

# Maine Policy Review

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Volume 3 | Issue 2

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1994

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### Recommended Citation

Townsend, Ralph. "Regulatory Updates: Maine Public Utilities Commission." *Maine Policy Review* 3.2 (1994) : 95 -96, <https://digitalcommons.library.umaine.edu/mpr/vol3/iss2/12>.

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# News and Commentary

## Regulatory Updates: Maine Public Utilities Commission

Maine Policy Review (1994). Volume 3, Number 2

*by Ralph Townsend*

Central Maine Power's efforts to buy out the Fort Fairfield wood-burning electric generator has been the front page regulatory issue in Maine over the past several months. The apparent difficulty of implementing policies to lower electric rates, despite widespread public agreement that electric rates are too high, is testimony to the difficulty of implementing consistent public policies in the present pluralized political environment. As we go to press, a suit by the Industrial Energy Consumer Group (IECG) may delay the finalization of the contract buy-out. Other electric power contract renegotiations, which do not require the public approvals necessary for the financing from the Finance Authority of Maine (FAME) used in the Fort Fairfield case, continue to move ahead, however.

Less visible, but probably more important in the long run, has been the continuing progress of the Public Utilities Commission on the issue of incentive regulation for Maine's two largest utilities, Central Maine Power and NYNEX. As the regulatory dockets now stand, some decision on incentive regulation for CMP may be forthcoming as early as November 1994. The schedule in telecommunications has been delayed by a request by a group of consumers for a review of NYNEX's rates, so a decision on incentive regulation will probably not be made before April 1995.

Under the "incentive regulation" rubric there is an array of different regulatory approaches that vary widely in the degree of flexibility accorded a utility and the extent of the financial gains and losses to which the utility may be exposed. At one extreme, substantial parts of a utility's business could be deregulated and the remaining, regulated rates subjected to long-term, inflation-indexed caps. At the other extreme, a utility might be given little more than the opportunity to increase its profits modestly by controlling costs. Any cost savings might be shared with customers, and the resulting profits might further be limited to a few percentage points above the authorized rate of return. There are also important details about what issues continue to be subject to regulatory review and under what conditions either side can abandon the incentive regulation plan.

The outcomes of Maine's deliberations on incentive regulation may be foreshadowed by the positions of the various parties. Most participants in the regulatory process have expressed either out-right support for incentive regulation or at least some sympathy with the goal of providing utilities with better economic incentives. (IECG, which generally opposes fundamental changes in regulatory approach, is an exception.) On the other hand, many participants also want assurances that any incentive regulation plan will benefit their particular constituency. For example, greater pricing flexibility may benefit large businesses with supply alternatives, but small customers with fewer options want assurances that they also will benefit from pricing

flexibility. In electricity, environmental groups are concerned that pricing flexibility will mean a policy of promoting electric use, which they feel is inconsistent with current state energy policies. And any effort at fundamental reform must look over its shoulder at the results of the failed ERAM experiment in electricity. Thus, one might predict that some sort of incentive regulation plan is likely for both electricity and telecommunications, but that the degree of flexibility afforded the utilities will be narrow. Under this scenario, incentive regulation might extend the period between major rate cases but otherwise have limited impact upon either customers or utilities. It is also not clear if any of Maine's other, smaller utilities will be subjected to incentive regulation.

Perhaps the current deliberations should not be expected to provide a final, definitive approach to incentive regulation, but rather to provide the basis for on-going regulatory reform. In fact, simply reducing the frequency of contentious regulatory proceedings is a benefit not to be underestimated. The regulatory arena in Maine over the past twenty years has been dominated as much by personalities as by policy. Reducing the frequency of the very visible, adversarial regulatory proceedings may beneficially shift the focus back onto policies.

However, there is a real question whether Maine has the time for leisurely regulatory experimentation at this point. The combination of national policy developments and technological innovation virtually ensure that state regulation of both electricity and telecommunications will be subjected to powerful external pressures over the next five years. Maine may already be less prepared to respond than states that have already had to manage the fundamental changes in natural gas regulation. Any incentive regulation plan needs to be judged not simply by its ability to satisfy the current regulatory participants, but more importantly, by whether it provides the resiliency to respond to wrenching changes in these two industries.

The upcoming gubernatorial election has obvious importance for utility regulation, and especially for electric regulation. Two of the three major candidates have some past direct involvement in utility issues. Joe Brennan, in his previous term as governor, appointed many of the commissioners who were associated with the "progressive" policies of the 1970s and 1980s that have shaped Maine's electric policy since. Angus King has been involved as an entrepreneur in alternative energy projects that benefited from Maine's utility policies. The new governor will face an immediate appointment to the Commission in March 1995 (Elizabeth Hughes' seat) and have a second appointment in March 1997 (William Nugent's seat). While the March 1995 appointment will not immediately change the philosophical balance of the Public Utilities Commission, it may signal whether the new governor intends to use her or his appointment power to shape Maine's utility policies.