

August 5, 2003

PUBLIC UTILITIES COMMISSION
Investigation of the Administration of
T&D Contracts Associated with Prior
Conservation Efforts

NOTICE OF
INVESTIGATION

WELCH, Chairman; DIAMOND and REISHUS, Commissioners

I. SUMMARY

We initiate an Investigation to examine the feasibility of requiring transmission and distribution (T&D) utilities to transfer to the Commission the administration of contracts associated with utility-sponsored conservation programs.

II. BACKGROUND

By the Conservation Act enacted in 2002 (P.L. 2002, ch. 624), the authority to develop conservation programs was transferred from the State Planning Office (SPO) to the Commission and the authority to implement programs was transferred from the T&D utilities to the Commission. As part of our responsibilities, we must establish objectives and an overall energy strategy for conservation programs. The programs that we implement must be consistent with these goals and objectives, and must be cost effective. 35-A M.R.S.A. 3211-A.

The planning function had been vested in the SPO only in March 2000. Prior to that, and before the electric industry was restructured, planning and implementation functions had resided with electric utilities. During that period, the utilities entered into contracts, for periods of up to 20 years, with energy service companies to install conservation measures for the benefit of utility customers.

Realizing that some of these contracts were still in effect, the Legislature addressed transition issues that might arise in the shift to Commission-sponsored conservation programs. The expenses associated with "prior conservation efforts," or programs that utilities sponsored prior to March 1, 2002, are added to the expenses associated with Commission-sponsored programs to determine whether conservation spending is within the statutory minimum and maximum. 35-A M.R.S.A. § 3211-A(1)(E) and (4). The Legislature also provides that,

[e]xcept as otherwise directed by the Commission, transmission and distribution utilities shall continue to administer contracts associated with prior conservation efforts. Such contracts may not be renewed, extended or otherwise modified by transmission and distribution utilities in a manner that results in any increased expenditures associated with those contracts.

35-A M.R.S.A. § 3211-A(7).

In unallocated language within the Conservation Act, the Legislature further addressed contract administration by directing the Commission to “examine the feasibility of requiring transmission and distribution utilities to transfer the administration of contracts associated with prior conservation efforts to the Commission.” P.L. 2002, ch. 624, § 8. We must report our findings and recommendations on this subject to the Legislature by January 1, 2004.

III. INVESTIGATION

In order to carry out our responsibilities under the Act, including our obligation to report to the Legislature on contract administration by next January, we open an investigation into T&D administration of T&D-sponsored, conservation program contracts. In this investigation, we will determine whether the Commission can best achieve its conservation program goals and objectives by directing changes to the T&D administration of contracts associated with prior conservation efforts. We will use the investigation to obtain the facts necessary to make findings that we can report to the Legislature by January 1, 2004. We also will use this investigation to solicit input on these issues from interested persons.

All T&D utilities are made parties to the investigation. Other persons who desire to participate in the investigation must file a petition to intervene by August 26, 2003 with the Administrative Director of the Commission. Each petitioner must comply with section 723 of Chapter 110 of our Rules.

An initial case conference will be held on Thursday, September 4, 2003 at 2:00 p.m. The purpose of the conference will be to rule on petitions to intervene and to discuss the orderly processing of the investigation.

The Administrative Director is directed to send a copy of this Notice of Investigation to service lists in Docket Nos. 2002-161 and 2002-162.

IV. INFORMATION REQUEST

We direct each T&D utility to provide the following information on all active “prior conservation efforts” contracts, including but not limited to Power Partners contracts, contracted rebates and weatherization contracts:

1. Contractor name
2. Contract description
3. Execution date
4. Termination Date(s)
5. Estimated annual dollar obligation remaining under the contract

6. Name of utility staff assigned to administer the contract and percentage of their time spent on administration of contracts.
7. Name and qualifications of any contractor(s) hired to assist in the administration of the contract(s) and estimation of the hours contracted for related to the administration of the contract(s).
8. A copy of all active "prior conservation efforts" contracts.

Each T&D utility should answer this information request no later than August 26, 2003.

Dated at Augusta, Maine, this 5th day of August, 2003.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Diamond
 Reishus

THIS DOCUMENT HAS BEEN DESIGNATED FOR PUBLICATION.

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 **21 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 Appellate Procedure.
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.