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Regulatory Updates: Maine Public Utilities Commission

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Electric regulation in Maine seems to have settled on a regulatory detente that would have been unthinkable three or five years ago. In a complicated bargain struck among all the major parties, the PUC has just approved a price cap regulation program for Central Maine Power. Essentially, CMP traded a 15 percent rate reduction for industrial customers and a $100 million write-down of deferred expenses for price cap regulation. The price cap formula lets CMP raise rates by the rate of inflation (less a productivity adjustment) in each of the next five years. The price cap also gives CMP considerable pricing flexibility to meet competition. The cost of the 15 percent industrial rate reduction was partially and indirectly financed by those non-utility generators whose payments from CMP are tied to industrial rates. The other implicit loser in this bargain may have been the environmental movement's long term quest for rate structures that strongly favor conservation over generation.

While Bangor Hydro-electric was not directly affected by this decision, it is asking for similar pricing flexibility. An aggressive program to promote electric heat by Bangor Hydro suggests that its expects to be permitted similar flexibility in how it conducts its business.

For NYNEX, a case that includes both consideration of price caps and a more traditional hearing on the reasonableness of rates is scheduled to be decided by May 1995. Ordinarily, that schedule would look wildly optimistic for a case of this scope. However, the hallmark of PUC Chair Thomas Welch seems to be meeting self-imposed regulatory deadlines. Unlike the CMP price cap case, it seems unlikely that the PUC will be handed a neatly packaged deal on price cap regulation for NYNEX. The decision may require the PUC to make fundamental choices between strongly contested positions. Thomas Welch's self-described fascination with price regulation may have to squarely face Thomas Welch's conservative legal analysis that any new approach to rate-making bears a large burden of proof. Making such a fundamental choice could be complicated by the addition of a new commissioner after the expiration of Elizabeth Hughes' term in March 1995.

No regulatory pundit would have foretold seven or ten years ago that price cap regulation would be adopted by acclamation in electricity for CMP, while price cap regulation for NYNEX would still be very much in doubt. NYNEX has sought price cap regulation for about ten years, and price cap regulation of telecommunications has become commonplace in other jurisdictions. Price caps in electricity are still relatively rare, and CMP has only recently decided that price caps might serve its interests. What forces have propelled this unlikely scenario?

It seems to me that those who are skeptical about price cap regulation--which seems to include representatives of both commercial and residential customers--are asking two questions: Where is the clear external threat that necessitates this fundamental change? And what is the company giving up in return for this flexibility?

For electricity, the threatened rush of industrial customers to alternative sources of energy is an undeniable external threat. And CMP has been forced to give mightily over the past two years. The recent rate case imposed severe penalties on CMP, which led to workforce reductions of 225 people. The departure of CMP President Matthew Hunter was at least a symbolic sacrifice. And the final deal conceded both major rate reductions and resolution of the large regulatory deferrals.

In telecommunications, NYNEX has simply failed to convince many participants of the real external pressure. NYNEX has tried to explain the importance of new telecommunications services to Maine's businesses and residents. While all the economic development types are falling over themselves (and the legislature) about the importance of the "Information Age", Maine's telecommunications infrastructure is excellent and any problems difficult to identify. And in large part because of the lessons from the Vermont Telecommunications Agreement, NYNEX is reluctant to trade major rate concessions for price cap regulation. In the immediate aftermath of the Bell system break-up, NYNEX (then New England Telephone) traded no increases in basic rates for pricing flexibility in Vermont. High inflation made this deal expensive for NYNEX, and the company has seemed reluctant to make similar deals since. So perhaps the basic ingredients for a negotiated price cap in telecommunications are simply absent in Maine.

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