

News and Commentary

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Regulatory updates: Public Utilities Commission

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Public Utilities Commission

The Maine Public Utilities Commission continues to process an extremely heavy docket of major cases in both electricity and telecommunications. Base rate cases for Central Maine Power (CMP) and Bangor Hydro are scheduled for completion in November 1993 and February 1994, respectively. Broad cost of service and rate design issues are being investigated for both Central Maine Power and New England Telephone (NET). Perhaps the real news is that many observers are optimistic that the commission will not only complete this ambitious agenda in a timely fashion, but that the commission will directly address the fundamental regulatory questions raised by these cases. The apparent commitment of the new PUC chair, Thomas Welch, to an efficient regulatory process is largely responsible for this optimism.

Competition in electric sales has been an increasingly important issue in electric regulation. Airco's request for preferential rates for its Kittery plant was approved by the commission. Madison Electric and Madison Paper have decided to buy power from Northeast Utilities rather than Central Maine Power. These developments seem to have provided a sense of urgency to current deliberations over electric policy. The argument by electric utilities that regulation must recognize the increasing degree of competition seems to have been buttressed by these developments. On the other hand, the specific situation of Madison, which is municipal distribution company with a very large industrial customer within its service territory, is arguably unique in the state. The broader relevance of the Madison experience may turn on the question of how forcefully the state may be prepared to oppose any efforts to establish additional municipal electric franchises in the state.

The base rate case for Central Maine Power has largely become an argument over whether the utility is an unfortunate victim of an extended recession and regulatory policy gone sour or whether the company is a victim of its own mismanagement. If the case is resolved via a traditional decision about changes in total revenue requirements, politics and economics dictate that the commission find some truth in both arguments. Some of the parties, including perhaps some of the commissioners, would like to find an alternative resolution of this case. Incentive regulations plans have been suggested by Central Maine Power and by the Commercial Customers Utility Coalition. However, the November deadline for resolution of the case makes delay a formidable weapon for any party that opposes an alternative resolution.

The cost of service/rate design case for Central Maine Power may be much more important to the long run shape of electric policy in Maine than the base rate case. Both Bangor Hydro and Maine

Public Service are intervenors in the rate design case, and the principles developed are expected to apply to these other two utilities. The utilities are arguing that the principles that have guided Maine electric policy since the mid-1970s are no longer appropriate. That policy has assumed that the cost of new electric generation will continue to increase, so reductions in electric use (or lower rates of growth) will result in lower electric rates over the long term. The utilities argue that not only is there a current surplus of cheap electricity in the Northeast, but that new electric generation costs will continue to be below current Maine rates for the indefinite future. Thus, greater electric use will lower rates, not increase rates. The utilities propose a return to declining block rate structures, preferential rates for uses that face competitive alternatives (such as hot water heating), greater flexibility in pricing to large industrial users and wholesale accounts (such as the Airco and Madison situations), and reductions in demand side management activities. While the current market conditions provide considerable empirical support for the utilities' arguments, the utilities are essentially asking the commission to make a 180 degree turn in policy. Moreover, the commission must look over its shoulder at the Legislature, where the conservation philosophy has strong support.

Two important dockets are pending in telecommunications. The extended area of service (EAS) question, which involves the size of local calling areas, has a proposal out for public hearing that involves some customer choice over calling areas and the associated rates. The various parties would very much like to find a single, state-wide criteria that (1) would end the seemingly endless series of requests for changes in calling areas and (2) would be "revenue neutral" (or at least would not cost too much). These constraints may define a question without an answer.

The more fundamental issue of the relative costs of local and intrastate long distance service are being investigated in New England Telephone's rate design case. At least two cross-currents are complicating this case. Among others, the Public Advocate, Stephen Ward, has taken the position that the increase in local rates under the NET proposal is simply illegal under the terms of the local measured service referendum, which required local rates to be kept as low as possible. Any significant increase in the cost of local service faces virtually certain challenge in court under the same argument. The commission also interjected the question of incentive regulation into this investigation in a letter sent to the participants this summer. The recent federal district court decision that overturns the prohibition against cable programming origination by the local exchange carriers may color the context of this issue. As competition between cable companies and telephone companies becomes increasingly likely, cross-subsidies in rate structures become more problematic.

In the last session of the Legislature, no significant changes in regulatory policy emerged. The efforts by the utilities to legislatively mandate policies to make electric rates more competitive failed. A bill supported by the PUC to obtain greater flexibility in the treatment of fuel costs, which the statutes currently require to be passed through automatically, was vetoed by the governor. The Legislature also declined to remove municipal water districts from the jurisdiction of the PUC.

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