

REPORT TO THE
JOINT STANDING COMMITTEE
ON PUBLIC UTILITIES,
MAINE LEGISLATURE

FROM THE
MAINE PUBLIC UTILITIES COMMISSION

Public Utilities Commission
Information Resource Center
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I. INTRODUCTION

According to 35 M.R.S.A. §17, the Maine Public Utilities Commission is required to "report annually, before February 1st, to the joint standing committee of the Legislature having jurisdiction over public utilities on its planned expenditures for the year and on its use of funds in the previous year." The Commission believes that in addition to providing the required fiscal data, the Commission also has a responsibility to utilize this report as a means of discussing a variety of relevant issues, in order that the Joint Standing Committee on Public Utilities can assess the Commission's performance in discharging its public obligations.

The year 1981 was an extremely busy and difficult one for the Public Utilities Commission, as the agency attempted to grapple with many problems and challenges, which included the referendum issue on the Maine Energy Commission proposal, the deregulation of transportation and related phase-out of the PUC's Transportation Division, an ever-accelerating case load, larger and more frequent rate increase filings, more complicated regulatory and rate design issues relating to the implementation of PURPA, the establishment of "avoided cost" rates which utilities must pay to cogenerators and small power producers, and increased consumer concern spurred by continuing inflation and economic adversity. These and other factors have posed a

considerable challenge to the Commission and its staff, as we have attempted to manage the overwhelming workload with limited personnel and financial resources.

In 1981, the Commission decided 69 general rate cases (in which \$94.2 million had been requested, and \$60.6 million was allowed). Including these 69 rate cases, the Commission considered and made decisions on 271 docketed proceedings during the past year. During 1981 the Secretary's Office docketed some 286 new cases, many of which are still on the Commission's docket (which presently numbers 149 cases as of January 11, 1982). The Commission's Consumer Assistance Division processed 4,759 complaint cases during 1981, closing a total of 4,713 complaints during the year. The amount of rebates/adjustments granted to customers was \$58,410.

There were innumerable days of public hearings during the year. It was not uncommon to have two and even three major proceedings conducted simultaneously at times during the year. The number of complex cases with many parties participating actively (with counsel) in the proceedings is up substantially from a few years ago, placing added burdens on the Commission and staff that are not reflected in the aggregate case volumes.

Essentially, it is the contention of the Commission that the Commission itself and the Commission's staff have been performing in a very satisfactory manner considering the ever-increasing workload, the resource constraints, the

increasing inflationary pressures on utilities, the Commission, and consumers, and the rising level of consumer concern.

This report is organized into sections, of which this brief Introduction is Section I. Section II provides statistical data relating to rate case decisions of 1981 and provides limited comparative data for the years 1978, 1979, and 1980.

Section III is directly responsive to the statute, in presenting fiscal data relating to the Commission's budget and to expenditures for the past, present, and forthcoming fiscal years. Section IV of the report focuses upon several major issues which will directly affect the Commission during 1982 and beyond, including the nuclear generating plant decommissioning issue, the prior approval of out-of-state construction, the restructuring of the telecommunications industry, the proposed New England States pipeline, and other issues.

Section V focuses attention upon current problems and needs of the Commission, and upon legislative issues being considered in the current second session of the 110th Maine Legislature. As noted in the cover letter, the Commission stands ready to provide additional information upon request from the Committee.

II. RATE CASE DECISIONS

In 1981 the Commission decided 69 general rate cases, in which electric, telephone, water, and gas utilities had

requested \$94.2 million. In these cases the Commission allowed \$60.6 million in rate increases, rejecting \$33.6 million of the total amount requested. Exhibit A presents 1981 rate case decision data by utility category. Exhibits B, C, D, and E present specific utility data, by utility category.

Although complete data have not been compiled, it is instructive to review composite rate case decision trends for the past four years. Exhibit F presents this composite trend data. The data presented for 1979 do not include figures on rate cases from the transportation, water, or gas sectors, a fact which to some extent hinders meaningful comparisons. A trend can be discerned, however, from the following figures: rate increases requested were \$55.7 million in 1978, \$60.6 million in 1980, and \$94.2 million in 1981. Amounts granted were \$26.0 million in 1978, \$37.4 million in 1980, and \$60.6 million in 1981.

Over the four-year period (1978-81), utilities have requested \$217.6 million in rate increases, have been awarded \$131.9 million, and have been denied \$85.7 million.

Both the number of rate cases coming before the Commission and the amounts requested in those cases have accelerated in recent years. These complex proceedings have included the active participation of a greater number of parties. Despite the phase-out of the PUC's Transportation Division and the partial deregulation of district and municipal water utilities,

these trends are expected to continue, particularly in the face of a recent Maine Supreme Court decision which allows more frequent rate filings. As an indicator for 1982, it is noted that three major rate cases currently before the Commission (New England Telephone Company, Central Maine Power Company, and Bangor Hydro-Electric Company) are requesting a combined increase of \$105 million in new rates -- exceeding the entire amount requested by all utilities in cases decided during 1981.

Exhibit A

PUC RATE CASE DECISIONS (1981)

<u>Category</u>	<u>Cases</u>	<u>Amount Requested</u>	<u>Amount Granted</u>	<u>Difference</u>
Electric	5	\$ 9,074,403	\$ 3,191,212*	\$ 5,883,191
Telephone	3	41,466,789	14,269,828	27,196,961
Water				
District & Municipal	46	18,145,246	18,421,269	(276,023)
Investor-Owned	13	5,284,308	5,171,943	112,365
Gas	<u>2</u>	<u>20,237,522</u>	<u>19,555,882</u>	<u>681,640</u>
TOTALS (1981)	69	\$94,208,268*	\$60,610,134*	\$33,598,134

*

Does not include \$277,037 remanded by Law Court to Central Maine Power Company in M.P.U.C. Docket No. 80-25, case originally decided in October, 1980, remand decided October, 1981.

ELECTRIC RATE CASE DECISIONS
1981

<u>Name of Company</u>	<u>Amount Requested</u>	<u>Amount Granted</u>	<u>Rate of Return Allowed</u>	<u>Return on Equity Allowed</u>	<u>Date of Order</u>	
Kennebunk Light and Power District	\$ 180,793	\$ 102,969	-	-	05/11/81	Docket No. 80-170
Maine Public Service Company	4,675,000	1,494,278	12.22%	16.5%	06/01/81	Docket No. 80-180
Maine Public Service Company	\$ -	\$ 361,005	-	-	08/05/81	Reconsideration of MEPCO Power Purchase in Docket No. 80-180 and Attrition Adjustment
Maine Public Service Company	3,895,661	1,024,350	-	-	09/11/81	Temporary Rates to Sustain Investment in Seabrook Plant
Lubec Water and Electric District	70,327	69,144	-	-	09/10/81	Docket No. 81-32
Stonington and Deer Isle Power Company	252,622	139,466	16.63%	15.5%	11/13/81	Docket No. 81-181
TOTAL - 12 Months	\$9,074,403	\$3,191,212*		Difference		\$5,883,191

* Does not include \$277,037 remanded to CMP in M.P.U.C. Docket No. 81-25, October, 1981.

1981 TELEPHONE RATE CASES

<u>Name of Company</u>	<u>Docket Number</u>	<u>Amount Requested</u>	<u>Amount Granted</u>	<u>Overall Return</u>	<u>Return on Equity</u>	<u>Date of Order</u>
Standish Telephone Company	80-139	\$ 313,789	\$ 212,828	12.66%	15%	02/04/81
New England Telephone and Telegraph Company	80-142	39,500,000	8,451,000 4,810,000	10.8	13.15	03/30/81 05/22/81
Continental Telephone Company	81-61	1,653,000	796,000	9.48	14.25	09/24/81

					<u>Difference</u>	
TOTAL - 12 Months	3 Cases	\$41,466,789	\$14,269,828		\$27,196,961	

1981 WATER RATE CASES

		<u>Requested</u>	<u>Allowed</u>	<u>Return on Rate Base</u>	<u>Return on Equity</u>	<u>Decree Date</u>
80-97	Paris Utility District	\$ 218,722	\$ 218,722	N/A	N/A	01/13/81
80-117	York Water District	553,328	500,749	N/A	N/A	01/20/81
80-272	Danforth Water Dist. (under 400)	N/A	N/A	N/A	N/A	01/15/81
80-278	S. Freeport Water Dist. (under 400)	46,197	46,197	N/A	N/A	01/21/81
80-127	S. Berwick Water Dist.	91,452	99,694	N/A	N/A	02/18/81
80-128	Boothbay Harbor Water System	211,337	240,638	N/A	N/A	03/01/81
80-153	Fort Fairfield Utility District	171,821	171,821	N/A	N/A	03/01/81
80-162	Auburn Water District	705,472	738,826	N/A	N/A	02/19/81
80-201	Rangeley Water Company	49,008	56,161	10.1	5.6	02/06/81
80-87 80-125	Portland Water District " " "	6,667,316	6,751,706	N/A	N/A	03/06/81
80-172	Cornish Water Company	28,588	28,588	8.66	N/A	03/19/81
80-173	Hallowell Water District	93,800	93,800	N/A	N/A	03/12/81
80-195	Winter Harbor Water Company	43,364	41,297	13.25	7.00	03/12/81
80-224	Bucksport Water Company	100,285	97,964	11.86	5.4	03/04/81
80-276	West Side Aqueduct Company	280	280	N/A	N/A	03/25/81
81-21	Camden and Rockland Water Company	1,477,832	1,469,514	12.73	4.28	03/26/81
81-28	Port Clyde Water Dist. (under 400)	N/A	N/A	N/A	N/A	04/01/81
81-29	Rangeley Water Company	Late Payment Charge Only				
80-149	Dexter Utility District	72,500	71,646	N/A	N/A	04/01/81
80-169	Gray Water District	79,197	88,427	N/A	N/A	04/01/81
80-205	Augusta Water District	991,467	1,111,042	N/A	N/A	04/01/81
81-17	Allen Water Company	2,953	2,953	N/A	N/A	04/08/81
81-42	Eagle Lake W & S Dist. (under 400)	N/A	N/A	N/A	N/A	04/15/81
81-81	Island Falls Water Dist. (under 400)	N/A	N/A	N/A	N/A	07/01/81
80-231	Brewer Water District	403,202	387,364	N/A	N/A	06/24/81
80-245	Norway Water District	169,604	171,880	N/A	N/A	06/29/81
81-2	Hampden Water District	176,327	169,472	N/A	N/A	06/26/81
81-105	Vinalhaven Water Dist. (under 400)	N/A	N/A	N/A	N/A	07/01/81
81-18	Dixfield Water System	57,685	65,856	N/A	N/A	07/01/81
80-256	Gardiner Water District	725,252	747,079	N/A	N/A	08/05/81
80-257	Bingham Water District	59,995	57,550	N/A	N/A	08/21/81
80-264	Brunswick & Topsham Water Dist.	755,491	795,814	N/A	N/A	08/21/81
80-265	Calais Water Department	224,995	252,003	N/A	N/A	08/26/81
81-4	Long Pond Water Company	20,570	20,570	9.85	N/A	08/12/81
81-31	Farmington Falls Water Company	6,400	4,511	9.4	N/A	08/06/81
81-125	Rumford Water District	187,858	187,858	N/A	N/A	08/05/81
81-157	Strong Water District (under 400)	56,700	56,700	N/A	N/A	09/01/81
81-16	Bethel Water District	95,119	91,093	N/A	N/A	09/30/81
81-49	Bar Harbor Water Company	274,500	274,500	11.99	N/A	09/30/81
81-165	Brownville Water Dist. (under 400)	N/A	N/A	N/A	N/A	10/01/81
FC #2556	Camden and Rockland (on Remand)	N/A	1,497,311	12.98	N/A	10/08/81
81-66	K. K. & Wells Water District	2,176,531	2,176,531	N/A	N/A	10/08/81

1981 WATER RATE CASES - Continued

Case No.	Description	Withdrawn and filed under (\$72)	(81-224)			
81-106	East Millinocket Water Works					
81-80	Madison Water District	113,194	117,808	N/A	N/A	11/03/81
81-201	Fort Kent Water Department (\$72)	193,660	193,660	N/A	N/A	10/31/81
81-202	Mexico Water District (\$72)	169,091	169,091	N/A	N/A	11/01/81
81-217	Orono-Veazie Water District (\$72)	487,492	487,492	N/A	N/A	11/13/81
81-221	Presque Isle Water District (\$72)	475,865	475,865	N/A	N/A	11/16/81
81-223	Yarmouth Water District (\$72)	433,340	433,340	N/A	N/A	12/31/81
81-224	East Millinocket Water Works (\$72)	166,921	166,921	N/A	N/A	11/15/81
81-266	Hallowell Water District (\$72)	158,730	158,730	N/A	N/A	11/20/81
81-84	Old Town Water District	541,188	511,497	N/A	N/A	12/09/81
81-156	Camden and Rockland Water Company	1,783,217	1,678,294	12.98	N/A	12/30/81
81-242	Anson Water District (\$72)	34,106	34,106	N/A	N/A	01/01/82
81-245	Northport Village Corp. (\$72)	23,991	23,991	N/A	N/A	01/01/82
81-246	Livermore Falls Water Dist. (\$72)	284,000	284,000	N/A	N/A	12/31/81
81-248	Eustis Water Department (\$72)					New Private Fire Protection Charge Only
81-252	Jay Village Water District (\$72)	72,300	72,300	N/A	N/A	12/31/81

TOTAL - 12 Months

WATER CASES:

District & Municipal	46 Cases	\$18,145,246	\$18,421,269	\$(276,023)
Investor-Owned	13 Cases	5,284,308	5,171,943	112,365
				<u>Difference</u>
Totals	59 Cases	\$23,429,554	\$23,593,212	\$(163,658)

Exhibit E

1981 GAS RATE CASES

		<u>Requested</u>	<u>Allowed</u>	<u>Return on Rate Base</u>	<u>Return on Equity</u>	<u>Decree Date</u>
80-77	Northern Utilities, Inc.	\$10,410,128	\$ 9,728,488	11.70	15.60	01/09/81
80-77	(Reopened)	9,827,394	9,827,394	12.09	15.60	12/04/81
					<u>Difference</u>	
TOTAL - 12 Months	2 Cases	\$20,237,522	\$19,555,882		\$681,640	

Exhibit F

PUC RATE CASE DECISIONS (1978-1981)
(All Utility Categories)*

<u>Year</u>	<u>Rate Increases Requested</u>	<u>Rates Allowed</u>	<u>Difference</u>
1978	\$ 55.7 million	\$ 26.0 million	\$29.7 million
1979**	7.1 million	7.9 million	(.8 million)
1980	60.6 million	37.4 million	23.2 million
1981***	<u>94.2 million</u>	<u>60.6 million</u>	<u>33.6 million</u>
4-YEAR TOTALS	\$217.6 million	\$131.9 million	\$85.7 million

*

Data presented by years are not directly comparable, as noted in following footnotes.

**

1979 data reflect absence of major rate cases, as well as absence of data for water, gas, and transportation utilities.

Data for 1981 do not include transportation utilities, data regarding which were included in 1978 and 1980 figures.

III. PUBLIC UTILITIES COMMISSION FISCAL INFORMATION

As previously noted, the Commission is required to report annually to the Joint Standing Committee on Public Utilities regarding "its planned expenditures for the year and on its use of funds for the previous year." Since the State's fiscal year begins on July 1 and ends on June 30, all the budgetary information presented in this report is based on the State's fiscal year.

The sources of PUC funding for the previous fiscal year (1980/81), the current fiscal year (1981/82), and the forthcoming fiscal year (1982/83) are shown in Exhibit G. From that Exhibit it can be seen that the PUC's funding during the past and current fiscal year has come from three State sources (the General Fund, the PUC Regulatory Fund, and the Transportation Fund) and two Federal grants (the Federal Water Assistance Program Grant and the Department of Energy/PURPA Grant). For the coming fiscal year, the Commission's activities are to be funded entirely from the State's General Fund and the PUC's Regulatory Fund.

As the Committee knows, since January 1, 1982 the Commission has no longer had any transportation regulatory responsibilities, with the exception of water carriers in Casco Bay, Casco Bay Lines. State rate and route regulation of railroads and for-hire motor carriers was deregulated and bus

regulation was transferred to the Department of Transportation. At the same time, the PUC's Transportation Division and Transportation Fund was abolished. Because these actions occurred in the middle of the current fiscal year, they have complicated somewhat the budgetary process and made year-to-year comparisons difficult. However, as the transitional impacts of the reorganization are worked out and experience is gained with the Commission's new revenue and expenditure levels the Commission should be able to make more accurate estimates of its budgetary needs for the coming years.

The Commission's two Federal grants have now been terminated and funding from these two sources will be exhausted by the end of the current fiscal year. With respect to the Water Assistance Program, the grant moneys have enabled the Commission to provide technical consulting assistance to small water utilities with problems beyond their resources and expertise to deal with them. The Commission believes the program has had positive benefits to the utilities and communities involved. The program has also helped to avert and ameliorate problems that could have developed into issues requiring more formal intervention. While the Commission would like to see this program continued, its termination will not present any significant budgetary problems for the Commission, since the one remaining position funded with this grant will be eliminated in the Spring of 1981.

The termination of the DOE/PURPA grant is another matter. The PURPA moneys have enhanced the Commission's ability to respond to the important rate design and energy supply issues before the Commission. The Commission has received over \$300,000 from this program in the last three years. Almost all of these moneys were used for consulting services, principally to provide for expert testimony in rate design proceedings (as discussed in Section IV) and to provide the Commission with in-house computer analysis facilities to give our staff greater analytical capability in fuel adjustment, avoided cost, and rate design proceedings. PURPA dollars have made it possible for the initial investigations in these areas to go forward, but there will be subsequent proceedings where active Commission involvement will require funding from other sources. Our additional needs for fiscal year 1982/83 are discussed in Section V.

The agency's actual and anticipated expenditure, by major categories, for the past, current, and next fiscal years are shown in Exhibit H. As mentioned earlier, the year-to-year changes are not easily discernable because of the termination of the Commission's transportation regulatory activities. However, the exhibit clearly shows the Commission's heavy dependence upon outside consultants to deal with the extremely complex regulatory matters before the Commission. As indicated in Section IV, the complex issues and demanding workload have not

diminished. However, for fiscal 1982/83 we currently have available only \$40,000 for consulting assistance. Even that \$40,000 has been set aside to hire outside expertise in the current New England Telephone rate case. It is for this reason and for others that the Commission is seeking legislation (L.D. 1850) to increase its assessments on utilities from \$900,000 per annum to \$1,300,000 per annum. As will be indicated in Section V, the major portion of this additional \$400,000 will be targeted as additional consulting funds.

SOURCES OF PUC FUNDING

<u>REVENUE SOURCE</u>	<u>1980/81</u> (Actual Outlays)	<u>1981/82</u> (Budgeted)	<u>1982/83</u> (Budgeted)
<u>State Funding:</u>			
General Fund	\$ 843,000 (32)	\$ 630,000 (22)	\$ 597,000 (22)
Regulatory Fund	125,000 (4)	754,000* (32)	900,000 (32)
Transportation Fund	936,000 (41)	504,000 (23)	-- --
Total State Funding	\$1,904,000 (77)	\$1,888,000 (77)	\$1,497,000 (54)
<u>Other Funding</u>			
Federal Water Grant	\$ 29,000 (2)	\$ 21,000 (1)	\$ -- --
PURPA Grant	113,000 (0)	160,000 (0)	-- --
Total Other Funding	\$ 142,000	\$ 181,000	\$ --
Grand Total	\$2,046,000 (79)	\$2,069,000 (78)	\$1,497,000 (54)

(Figures in parentheses represent positions.)

* \$754,000 includes \$79,000 of non-lapsing funds carried forward from FY 79/80 and FY 80/81 in FY 81/82. Regulatory Fund balance (projected) for FY 81/82 expected to be less than \$20,000.

EXHIBIT H

USES OF PUC FUNDING

<u>MAJOR EXPENSE CATEGORIES</u>	<u>1980/81</u> (Actual Outlays)	<u>1981/82</u> (Budgeted)	<u>1982/83</u> (Budgeted)
<u>State Funding:</u>			
Personal Services	\$1,414,000	\$1,464,000	\$1,234,000
Consultants	186,000	154,000	40,000
All Other Expenses	303,000	270,000	220,000
Capital	<u>1,000</u>	<u>3,000</u>	<u>3,000</u>
Total State Funding	\$1,904,000	\$1,888,000	\$1,497,000
<u>Other Funding:</u>			
Personal Services	\$ 25,000	\$ 17,000	\$ --
Consultants	113,000	160,000	--
All Other	4,000	4,000	--
Capital	<u>--</u>	<u>--</u>	<u>--</u>
Total Other Funding	<u>\$ 142,000</u>	<u>\$ 181,000</u>	<u>\$ --</u>
GRAND TOTAL	\$2,046,000	\$2,069,000	\$1,497,000
Total Amount Spent or budgeted for consulting	<u>\$ 299,000</u>	<u>\$ 314,000</u>	<u>\$ 40,000</u>

IV. MAJOR ISSUES BEFORE THE MAINE PUBLIC UTILITIES COMMISSION

A. Electric Utilities

Electric utilities continued to be the focus of the majority of the Commission's work in 1981, as has been the case for the past several years. Maine's three largest electric companies, Central Maine Power Company (CMP), Bangor Hydro-Electric Company (BHE), and Maine Public Service Company (MPS), all had major rate increase requests before the Commission. The MPS case was concluded in 1981; the CMP and BHE cases must be decided by March 29 and April 8, 1982, respectively. Fuel adjustment cases for MPS and CMP were also completed.

Cases were also processed for other Maine electric utilities. The Carrabassett Light & Power Company and the Maine properties of Public Service Company of New Hampshire were sold to CMP. CMP and MPS both have filed requests with the Federal Energy Regulatory Commission (FERC) to increase their rates to wholesale customers, which are smaller Maine electric utilities. The MPUC has intervened in these cases to ensure that the public interest is adequately represented and that FERC is made aware of any particular problems involving these cases which might not otherwise come to its attention. In addition, the Stonington and Deer Isle Power Company, which had experienced frequent and prolonged outages because of

malfunctioning equipment, was sold to new management which completed the improvements necessary to ensure adequate and reliable service.

1. Financial Status of Electric Utilities.

Like electric utilities across the country, those in Maine face difficult financial situations. Sales growth has slowed, but costs continue to increase, and there is a need for large amounts of borrowed capital to finance construction programs. These funds must be raised in the nation's financial markets, by issuing stock and selling bonds. In the past few years, inflation and delays in construction schedules have pushed the costs of many projects higher than anticipated, and instability in the money markets has made it much more difficult to borrow needed amounts at attractive rates. For utilities committed to sizeable construction programs, the consequence has been that the financial strain has eroded their earnings and made them far less attractive as investments. This means that their borrowing costs rise even farther, as investors seek returns adequate to compensate them for the added risk of investing in a less healthy company. As a consequence, retail rates rise to reflect this increased cost of money.

In this situation, everyone is dissatisfied. Utility shareholders believe that their investments are being confiscated through the issuance of additional shares below book

value and are unhappy when earned returns are low. Utility managements are displeased when they believe that the Commission is not allowing them to charge rates high enough to maintain the financial health of their companies and to permit needed construction programs to continue. Utility ratepayers are angry at rising rates, resentful of the monopoly status of the utilities, and generally confused by the laws and principles under which the Commission must act in setting rates. The Commission finds itself called upon to make increasingly difficult decisions in many more and complex cases, with limited resources and the knowledge that however fair and reasonable it tries to make that decision, people will still be angry. The Legislature, in turn, receives growing numbers of proposals for change in the utility laws and in the Commission, prompted by various individuals and groups seeking to promote their various interests through the political process.

The Maine Commission must struggle with these problems and try to find solutions that are fair to both ratepayers and shareholders, that keep the utilities financially sound, and that reflect a full and fair assessment of the wisdom of the construction programs which the utilities have undertaken.

The construction programs of most New England electric companies were developed in the early 1970's, before the full impact of the oil price increases was felt. Consequently, in many instances, the load forecasts, which

showed a need for additional generating capacity, reflected substantially higher rates of growth in demand for power than have been realized in recent years. As reality turned out to differ from the forecasts, five planned nuclear plants were cancelled. Today, the only major generating stations under construction in New England are the Millstone Unit 3 and Seabrook Units 1 and 2. At the present time, the fate of Seabrook 2 is open to question, given recent developments in New Hampshire.

Even with the cancellations, however, the investment in the remaining plants is substantial and is placing great strain on Maine's major electric companies. Adding to this strain is the fact that the Commission does not permit utilities to earn a return on plant under construction but not in service. This is the issue of "construction work in progress," or "CWIP," to be discussed below. The consequence is that not only must utilities borrow large sums of money to finance construction, but they are also denied any amount in rates to pay for the borrowing costs until the plant goes into operation. Thus, these borrowing costs must be paid out of net earnings, with the result that as the investment in plant under construction grows, the net earnings are further depleted and the financial strain becomes more severe.

In extreme cases, utilities may find themselves in such poor financial condition that they are legally precluded

from selling bonds, or cannot issue additional stock without severely diluting the value of the stock held by existing shareholders, or are unable to borrow funds on even a short-term basis because lenders fear they will not be repaid. All of these problems affected Maine Public Service Company, and the Commission therefore granted it temporary rate relief to keep the company viable until its situation could be fully investigated. While the other major electric utilities are not now in as difficult a situation as MPS, their basic financial problems are similar in nature.

2. The "Prior Approval" Issue.

The law (Title 35, section 13-A) now requires that before building a generating plant in Maine, Maine utilities must obtain from the MPUC a certificate of public convenience and necessity. No comparable requirement exists when Maine utilities participate in the ownership of plants outside the state. While the Commission's basic investigatory and regulatory powers are broad enough to permit it to look into such ventures, in practice other work has taken precedence, at least at the outset. The Commission is now conducting such an investigation into MPS's investment in the Seabrook nuclear units, which appears to be the source of that utility's financial difficulty.

Bills to require the "prior approval" of the Commission before a utility may invest in an out-of-state plant have been debated before the Legislature in recent years, but none has been enacted. The advantage of such legislation would be that the state, through the MPUC, would be required to review and approve substantial out-of-state investments by Maine electric utilities in advance, with the hope that unneeded or unwise projects could be avoided and unnecessary financial strain on utilities, and ultimately on ratepayers, could be reduced.

The danger of such a law is that the MPUC's review might not be thorough enough or that its decision might simply turn out to be wrong. In such a case, the utility might still have made an unwise investment, but since the state had approved of it in advance, it would be difficult or impossible for the Commission then to find that the utility had been imprudent in making the investment. Similarly, if the Commission denied permission for a plant that later turned out to be needed, the utility again would be absolved of full responsibility.

Obviously, the same arguments can be made about decisions under Section 13-A regarding construction of generating plants in Maine. In 1973, the MPUC granted CMP a certificate of public convenience and necessity to build Wyman Unit #4, a large oil-fired unit in Yarmouth. The wisdom of that

construction project has since been questioned, and the review made by the Commission at the time does not appear to have been very detailed; however, the issues we face today about utility construction plans had not begun to surface at that time, at least in Maine.

Conversely, in 1979, the Commission denied CMP's request for a certificate of public convenience and necessity for a 600 megawatt coal-fired plant at Sears Island. That case involved a long and detailed investigation into CMP's load forecast and the other sources of power which could serve as alternatives to the Sears Island plant. The Commission found that the evidence showed that CMP's forecast was overstated and that the Company had failed to show that it would need all the power its share of the plant would produce. The Commission was fortunate to be able to employ very capable and reliable consultants to assist it in reviewing the Sears Island proposal, and other parties to the case also contributed to the review of the Company's proposal. Central Maine has since submitted a revised proposal to the Commission, and that case is now awaiting CMP's cross-examination of the evidence presented by the Commission staff.

These two applications of the same "prior approval" law illustrate that the critical factor in state review of utility management decisions to construct plant, whether in or out of the state, is the quality of that review.

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Since the Commission's decision may essentially relieve management from the risk of being found later to have made a bad decision, the state must be extremely careful to ensure that its review is stringent. The fact that such proceedings, like all cases at the Commission, are conducted completely in public, with full opportunity for affected persons to participate, and with the full legal guarantees of fairness and tests for reliability of the evidence, goes a long way toward enhancing the quality of the review process.

Ultimately, however, it is the Commission that will have to decide whether the power is needed and whether the proposed plant is the most economical way to supply that power. Thus, it is essential that the Commission have available the necessary resources to make this decision as wisely as possible. These resources include adequate consulting assistance, sufficient time to conduct a full investigation of the proposal, and staff members and Commissioners who can understand the issues and the evidence, consider them objectively, and apply the law fairly. If the state is going to relieve management of the consequences of making construction decisions, those consequences may well pass in full to the ratepayers. Therefore, it is mandatory that the state ensure that any such "prior approval" is granted only after the most stringent review.

3. The CWIP/AFUDC Issue.

The terms "construction work in progress" (CWIP) and "accounting for funds used during construction" (AFUDC) refer to ratemaking techniques which arise from national accounting practice. This practice holds that the cost of plant should be capitalized, treated as an asset, and the investment recovered over the useful life of the asset through depreciation charges. The same treatment is given to the cost of labor and materials used for constructing that plant; they are capitalized and added to the cost of the plant, which is recovered through rates while the plant is in service. A rate of return on the investment is also allowed in rates during that time. In this way, the cost of creating the plant is recovered over the period that the plant provides service, so that those who use the service pay for the cost of providing it.

Because the cost of the plant is not recovered until after it is built, the utility must borrow the funds necessary to pay for construction at the outset. The interest and dividends which must be paid to the investors who provide these funds represent the cost of that borrowed capital. Like the costs of labor and materials for which the capital pays, these capital costs must be paid when incurred but should be recovered over the useful life of the plant.

The accounting profession, however, requires a different treatment of these costs of capital borrowed for

construction and treats them as an expense in the year they are incurred, rather than capitalizing them. Thus, they would be accounted for as an item of expense and deducted from income in that year. If this accounting practice were followed in setting rates, the utility's income would be lowered, thus contributing to the need for increased revenues.

Regulatory practice differs from accounting practice, however, because it insists that these costs for capital should be recovered over the life of the plant. Therefore, utilities are required to show on their books an offsetting addition to income, which is the AFUDC entry, so that the expense for capital costs and the AFUDC income entry balance each other. In this way, these capital costs, which regulation considers have been improperly treated as an expense, have no net effect on the utility's income statement and are not reflected in the rates charged for service.

The MPUC requires that the AFUDC offset be made and that the amount of the offset also be capitalized and added to the total amount of CWIP, or cost of plant under construction. Although the Maine Commission does include CWIP in rate base, the return which CWIP would otherwise be allowed to earn through rates as part of the rate base is offset by the amount of the AFUDC credit to income, and hence no amount is needed in rates to provide a return on plant under construction. CWIP is thus effectively excluded from rate

base. When the plant which CWIP represents goes into service, investors receive a return on their investment through the return on the rate base and a return of their investment, including the accrued AFUDC, through depreciation, both of which are reflected in rates.

The investment community dislikes this treatment of capital costs and prefers that these costs be recovered through rates in the year they are incurred. The MPUC, on the other hand, is committed to its treatment of these capital costs. It should be recognized, however, that the level of AFUDC credited to income, i.e., the amount of CWIP effectively excluded from the rate base and not earning a current return, can affect the confidence of the investment community in the utility's financial integrity. This occurs when the utility has a large investment in plant under construction, the capital costs for which must be paid out of earnings until the plant is in service. Although, under MPUC practice, the utility is credited with AFUDC income in the amount of those capital costs, investors object that that income is not real cash income, but rather an accounting entry. Therefore, the cash earnings must serve as the source not only for dividends and retained earnings, but also for these construction-related capital costs. As earnings are depleted, the utility's apparent financial health may be impaired. If the financial markets perceive the levels of AFUDC to be excessive and cash earnings

to be inadequate, the result can be that the utility will not be able to borrow capital at reasonable rates. This, as has been noted, ultimately redounds to the detriment of ratepayers in the form of increased rates.

In addition, the indenture agreements under which utilities issue bonds and preferred stock require that a certain level of earnings must be maintained in relation to the interest to be paid on bonds outstanding before any additional bonds can be issued. Failure to meet this minimum "coverage ratio" means that a utility cannot legally issue bonds, and therefore it is excluded from a major portion of the long-term capital market. The computation of the earnings coverage ratio usually includes a limit on the amount of AFUDC, or "other income" which can be included as earnings. Therefore, the higher the level of AFUDC in comparison to cash earnings, the more the concern over meeting the coverage requirements in order to issue long-term debt.

The pending BHE and CMP rate cases present the Commission with several issues regarding CWIP and its benefits and detriments to the utilities and their ratepayers. One relatively new issue which the Commission must address is whether the amount of the AFUDC offset should be calculated using the traditional "gross" rate, the lower "net of tax" rate, or something in between. If a rate less than the gross rate is used, the AFUDC amount will also be less and thus will offset

less of the CWIP in rate base. The issue is a complex one which the Commission will soon have to decide, and the reasons for that decision will be fully set forth in writing when it is made.

4. The Cost of Cancelled Plants.

As noted earlier, the failure of projected electricity demand to materialize has caused utilities to cancel a number of proposed nuclear plants in New England of which Maine utilities owned shares. Although construction had not really progressed on these units, money had been spent for materials and equipment, land, work involved in applying for the necessary permits and licenses, environmental testing, engineering work, and management time in planning the project. Since Maine utilities are not permitted to earn a return on this investment until the plant goes into operation, the AFUDC allowance equal to the amount of that return is credited to the utility and added to the total amount invested in the project (CWIP), so that it can actually be recovered through rates when the plant does go on line.

Thus, the amount of the utility's investment at any particular time consists of two parts; the actual investment in labor and materials which investors have paid for (capital) and the accrued interest and dividends on that investment (return on capital). When the plant goes into operation, investors recover their capital, plus the accrued AFUDC, over

the life of the plant through depreciation charges, and they also earn a current return on the undepreciated balance of that capital.

When a proposed plant is cancelled, there will be no useful life over which the investment can be recovered, and there will be no ratepayers using electricity from the plant and paying for it through the rates charged. Instead, the only way that the investment can be recouped is by amortizing it over a number of years and collecting it through rates over that time. The unrecovered balance of the invested capital may or may not be permitted to earn a rate of return during the amortization period.

In the 1980 CMP rate case, the Commission had to decide for the first time the issue of how the costs of a cancelled plant should be recovered. The general legal standard approved in that case is that investments may be recovered unless it is shown that they were incurred imprudently. The Commission may, however, make appropriate adjustments as it finds reasonable to balance the financial harm resulting from a cancelled investment between ratepayers and shareholders. In the 1980 case, the Commission found that the Company had demonstrated that management was not imprudent in planning to construct the plant (a nuclear plant on Sears Island), and therefore the Company was entitled to recover the capital it had invested in the plant, amortized over a period of five years.

The accrued AFUDC, however, was another matter. The Commission decided that although the investors were entitled to a recovery of their invested capital, they would not be permitted to recover the accrued return on that capital, and the AFUDC was not permitted to be recovered. The Company appealed the decision, but the Law Court upheld the Commission.

The Commission's reasoning was that although capital not imprudently invested must be returned to the utility through rates, the hardship wrought by a plant cancellation should not be borne solely by the ratepayers. The Commission found that it was appropriate that shareholders also share that burden, and thus ratepayers would not be required to pay the accrued AFUDC, nor would the Company be permitted to earn a return on the unamortized balance of the invested capital during the amortization period. Thus, no return could be earned on an investment in a plant that never provided service to the ratepayers.

The policy of the MPUC on cancelled plant costs announced in the last CMP case is one of the most stringent in the nation. Many state commissions allow the full amount of these costs to be recovered from ratepayers, but the MPUC believes that a policy of sharing is more appropriate. While some may argue that none of the costs of a cancelled plant should be recovered, there is a risk associated with such an argument. The realities of the financial markets suggest that

utilities which could not recover even their basic investment, let alone the accrued return, could be hard pressed to borrow capital at reasonable rates, if at all. Even the kind of sharing policy implemented by the Commission is looked on with disfavor by the investment community.

This situation prompts an observation about the essential dilemma of utility regulation. That is, that while utilities have monopolies on providing service to their customers, they must compete with all other business for labor, materials, and particularly for capital. The role of the MPUC and of identical commissions in most states is to act as a surrogate for competition. The state permits the utility to have a monopoly in providing service, in return for submitting to regulation which is intended to see that the beneficial effects of competition are still preserved. These benefits include more efficient management, better service, and the lowest rates possible consistent with safe and adequate service.

This model is strained, however, when the Commission, if it acted truly as competition would, would have to take actions that would impair the financial health of the utility. This strain occurs because the worse a utility's financial condition, the greater its risk as an investment and the higher the returns investors require to compensate them for this increased risk. Since utilities are generally extremely capital intensive industries, these higher borrowing costs have a great impact and cause retail rates to rise.

Consequently, unless a commission is willing to permit a utility to go bankrupt or otherwise to risk even higher rates and less reliable service to its customers, a real but undefinable limit exists on how far it can go in treating the utility as if it were truly a competitive enterprise. With the three major Maine electric utilities all facing difficult financial situations, the Commission finds itself closer than ever to that limit. Beyond it, the cost to ratepayers of pushing the competitive model to its ultimate will clearly outweigh the benefits to them of imposing artificial market discipline on the utility. Yet the utilities do lack the stimulus of competition, and it is vital to the whole notion of utility regulation that that stimulus be applied where appropriate, or else the drawbacks of the monopoly situation will never be counteracted, and all ratepayers will pay the price. Again and again in recent years, the Commission has been called upon to judge where this limit on its ability to simulate competition lies, and as the stakes in the issue rise on all sides, that judgment only becomes more difficult to make.

5. Rate Design.

The issue of how rates should be structured to recover the appropriate level of revenue from utility customers is a complex and difficult topic. The Commission has undertaken extensive investigations of this issue for BHE and CMP, and

those cases are now in their later stages. A great amount of testimony has been presented to the Commission during many days of hearing, and the Commission is hopeful that the evidence in these cases will enable it to make real progress in improving the design of retail electric rates for these companies. A similar investigation of MPS is in its early phase.

While policies and techniques used in determining the overall revenue requirements for utilities have been fairly well worked out over the years, this is not so for rate design matters. The topic has been investigated to some degree in the past during CMP general rate cases, but the Commission has never had the time and resources to conduct a full investigation and make comprehensive findings about rate design. Thanks to a Federal grant and the requirements of PURPA (the Public Utility Regulatory Policies Act, part of the 1978 National Energy Act), the Commission is now in a position to do this.

Basically, the Commission believes, and state and federal law direct, that rates should be designed to reflect the cost of providing the service that the ratepayer uses. In this way, each user of electricity has accurate information about the economic consequences of his use and can therefore make the wisest decisions about how he will use electricity. Prices that exceed the cost of providing the service discourage use that could economically be made, while prices below cost encourage waste and unwise use of scarce resources. In addition, prices

that do not reflect the cost to serve for some users mean that other users must also be charged more or less than that cost, in order for the utility to earn the revenues permitted by the Commission.

Determining what it costs a utility to serve its customers is not an easy task, and the issue of what is the appropriate method to use to do this is one of the major issues in the rate design cases. Utilities try to derive these costs by conducting a "cost of service study," in which all of the costs the company incurs in providing service are allocated to the various classes of customers served. These classes are a simplified way of grouping together customers with similar usage characteristics, because the cost to serve depends upon those characteristics. For example, customers who take electricity through a secondary distribution system (the system of poles and wires commonly seen along roads and highways and connecting to houses and other buildings) require a greater investment by the utility to build that distribution system than do customers who can take their electricity directly from the transmission system. Customers who use electricity during peak hours, when demands on the utility system are highest, cost more to serve than those who use electricity off peak.

The challenge to the Commission in the rate design cases is to determine first what is the best way of measuring these costs and then to decide what structure of rates

will best reflect them. It is important that rates be understandable to the customers and that any changes are implemented in a fair and orderly fashion. Because these decisions affect the share of the utility's total allowed revenues that each class must pay, there are many parties to these cases, each seeking vigorously to protect his own interests. This situation has caused some delay in the processing of these cases, as the parties have requested additional time to prepare their testimony. Interestingly, however, even customers in the same class do not agree upon what should be the design of rates for that class. The issues will be difficult to resolve, but it is hoped that the result will be rates that better encourage wise use, discourage waste, and allocate the costs more accurately to those who cause them.

6. Decommissioning.

Several cases at the Commission involve the issue of how to raise the amount of money necessary to pay for closing down the Maine Yankee nuclear plant at the end of its useful life. This problem arises because Maine Yankee is a single-asset corporation which owns only one generating plant. When the plant ceases to generate electricity, the Company will have no service to sell and thus no way to raise the money necessary to close down the plant according to NRC requirements. Therefore, it is reasonable that the funds for

this purpose, which is a legitimate expense of providing service, be collected in advance and prudently invested so that adequate funds for decommissioning will be available when needed. In addition, it is felt that it is more appropriate to charge these decommissioning costs to the ratepayers who use the power from the plant, rather than to raise it through rates later, after the plant is closed.

The Commission's General Counsel participated actively in the committee established by the Governor to draft legislation on the subject of decommissioning which is now before this Committee. The Commission has also intervened in a pending case at the FERC in which Maine Yankee is seeking approval to charge its owner utilities for these decommissioning costs in advance. The basic method for recovering these costs was decided by the Commission in the 1980 CMP rate case, and this method was adopted by Maine Yankee in its proposal to the FERC. Similar issues exist in the pending CMP rate case. In addition, it appears that during some of the period since CMP was first authorized by the Commission to collect funds for decommissioning through rates, Maine Yankee had not in turn been authorized by FERC to bill CMP for those funds. Consequently, some such funds were collected by CMP but never paid over to Maine Yankee for their intended use.

The Commission has before it requests to order CMP to segregate those funds and then pay them to Maine Yankee

directly, and CMP strongly opposes these requests. The Commission's consultant in the pending CMP rate case recommends that the Commission treat those funds as if they had actually been paid over to Maine Yankee and that they be so treated on CMP's books. If this recommendation is accepted, any shortfall in the amounts accrued for decommissioning as a result of Maine Yankee's failure to bill CMP for several months of decommissioning expense in 1981 would be made up from CMP's earnings and not re-billed to ratepayers.

A major issue with respect to funds collected through present rates to pay for future decommissioning is the question of whether the utility must pay Federal corporate income taxes on the amounts collected. At present, because these funds are not used for current expenses (which are tax-deductible) but are being accrued for use in the future, they are taxed. This means that for every dollar the utility sets aside in its decommissioning fund, it must collect nearly two dollars in revenues in order to pay the taxes. Clearly, federal legislation or a ruling by the Internal Revenue Service reversing this situation would mean that less would have to be collected through rates to pay for decommissioning, thus reducing the cost to ratepayers. Maine Yankee is now seeking such a ruling, and the outcome is not yet known.

7. Avoided Cost Rates.

Both state and federal law require electric utilities to purchase electricity offered for sale by certain small power producers and cogenerators (defined as "qualifying facilities" in Commission rules). If the price and terms of the sale cannot be agreed upon by the utility and the qualifying facility, then the Commission is to set them. These laws are intended to encourage the development of alternate sources of electricity not using fossil or nuclear fuels. They are also meant to equalize the bargaining power of the qualifying facilities to match that of the utilities, who are the only buyers for such electricity and thus were in a position to refuse to buy such electricity except at unrealistically low prices.

To implement these laws, the Commission, after extensive public participation, adopted a rule to carry out its statutory duties. This rule, which became effective in June of 1981, permits utilities and qualifying facilities to agree on any terms they choose for the purchase and sale of electricity. If agreement cannot be reached, however, it provides that the Commission will set the price equal to what it would cost the utility itself to produce the power which the qualifying facility wants to sell to it. This is the cost which the utility avoids incurring as a result of making the purchase, and it is therefore referred to as "avoided cost." The rule

provides detailed guidance for determining what the avoided cost is, and the Commission is now conducting extensive investigations to determine the precise amount of that cost for CMP, BHE, and MPS. In addition, appropriate standard terms for contracts imposed by the Commission are also being investigated.

The utilities have been generally unenthusiastic about being required to purchase the output of small power producers and cogenerators at a price either mutually agreed upon or equal to avoided cost. Such power has been purchased frequently, but usually at much lower prices than those which the new laws are likely to encourage. Utilities argue that ratepayers will simply pay more for this same power and thus that the laws and the Commission's rule will harm, not help, consumers. The Commission considered all of these arguments carefully when drafting and revising its avoided cost rule, and they were rejected.

The reason for the rejection is that, as long as the utility is the only potential buyer of electricity, it can control the price at which such power can be sold. By keeping the price low, it does keep its own purchased power costs lower, but it also discourages the development of new sources of power, even where they could produce electricity cheaper than some of the power the utility generates or buys elsewhere. In general, the utility's avoided cost usually turns out to be the cost of electricity generated with oil. To the extent that electricity

can be generated with renewable resources at a cost lower than the cost to generate electricity with oil, the law now encourages development of those sources of power. Even though the price of that electricity may be higher than the utility is accustomed to pay to such producers, it is clear today that the low prices of the past served only to discourage development of power sources that are now at least as attractive as those controlled by utilities.

Further, it is important to note that utilities earn their rate of return on their investment in plant and equipment and not on power they purchase from other sources and resell to their retail customers. Therefore, there is no immediate financial benefit to a utility when the utility is required to purchase increased amounts of non-utility power at a price which reflects its true value better than past prices have done. The benefits to the utility and to its ratepayers from the development of renewable resources to produce electricity are that additional supplies of power may become available without the need for costly investment by the utility, and that the amount of electricity generated with oil will likely be reduced. A reduction in investment needs will help lessen the financial strain on utilities and therefore on ratepayers. A reduction in dependence on oil-generated electricity will lower the risk to utilities and ratepayers from future fluctuations in the price and supply of oil. In addition, further development

of Maine's indigenous resources to produce electricity will be of some independent economic benefit to the state.

While not applauding the avoided cost laws, utilities are moving to take advantage of those laws themselves, since utilities are permitted to own up to 50% of a qualifying facility. An important feature of Maine law is that it gives the Commission discretion in how to treat the costs and returns on such investments for ratemaking purposes. Thus, the Commission can ensure that ratepayers are not made to bear costs without receiving commensurate benefits from any such projects.

The Commission believes that there is significant potential for the economical development of electricity from renewable resources in Maine through small power production and cogeneration. The laws and the Commission's rule are designed to encourage such development without increasing the financial burden on either utilities or ratepayers. With the market for electric power controlled by utilities, and with a multitude of developers of small dams and cogeneration projects trying to negotiate agreements with utilities to sell their power, the Commission is the critical factor that can effectuate or frustrate the policy behind the law. For development of these alternate sources to continue, it is important that the Commission be consistent, fair, and predictable in its interpretation and implementation of the law and rule, and it is vital that the Commission have adequate resources to process cases arising under its rule promptly and effectively.

B. Telephone Utilities.

1. Extended Area Service.

Extended area service, or EAS, refers to the extension of the toll-free local calling area to include another locality not normally included. A surcharge is added to the flat monthly rate for telephone service in order to pay for the additional costs of providing EAS.

In 1978 the Commission had a number of petitions before it from customers who wanted EAS. Generally, these were customers in a small town who wanted to be able to call a nearby city toll-free. The Commission held hearings on a generic basis and developed a set of guidelines to govern the processing of such petitions. The guidelines provide that the utility is first required to determine the average number of calls per customer from the petitioning exchange to the terminating exchange, and the percentage of customers making two or more such calls per month. The point of these calculations is to determine the level of interest in EAS in the exchange as a whole and to see if the threshold standard (three calls per customer per month and 40% of customers making two or more calls) is met. If a petition does not meet the threshold levels, it will be denied, but the utility will be required to determine if any other means exist to meet the needs of customers who had asked for EAS.

Petitions which pass the threshold standard trigger a detailed economic study by the telephone company to determine the additional costs of providing the EAS. Then the amount of the necessary surcharge can be calculated. Finally, a poll will be taken of all the customers in the petitioning exchange to see if they still desire EAS at the cost of the surcharge as determined by the economic study. If 51% of the customers vote for EAS, it is implemented, and all the customers in the exchange then must pay the surcharge.

It is clear why requests for EAS require careful treatment: a majority of customers can impose on a minority higher costs for extended basic service, even if the minority does not want or use the additional service. The Commission's guidelines place the work of processing EAS cases on the telephone companies involved, and so the Commission has had little to do with EAS cases since it promulgated the guidelines in early 1979, except to dismiss those petitions which failed to meet the initial level of interest test. In 1981, however, the telephone companies reported a problem in conducting the economic studies. It was unclear whether these were to be studies of "one-way" EAS, from the petitioning to the terminating exchange, or of "two-way" EAS, which would also include the costs of enabling the terminating exchange to call the petitioning exchange on a toll-free basis. The telephone companies disagreed among themselves about which way the studies

should be done, and the Commission was asked to resolve the matter.

The Commission held hearings and extensive deliberations in 1981. After a great deal of thought and discussion, the Commission decided to require the studies to be done on a one-way basis only. At this time, the telephone companies involved are proceeding with those studies. When they are completed, the polling will occur, and the ratepayers will make the final decision.

In recent years two alternatives to EAS have been implemented by Maine telephone companies, at the urging of the Commission. Under Municipal Calling, all calls by a customer to numbers within his municipality are toll-free and included in his basic monthly rate, even if the municipality is split among two or more exchanges. This resolves the problem faced by many ratepayers, for whom calls to local schools, town officials, and the like were toll calls.

The second, and more comprehensive alternative to EAS is Selective Calling. Ratepayers who subscribe to Selective Calling pay a flat monthly charge to be able to make an unlimited number of toll calls at a 50% discount to selected exchanges. Selective Calling is now available in most exchanges, and it gives customers who make many toll calls to a certain area an opportunity to reduce their costs. Selective Calling calls may not be made between 9 a.m. and noon, which is

generally the peak calling time, but otherwise the discount is available at all times and is in addition to discounts already provided for calls in the evening, night, and weekend hours.

Selective Calling has two great advantages over EAS. First, it is optional for every customer; only those who want the service pay for it, so the problem of a minority of ratepayers being forced to pay higher rates for unwanted EAS is avoided. Second, the program is far more flexible than EAS. Customers choose the areas they wish to call and thus tailor their calling, and their savings, to their own needs.

The MPUC has enthusiastically supported the development and offering of Selective Calling, and it will soon be available state-wide. Its existence will be emphasized to customers being polled on EAS, so that they will be sure to know the alternatives available to them. Indeed, the Vermont Public Service Board has determined that no more EAS petitions will be granted there, because of the availability of Selective Calling. In Maine, the pending EAS cases are all being processed by the telephone companies according to MPUC guidelines, but it is to be expected that the existence of Municipal Calling and Selective Calling will resolve customers' toll calling problems far more effectively and fairly in the future than EAS can.

2. Restructuring of the Industry.

On January 8, 1982, the Antitrust Chief of the Department of Justice and the Chairman of American Telephone & Telegraph Company announced that the decade-long antitrust suit by the Department of Justice against AT&T had been settled by the two parties out of court. Under the terms of the settlement, AT&T, the world's largest and probably the most successful private enterprise, would divest its twenty-two operating telephone subsidiaries across the United States in exchange for relief from a 1955 consent decree which blocked AT&T from entering telecommunications activities outside of the provision of basic telephone service. AT&T would retain Western Electric, Bell Laboratories, and its Long Lines Department which provides long-distance (interexchange) service. Local-exchange service would be provided by the newly organized telephone operating companies as a monopoly service. Interexchange service would not be subject to the same comprehensive price regulation that it is today.

To most of the world, this historic announcement was surprising news and few could understand why either party could agree to such a settlement. In reality, the settlement reflects severe pressures that had been growing in the telecommunications industry for several decades and was largely the result of technological advances in long-distance communications. Long-distance service had been historically

treated as a monopoly product that could only be efficiently provided by a single carrier. However, with the advent of satellites and microwave communications, it has become economically possible for many other companies to enter the communications market, at prices and costs well below the average long-distance rates set by AT&T and approved by the FCC for interstate calls and the State regulatory commissions for intrastate calls. The FCC assumed a policy posture of permitting competition to replace regulation in the interexchange market, recognizing the demands for and the supply of alternative means to communicate between cities. These developments created terrific strains on the nation's telecommunications network. The battles to restructure the industry have been fought not just in courts, but in Congress and the FCC. It seems inevitable that long-distance service between cities by other carriers would have to be permitted and that AT&T long-distance would have to be deregulated. The problem was how this could be done without jeopardizing the local-exchange network. Very simply, if long-distance rates were to go down, then local-exchange rates would have to go up to compensate for the loss of revenue. The sharp increase in the cost of local telephone service could jeopardize the long-standing national policy embodied in the Communications Act of 1934, of providing universal telephone service at reasonable prices.

The restructuring of the telecommunications industry and its impact upon availability and rates of local telephone service is a major concern to state regulators and to many others. It seems clear that many of these pressures will continue to fall on the shoulders of state regulatory commissions. The next year or so will be extremely critical as the Congress decides how the regulatory burdens will be divided between the state commissions and the FCC. If all the decisions involving the allocation of costs between long-distance and local telephone service are to be made by the FCC, the inevitable result will be spiraling local costs, particularly in states like Maine. The state commissions could be relegated to passing through the cost and allocation decisions mandated by the FCC to local ratepayers via higher rates. Congress may ultimately be called upon to decide whether local rates will be regulated by Washington or by the individual states.

Whatever the final outcome, the Maine Commission will be required to devote a considerable proportion of its time and resources to these telecommunications issues, particularly in this uncertain and uncharted environment. As a rural and sparsely populated state, Maine is unlikely to benefit from competition in the telecommunications industry. It is important that the Maine Commission, the Legislature and State government in general pay close attention to these developments so impact of any restructuring on this State could be at least minimized.

C. Water Utilities.

The major event in water utility regulation in 1981 was the enactment of Chapter 438 of the Public Laws of 1981, which permits Maine's 106 municipal and quasi-municipal water utilities to set their own rates after a public hearing. Since this law went into effect in September of 1981, 16 water rate cases have been filed pursuant to its provisions, and all but one have resulted in the new rates being in place at the end of thirty days. This is a substantial reduction in the time required to implement such new rates, and it also means a significant decrease in the work required of the Commission to process such cases. The 42 investor-owned water utilities in Maine still must have their rate requests reviewed by the Commission in the traditional manner, but the decrease in workload because of partial deregulation will mean that these cases, too, should be processed more quickly.

In the year ahead, the continuation of high construction costs and interest rates will require increased review of plans for water utility construction projects, as well as increased field surveillance of management and operating practices. Less direct Commission involvement in the ratemaking process will necessitate increased monitoring of the water utilities' annual operating results, with possible investigations where serious problems arise. For the present, the Commission should be able to manage this workload with its existing resources.

D. Natural Gas.

The proposed New England States Pipeline Company (NESP) offers the State of Maine an excellent opportunity to increase its usage of natural gas as a clean efficient fuel for heating and other residential and commercial uses. NESP is a gas transmission company consisting of four partners -- Algonquin Gas Transmission Company, Texas Eastern Transmission Corporation, Transcontinental Gas Pipe Line Corporation, and Nova, an Alberta Corporation. NESP proposes to construct a thirty-six inch natural gas pipeline system extending 360 miles from the U.S./Canadian border near Calais, Maine to existing pipeline facilities of Algonquin in Rhode Island. The estimated cost of the system is about \$600 million and will provide an initial delivery of about 300 million cubic feet per day. NESP is currently seeking necessary regulatory approvals for the pipeline from the National Energy Board in Canada and from the Federal Energy Regulatory Commission and the Economic Regulatory Administration in the United States.

Northern Utilities, Maine's only gas distribution company which serves Southern Maine, Portland, and Lewiston, is in the process of applying to the Federal Energy Regulatory Commission to obtain gas transmitted through the proposed New England States pipeline. Just what percentage of the gas coming through the proposed pipeline and the number of taps that will be permitted along the pipeline in Maine is uncertain at this

time. The Maine Public Utilities Commission (and the Office of Energy Resources) have intervened in NESP applications for regulatory approvals. The Commission will support Northern Utilities' petition for a share of gas flowing through Maine.

Assuming that the New England States pipeline is built and the State of Maine, through Northern Utilities, is assured of its fair share of the gas from taps along the pipeline, the Maine Public Utilities Commission's responsibility will be the determination of such matters as how the gas will be priced, the distribution costs of the gas, and whether there should be some distinction between old and new customers in the Northern Utilities system. Because of the importance of this gas pipeline to the State of Maine, the Public Utilities Commission's Gas Division will continue to follow the developments in the gas supply and transmission areas in the months ahead.

V. CONCLUSION: PUC NEEDS, PROBLEMS, AND RELATED LEGISLATION

A. General.

Prior sections of this report have focused upon recent activity of the PUC, rate case decision data, the current and projected fiscal condition of the agency, and major issues affecting the agency, including discussion of those issues which are presenting specific fiscal, administrative, and workload

problems. A central theme of the report has been that with limited resources, the Public Utilities Commission is facing an ever-increasing workload and some problems which seem to defy resolution.

Several legislative proposals (such as the "Decommissioning Bill," L.D. 1757 and the "Prior Approval" of Construction Bill, L.D. 1901) would add substantially to the current heavy workload of the agency. Other legislative proposals would affect the PUC in a variety of ways. The Commission is working closely with the Joint Standing Committee on Public Utilities during the current Legislative Session on a case-by-case basis with respect to specific bills. This report is not the place to detail the Commission's point of view regarding these various pieces of legislation. To the extent that specific items of legislation relate directly to the agency's problems and needs, however, it seems appropriate to conclude this report by commenting specifically upon them.

B. Financial Resources.

L.D. 1850, "An Act to Raise the Annual Public Utilities Commission Regulatory Fund Assessment to \$1,300,000," is a necessary piece of legislation if the Commission is to have available the resources required to meet its current responsibilities in FY 82-83. This bill would add an additional \$400,000 to the current assessment upon utilities (\$900,000).

In brief, these additional resources would be used as follows:

Personal Services	\$ 85,389
All Other	294,611
Capital Expenditures	<u>20,000</u>
TOTAL	\$400,000

The Committee will be provided with a separate detailed explanation of how the \$400,000 of new revenues would be used by the Commission during FY 82-83. In summary, the additional \$85,389 necessary for "Personal Services" would be required to meet anticipated State employee contract increases during FY 82/83, the funding of a proposed Director of Engineering position, possible salary adjustments for Commissioners and senior staff, and one recently approved position reclassification.

The additional \$294,611 for the "All Other" budget category, consists of \$259,000 of additional funds for consulting services and \$35,611 for additional operating costs. As currently budgeted, the Commission has only \$40,000 for consulting projects in FY 82-83, which is far below its needs, based upon recent experience.

Exhibit I presents data reflecting the currently approved budget for FY 82-83 (total agency resources of \$1,497,301), together with the projected \$400,000 increase in Regulatory Fund, and the resulting agency resources. The bottom section of Exhibit I presents broad budget categories (Personal Services, Consulting, All Other, and Capital) reflecting both

the current FY 82-83 budget and the revised budget if L.D. 1850 is approved.

Exhibits G and H (in Section III) and Exhibit I have presented budget data with the figures rounded to the nearest thousand dollars. Additionally, because professional services (consultants) is of such vital importance to the Commission, and accordingly a significant component of the requested additional financial resources (\$400,000) under L.D. 1850, that has been presented as a separate major expense category. Those tables (Exhibits G, H, and I) present the essential PUC budget information.

Exhibit J presents precise budgetary data as currently approved and allocated, and as the revised Regulatory Fund and Total Agency Budget would appear if L.D. 1850 is enacted. Additionally, in Exhibit J funds for professional services (consultants) has been regrouped within the budgetary category "All Other."

C. New Commission Responsibilities.

Several bills have been introduced during the Second Regular Session of the 110th Maine Legislature, which if enacted would increase the responsibilities of the Commission. The two most significant such bills are L.D. 1757, "An Act to Ensure Funding for the Eventual Decommissioning of Any Nuclear Power Plant," and L.D. 1901, "An Act Requiring Public Utilities

EXHIBIT I

PUC REQUESTS FOR 1982/83

<u>Revenue Sources</u>	<u>Existing Budget</u>	<u>Additional Needs</u>	<u>Revised Budget</u>
General Fund	\$ 597,000	\$ --	\$ 597,000
Regulatory Fund	<u>900,000</u>	<u>400,000</u>	<u>1,300,000</u>
Total Funding	\$1,497,000	\$ 400,000	\$1,897,000
(Positions)	(54)		(54)

USES OF FUNDS

<u>Major Expense Categories</u>	<u>Existing Budget</u>	<u>Additional Needs</u>	<u>Revised Budget</u>
Personal Services	\$1,234,000	\$ 85,000	\$1,319,000
Consultants*	40,000	259,000	299,000
All Other	220,000	36,000	256,000
Capital	<u>3,000</u>	<u>20,000</u>	<u>23,000</u>
Total	\$1,497,000	\$ 400,000	\$1,897,000

NOTE: Figures are rounded to nearest thousand.

* Consultants, or "professional services," is actually a sub-category of "All Other" in State budgetary terms. It is presented separately here for explanatory purposes.

FISCAL YEAR 82-83
Currently Approved
and Allocated Budget

FY 82-83
Revised Budget

<u>Expense Categories</u>	<u>General Fund</u>	<u>Regulatory Fund</u>	<u>PUC/Agency Total</u>	<u>Addition Proposed by L.D.1850</u>	<u>Regulatory Fund</u>	<u>Agency Total</u>
Personal Services	\$529,633	\$704,273	\$1,233,906	\$ 85,389	\$ 789,662	\$1,319,295
All Other	65,037	195,358	260,395	294,611	489,969	555,006
Capital Expenditures	<u>3,000</u>	<u>---</u>	<u>3,000</u>	<u>20,000</u>	<u>20,000</u>	<u>23,000</u>
TOTALS	\$597,670	\$899,631	\$1,497,301	\$400,000	\$1,299,631	\$1,897,301

Commission Approval for the Purchase of Portions of Electrical Generating Facilities by Electrical Companies or Fuel Conversion and Electrical Generating Facilities." If enacted, both bills would further increase the workload faced by the Commission.

Accordingly, it is vitally important that the Commission have a means of billing the utilities which require additional Commission activity in either of these important areas. The Commission proposes that any expenditures required by either L.D. 1757 or L.D. 1901 should be raised through a direct "bill-back" authorization, with revenues to be collected in the PUC's Regulatory Fund. In situations where costly consulting services are required, it may be necessary to give the Commission authority to bill in advance, or relax some State Accounts and Control restrictions. Otherwise, the Commission might be faced with a cash-flow problem resulting from occasional high-expenditure commitments for these purposes, at times when sufficient resources might not be available.

D. Commissioner and Title 2 Salaries.

It is extremely important to attract and retain the services of talented individuals both as Commissioners and in the senior staff positions. Accordingly, it seems appropriate to address the issue of salary increases for Commissioners and Title 2 positions. Currently these positions are frozen at Range 91 Step B for the Chairman, Range 89 Step A for

Commissioners, and Range 88 Step C for Title 2 senior staff. Two basic problems arise from this situation: (1) senior staff members are paid at a slightly higher level than two Commissioners; and (2) there is no means, short of new legislation, for increasing the salaries of any of these positions. It should be noted that the Legislature now has before it at least three bills relating to these salaries, each based upon different assumptions.

E. Need for General Support.

As this report makes clear, the Commission's workload has increased dramatically in nature and complexity in recent years. The ability of the agency to resolve the issues and conflicts before it fairly, promptly, and effectively depends in large part upon having adequate resources to do the job. The quality of the Commission's work will be only as good as the tools it has to work with.

In the next three years, the terms of all of the present members of the Commission will expire. The Legislature, and particularly this Committee, will face a heavy responsibility in reviewing and voting on candidates for these positions. As it does so, it may be well to bear in mind that the essential job of a Commissioner today is to make difficult decisions about issues affecting many individuals, businesses, and interest groups. The stakes are high, and there are no easy

answers. Therefore, it is of the utmost importance that the people who bear final responsibility for those decisions be well qualified for their positions.

Those qualifications might well include the ability to understand and deal with complicated issues of law, engineering, finance, economics, and accounting; unquestioned integrity; the ability to work well with others, including Commissioners and staff members; the ability to make hard decisions fairly and to take responsibility for them; and, particularly for the Chairman, some degree of administrative and management ability. There will surely be other important qualifications that are beyond the province of the Commission to suggest, but from the standpoint of finding people who can function well within this agency, we believe that these qualities are significant.

Finally, the Commission appreciates having this opportunity to share with the Committee the information contained in this report. We hope that it will prove informative and useful, and we look forward to working with the Committee during the remainder of this session.