

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 99-185

August 28, 2000

MAINE PUBLIC UTILITIES COMMISSION  
Investigation of Retail Electric Transmission  
Services and Jurisdictional Issue

ORDER APPROVING  
STIPULATION  
(CENTRAL MAINE  
POWER COMPANY)

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

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## I. SUMMARY

In this Order we approve a Stipulation submitted to us by Central Maine Power Company (CMP or Company), the Office of the Public Advocate (OPA), the Industrial Energy Consumers Group (IECG) and the Independent Energy Producers of Maine (IEPM) which resolves all transmission-related issues as they pertain to CMP as a result of Maine's implementation of retail access to generation services. Specifically, the Stipulation separates CMP's overall T&D revenue requirement of \$415,130,000 into a distribution component of \$377,147,000 and a transmission component of \$37,983,000. The Stipulation also resolves issues related to the Company's Federal Energy Regulatory Commission (FERC) jurisdictional retail transmission rates which were filed to take effect on June 1, 2000. Under the terms of the Stipulation, CMP's overall retail rates charged to its customers will increase by \$8.2 million, for effect September 1, 2000.

## II. PROCEDURAL BACKGROUND

Effective March 1, 2000, through its enactment of the Electric Restructuring Act, 35-A M.R.S.A. §§ 3201 – 3214, the Maine Legislature, deregulated generation services and provided Maine consumers with direct access to generation services. Prior to the onset of retail access and pursuant to the requirements of 35-A M.R.S.A. § 3208, the Commission concluded an investigation of the Transmission and Distribution (T&D) utility revenue requirements and the stranded costs for CMP. *See Maine Public Utilities Commission, Investigation of Stranded Costs, Transmission and Distribution Utility Revenue Requirements and Rate Design of Central Maine Power Company*, Docket No. 97-580 (Phase II-B), Order Approving Stipulation (Feb. 24, 2000). In that Order, we established an overall T&D revenue requirement for CMP, including stranded costs, of \$415,130,000.

After careful review, we have concluded that FERC has, through its Order No. 888, clearly asserted jurisdiction over retail transmission services where a state has elected to unbundle electric supply and allow retail customers access to generation services on a competitive basis. *Public Utilities Commission, Investigation of Central Maine Power Company's Stranded Costs, Transmission and Distribution Utility*

*Revenue Requirement and Rate Design*, Docket No. 97-580, Order at 133 (Mar. 19, 1999). Therefore, on March 30, 1999, we initiated this docket to investigate issues involving the jurisdictional split between FERC-regulated transmission facilities and state-regulated distribution facilities.<sup>1</sup> On July 26, 1999, CMP submitted a filing which classified its facilities as transmission or distribution.

In a Procedural Order dated December 7, 1999, the Examiner in this case noted that:

[T]here appears to be general agreement that we should move to completely separate transmission costs from the state-jurisdictional revenue requirements. However, there is also agreement that sufficient time does not exist for this to occur by March 1, 2000. Accordingly, the Commission will use this investigation to determine the costs appropriately considered distribution-related.<sup>2</sup>

On March 6, 2000, CMP made its cost separations filing with the Commission. The Company, in its filing, assigned \$33,404,000 of its overall T&D revenue requirement to transmission and \$381,727,000 of its revenue requirement, including stranded costs, to distribution. The Company's filing was the subject of both formal and informal discovery. Based on these discussions, on April 28, 2000 the Company submitted a revised filing which reduced the amount assigned to distribution to \$377,147,000 and increased the amount assigned to transmission to \$37,983,000. On May 31, 2000, the Company filed certain terms and conditions which would allow CMP to implement its \$3.0 million transmission revenue requirement increase filing at FERC in Docket No. ER00-982-000 in a way that did not increase overall rates for customers. On June 2, 2000, the Company filed a revised tariff to reflect the fact that the transmission requirement had increased by approximately \$7.4 million since March 1, 2000, rather than the \$3.0 million it originally proposed.

On June 6, 2000, the Commission issued an order in this docket approving CMP's June 5<sup>th</sup> filing. This decision had the effect of keeping total T&D rates at the levels approved in Docket No. 97-580. The Commission noted that its decision did not constitute a finding of the justness and reasonableness of the Company's transmission rate increase nor did it constitute a decision on the revenue requirement treatment of the revenue lost as a result of CMP's decrease in its distribution rates.

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<sup>1</sup>This investigation was initiated as a generic investigation and subsequently developed into an investigation of the transmission costs and issues for each of the state's investor-owned utilities, including CMP.

<sup>2</sup>While CMP filed transmission tariffs with FERC to be effective on March 1, 2000, the distribution rates were calculated on a residual basis so that total T&D rates equaled the rates set by this Commission in Docket No. 97-580.

Subsequent to the Commission's June 6, 2000 decision, CMP indicated that it now expected that its FERC jurisdictional transmission revenue requirement to increase by \$17.1 million. When this increase was coupled with the \$500,000 increase to distribution rates which resulted from the cost separations study done in this docket, the overall retail revenue requirement change would be \$17.6 million.

On July 25, 2000, we received a Stipulation (attached and incorporated into this Order as Attachment 1) signed by CMP, the OPA, the IECG and the IEPM which resolves all issues in this matter. No other party has objected to this Stipulation.

### **III. DESCRIPTION OF THE STIPULATION**

The Stipulation submitted to us is a comprehensive settlement agreement which addresses and settles all outstanding issues regarding the unbundling and jurisdictional responsibilities related to transmission and distribution revenue requirements of CMP.

Under the terms of the Stipulation, the parties accept the separation of transmission and distribution revenue requirements proposed by the Company in its April 28, 2000 filing. The parties further agree that the Company's proposed transmission revenue requirement should be reduced by \$5,000,000. In addition, the parties agree that while under the proposed settlement in the Company's FERC case, CMP is entitled to include \$5,700,000 of congestion costs to reduce price impacts for distribution level customers. The parties agree that CMP shall include up to only \$3,900,000 with the remainder to be deferred with carrying costs as authorized by FERC. Thus, as of September 1, 2000, the Company's distribution revenue requirement will be \$377,147,000 and its transmission revenue requirement will be \$48,800,000.

Finally, the parties agree that, beginning September 1, 2000, CMP will eliminate Rates SB-IGS-S, SB-IGS-P, SB-LGS-S, SB-LGS-P, SB-LGS-ST, and SB-LGS-T and allow standby customers to take service under either the comparable full service rate, Rate SB, or a combination of the full service rate and Rate SB. In addition, the parties agree that, beginning September 1, 2000, CMP will change its Rate SB availability language to allow customers to take service under Rate SB for usage above a minimum firm demand level. The parties agree that the "appropriate general service rate" as described in the Rate SB tariff is the core tariff applicable to full requirements customers taking service at the same voltage level as the standby customers.

### **IV. DECISION**

As stated in past cases, in deciding whether to approve a stipulation we apply the following criteria:

1. whether the parties joining the stipulation represent a sufficiently broad spectrum of interests that the Commission can be sure that there is no appearance or reality of disenfranchisement; and
2. whether the process that led to the stipulation was fair to all parties; and
3. whether the stipulated result is reasonable and is not contrary to legislative mandate.

See *Central Maine Power Company, Proposed Increase in Rates*, Docket No. 92-345(II), Detailed Opinion and Subsidiary Findings (Me. P.U.C.) Jan. 10, 1995, and *Maine Public Service Company, Proposed Increase in Rates (Rate Design)*, Docket No. 95-052, Order (Me. P.U.C. June 26, 1996). We have also recognized that we have an obligation to ensure that the overall stipulated result is in the public interest. See *Northern Utilities, Inc., Proposed Environmental Response Cost Recovery*, Docket No. 96-678, Order Approving Stipulation (Me. P.U.C. April 28, 1997). We find that the proposed Stipulation in this case meets all of the above criteria.

The Stipulation was entered into by the Company, the OPA, the IECG and the IEPM after numerous technical and settlement conferences. Thus, all of the active parties with regards to CMP's transmission issues have signed this Stipulation. The non-signing parties to this matter had a full opportunity to participate in these conferences and do not object to the Stipulation. We, therefore, find that both criteria 1 and 2, set forth above, have been satisfied.

We also find that the stipulated result is reasonable and is both consistent with the public interest and legislative mandates. Under the terms of the Stipulation, CMP's overall retail revenue requirements will increase by \$10.8 million. This amount is significantly lower than the revenue requirement proposed by CMP in its mid-June filings. In addition, due to increased sales during the 1999 test year used to calculate CMP's new FERC transmission revenue requirement, the revenue requirement increase is effectively reduced by \$2.6 million to \$8.2 million. This represents approximately a 2.0% increase in CMP's overall retail rates.

We note that in our orders approving stipulations which resolved transmission-related issues for Maine Public Service Company and Bangor Hydro-Electric Company, the increases in FERC transmission rates were offset by a decrease in distribution rates which was accomplished by accelerating the amortization of the value from those utilities' asset sale gain accounts. Given the 10% overall decrease in CMP's rates which occurred on March 1, 2000, the level of this increase and the cross-class rate design problems which would occur if we attempted to offset CMP's FERC transmission

rate increase with a distribution rate decrease,<sup>3</sup> we believe it is appropriate here, and consistent with our restructuring objectives enunciated in past cases, to allow the FERC increase in transmission rates to go into effect as proposed by the Stipulation. See *Docket No. 97-580, supra.* at 116-119.

Accordingly, we

**O R D E R**

1. That the Stipulation submitted by Central Maine Power Company, the Office of the Public Advocate, the Industrial Energy Consumers Group and the Independent Energy Producers of Maine on July 19, 2000 is approved;
2. That the classification of facilities as distribution or transmission proposed by Central Maine Power Company on July 26, 1999 is approved; and,
3. That Central Maine Power Company is authorized to changes to its rates to take effect for service on or after September 1, 2000 in compliance with this Order.

Dated at Augusta, Maine, this 28<sup>th</sup> day of August, 2000.

**BY ORDER OF THE COMMISSION**

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:      Welch  
   Nugent  
   Diamond

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<sup>3</sup>In our June 6, 2000 Order Approving Rate Change, in order to implement the Company's June transmission price change on an overall rate neutral basis for transmission level customers, it was necessary to use an alternative rate design methodology to avoid setting negative distribution rates.

**NOTICE OF RIGHTS TO REVIEW OR APPEAL**

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.