments. Second, high inflation pushed up project finance and construction costs. Increasing costs generated new questions about the cost-effectiveness and riskiness of large-scale projects.

Figure C-3. Maine Electricity Consumption Per Capita

Source: EIA (2022). "Electricity Retail Sales, Total and Residential, Total and per Capita, 1960-2020." State Energy Data System. eia.gov/state/seds/sep_sum/html/xls/use_es_capita.xlsx.

Responding to these conditions, the MPUC's approach to regulation began to change, as did the nature of investor-owned utility (IOU) investments. Notably, in 1977, the Commission rejected a proposal for a 600-MW coal plant near Sears Island. In its place, the Commission ruled that anticipated load growth be met via load management, deployment of cogeneration, and wholesale power purchases. Maine utilities also began investing in out-of-state generation, especially Seabrook Nuclear Power Station (Seabrook) to meet expected incremental demand.²¹⁰

Developments at the federal level hastened emerging reconsideration of Maine's existing regulatory structure. In 1978, U.S. Congress passed the Public Utility Regulatory Policies Act of 1978 (PURPA) that encouraged new, more efficient generation resources to enter the market. More importantly, PURPA demonstrated that parties other than incumbent utilities could successfully build and integrate generation resources onto the grid.

Maine established an initial set of PURPA Qualifying Facility (QF) rules in 1981 and, in 1982, the MPUC affirmed the use of "avoided cost" as the pricing basis for QF contracts. At this time, the Commission used investments in Seabrook by Maine utilities as the QF price benchmark. This decision reflected the MPUC's establishment of Seabrook as the incremental, "saleable" resource available to serve state load.²¹¹ In the ensuing years, however, Seabrook development faced construction and cost problems. By 1984, the MPUC opened an investigation into whether Maine utilities could and should exit their position in

²¹⁰ Lee & Hill (1995). Evolution of Maine's Electric Utility Industry, 1975-1995. digitalcommons.library.umaine.edu/cgi/viewcontent.cgi?article=1420&context=mpr

²¹¹ Ibid.

the plant. The Commission ultimately ordered Maine utilities to withdraw their Seabrook support in 1985. By this point, however, an influx of QF facilities had already entered **Maine’s market to take advantage of the high avoided cost rate (ACR) available due to the** use of Seabrook as a pricing reference. This sequence of events created preconditions where state leaders looked favorably upon electric system options that could shift risk away from consumers and instead place it on investors.

Recognizing the issues with the initial Seabrook-based ACR, Maine regulators moved to revise existing administrative approaches to PURPA.²¹² Consequently, in 1984 at the direction of the MPUC, Central Maine Power Company (CMP) became the first utility **nationwide to adopt “competitive bidding among QFs” to set ACR rates for PURPA QFs.**^{213,214} The Maine Legislature subsequently passed complementary measures to encourage utilities to better account for competitive alternatives during resource planning. The Electric Rate Reform Act (1987) required the MPUC to approve rates aligned with the actual cost of utility service.²¹⁵ The Maine Energy Policy Act (1988) obligated utilities to pursue least-cost energy (including demand-side management and conservation) when assessing integrated resource alternatives.²¹⁶ Each of these policy changes reflected a desire to avoid further oversupply of QF electricity at noncompetitive rates.

Other changes supported the movement to consider competition as an alternative to traditional utility regulation. More efficient power plant technology for fossil fuel generation (especially combined cycle natural gas generation) emerged in the early 1990s, as did new transmission technology that increased the efficiency and reduced the cost of long-distance power transmission. The Energy Policy Act of 1992 gave the Federal Energy Regulatory Commission (FERC) authority to order wholesale transmission access. In Maine, this resulted in wholesale customers (e.g., municipally owned utilities and electric cooperatives, large customers with the ability to bypass the franchised retail utility) using competitive solicitations to obtain supply or adopting behind-the-meter generation (principally cogeneration). FERC Order 888 in 1996 further removed transmission access barriers and allowed utilities to buy wholesale power more easily from distant utility systems.

As a result of the various changes taking place federally and in Maine, customers **progressively assumed more of the utility’s responsibility for planning; that is, some** wholesale customers identified, developed, and/or contracted for their own sources of short- and long-term supply. During this period, high electricity rates made Maine utilities especially vulnerable to competition from self-generation and alternative resources.

²¹² DOE (2000). *The Changing Structure of the Electric Power Industry 2000: An Update*. grist.org/wp-content/uploads/2010/02/update2000.pdf.

²¹³ Ibid.

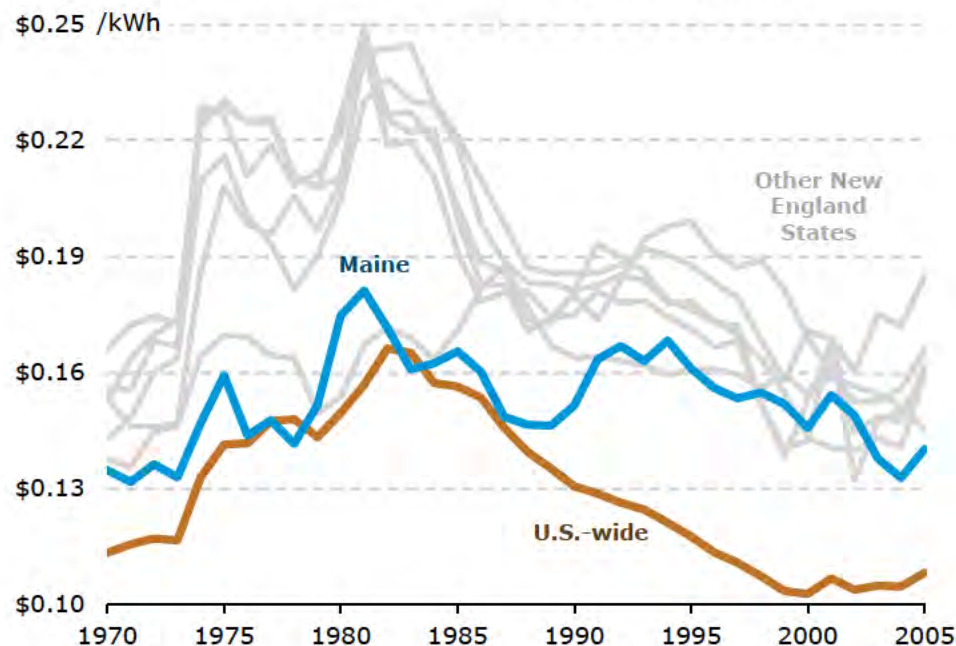
²¹⁴ W. H. Wellford and H. E. Robertson (March 1990). *Bidding for Power: The Emergence of Competitive Bidding in Electric Generation*. Working Paper No. 2, 41 National Independent Energy Producers, p. 3.

²¹⁵ Me. Stat. Title 35, Chapter 4-A. Electric Rate Reform Act, now repealed. legislature.maine.gov/statutes/35/title35ch4-A.pdf.

²¹⁶ Me. Stat. Title 35-A § 3191, now repealed. legislature.maine.gov/statutes/35-A/title35-Asec3191.html

Additionally, overbuilding of generation resources, increased entry by third-party generators, and technology improvements that extended the life of existing plants all led to surplus supply in the New England region. The low costs resulting from this surplus, however, were only available at wholesale, and not at retail due to the then-existing regulatory paradigm. As costs in Maine and New England outpaced other states (see Figure C-4), market participants increasingly viewed the discrepancy as evidence of barriers to market participation and the need to overhaul existing traditional regulatory tools.

Figure C-4. All-Sector Average Electricity Prices (2020\$)



Note: Adjusted to 2020\$ using the Bureau of Labor Statistics' national Consumer Price Index (CPI) (through 1978) and CPI-U (1979-2020).

Source: EIA (2022). "Coal and Electricity Retail Sales Price and Expenditure Estimates, 1970-2020." State Energy Data System. [eia.gov/state/seds/sep_sum/html/xls/pr_ex_cl_es.xlsx](https://www.eia.gov/state/seds/sep_sum/html/xls/pr_ex_cl_es.xlsx).

Appendix D – History of CEP Service in Maine

A robust retail supply market was slow to materialize in Maine. By mid-1999, less than a year prior to the start of retail choice, supplier participation remained limited. Large national suppliers were reluctant to engage with Maine customers, in part due to the relatively small size of the state and competing opportunities to participate in larger markets that opened to competition around the same time (e.g., New York, Pennsylvania, and Massachusetts).

One factor that eventually helped attract competitive supplier participation in Maine's market was early efforts by medium and large C&I customers to "aggregate" their loads for bulk buying purposes.²¹⁷ By December 2000, a total of 35 competitive providers had registered with the MPUC: 16 aggregators/brokers, nine marketers exclusively serving medium and/or large customers, and 10 marketers serving all customer classes.²¹⁸ These participants collectively served approximately a third (30%) of statewide load, the vast majority belonging to medium and large C&I customers in aggregations. Less than 1% of CMP and BHE residential and small non-residential customers, and approximately 8% of MPS residential and small non-residential customers, switched to third-party supply in the first year of retail choice.²¹⁹ Among the reasons cited to explain low residential and small non-residential participation in 2000 was relatively low SOS rates.²²⁰

The following years represented a period of rapid change in ISO-NE and the New England Power Pool (NEPOOL). After initial wholesale price spikes in 2000 and early 2001, prices suddenly fell in summer 2001. These short-term conditions proved favorable for competitive suppliers: "The migration of medium customers accelerated during the summer of 2001, when energy prices decreased substantially below standard offer rates and remained relatively stable."²²¹ Competitive supply adoption in Maine grew to 44% of load, the highest in the United States, by 2002. It continued its rise to 63% by 2004. Switching still occurred almost exclusively in the medium and large C&I customer classes, matching national trends.²²²

²¹⁷ **Maine Electricity Consumer Cooperative, an association of Maine's largest energy-using companies**, was formed in 1999 for the explicit purpose of aggregating C&I loads. Ultimately, just under a third of commercial and industrial load in the state joined the group. See: Competitive Energy Services (January 2023). "The First 20 Years..." competitive-energy.com/ces-history; MPUC (February 2001). *2000 Annual Report*. maine.gov/mpuc/sites/maine.gov.mpuc/files/inline-files/2000-annual-report.pdf.

²¹⁸ MPUC (February 2001). *2000 Annual Report*. maine.gov/mpuc/sites/maine.gov.mpuc/files/inline-files/2000-annual-report.pdf. Registration statistics as of December 2000. These service classification categories are consistent with present-day SOS class groupings.

²¹⁹ Relatively higher switching in the MPS territory is likely attributable to the higher (i.e., 50 kW versus 20 kW or 25 kW), customer class cut-off, though precise statistics are not readily available.

²²⁰ Ibid.

²²¹ MPUC (February 2002). *2001 Annual Report*. maine.gov/mpuc/sites/maine.gov.mpuc/files/inline-files/2001-annual-report.pdf.

²²² Ibid.

The early years of market development did, however, experience some challenging events. **Enron's collapse in the early 2000s highlighted supplier credit risk and, as a result, many marketers became "extremely risk adverse."**²²³ Additionally, ongoing wholesale price volatility, including price spikes in 2004, attracted regulatory and legislative scrutiny. Despite volatility, a 2005 Electric Price Mitigation Task Force expressed confidence in retail choice.²²⁴ Among the principal benefits, according to the Task Force, were opportunities to avoid wholesale price volatility altogether by entering contracts with predictable rates.²²⁵

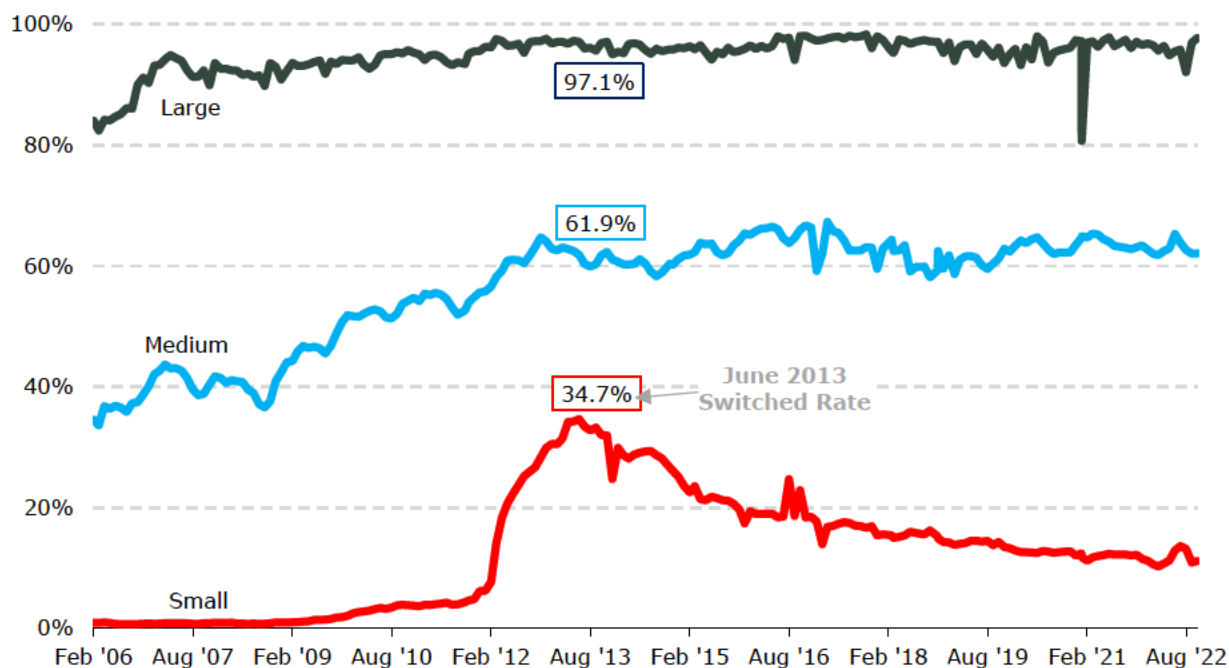
In 2007, the MPUC commenced its first broadscale study of retail restructuring. **Despite challenging wholesale market conditions, the Commission found that "stakeholders should explore the potential benefits of longer-term energy supply contracts before seeking a return to vertically integrated generation and distribution services, or cost-of-service regulation."**²²⁶ In the early 2010s, customer switching again increased as wholesale market costs declined. By June 2013, at its peak, 35% of small non-residential customers had switched suppliers, compared to 62% for medium C&I customers and 97% for large C&I customers (see Figure D-1).

²²³ MPUC (December 2002). *Annual Report on Electric Restructuring: Report to the Utilities and Energy Committee On Actions Taken by the Commission Pursuant to 35-A M.R.S.A. § 3217*. ldc.mainelegislature.org/Open/Rpts/hd2767_m24m34_2002.pdf.

²²⁴ Electric Price Mitigation Task Force (March 2005). *Electric Price Mitigation Task Force letter, March 21, 2005*. maine.gov/meopa/sites/maine.gov.meopa/files/inline-files/2005%20Annual%20Report.pdf (PDF p. 50).

²²⁵ Indeed, as evidence of the resilience of retail choice, the MPUC noted in its 2007 Annual Report that "the prevailing trend is for customers to remain in the market once they have left the standard offer." MPUC (February 2008). *2007 Annual Report*. maine.gov/mpuc/sites/maine.gov_mpuc/files/inline-files/2008-AnnualReport.pdf.

²²⁶ Ibid.

Figure D-1. Share of Maine Load Served by CEPs, by Customer Class Over Time

Switching activity has declined since its early 2010s peak, in part due to the availability of lower-cost SOS service. The legislature studied this relationship in a 2018 *Report on Competitive Electricity Provider and Standard Offer Price Comparisons*.²²⁷ This study found that the relationship between SOS and market prices has “been less favorable for CEPs,” hindering development of residential competition. This was despite signs of strong residential interest (peaking at over 160,000 switched residential customers in 2014) and supplier interest (peaking at over a dozen active marketers). Other stakeholders separately expressed concern regarding the differences in price paid for competitive supply compared to SOS. The legislature passed An Act To Improve Transparency in the Electricity Supply Market in 2017 that required the MPUC and the Office of the Public Advocate (OPA) to study this price differential for residential customers for the time period of 2014 and 2016.²²⁸ The resulting study found that switched customers paid more for supply than SOS customers, but that cost was “not always the primary consideration for customers seeking CEP service.”²²⁹

²²⁷ MPUC (February 2018). *Report on Competitive Electricity Provider and Standard Offer Price Comparison*. ldc.mainelegislature.org/Open/Rpts/hd9685_u6m356_2018.pdf.

²²⁸ P.L. 2017, c. 74 (Act).

²²⁹ MPUC (February 2018). *Report on Competitive Electricity Provider and Standard Offer Price Comparisons*. ldc.mainelegislature.org/Open/Rpts/hd9685_u6m356_2018.pdf.

Appendix E – Overview of Ongoing Long-Term Contracts

Facility/Project Name	Markets	Starting Price (\$/MWh)	Yearly Price Increase	Capacity (MW)	Technology	In-Service Date	Expiration Date
<u>VERSANT</u>							
West Enfield Hydro	Energy, Capacity	Formula-driven ^[1]	None	16	Hydro (run of river)	4/20/1988	5/31/2024 ^[2]
SPPF / Sebec Hydro	Energy, Capacity	\$82.00	None	0.9	Hydro (run of river)	3/1/1985	2/28/2025
SPPF / Green Lake Hydro	Energy, Capacity	Per STEO ^[3]	None	0.4	Hydro (run of river)	9/1/1984	8/31/2024
Exeter Phase 1	Energy	\$100.00	None	0.98	Biogas	12/29/2011	11/30/2031
Exeter Phase 2	Energy	\$85.00	None	2	Biogas	11/15/2017	11/15/2037
Pisgah Mountain	Energy	\$93.00	None	9.05	Wind	12/16/2016	12/6/2036
Rollins / Evergreen Wind III	Energy	Formula-driven ^{[1],[4]}	None	60 ^[5]	Wind	7/26/2011	7/1/2031
Weaver Wind	Energy	\$35.00	2.5%	72.6	Wind	12/12/2020	12/12/2040 ^[6]
Milo Solar (BD Solar 1)	Energy	\$34.00	2.5%	20	Solar	9/5/2021	7/2/2041
BD Solar Hancock North, LLC	Energy	\$34.00	2.5%	6.99 ^[7]	Solar	6/9/2022	6/9/2042 ^[6]
BD Solar Hancock, LLC	Energy	\$34.00	2.5%	7 ^[7]	Solar	6/9/2022	6/9/2042 ^[6]
Silver Maple Wind	Energy	\$34.30	2.0%	20	Wind	9/30/2022	Not provided
<u>CENTRAL MAINE</u>							
Evergreen Wind Power III, LLC	Energy, Capacity	Formula-driven ^[8]	None	48 ^[9]	Wind	7/26/2011	7/25/2031
BD Solar Augusta LLC	Energy	\$34.00	2.50%	7.2	Solar	7/2/2021	7/1/2041
BD Solar Fairfield LLC	Energy	\$34.00	2.50%	4.99	Solar	7/2/2021	7/1/2041
BD Solar Oxford LLC	Energy	\$34.00	2.50%	9.2	Solar	7/2/2021	7/1/2041
BD Solar Palmyra LLC	Energy	\$34.00	2.50%	4.99	Solar	6/2/2022	6/1/2041
BD Solar 2 LLC (Winslow)	Energy	\$34.00	2.50%	6.99	Solar	6/7/2022	6/6/2042
Brookfield White Pine Hydro LLC	Energy	\$14.35	2.00%	4.5	Hydro	1/1/2021	12/31/2040
ReEnergy Livermore Falls LLC	Energy	\$53.00	3.00%	39	Biogas	1/1/2021	12/31/2040
Helix Maine Wind Development LLC	Energy	\$36.50	None	132	Wind	1/1/2022	12/31/2041

^[1] Formula not readily available.

^[2] Additional optional term of 6/1/2023 to 5/31/2039.

^[3] Rates are set equal to EIA *Short Term Energy Outlook* (STEO) rates listed in MPUC Chapter 360, Cogeneration and Small Power Productions.

^[4] A minimum of \$65 applies.

^[5] Versant Power receives 20% of the energy generated by the facility.

^[6] The expiration date is estimated. The contract term is 20 years.

^[7] Allows up to 79 MW alternating current (AC) of solar electric generation facilities located in CMP, VP-BHD, and/or VP-MPD service territories.

^[8] Energy baseline price is \$65/MWh with typical winter prices of \$110/MWh, but varies. Capacity price varies.

^[9] CMP receives 40% of installed capacity of the 60-MW facility.

Appendix F – Retail Choice State Matrix

	CONNECTICUT	DELAWARE	DIST. OF COLUMBIA	ILLINOIS	MAINE	MARYLAND	MASSACHUSETTS
General Details							
RTO/ISO ^[1]	ISO-NE	PJM	PJM	PJM/MISO	ISO-NE	PJM	ISO-NE
Year of Restructuring ^[2]	1998	1999	1999	1997	1997	1999	1997
Year of Retail Choice ^[3]	2000	1999	1999	1999	2000	2002	1998
Enabling Legislation/Law	Public Act No. 98-28, An Act Concerning Electric Restructuring	Electric Utility Restructuring Act of 1999	Retail Electric Competition and Consumer Protection Act of 1999	Illinois Public Utilities Act (PUA) of 1997	PL 1997, c. 316 (LD 1804)	Electric Customer Choice and Competition Act of 1999	Massachusetts Electric Industry Restructuring Act; 20 CMR 11
Retail Choice Details							
Utility Type Mandated to Provide Retail Choice	IOUs	IOUs	IOUs	IOUs	IOUs	IOUs, coops	IOUs
Other Voluntary Provider	N/A	Coops	N/A ^[5]	Munis, coops	Munis, coops	Munis	Munis
Res. Low-Income Customer Rules	Excluded from retail choice	None	None	Customers on housing assistance excluded from retail choice	None	Suppliers must guarantee savings	None
Anti-Gaming Rules ^[7]	Utility has a 6-month switching moratorium for Res. & SC and a 12-month moratorium for LC	None	Non-Res. returning to SOS subject to 12-month stay requirement ^[8]	12-month stay provision when returning to SOS	Opt-out fee applies to certain C&I customers that received SOS service for less than 12 months	None	Ind. customers are not allowed to switch to a competitive supplier within 6 months of returning to SOS for certain utilities
Standard Offer Service Procurement Details							
SOS Provider ^[9]	EDC ^[10]	EDC	EDC	IPA, EDC	Retail Supplier	EDC	EDC
SOS Procurer ^[12]	EDC	EDC	EDC	IPA	MPUC	EDC	EDC
Independent Monitor	Yes	Yes	No	Yes	No	Yes	No
Procurement Frequency (and Timing) ^[13]	Quarterly (January, April, July & October)	Bi-annually (November & January)	Annually (January)	Bi-annually (spring & fall) and spot as needed	Annually (September)	Quarterly with different schedules by class	Bi-Annually for Res. & SC; quarterly for MC, LC & Ind.
Duration of Product Phases	6 months	12 months for Res. & SC; 24 months for MC and LC	36 months for Res. & SC; 12 months for LC	3 years, some long-term contracts and spot	12 months	3 to 24 months	12 months for Res. & SC; 3 months for MC, LC & Ind.
Length of Time Between Contract Procurement and Start of Performance	Varies, but typically 2 to 8 months	Varies, but typically 6 or more months	Approximately 6 months	Varies, but typically a couple months prior	3 months	Varies, but typically from 3 to 13 months	Varies
Res. Laddered Procurement ^[15]	Yes	Yes	Yes	Yes	No	Yes	Yes
Products Procured	Tranche auctions with FRCs	Tranche auctions with FRCs ^[16]	Tranche auctions with FRCs	Block contracts & spot purchases	Tranche auctions with FRCs	Tranche auctions with FRCs	Tranche auctions with FRCs ^[17]
Procurement Method	Sealed bid	Reverse auction ^[20]	Sealed bid	Sealed bid	Sealed bid	Sealed bid	Sealed bid

	CONNECTICUT	DELAWARE	DIST. OF COLUMBIA	ILLINOIS	MAINE	MARYLAND	MASSACHUSETTS
Standard Offer Service Offer Details							
Small Customer Rate Design	6-month FPR	6-month FPR	Seasonal FPR	Seasonal FPR	12-month FPR	Seasonal FPR; TOU	6-month FPR ^[21]
Other Non-Res. Rate Design	Monthly FPR; TOU	Monthly FPR; variable, hourly pricing	Seasonal monthly FPR; TOU	Variable, hourly pricing ^[24]	Monthly FPR; TOU or index pricing	Seasonal FPR; annual FPR; TOU; variable, hourly pricing ^[23]	3- or 6-month or monthly FPR ^[25]
RPS Responsibility	Retail/wholesale suppliers ^[27]	EDC	Retail/wholesale suppliers	IPA/EDC ^[28]	Retail supplier	Retail/wholesale suppliers	EDC
Other Billing Method ^[30]	UCB	UCB, dual billing	UCB, dual billing	UCB, dual billing	UCB	SCB or UCB	UCB, dual billing
POR Obligations	EDC buys discounted CEP receivables that are updated regularly	EDC buys CEP receivables for UCB customers	EDC buys CEP receivables; if customer chooses dual-billing, supplier and EDC will be responsible for their own receivables	EDC buys discounted CEP receivables of Res. and SC customers; POR related to SCB	N/A	EDC buys CEP receivables for UCB customers. Suppliers buy POR for SCB customers.	EDC buys CEP receivables for complete billing customers and recovers costs through bad debt expense
Opt-Out Government Aggregation Responsible for Net Metering Reconciliation	N/A	N/A	Yes	Yes	N/A	Yes (Res. & SC only) ^[32]	Yes
	EDC	EDC	EDC and retail supplier ^[33]	EDC and/or retail supplier ^[34]	EDC	EDC	EDC

	NEW HAMPSHIRE	NEW JERSEY	NEW YORK	OHIO	PENNSYLVANIA	RHODE ISLAND	TEXAS
General Details							
RTO/ISO ^[1]	ISO-NE	PJM	NYISO	PJM	PJM	ISO-NE	ERCOT
Year of Restructuring ^[2]	1996	1999	1996	1999	1996	1996	1996
Year of Retail Choice ^[3]	1998	1999	2001	2001	2001	1998	2002
Enabling Legislation/Law	RSA 374-F	Electric Discount and Energy Competition Act of 1999	N/A ^[4]	Am. Sub. SB 3, the Ohio Electric Restructuring Act	Electricity Generation Customer Choice and Competition Act	Rhode Island Utility Restructuring Act of 1996; R.I. Gen. Laws 39-1-27.3	SB 7 of 1999
Retail Choice Details							
Utility Type Mandated to Provide Retail Choice	IOUs, coops	IOUs	IOUs	IOUs	IOUs	IOUs	IOUs
Other Voluntary Provider	N/A	N/A	Public utility	N/A	N/A	Munis, coops	Munis, coops
Res. Low-Income Customer Rules	None	None	Suppliers must receive a waiver and guarantee savings ^[6]	Excluded from retail choice and has separate SOS procurement	Excluded from retail choice by certain utilities	None	None
Anti-Gaming Rules ^[7]	None	C&I customers who return to SOS may be prohibited under certain conditions from switching again for one year	None	None	None	None	None
Standard Offer Service Procurement Details							
SOS Provider ^[9]	EDC	EDC	EDC	EDC	EDC ^[11]	EDC	Retail supplier
SOS Procurer ^[12]	EDC	EDC	EDC	EDC	EDC	EDC	Retail supplier
Independent Monitor	No	Yes	No	Yes	Yes	No	No
Procurement Frequency (and Timing) ^[13]	Bi-annually (either June or July & December or January)	Annually (February)	Utility-dependent ^[14]	Bi-annually	Bi-annually	Quarterly (March, June, September & December)	N/A
Duration of Product Phases	6 months	3 years	Utility-dependent ^[14]	Typically 12, 24 or 36 months	3 to 12 months for Res. & SC; 3 or 12 months for C&I depending on the EDC	6 months	N/A
Length of Time Between Contract Procurement and Start of Performance	1 to 2 months	6 months	Utility-dependent ^[14]	Varies, but typically 2 to 10 months	Varies, but typically a month prior	Varies, but typically 1 to 4 months	N/A
Res. Laddered Procurement ^[15]	No	Yes	Yes ^[14]	Yes	Yes	Yes	N/A
Products Procured	Tranche auctions with FRCs ^[18]	Tranche auctions with FRCs	Hedging, spot market purchases, block products, long-term contracts ^[14]	Tranche auctions with FRCs	Varies by utility, but typically tranche auctions with load-following products, multi-year fixed-price contracts, and/or spot market purchases	Tranche auctions with FRCs ^[19]	N/A

	NEW HAMPSHIRE	NEW JERSEY	NEW YORK	OHIO	PENNSYLVANIA	RHODE ISLAND	TEXAS
Procurement Method	Sealed bid	Simultaneous, multiple round, descending-price clock auction	Utility-dependent ^[14]	Descending-price clock auction	Sealed bid or reverse auction	Sealed bid	N/A
<u>Standard Offer Service Offer Details</u>							
Small Customer Rate Design	6-month FPR ^[22]	Seasonal FPR; TOU	Monthly or bi-monthly FPR and are blended rates from all purchases ^[23]	Seasonal FPR	Either 3- or 6-month FPR ^[23]	6-month FPR	VPR
Other Non-Res. Rate Design	Monthly FPR	Seasonal FPR; TOU; variable, hourly pricing	Monthly or bi-monthly FPR; variable, hourly rates ^[23]	Seasonal FPR	3 or 6-month FPR; variable, hourly pricing; spot market ^[23]	6-month or monthly FPR ^[26]	VPR
RPS Responsibility	EDC	Retail/wholesale suppliers	EDC/state agency ^[29]	EDC	Retail/wholesale suppliers	Retail/wholesale suppliers	Retail supplier
<u>Other Billing Method</u> ^[30]	UCB, dual billing	UCB, dual billing	UCB, dual billing	UCB, dual billing ^[31]	UCB, dual billing	UCB	SCB
POR Obligations	EDC buys supplier and municipal aggregator receivables	EDC buys CEP receivables for UCB customers	EDC buys CEP receivables	Some EDCs buy CEP receivables	EDC buys discounted or non-discounted CEP receivables for RES., SC & MC	EDC buys discounted CEP receivables that are updated annually	N/A
Opt-Out Government Aggregation	Yes	Yes (Res. only)	Yes	Yes	Yes	Yes	No
Responsible for Net Metering Reconciliation	EDC or retail supplier	EDC	EDC	EDC	EDC or retail supplier	EDC	Retail supplier

C&I = commercial & industrial; coop = customer-owned electric cooperative; EDC = electric distribution company; FPR = fixed-price rate; Ind. = industrial; IOU = investor-owned utility; IPA = Illinois Power Agency; LC = large C&I; MC = medium C&I; muni = municipally owned utility; N/A = not applicable; POR = purchase of receivables; Res. = residential; SC = small non-residential; SCB = supplier consolidated billing; TOU = time-of-use; UCB = utility consolidated billing; VPR = variable-price rate.

^[1] This row lists the predominant ISO/RTO in which the state operates. Many states operate in more than one ISO/RTO; for example, in Maine, CMP and VP-BHD operate within ISO-NE, while VP-MPD does not. In Pennsylvania, all of the state's IOUs operate within PJM with the exception of Pike County Light and Power, which operates within NYISO.

^[2] The dates are approximations of when restructuring began based on the year of legislative mandate.

^[3] Dates are the first year that any customer was able to switch to a competitive retail supplier. In many states, this process was gradual, with different customer classes able to switch at different times. For example, in Illinois, large & multi-locational customers were offered retail choice in 1999, followed by all non-residential in 2000 and residential in 2002.

^[4] Retail competition was introduced by the New York PSC, not legislation.

^[5] D.C. does not have other providers.

^[6] To get a waiver from the New York PSC, the retail supplier must guarantee savings.

^[7] Most utilities have limits on the number of switches per month (i.e., no more than 2 switches and 2 drops per month) and have exceptions for supplier default.

^[8] Stay provisions do not apply to Market Price Service customers.

^[9] The parties responsible for providing the actual supply--which might involve buying it from other wholesale market participants.

^[10] Utilities historically offered SOS and Last Resort Service (LRS) (business customers only) as separate services.

^[11] The EDCs are obligated to provide SOS unless they can successfully petition a waiver to providing service and an alternative supplier successfully wins a bid to provide SOS as per Pennsylvania Code § 54.183.

^[12] The party responsible for setting requirements and conducting the procurement.

^[13] The months are indicative of what is typically done.

^[14] Utility procurement is subject to New York PSC review but is kept largely confidential from the public due to concerns that public strategies may allow other parties to drive up hedging prices.

- ^[14] Utility procurement is subject to New York PSC review but is kept largely confidential from the public due to concerns that public strategies may allow other parties to drive up hedging prices.
- ^[15] Most large C&I SOS supply is not laddered with the exception of Ohio. Ohio's SOS is procured for all customer classes in one procurement. If SC is grouped with Res., then SC load is also laddered.
- ^[16] Bidders are required to bid in blocks of 50 MW which represents a certain and specific percentage of the associated SOS load of the utility.
- ^[17] Load is procured by customer class and by load zone (i.e. NEMA, SEMA, WCMA) at fixed monthly prices.
- ^[18] Load is procured by size (small, medium, large customers) of customer class. Two New Hampshire utilities, Liberty and Eversource, only have two classes—small and large customers.
- ^[19] Hedging is allowed with Rhode Island PSC approval. Hedging or other variable costs, and the related contract costs incurred for energy procurement, may be recovered in standard offer rates.
- ^[20] Delaware previously used the sealed-bid procurement method, then switched to reverse auction format in 2008.
- ^[21] Customers are put on the 6-month rate design; however, customers can elect to switch to the other type of rate. Unitil has a pilot residential TOU program under SOS.
- ^[22] Unitil allows small and medium customer classes to choose between one FPR for 6 months or monthly FPRs. Unitil also has a pilot residential TOU program.
- ^[23] The rate design for customer classes varies by utility.
- ^[24] There are some exceptions for customers not classified as competitive.
- ^[25] Customers are put on monthly rates; however, customers can elect to switch to the other type of rate.
- ^[26] General and Large C&I customers can only switch between monthly and 6-month rates once per year.
- ^[27] Connecticut, through its Department of Energy and Environmental Protection, held a one-time, long-term procurement of RPS projects in 2015 through the authority under Connecticut Public Act 15-107.
- ^[28] The Illinois Power Agency (IPA) is responsible for procurement, but the EDC has financial obligation.
- ^[29] Utilities procure certain RPS credits by auction, but also procure other RPS credits from a state agency.
- ^[30] Several states technically allow SCB; however, it is not implemented. (For example, Delaware and D.C.)
- ^[31] Not all utilities offer dual billing. A utility currently has a pilot for SCB.
- ^[32] Government aggregation is on a pilot basis for one county.
- ^[33] If a supplier offers net metering, then it is both the supplier's and EDC's responsibility. If a supplier does not offer net metering, then it is only the EDC's responsibility.
- ^[34] Both suppliers and EDCs are required to provide net metering service and compensation for customers up to a certain usage, but how the suppliers' and EDCs' responsibility is shared is not clear.

Appendix G – Sourcing for Customers’ Switching Data by State (Figures III-1 and III-2)

Connecticut

Customer count and load data were obtained from the Electric Supplier MWh Load and Customer Count reports from the Connecticut Public Utilities Regulatory Authority website. The reports were filed in compliance with Docket No. 06-10-22. The Eversource Energy report is as of August 31, 2022. The United Illuminating Company report is as of October 31, 2022.

Delaware

Customer count and load data were obtained from the U.S. Energy Information Administration (EIA) Form EIA-861, [Annual Electric Power Industry Report](#). The data are year-end for all electric utilities in the state.

District of Columbia (D.C.)

Customer count and load data were obtained from [Status of Electric Retail Choice in the District of Columbia](#) report from the D.C. Public Service Commission website. The data are from October 2022.

Illinois

Customer count and load data were obtained from the [Electric Switching Statistics](#) industry reports on the Illinois Commerce Commission website. As per Docket No. 03-0303, each EDC in the state must file this monthly report. The data are from November 2022.

Maine

Customer count and load data were obtained from [Migration Statistics](#) on the Maine Public Utilities Commission website. The data are from September 2022.

Maryland

Customer count and load data were obtained from [Electric Choice: Monthly Enrollment Reports](#) on the Maryland Public Service Commission website. The data are from November 2022.

Massachusetts

Customer count and load data were obtained from [Electric & Gas Customer Choice Data](#) on the official website of the Commonwealth of Massachusetts. The data are from October 2022.

New Hampshire

Customer count and load data were obtained from each EDC's (Liberty Utilities, Eversource Energy) Standard Offer Service Procurement website under further information for Request for Proposals. The data are from September 2022.

New Jersey

Customer count and load data was obtained from [New Jersey Electric Switching Statistics on the State of New Jersey website](#). The data are from August 2022.

New York

Customer count and load data were obtained from the [Energy Service Company Monthly Electric Migration Report](#) in Case No. 94-E-0952 on the New York State website under the Department of Public Service. The data were only available for Consolidated Edison **Company, as all other EDCs' data were filed as confidential.** The data are from November 2022.

Ohio

Customer count and load data were obtained from each EDC's Standard Offer Service Procurement website under further information for Request for Proposals. The data are from September 2022.

Pennsylvania

Customer count and load data were obtained Form EIA-861, [Annual Electric Power Industry Report](#). The data are year-end data for PPL Electric Utilities Corp, Pennsylvania Power Company, PECO Energy Company, UGI Utilities and West Penn Power Company.

Rhode Island

Customer count data were obtained from each EDC's Standard Offer Service Procurement website under further information for Request for Proposals. The data are from December 2022. Load data were obtained from Form EIA-861, [Annual Electric Power Industry Report](#). The data are year-end for all electric utilities in the state.

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53 Baxter Boulevard, Suite 202 | Portland, ME 04101
Phone: 866-554-5380 | Fax: 207-775-5727 | TTY: 877-434-7598
aarp.org/me | me@aarp.org | twitter: @aarpmaine
facebook.com/aarpmaine | instagram.com/aarpme

RETAIL SUPPLY AND STANDARD OFFER SERVICE REFORMS

2021 P.L. ch.164 (LD 318)

COMMENTS OF AARP MAINE

January 25, 2023

AARP Maine welcomes the opportunity to participate in and provide comments on the draft report materials circulated to the stakeholders at the January 17th meeting. The draft report materials were presented by the Office of Public Advocate's consultants, Susan M. Baldwin and Steven Estomin of Exeter Associates.

RETAIL MARKETS IN MAINE: Similar to retail markets in other restructuring states, residential customers have not benefitted from the retail electricity market in Maine. As documented by Ms. Baldwin's report, studies that compare the prices charged by retail marketers with default service have consistently documented the high prices paid by residential customers served by retail marketers over a reasonable period of time. This longstanding evidence is even more troublesome with the documentation that lower income customers are routinely targeted for enrollment by these marketers. In Maine, as in most restructuring states, the local electric utility bills and collects these higher charges under threat of disconnection of service. Low income customers who pay more than default service or Standard Offer when served by these marketers experience higher unaffordable bills. Ms. Baldwin's analysis finds that Maine's households have paid between \$78 million and \$91 million more than the standard offer to retail marketers. In an era where the Public Utilities Commission has rejected even modestly higher benefits for low income customers based on impacts on other ratepayers, this finding alone justifies prompt action to reverse this trend.

The notion that these marketers offer services that justify these higher prices is not documented or reflected in Maine offers or in other states. This is particularly the case in Maine where we have strong renewable energy requirements, and the PUC offers a "green" standard offer available to any customer.

While variable rate contracts may be the cause of some of the more outrageous prices (such as the recent revelation of the 40 cents per kWh being charged by Electricity Maine for supply service to Maine residential customers), the elimination of variable rate contracts as

done in Connecticut does not stop the higher prices. Two retail suppliers with contracts with United Illuminating residential customers charged 50% or more than the applicable standard offer in November 2022.¹

Nor can this market be reformed by merely requiring that low income customers be served by the Standard Offer. While several states have undertaken this modest reform (Connecticut, Pennsylvania, New York, Maryland), this policy is only applicable to known low income customers who are enrolled in a low income program that is recognized in the electric utility's billing system.² This policy does not protect the vast majority of low income customers who are not enrolled in known low income electric discount or bill payment assistance programs. For example, Maine's LIHEAP program serves 21% of the eligible low income households and until the fall of 2022, Maine's electric assistance programs (LIAP) relied solely on LIHEAP enrollment to trigger bill payment credits.³

AARP recommends that the final report call for the elimination of the retail market for residential customers. This reform, if adopted, will retain the basic policies of restructuring and rely on the competitive forces in the wholesale market to serve residential customers via the Standard Offer. To the extent that restructuring has provided benefits to Maine, the Standard Offer is the best way to measure and deliver those benefits since Maine's commitments to renewable energy resources will be reflected in that portfolio and prices. It is simply not reasonable to assume that retail marketers can beat the Standard Offer since they purchase in the same wholesale market.

REFORM OF PURCHASING STANDARD OFFER. Exeter Associates' primary recommendation is that Maine return to the historical practice of purchasing the Standard Offer in laddered contracts, that is, contracts that do not purchase 100% of the residential and small commercial load at one point in time. The Commission's current purchasing practice has resulted in volatile and high-priced contracts that reflect the wholesale market at one point in time rather than smoothing wholesale market volatility with contracts purchased at multiple points and multiple contract lengths. AARP supports standard offer purchasing policies that reflect the obligation to avoid volatile price changes as we interpret the current statutory directive. We understand that this policy will not provide the lowest price or the highest price based on market fluctuations but will moderate the impact of wholesale market events and trends to ensure some degree of stability in residential prices. This policy of price stability and laddered contracts is the standard objective of other restructuring states and the abandonment of this policy by the Maine Commission several years ago should be reformed.

¹ <https://portal.ct.gov/-/media/OCC/Fact-sheet-electric-supplier-market-October-2022.pdf>

² This policy where implemented relies on the utility's ability to reject marketer enrollments of customers identified in their billing systems as participating in or receiving a low income program benefit.

³ Only 21% of those eligible received LIHEAP in 2020. While this enrollment percentage is no doubt higher in 2022 and 2023, the vast majority of low income eligible households in Maine are not enrolled in LIHEAP or LIAP. See, <https://neuac.org/wp-content/uploads/2021/02/Maine-State-Sheet-2022.pdf>

AARP's recommendation does not require any change in the statutory directive concerning the Standard Offer since the statutory directive already reflects the recommended policy:

35-A MRSA 3212:

4-C. Authority to establish various contract lengths and terms. For the purpose of providing **over a reasonable time period the lowest price for standard-offer service** to residential and small commercial customers, the commission, with respect to residential and small commercial standard-offer service, may, in addition to incorporating cost-effective demand response and energy efficiency pursuant to [subsection 4-B](#) and to the extent authorized in [section 3210-C](#), incorporating the energy portion of any contracts entered into pursuant to [section 3210-C](#), establish various standard-offer service contract lengths and terms. [Emphasis added]

However, there is one aspect of Exeter's report that we urge the OPA not to adopt. AARP does not endorse or suggest that the standard offer should be designed or procured to offer Time of Use rates to residential customers. The standard offer should be designed as a fixed rate available to all residential customers as already required by the Commission's regulations in Chapter 301. While the Commission may authorize time of use rate options for certain customer usage profiles on a voluntary basis, the purchase of a time of use rate option for all residential customers as part of the standard offer is not a recommendation we can support. We are particularly concerned about the associated costs with designing, marketing, and billing for a rate option for which there is little evidence of customer participation or impact on overall system costs and supply rates. Rather than pursuing a large-scale time of use rate option for residential customers, we recommend that the OPA support more analysis of current time of use rate options that are poorly subscribed and support a rigorous analysis of newly adopted time of use rate options for CMP's customers to respond to heat pump and electric vehicle usage.

Thank you for the opportunity to participate in the exploration of these important public policy issues that impact residential customers.

Sincerely,



Noël Bonam
State Director

Recommendations of the Stakeholder Group Retail Supply and Standard Offer Service Reform for Maine (Pursuant to LD 318)

Central Maine Power Company Comments

Introduction:

Central Maine Power (“CMP”) appreciates the significant time and effort by the Office of the Public Advocate (“OPA”), Maine Public Utilities Commission (“MPUC”) and various stakeholders that went into formulating these recommendations. We are supportive of many of the recommendations brought forth in the stakeholder report. If implemented, the recommendations would be a significant step in the right direction and could help improve the competitive electricity market experience for residential customers and the pricing challenges surrounding Standard Offer Service (SOS) for all customers served by SOS.

As the Legislature deliberates these recommendations, CMP stands ready to make any needed modifications to our billing and metering systems to implement changes adopted by the Legislature. CMP looks forward to working with the parties to determine the timeframe needed to implement any of the various recommendations that are ultimately adopted.

Retail Supply:

While CMP supports customers having the right to make financial decisions for themselves, the residential retail choice program is not providing value to the vast majority of customers. If the Legislature determines to continue retail choice in the residential sector, CMP supports the recommendations outlined in the Stakeholder report. CMP looks forward to the opportunity to work with state policy makers, the OPA and the MPUC to ensure that consumer protection measures that are adopted and require modifications to our systems are implemented in a manner that ensures changes can be rolled out in a thoughtful and meaningful way. Some of the recommendations can be implemented with little or no impact to utility billing and metering or competitive market infrastructure while other measures will require time to implement.

Standard Offer Service Reform:

Since Maine’s electricity markets were deregulated in March of 2000, the MPUC, under the authority of the Maine Legislature, has managed the annual standard offer bid solicitation process. The Commission receives multiple offers in what has been deemed a competitive and robust bidding process. The Commission’s role has been to solicit sealed bids and select the best combination of bidders and prices from the providers offering to provide standard offer service in Maine’s deregulated market.

Prices for standard offer have historically been set on an annual basis, on a full requirements basis. For a period of time, in order to smooth out the variability in market prices, the Commission adopted a laddering approach whereby tranches were filled on a rolling

3-year basis. Locking in prices on a laddered approach can result in both wins and losses for retail customers, depending on when the underlying market prices are trending upwards or downwards. Given the recent underlying market forces, the costs for natural gas and oil, which continues to be the marginal fuel in the New England region, have caused a dramatic and significant increase in standard offer prices. This upward pressure on prices has led many in the state to ask if the model is broken and whether there is a better way to shield rate payers from these price swings.

While CMP does not have the answer or the final say on how the Legislature decides to handle these questions, we do acknowledge that the MPUC has performed the role for which they were tasked in a prudent manner. Timing market swings can be a matter of luck or bad luck and the SOS prices in Maine have gone up over the past 2 years. However, other states in the New England region have seen even higher SOS rates due to the timing in which their solicitations were conducted.

The MPUC is a governmental agency and is uniquely positioned, experienced and knowledgeable. Replacing their experience with a new quasi-government oversight group would not be in the best interest of Maine customers.

The Maine utilities prior to deregulation, working in vertically integrated companies, had in-house energy trading and marketing departments and were well placed to manage the energy portfolios needed to serve the loads of our customers. If the Legislature determines that it would be in the best interest of customers for the utilities to manage the SOS portfolio, hiring and staffing trading functions, while not insurmountable, would take time. It would be essential to ensure that experienced individuals who fully understand the complex world of managing a portfolio of base, intermediate and peak load following resources are in place, and for the Company to ensure proper business risks are managed and mitigated, before a successful transition could take place.

CMP, as part of a large global company with sister utilities in Connecticut and New York, would likely benefit from the knowledge and experience from our counterparts. CMP would draw on experience to develop a business plan, hire and prepare to manage an energy trading floor in Maine, implement best practices in areas such as Portfolio Management, Risk Management, FERC Standards of Conduct, and assure all legal and regulatory requirements associated with performing this vital role are met.

CMP looks forward to working with all stakeholders to help address these important energy issues.



1 C. N. Brown Way
P. O. Box 200
South Paris, Maine 04281
Phone: (207) 739-6444
Fax: (207) 743-5952
Toll Free: 1-800-296-2721
www.cnbrownenergy.com

January 24, 2023

William S. Harwood, Esq.
Public Advocate
Maine Office of Public Advocate
112 SHS, Augusta, ME 04333-0112
VIA EMAIL AT william.harwood@maine.gov

Re: C. N. Brown Electricity Response to OPA's Proposed "Reform of Electricity Supply"

Dear Bill:

C.N. Brown Energy is the only local, family-owned company bringing New England complete energy options since 1948. For over 75 years and continuing through today, our customers trust us for their electricity and heating oil needs to cool them in the summer, warm them in the winter and keep their homes or businesses going year-round. We are a full-service energy provider specializing in electricity, heating fuels, gasoline, diesel and natural gas. We also proudly operate about 73 Big Apple stores, 25 heating oil offices and 12 service stations delivering to over 100 gasoline dealers. We work hard every day to bring the best possible value to our customers. Customer loyalty is important to us and our goal is to serve our communities and help them thrive while protecting their resources.

As part of our mission to offer our customers comprehensive solutions to their energy needs, since 2012 we have been licensed by the Public Utilities Commission as a competitive electricity provider. Our CEP license enables us to offer our customers retail electricity service in CMP's service territory and in Versant Power's Bangor Hydro service territory. The choice belongs to our customers – and in every case, they chose us.

For us, it's about serving our customers' energy needs, not just selling electricity as a commodity. We are mindful that our customers chose us intentionally, and that they could choose differently in the future. Thanks to our deep relationship with our customers, we often provide one or more other energy products or services to our retail electricity customers. We offer discounts on heating fuel purchases to our customers to purchase both heating fuel and electricity from us. We also provide car wash coupons to our residential retail electricity customers, good for one free car wash at any of six of our locations across Maine. We treat our customers well, and they appreciate it.

Given our perspective, we are greatly concerned to see your office proposing to discontinue residential retail electricity service effective January 1, 2024, among other reforms you have

proposed, based on materials provided by consultants to your office, which were presented to stakeholders on January 17, 2023. While we cannot speak for other entities that may be operating in Maine's retail electricity market, we are confident that we at C.N. Brown Electricity are doing everything the Legislature and Public Utilities Commission intended in offering our customers innovative products and services as part of our relationship with the communities we serve. Law and proper public policy call for enforcement of existing customer protections and regulations, not depriving our customers of their right to choose us.

We have customers to whose families we have supplied energy for decades and generations. Over time, the portfolio of fuels and energy resources has shifted, and we expect it will continue to shift as Maine embraces beneficial electrification. We plan to continue serving our customers' needs, including retail electricity supply. To ensure mutual understanding of your plans and objectives, and to assist with customer protection without depriving our customers of their freedom of choice, we respectfully request an opportunity to meet with you before your office advances its proposal any further. We can be available at your convenience to talk.

Very truly yours,

Lori A. Hemmerdinger

Lori A. Hemmerdinger
C.N. Brown Electricity



January 26, 2023

William Harwood
Public Advocate
Office of the Public Advocate
112 State House Station
Augusta, ME 04333

Subject: Versant Comments on LD 318 Retail Supply Study

Dear Mr. Harwood:

Versant Power (“Versant” or the “Company”) commends the Legislature and the Office of the Public Advocate (“OPA”), led by William Harwood, for undertaking this study in the best interests of Maine electric customers. The Company appreciates the opportunity to engage in this important conversation with stakeholders, looks forward to finding a better path forward for Maine electric customers, and respectfully submits the following comments on certain recommendations.

COMMENTS

I. Recommendation to eliminate the residential retail electric market, or to discontinue CEP service for only a subset of customers

Based on the research and evidence presented in the reports, discontinuing the residential retail electric market will likely result in more favorable rates for most residential customers who currently take service from a Competitive Electric Provider (“CEP”). A properly managed Standard Offer Provider (“SOP”) procurement process should result in providing customers with a fair price for electricity supply given prevailing market conditions.

Alternatively, the report recommends discontinuing CEP service for residential customers participating in energy assistance programs or capping CEP rates for energy assistance program participants. Versant is concerned that making such changes to a subset of customers (*i.e.*, only energy assistance program customers) versus an entire class of customers (*i.e.*, all residential customers) will be more complex to implement and will require additional changes to the Company’s billing system. Versant respectfully suggests that further evaluation of the potential costs and time to implement this option be conducted prior to any specific deadline being imposed upon the transmission and distribution (“T&D”) utilities.

Of the two options identified above, Versant agrees with the report's recommendation to discontinue CEP service for all residential retail electric service customers.

II. Recommendations related to informing customers about their energy supply choices

Versant has a relatively small number of residential retail customers who select CEPs as their energy provider. The Company recommends that educational information about the benefits of all residential retail customers being on the standard offer be developed with the assistance of the OPA and shared with customers currently served by a CEP.

Customers who elect to be served by a CEP currently receive informational messages about their supplier of choice on their electric bills. Versant agrees with stakeholder recommendations to enhance transparency by showing the SOP rate on these bills. However, to calculate the amount the bill would have been had the customer been served by the SOP and include that on the bill would require significant changes to the billing system and the bill print structure and would be expensive to implement. This should be considered if any specific deadlines are imposed upon the T&D utilities.

III. Recommendations to manage the SOP procurement, and to designate either the T&D electric utilities or a new quasi-independent power authority to be the SOP for all customer classes

Versant has significant concerns about the large transformations of utility operations that would be required for the T&D utilities to become the SOP for all customer classes.

The Company does not have the in-house resources, expertise, processes, or systems to engage in the complex energy marketing activities needed to implement this recommendation. Providing standard offer service involves a complicated endeavor that requires dedicated, experienced personnel. It requires knowledge of energy futures markets, hedging strategies, and generator-specific limitations and capabilities. Versant does not currently have employees with the skills or knowledge necessary to provide such energy management services. The Company believes the costs of acquiring new employees, implementing new processes, and purchasing new systems would significantly negate any potential monetary savings. Additionally, Versant would likely have difficulty in attracting candidates with relevant experience to the local market to perform the necessary functions.

Compounding the challenges described above, Versant does not have the energy trading systems and software necessary to engage in energy markets, which are active at all hours of the day, every day of the year. These systems monitor the energy markets in real time and allow users to execute trades in the various markets that are administered by the independent system operators. These trading desks are usually staffed 24 hours a day, seven days a week, 365 days a year. Such systems would require significant capital investment and training, and Versant would need

several months to consult with experts and develop a timeline to implement an in-house energy trading plan. Implementing the actual plan could take several years.

Finally, there are significant legal burdens imposed on regulated T&D utilities that engage in energy marketing. For example, the FERC standards of conduct require strict separation of transmission and marketing function employees. See *generally*, 18 C.F.R. §§ 358.1-358.8. Complying with these requirements would require Versant to incur additional expenses for separate office space, additional employee training and information sharing protocols, and a separate management structure.

Given these limitations, Versant is not able to provide energy management services currently. The Company would only be able to do so after several years' effort prior to implementation to allow time to make significant investments in new capital, employees, management structure, and office configurations.

Alternatively, an independent energy management entity could manage the combined Central Maine Power Company ("CMP") and Versant standard offer service requirements. By combining the two T&D utilities' supply requirements, there may be more interest from prospective bidders while also likely reducing the fixed administrative costs of managing supply across both T&D utilities. A larger supply portfolio would accomplish several important goals by: 1) presenting greater revenue potential for prospective energy management companies; 2) reducing transaction costs by limiting the number of contracts to be negotiated; 3) reducing the overall number of required filings and other administrative tasks; and 4) simplify bidding strategies for entities that may be interested in providing the combined standard offer supplies of both Versant and CMP. It may also allow for greater price stability that would not be available to smaller portfolios.

Having a single entity perform this SOP function for both Versant and CMP would eliminate the need for both T&D utilities to make individual investments in personnel, energy trading systems and software, legal and general costs to manage standard offer service. Maintaining two systems—one in Versant and one in CMP—would likely double the cost for customers as compared to having one entity manage standard offer service. A single entity managing both Versant's and CMP's energy supply would achieve efficiencies and economies of scale better than if the T&D utilities were performing these activities separately and result in lower costs to Mainers.

IV. Recommendations regarding the purchasing practices for the SOP

Because Versant does not have energy market supply price experts on staff, it will not comment on the specifics of energy procurement, but recommends a third-party energy marketer be engaged to develop the specific SOP procurement practices. Versant supports practices, such as the concepts of laddering and longer-term procurement, that promote price stability for customers.

Allowing energy supply contracts greater than one year may provide more stable standard offer prices by allowing the SOP to use longer-term energy contracts in its portfolio, which should lessen shorter-term price variations. (Versant notes that the Commission has used multiple-year contracts

in the past and could do so again.) Longer-term price stability may result in higher fixed prices compared to the market variable prices, as the longer-term contracts would incorporate the risks of market volatility into the fixed price.

CONCLUSION

Versant appreciates the OPA's efforts to improve the SOP procurement process and believes that this work will ultimately benefit the T&D utilities' customers. The Company thanks the OPA and stakeholders for the productive conversations over the course of this process. Thank you for this opportunity to submit comments.

Sincerely,

/s/ Stephen Johnston

Stephen Johnston

Manager of Sales & Revenue



January 24, 2023

VIA ELECTRONIC MAIL

William S. Harwood, Esq.
Public Advocate
Maine Office of Public Advocate
112 SHS, Augusta, ME 04333-0112

**RE: Maine Office of Public Advocate’s Retail Supply Stakeholder Group
NRG Energy, Inc. Preliminary Comments on Consultant Recommendations -
2021 P.L. ch.164 (LD 318)**

NRG Energy, Inc.¹ and its retail energy brand affiliates (“NRG”) appreciates the attempt of the Office of the Public Advocate’s (“OPA”) to facilitate a process designed to attain information and recommendations in an objective and unbiased manner regarding the issues consistent with retail electricity supply reform measures identified in Resolve, To Direct the Office of the Public Advocate To Study Reforming Maine's System of Retail Electricity Supply To Provide More Options to Maine Customers and Support Maine's Climate Goals. P.L. 2021, Ch. 164. However, in the opinion of NRG, the process has regrettably failed to achieve the primary objective of the Resolve. Most notably, as stated in Sec. 1. of the Resolve, the Legislature tasked the *Office of the Public Advocate to conduct a study of options for reforming the State’s current system of retail electricity supply in ways that will provide greater competition among retail electricity supply providers and more options and protections for customers, including access to renewable and clean energy supply options (emphasis added).*

¹ At NRG, we’re bringing the power of energy to people and organizations by putting customers at the center of everything we do. We generate electricity and provide energy solutions and natural gas to millions of customers through our diverse portfolio of retail brands. A Fortune 500 company, operating in the United States and Canada, NRG delivers innovative solutions while advocating for competitive energy markets and customer choice, working towards a sustainable energy future. More information is available at <http://www.nrg.com>

Nevertheless, in the Reform of Electricity Supply: CEP-Served Residential Retail Electric Market Report as prepared by Susan M. Baldwin and Timothy E. Howington (“Baldwin Report”) on behalf of OPA, Recommendation No. 1 calls for the discontinuance of the residential retail electric market effective January 1, 2024, or in the alternative, cap CEP rates at SOS rates). NRG fails to appreciate how the discontinuance of the competitive retail electricity market, or the imposition of artificial price caps advances greater competition among retail electricity supply providers and better serves the citizens of Maine.

The Maine competitive electric supply market offers significant value and benefit that will not be available to residential customers if they are denied access to the competitive supply market. For instance, various electric suppliers offer electric supply products at rates less than Standard Offer Service (“SOS”) rates. Moreover, competitive supply also offers residential customers meaningful opportunities to mitigate the risk of SOS price volatility. Energy markets are highly cyclical, exhibit volatility, and can experience disruptive and anomalous events like today’s supply-demand imbalance the region is experiencing due to the war in Ukraine, the 2014 Polar Vortex, the similar extreme cold that occurred in winter 2015, the 2007/2008 financial crises, and natural disasters. As a consequence, SOS rates, can exhibit pronounced volatility.

Price stability is a real and tangible benefit, especially for the residential consumers, many of whom are less able to manage fluctuations in monthly utility costs. Thus, a customer on a long-term, competitive fixed rate plan is protected from significant and unforeseen increases in wholesale energy prices. Even if future wholesale market prices turn out to be less than prices in effect at the time the customer enters into the contract, customers still benefit from the “price insurance” provided by the fixed price supplier contract—a benefit that will be unavailable if residential customers are not permitted to exercise their right to choose an electric supplier.

In addition, as reflected in the Baldwin Report, the consultant injects a highly biased viewpoint that presumes Maine residential customers lack the knowledge, judgement or expertise to make informed buying decisions pertaining to their energy supplier. Based on the Maine PUC Migration Statistics as of November 9, 2022, a total of 82,923 or over 10% of Maine residential and small commercial customers have exercised their right to choose electric supply service from a Competitive Electric Provider (“CEP”) or retail supplier. These customers have made affirmative buying decisions based on an array of factors that may be driven by price, term

length/price stability, value-added services and/or general frustration with the service quality of their local electric distribution company. Nevertheless, the consultant projects a highly prejudicial viewpoint that residential retail choice should be eliminated in CY2024, resulting in Maine residential electric consumers being denied the choice of their energy supplier.

In closing, short of effectively shutting down the residential retail market, NRG is prepared and stands ready to constructively address key deficiencies impacting the current competitive retail electricity market and thus, enhancing the market and better serving that state's electricity consumers. While the state of Maine already has a significant regime of rigorous consumer protection provisions in state law (Title 35-A MRSA § 3203) and in Commission rules (Ch. 305), NRG is open to further discuss incremental improvements to these existing consumer protections, e.g., enhanced disclosure of voluntary renewable energy products, the elimination of early termination fees for residential customers, door-to-door marketing, etc. Moreover, while additional consumer protection measures should be considered, NRG thinks there should also be retail market enhancements taken under review that can further improve the retail market for residential consumer, e.g., increased consumer education and outreach, upgrade the State of Maine Shopping website, the implementation of opt-in Time-of-Use ("TOU") or Time-Varying Rate ("TVR") designs that promotes demand response reduction and lower cost off-peak pricing, etc. Regrettably, the opportunity to discuss the pros and cons of these additional consumer protections as well as beneficial retail market enhancements was quite limited within the context of the Retail Supply Stakeholder Group process and more importantly, any pro retail market recommendation did not find its way into the Baldwin Report. Consequently, NRG intends to file an alternative report with the Maine Legislature to provide the need balance to the proposed recommendations presented in the draft OPA report.

Respectfully submitted,

Marc A. Hanks

Marc A. Hanks
Director, Regulatory Affairs
NRG Energy, Inc.
Tel: (413) 642-3575



STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Philip L. Bartlett, II
CHAIRMAN

Randall D. Davis
Patrick J. Scully
COMMISSIONERS

Harry Lanphear
ADMINISTRATIVE DIRECTOR

OPA's Retail Supply Stakeholder Group
Public Utilities Commission Comments on Consultant Recommendations
January 24, 2023

The Public Utilities Commission (Commission) appreciates the efforts of the Office of the Public Advocate's consultants to provide information and recommendations regarding the issues presented on retail electricity supply reforms enumerated in Resolve, To Direct the Office of the Public Advocate To Study Reforming Maine's System of Retail Electricity Supply To Provide More Options to Maine Customers and Support Maine's Climate Goals. P.L. 2021, Ch. 164.

In these comments, the Commission focuses primarily on the recommendations regarding the procurement of standard offer service.

Standard Offer Procurement Preliminary Recommendations

Regarding standard offer service procurement, Exeter Associates Inc (Exeter) states that the goals should be low prices, stable prices, incentives for beneficial use of electricity, and reasonably based on current wholesale market prices. These goals remain regardless of the whether customers' ability to purchase from competitive electricity providers (CEP) remains or is eliminated.

To establish the stated goals for standard offer service, Exeter recommends principal reliance on laddered, load following, full requirements contracts (FRCs) for the residential, small commercial, and medium commercial and industrial (C&I) classes. The contracts would be for a longer term than the current practice of one-year and each FRC would represent a specified percentage of class load over a specified period. The standard offer price would be the weighted average of the wholesale contract costs. With respect to the large C&I classes, Exeter recommends full-requirements, load following contracts priced on a monthly basis consistent with the current approach for this class of customers. Exeter does not recommend a managed portfolio or the use of long-term renewable energy contracts to supply standard offer service.¹

Regarding the standard offer procurement, Exeter recommends a process similar to the current method be employed, but that the procurement be implemented either by the transmission and distribution (T&D) utility or a quasi-independent power authority.

¹ The Commission notes that it is not providing at this time comments on all of Exeter's recommendations.

Commission Response

At the outset, the Commission emphasizes that the recommendations must be analyzed in the context of the State's current long-standing energy policy to base electricity supply prices on a functioning competitive market. Accordingly, any major changes to the current standard offer procurement practices must be consistent with current State energy policy or recognize that such policies may need to be reconsidered and modified by the Legislature.

The Commission's current practice of procuring standard offer service for one-year terms is intended to generally promote the State's policy by offering customers market-based rates, but also providing some level of rate stability through one-year contract terms (as opposed to prices that vary more frequently, such as monthly).

Unless there is an explicit change in legislative policy regarding competitive market pricing, the Commission questions the need to significantly change the current standard offer procurement practice. The Commission notes that longer term multi-year contracts would be likely to significantly increase the risk premium that wholesale suppliers include in their prices.

The history of standard offer prices using the current procurement method, as reflected in Figure 1 below, shows standard offer price fluctuations, which are to a large degree based on then existing market conditions.



Figure 2 below shows Maine's current standard offer residential prices compared to default service prices in the other New England states:

State and Regional Summary of IOU Fixed Residential Supply Rates

State	Average Price	Lowest Price	Highest Price
Maine	16.316	14.879	17.631
Rhode Island	17.785		
Vermont	18.035		
New Hampshire	22.209	19.633	25.925
Connecticut	23.056	21.940	24.172
Massachusetts	24.816	17.859	33.891
New England	21.198	14.879	33.891

Note: Rhode Island and Vermont have only one investor-owned utility and therefore the average price is the price of that single utility.

Maine has the lowest prices in New England this winter, and we are routinely at or near the lowest in terms of pricing each year. Electricity prices in New England are volatile due to our reliance on natural gas, and no other state has yet found a procurement method that consistently produces lower prices than we have in Maine.

The Commission also emphasizes that any fundamental changes to the current standard offer procurement process must be considered in conjunction with current policies regarding retail choice. This issue is highlighted by the Commission's earlier practice regarding standard offer procurement for residential and small commercial customers in which the Commission solicited bids every year for a three-year term for one-third of the standard offer load. The purpose of this approach was to mitigate market volatility and prevent large changes in prices that could occur if supply for the entire residential and small commercial requirements was procured at a single point in time (e.g., once every year or six months). Because the approach, by design, smoothed out changes in market prices, the resulting standard offer prices would not track the market as well as if the entire supply requirements were procured at one time.

This approach was adopted at a time when there were very few residential and small commercial customers receiving retail supply from a CEP. However, as a result of the use of the staggered-term approach, there were times when standard offer prices were significantly higher than market prices, which allowed CEPs to offer residential and small commercial customers a lower price for a period of time. The result was a significant increase in CEPs serving the residential and small commercial classes. Moreover, a large number of residential customers did not switch back to standard offer service when its rates became lower than the CEP market (either through CEP contract restrictions or customer confusion in comparing rates) with the result being that customers paid significantly more than market rates. In addition, standard offer providers had to factor this growing risk of both out-migration and in-migration of customers into future standard offer bid prices.

As a consequence of the increase in retail choice, and consistent with the state policy of supporting competition, the Commission in 2013 decided that it was important for standard

offer prices to more closely track the market and allow customers to manage price volatility through the retail market. Accordingly, the Commission phased out the use of the staggered terms and moved to the current practice of yearly solicitations for the entire load for one-year terms as a means to balance the need for the residential and small commercial standard offer prices to be in line with market prices, while maintaining a level of rate stability and predictability.²

Given this background, it is the Commission's view that consideration of any major changes regarding the policies and purposes of standard offer service should also include a consideration of the policies and goals of continued retail supply access for residential and small commercial customers, as well as other customer classes. To do otherwise risks a repeat of the circumstances noted above in which CEP prices could be significantly below standard offer prices, but only for a limited time, with the result of creating customer confusion and providing opportunities for unscrupulous suppliers or marketers to take advantage of Maine's citizens.

In this regard, the Commission notes that the recommendations of the Susan M. Baldwin and Timothy E Howington (Baldwin/Howington) Report include that, for several reasons, retail supply competition for residential customers be eliminated.³ In the event the Legislature adopts this recommendation, there would be greater flexibility to explore methods to maximize rate stability. However, if longer term price stability is the primary goal, recognizing that costs will on average be higher over time, the Legislature should include that explicit directive in statute and the Commission could revise its procurement strategy.

Regarding C&I customers, the Baldwin/Howington Report does not contain any recommendation regarding the elimination of CEP retail sales option. Thus, any attempt to stabilize standard offer rates over longer periods of time as recommended by Exeter raises the same issues that occurred with the residential market when standard offer process deviated substantially from market rates (both higher and lower than standard offer rates). Thus, a substantial policy determination must be made as to whether there should be changes regarding standard offer procurement and pricing for C&I customers.

Finally, with respect to changing the entity that procures standard offer service, it is unclear how the creation of a new power authority would achieve any newly adopted policies, or current policy, more cost effectively for Maine consumers than the current approach in which the Commission solicits and select the retail provider of standard offer service.

² *Inquiry Into Residential and Small Commercial Customer Standard Offer Service and Customer Protection*, Docket No. 2013-00200, Inquiry Conclusions (Nov. 13, 2013).

³ The Baldwin/Howington Report concluded that prices from retail CEP suppliers have historically been much higher than for standard offer, that the rates charged in 2021 were 70% above standard offer, and that the average price charged by each supplier exceeded the standard offer price.