

February 23, 1999

PUBLIC UTILITIES COMMISSION
Uniform Information
Disclosure and Informational
Filing Requirements (Chapter 306)

ORDER PROVISIONALLY
ADOPTING RULE AND
STATEMENT OF FACTUAL
AND POLICY BASIS

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. INTRODUCTION

In this Order, we provisionally adopt rules to establish uniform customer information disclosure requirements applicable to competitive electricity providers. Specifically, the provisional rule requires competitive providers to provide customers with a disclosure label containing information on price, resource mix, and emissions in a uniform format. The purpose of these requirements is to enable customers to choose among providers based on accurate and consistent information. The provisional rule also contains requirements for competitive providers to file with the Commission terms and conditions of service that are generally available to Maine consumers.

II. STATUTORY PROVISIONS

During its 1997 session, the Legislature enacted "An Act to Restructure the State's Electric Industry," P.L. 1997, ch. 316 (Act).¹ The Act deregulates electric generation services and allows for retail competition beginning on March 1, 2000. At that time, Maine's electricity consumers will be able to choose generation providers from a competitive market. In enacting this legislation, the Legislature recognized the importance of the availability of accurate information so that consumers can effectively make choices in a competitive market; the availability of such information is generally considered necessary for the operation of an efficient competitive market.

Accordingly, the Legislature directed the Commission to establish information disclosure filing requirements and standards for publishing and disseminating information that enhance consumers' ability to make informed choices. 35-A M.R.S.A. § 3203(3). Additionally, section 4 of the Act requires the Commission, in adopting rules under section 3203(3),

¹The Act is codified as Chapter 32 of Title 35-A (35-A M.R.S.A. §§ 3201-3207).

to consider a list of specific information filing requirements. Section 3203(3) also directs the Commission to adopt rules requiring competitive providers to file generally available rates, terms and conditions, and specifically permits a requirement for the filing of individual service contracts.

Pursuant to 35-A M.R.S.A. § 3203(3), the rules established in this proceeding are major substantive rules and are thus governed by 5 M.R.S.A. §§ 8071-8074. The Commission must adopt these rules "provisionally." The Legislature will review the provisional rules and authorize their final adoption either by approving them, with or without change, or by taking no action. 5 M.R.S.A. § 8072.

III. REGIONAL DISCLOSURE EFFORTS

In the spring of 1997, the National Council on Competition in the Electric Industry² initiated an effort to develop a system of uniform consumer information disclosure for the retail sale of electricity that might be implemented throughout New England. The public utility commissions in New England supported the effort. The Regulatory Assistance Project (RAP) was designated manager and primary advisor of the National Council's New England project. Between April and September of 1997, a broad range of stakeholders attended a series of public meetings, whose purpose was to identify issues and analyze options related to uniform customer information disclosure. The process culminated with a Report and Recommendations to the New England Utility Regulatory Commissions, issued by RAP on October 6, 1997.³ The Report contained detailed recommendations on a uniform disclosure system for New England, as well as rules to implement the system. To achieve uniform and enforceable disclosure requirements in the region, the Report recommended that each state initiate a rulemaking proceeding based on a uniform model rule.

²The National Council is a joint project of the National Conference of State Legislatures and the National Association of Regulatory Utility Commissioners; members of the National Council include the Environmental Protection Agency, the Department of Energy, and the Federal Energy Regulatory Commission. The National Council's disclosure project is aided by a federal interagency task force that includes the Food and Drug Administration and the Federal Trade Commission.

³The October 6, 1997 Report is available on the RAP webpage, <http://www.rapmaine.org>.

The New England Conference of Public Utility Commissioners (NECPUC) assigned its Staff Energy Policy Committee⁴ to review the rules contained in the RAP Report and develop a NECPUC-sponsored model rule that could be considered in each of the states. The Staff Committee developed a model rule along with a sample label that NECPUC has sanctioned as a starting point for consideration of disclosure policies in each state. The Massachusetts Department of Telecommunications and Energy has adopted a disclosure rule that is similar in most respects to the NECPUC model rule.

IV. RULEMAKING PROCESS

On September 29, 1998, we issued a Notice of Rulemaking and proposed rule on uniform information disclosure and informational filing requirements (Chapter 306). Prior to initiating the formal rulemaking process, we conducted an inquiry in Docket No. 98-234 into regional uniform disclosure requirements, inviting comment on the conceptual approach contained in the NECPUC model rule, its specific provisions, and whether the general approach is consistent with Maine statutory and policy goals.

Consistent with rulemaking procedures, interested persons were provided an opportunity to provide written and oral comments on the proposed rule. We received comments from the Public Advocate, State Planning Office (SPO), Independent Energy Producers of Maine (IEPM), Green Mountain Energy Resources (GMER), Enron Corporation, MainePower, Energy Atlantic (EA), Coalition for Sensible Energy (CSE), Renewable Energy Assistance Project (REAP), Conrad Heeschen, Maria Holt, David Tilton and Central Maine Power Company (CMP). These comments are discussed in section VI below. Although some disagreed about the desirability of specific provisions, most commenters supported or did not oppose the concept of uniform requirements for information disclosure.

V. GENERAL CONSIDERATIONS

The regional efforts to develop uniform information disclosure requirements were prompted, in large part, by a substantial degree of customer confusion observed in retail access pilot programs in various states. These pilot programs revealed significant customer confusion over price offerings and environmental claims. For example, providers made a variety of claims that their electricity came from "environmentally friendly" or "green" sources. In many cases, such claims proved

⁴This Staff Committee is made up of staff members from each of the six New England utility commissions.

to be inaccurate or difficult to substantiate. The lack of an understandable system for information disclosure made it extremely difficult for consumers to compare offerings and claims among providers in making the type of informed choices that are necessary for an effective competitive market.

As a consequence of this experience, regional regulators and various stakeholders sought to develop disclosure requirements in a uniform format to promote rational customer choice in the competitive market, and a tracking system to ensure accuracy and verification of the disclosed information. As such, the uniform label and tracking mechanisms are the major features of the NECPUC model rule.

The Maine Commission has supported these regional efforts from the outset. We continue to view accurate and consistent information to be essential for an effective competitive market. Moreover, we place a high priority on uniform regional requirements.⁵ Such regional approaches reduce the costs of compliance, which should translate into lower prices, and encourage entry by competitive providers into Maine's relatively small market. For this reason, the proposed rule deviated only slightly from the language and substance of the model rule.

However, commenters generally agreed that regional uniformity should not be the overriding consideration. They stated that it is more important to develop a disclosure system that is workable, reasonable in scope and cost, and provides value to Maine customers. We agree that the ultimate goal is to adopt disclosure rules that work best for the Maine market. Accordingly, we have balanced the benefits of regional consistency against the goal of best serving the Maine market, taking into account that such consistency is less important for certain types of provisions than for others. As a result, the provisional rule deviates in several respects from the model rule. The rationale for deviating from the model rule for each provision is discussed in section VI below. In many cases, the change from the model rule makes our rule more consistent with those of the Massachusetts rule. In our view, regional consistency is advanced by two states in the region adopting disclosure rules that are substantially similar. At this point,

⁵In the context of standard billing information, the Legislature directed the Commission to consider standards consistent with other New England states. 35-A M.R.S.A. § 3203(15). Although billing information is the subject of another rulemaking (Chapter 305, Docket No. 98-608), our approach in this rulemaking is consistent with the policy embodied in section 3203(15) that the Commission consider regional consistency in the disclosure of customer information.

it appears preferable to seek consistency in language and substance with the provisions of the Massachusetts rule than to adhere to those of the model rule.

Finally, we note that the NECPUC model rule and, consequently, Maine's disclosure rule, are intended to be an initial step in an evolution of regional disclosure requirements. We anticipate that in time the disclosure rule will become more sophisticated, perhaps allowing for more accurate and detailed information.⁶ Accordingly, the adoption of this rule should be viewed more as the beginning, rather than the end point, of the development of disclosure requirements.

VI. DISCUSSION OF INDIVIDUAL SECTIONS

A. Section 1: Definitions

Section 1 contains definitions of terms used throughout the provisional rule. The definitions contained in this section are self-explanatory. Many of these definitions are in the Act and are included in the provisional rule for the convenience of the reader. The proposed rule modified the statutory definition of "aggregator" to make it clear that entities which engage in the direct sale of electricity to retail customers are not exempted from the rule's provisions. The provisional rule adds language similar to the definition of "broker" to ensure that all entities that have a direct sales relationship with retail customers are subject to the rule's requirements, regardless of whether they technically take title to electricity. The provisional rule also specifies that "generation service" as used in the rule refers to a retail service.

B. Section 2: Uniform Information Disclosure Requirement

This section of the rule contains the provisions that govern the disclosure of information to customers. As explained above, this section incorporates many of the provisions of the NECPUC model rule, as well as the Massachusetts disclosure rule.

1. Section 2(A): Purpose and Scope

⁶For example, the New England Governor's Conference has sponsored an effort known as the "New England Tracking System Project," intended to develop a more sophisticated tracking mechanism to allow for implementation of various state policies.

Section 2(A) describes the purpose and scope of the disclosure requirements as ensuring that all customers are presented with consistent, accurate, and meaningful information to evaluate competitive electricity services. The provisional rule maintains the proposed rule's applicability limitation to customers of 100 kW or less. The limitation to smaller customers is not in the model rule, but was proposed to be consistent with our customer protection rule (Chapter 305) that applies only to customers with a demand of 100 kW or less.

The Public Advocate, CSE and IEPM commented that the rule should apply to all customers, because larger customers are not likely to be knowledgeable about fuel mix and emissions. In our view, it is unnecessary to require providers to produce and distribute labels to larger customers under this rule. The primary purpose of the label requirement is to help customers choose providers through "comparison shopping." Larger customers tend to be more sophisticated purchasers of energy, and we expect they can obtain the information they desire when choosing among competitive providers. By limiting the requirement to smaller customers, we target the disclosure requirements to those customers who are more likely to need the information and reduce the cost of compliance.⁷

Instead of requiring that labels be distributed to all larger customers, we have required providers, upon the request of any customer, to provide information comparable to that required by the rule. We note that, consistent with the rule's verification provisions (section 2(H)), providers must be able to account for all kWhs sold in the region (as if providing labels to larger customers) to ensure the accuracy of the label information provided to smaller customers.

The provisional rule also explicitly exempts aggregators and brokers from the section's requirements because, by definition, such entities neither take title to electricity nor sell electricity directly to consumers.

2. Section 2(B): Information Disclosure Label

Section 2(B) contains the substantive requirements specifying the content of the disclosure label that must be provided to customers.

a. Section 2(B)(1): General

⁷The RAP report explicitly contemplated that the disclosure requirements would be limited to smaller customers. We understand that the model rule was intended to be similarly limited.

This section contains the general requirement that competitive providers prepare and distribute a label for each of their price offerings or products pursuant to the provisions of the rule. We have modified the rule to specify that a label must be prepared for each "product," as well as "price," offering because providers may seek to differentiate their products on factors other than price (e.g., resource mix).

b. Section 2(B)(2): Price to be Charged and Price Variability

This section of the provisional rule requires the disclosure label to contain information on prices for generation services so that customers can easily compare price offerings among competitive providers. This is accomplished by requiring that the generation service price be stated as an average unit price, regardless of price structure; the average unit prices must be shown for four specified usage levels.⁸ The rule further specifies that average prices for time-of-use and seasonal prices be based on a single generic New England load profile for each customer class as approved by the Commission. We will work with the other New England commissions to develop and publish these load profiles. This section also contains provisions governing average price disclosure for variable prices (e.g., prices based on the spot market), generation service prices that are bundled with other products, and cash or non-cash inducements for the sale of electricity. Finally, the price information section requires that the label, to the extent applicable, contain a section disclosing that prices vary according to time of use or amount of usage.

EA opposed the inclusion of average price information as not required in other competitive energy businesses (e.g., oil). We view meaningful price comparison information as extremely important in promoting effective competition, and such information is thus an essential component of the disclosure label.

MainePower commented on the proposed rule's requirement that average prices for variable-priced products (e.g., prices based on spot market) be based on prices that would have been charged in the prior month. MainePower stated that a "snapshot view" would be misleading, because of the potential for price spikes, and suggested average prices calculated over a year to reflect normal seasonal and market fluctuation. Although MainePower raised a valid concern, we have not modified the rule.

⁸The provisional rule specifies the four usage levels for residential customers to be 250, 500, 1,000, 2,000 kilowatt-hours per month and for commercial customers to be 1,000, 10,000, 20,000, 40,000 kilowatt-hours per month.

The purpose of the provision (which is contained in the model and Massachusetts rules) is to signal price trends that might reflect future prices more than average prices over a prior 12-month period. Because it is difficult to determine which approach would provide more useful information, we opt to maintain regional consistency in this regard.

c. Section 2(B)(3): Customer Service Information

This section requires the label to contain a toll-free number for customer service.

d. Section 2(B)(4): Fuel and Emissions Characteristics

This section contains the requirements for determining the fuel mix and emissions characteristic information that must be included on the disclosure label.

i. Resource Portfolio

Matching Period

Paragraph 4(a) specifies how each provider's resource portfolio must be determined for purposes of fuel and emissions disclosure. The rule uses the ISO-NE market settlement data and other relevant information as the means of determining and verifying each providers' resource portfolio. The information is to be updated quarterly.

GMER and Enron expressed great concern regarding any interpretation of the rule that would require hourly matching of a provider's loads and resources. GMER and Enron argued that such an approach would be overly restrictive, making it difficult for providers to offer a specific product. For example, under hourly matching, it would be difficult to offer a high hydro content product, because hydro output varies over time; if a provider's hydro facility produced more kWhs than needed during some hours, the provider would not be able to apply those kWhs to its product at a time when its hydro output is lower than its load obligations. GMER, Enron and MainePower stated that the rule should allow providers to match kWhs with load over a 12-month period.

REAP opposed allowing providers to essentially "bank" resources to "boost" the apparent amount of certain resources in a provider's portfolio. Such an approach would be deceptive in that a customer that, for example, purchases a 100% wind product may use electricity at a time when the provider is not supplying any wind power to the grid.

According to REAP, selling a 100% wind power product is inherently deceptive because the wind does not blow all the time, and it would be more accurate and honest to reveal to customers the intermittent nature of the resource, and the resulting need for other supply sources.

We understand that the NECPUC model rule intended monthly matching, and we intended the same approach for the proposed rule. See section 2(B)(2)(a)(iv). We also believe that the Massachusetts rule intended quarterly matching. See Mass. DTE Rulemaking Order at 40 (Feb. 20, 1998); CMR 11.06(2)(d)(1)(a). However, neither rule is clear on this point.

After considering the arguments, we find that annual matching provides both flexibility to providers to design products, and meaningful and understandable information to customers. To facilitate a provider's ability to offer the same product in Massachusetts and Maine, the provisional rule would allow for a product based on quarterly matching (or any other matching period up to a year). We have simplified the language of the provisional rule and specified that resources and loads must match no less frequently than annually.⁹

We have also added flexibility by explicitly stating that the resource portfolio can be determined by market data other than that provided by ISO-NE. This addresses the GMER and Enron concern that reliance solely on ISO-NE data could be interpreted as requiring hourly matching, as well as a MainePower concern that ISO-NE might not provide all the data required by the rule.

The simplification of the language has also allowed us to combine the proposed rule's northern Maine provision into that applicable to the rest of the State. Because areas of northern Maine are within the Maritimes control area, the ISO-NE settlement process cannot be used to determine and verify a resource portfolio for providers serving northern Maine. The rule, thus, contains language specifying that data used for financial settlements in northern Maine, as well as other market data, will be the basis for determining the resource portfolio.

Reporting Period

⁹We agree with REAP that there could be confusion regarding, for example, a 100% product of a specified resource that is intermittent by its nature. Accordingly, we expect providers licensed in Maine not to market products deceptively by stating or implying in anyway that customers' hourly demands will be served by specified resources, if this is not in fact the case.

The provisional rule specifies that the reporting period for determining the label's resource portfolio is the most recent 12 months period for which the necessary information is available. The rule includes exceptions for providers operating for less than a year. The proposed rule required monthly updates. GMER, Enron and EA objected to monthly updates as unnecessarily burdensome and expensive, suggesting annual updates. REAP supported updating on an annual basis. GMER proposed using projected resources as a better indicator of the product being purchased by the consumer. We adopt updates of historic information based on the reasonable availability of information as an appropriate balance of compliance costs and providing accurate customer information. The historic approach also avoids the need to police the accuracy of projected portfolios.

Known Resources

For purposes of determining the resource portfolio, the provisional rule characterizes resources as either: "known resources," "system power," or "imports." Known resources are those in which the provider has a unit entitlement or a contract that otherwise specifies the generation unit; kilowatt-hours from known resources are ascribed characteristics of the associated generating units. All kilowatt-hours that are not associated with known resources are considered to be from system power. The fuel mix and emissions characteristics from system power are ascribed characteristics of the residual system mix, which is the mix from resources within the ISO-NE control area net of known resources. The rule includes an analogous provision for service to customers in northern Maine that defines residual mix as that within the Maritimes control area.

GMER and Enron seek clarification of the application of the known resources provision, noting that providers may rely on "system contracts" with generators that own a number of units, but in which kWhs from certain units are attributed exclusively to the purchasing retailer. These commenters express serious concern that only "unit" contracts recognized by the ISO-NE would qualify as a known resource. The provisional rule (as well as the proposed rule) states that "contracts that specify the associated generating units . . . shall be deemed to derive from known resources." We intend this language to have broad application and, as such, would include resources under the scenario presented by commenters in which a "system contract" specifies the units from which kWhs are sold to the retailer.¹⁰ We have, thus, not modified the rule in this

¹⁰We note, however, that use of system contracts in this manner can present verification problems, because it could be difficult to determine if the same kWhs are being sold more than

regard. We have, however, simplified the language from the proposed rule to be consistent with that of the Massachusetts rule, and have included the Massachusetts provision specifically allowing for recognition of small resources (under 1 MW) that are not reflected in ISO-NE settlement data. These modifications should promote consistency of application through the region.¹¹

Imported Power

Consistent with the NECPUC and Massachusetts provisions on imported power, the proposed rule specified that, until adjacent regions develop compatible disclosure policies, a provider's total imports to the ISO-NE control area would be listed as a separate fuel source (as "imports" on the label's fuel mix section). For purposes of determining emission characteristics, imports would be ascribed the characteristics of the exporting systems mix. The approach of listing "imports" rather than fuel sources resulted from a concern that, without compatible disclosure policies and an adequate tracking system, it would be difficult to verify that generation units from outside the region actually served load in New England and that kilowatt-hours have not been double-counted. For example, if an adjacent region does not have any disclosure requirements, there may be an incentive for a New England provider to "trade" what might be considered a less desirable resource to a provider outside the region for a more desirable resource.

GMER, Enron and MainePower opposed the use of "imports" as a category on the fuel mix portion of the label, because such an approach would allow providers to mask the true nature of their resources, provide a disincentive from offering environmentally desirable resources from other regions, and would be confusing to customers. The Public Advocate and CSE prefer use of the exporting system mix as providing more information to customers, relative to using simply "imports." REAP opposed using the exporting system mix for air emissions as not accurate. EA commented that the use of "imports" on a label appears to be best, because resources from other regions may not

once. For this reason, it would be desirable for one entity to track such transactions. In our view, the ISO-NE would be the logical entity to perform this function.

¹¹GMER also suggested that the system power provision account for the possibility that during the first year of competition the ISO-NE may not have the net residual mix and, in such a case, the non-netted mix could be used. To the extent ISO-NE does not provide any necessary information under this rule, providers may seek waivers.

be definable; specific units from another region, however, could be definable.¹²

In our view, use of the exporting system mix is preferable to including an "imports" category on the label. Although we are concerned about the prospect of "trading" resources with a region that does not have a compatible disclosure system, the use of "imports" on the label raises greater concerns as pointed out by the commenters. For example, it is conceivable that a provider will serve a substantial portion of its load with imported power, resulting in a label that provides little fuel mix information to customers. We have thus modified the provisional rule to treat the fuel mix portion of the label in the same manner as emissions, requiring use of the exporting system's mix. In our view, differing from other states in the region in this regard is appropriate, because of our strong interest in providing meaningful information to Maine consumers. A category of "imports" on the label provides little information to customers and is likely to be confusing.

We have also simplified this portion of the rule to incorporate the proposed rule's northern Maine provision into that applying to the rest of Maine.

Product Disaggregation

Finally, this section of the provisional rule specifically allows providers to disaggregate their resource portfolios and provide differentiated labels to particular customer groups. This provision allows providers to offer different products based on the attributes of generating units. The burden, however, is placed on the provider to demonstrate that the disaggregation is based on verifiable data. We have modified the language somewhat to be consistent with the Massachusetts rule.

GMER, Enron and MainePower supported the ability of providers to offer differentiated products. The IEPM expressed concern about customer confusion if portfolio disaggregation is allowed, while the renewable portfolio standard is on a company, rather than a product, basis.¹³ REAP opposes

¹²EA also commented that the rule should specify imports into Maine rather than the Maritimes control area. The rule now refers to imports into the "Maritimes control area to serve load in Maine," thus addressing EA's concern.

¹³On December 2, 1998, we provisionally adopted a renewable portfolio requirement rule (Chapter 311) that defines the requirement on a total company sales basis. See *Order Provisionally Adopting Rule*, Docket No. 98-619 (Dec. 2, 1998).

allowing product disaggregation as misleading to consumers who are interested in environmentally-friendly sources.

The differentiation of products through portfolio disaggregation is desirable in that it provides flexibility for competitors to design product offerings desired by customers, consistent with the operation of a competitive market. Although there is a potential for confusion, this should be alleviated to some extent by the company reporting requirement discussed below. Finally, we do not view product differentiation as misleading or inaccurate as long as the kWhs assigned to products are appropriately accounted for and not double counted.

ii. Fuel Source and Emissions

Paragraph 4(b) specifies the fuel sources that must be separately identified on a label. These are: biomass, coal, hydro, municipal solid waste, natural gas, nuclear, oil, solar, wind, other renewable resources (which includes fuel cells that use renewable fuel, landfill gas, ocean thermal and geothermal). GMER suggested we add geothermal to the list of other renewables because it is listed as a renewable resource in Maine's statute. 35-A M.R.S.A. § 3210. We have adopted this suggestion.

REAP recommended that hydro be divided into large and small scale hydro. The Massachusetts rule requires the label to contain a large and small hydro category (large hydro is identified as greater than 30 MW). We have not adopted such a requirement,¹⁴ because the distinction in hydro size does not appear to provide useful information.

Paragraph 4(c) governs the reporting of emissions characteristic on the label. The provisional rule requires the disclosure of the following pollutants: carbon dioxide (CO₂), nitrogen oxide (NO_x), and sulfur dioxide (SO₂). The provision specifies that for each of the three emission categories, the emission rate of the resource portfolio will be compared to a reference emission rate that will be the New England regional average emission. The rule also contains provisions for calculating the annual emission rates for generating facilities that will be used by competitive providers in determining the emission rates associated with their resource portfolios. As contemplated in the model rule, we will work with the New England commissions and environmental agencies to determine and refine emission rates.

¹⁴The model rule does not divide hydro into two categories, but the label attached to the model rule does contain large and small hydro categories.

The Public Advocate, CSE, IEPM, GMER and Enron, noting that limits must be placed on the amount of information on the label, stated that CO₂, NO_x and SO₂ emissions should be on the label. Commenters noted these are the three most serious pollutants (from a human and global health perspective) and are reasonably subject to measurement. REAP opposed the listing of only the three emissions on the label, because doing so ignores other environmental impacts and creates an inaccurate impression. As examples, REAP notes the absence of other air emissions including mercury, methane, fine particulates and radionuclides, as well as ignoring carbon dioxide emissions from large scale hydro. Rather than maintaining only the three emissions, REAP would prefer no emission information on the label and include complete environmental impact information in annual disclosure reports provided to customers. For many of the reasons cited by REAP, Mr. Heeschen and Ms. Holt commented that more information than just air emissions should be included on the label.

We include comparative emission information for CO₂, NO_x and SO₂ on the label for several reasons. The requirement will likely provide useful and understandable information to customers, because the potential impacts of these emissions are widely publicized. Additionally, resource mix alone would provide incomplete information, because facilities of the same fuel type can vary greatly in the amount of emissions. We also note that the Legislature explicitly asked us to consider requiring comparative emission information, suggesting a preference for disclosing such information to customers if practicable. P.L. 1997, ch. 316, sec. 4. Finally, our rule mirrors the emissions information requirements in the model and Massachusetts rules, thus promoting regional consistency in label information. On balance, we find including the three emissions on the label, consistent with regional approaches, is preferable to including no air emission information. However, in response to REAP concerns, we have included language in the back-of-the-label requirement that informs customers that there are additional emissions related to specific generation sources that have environmental impacts, and that electricity production has other environmental impacts besides air emissions. As discussed below, we do not adopt REAP's proposal for annual information reports to customers.

The IEPM, GMER and Enron asked the Commission to recognize that there are no net CO₂ emissions from biomass facilities and thus to exclude biomass from the rule's requirement for "offsets." These commenters argued that such treatment is appropriate because biomass absorbs as much carbon during growth as it emits when burned, that the carbon would otherwise have been emitted if the biomass decomposed naturally,

and that the region's forest would reabsorb the carbon.¹⁵ The Public Advocate and CSE indicated general support for this position.

For purposes of the label's emissions information, we decline to make a generic finding that carbon emissions are zero for biomass facilities. The primary purpose of the label is to allow customers to compare products. For this reason, it is preferable to rely on actual emissions from the generating facilities, rather than taking into account indirect effects. An approach that deems CO₂ emissions from biomass facilities to be zero would potentially be confusing to customers and contrary to regional consistency. As science advances and a consensus emerges as to the impact of biomass facilities on CO₂ levels, we may revisit this question. In the meantime, we expect marketers and other entities to engage in efforts to inform customers as to the overall environmental impact of biomass facilities, as well as other electricity sources. Finally, we note that the rule does allow for a provider to demonstrate on a case-by-case basis that CO₂ emission offsets should be allowed (possibly through a showing of sustainable forest practices).¹⁶

e. Section 2(B)(5): Format of Information Disclosure Label

Section 2(B)(5) specifies that the disclosure label must be in a format substantially similar to the sample label attached to the rule.¹⁷ For this purpose, we have attached to the rule sample labels that, in most respects, are similar to those accompanying the model rule and the Massachusetts rule. The most significant change is a modification of the language at the bottom of the label that explains that electricity comes from a power grid. The proposed rule replaced the language contained in the model rule label with more lengthy language similar to that of the "back-of-label" requirements in the Massachusetts

¹⁵The SPO provided comments stating that Maine's forest as currently managed would offset carbon emissions from biomass plants.

¹⁶EA commented that the emission offset provision is open-ended, and, if available, a verifiable standard should be considered. We agree that use of emission offsets must be verifiable. We will determine such standards on a case-by-case basis.

¹⁷We have attached two variations of the sample label, one without provider-specific information and the other with examples of provider-specific information.

rule, because this language appeared to more clearly describe the nature of the electricity grid. The OPA, CSE, IEPM and GMER commented that this language was too long, cluttered the label, and might be difficult to understand. Although GMER questioned the need to explain the electric grid, the OPA and CSE stated that it is important to do so. The IEPM, OPA and CSE suggested the explanation used on the California power content label is a more understandable but, due to its length, should be placed on the back of the label. EA commented that standard language should be adopted for the label.

We agree with the commenters that the California statement is superior, and we adopt a modified version for inclusion on the label. We also agree that the statement is too long for the front of the label, and we, therefore, require it to be included on the back of the label. This leaves only two short messages on the front: (1) that the information is based on a 12-month historic period; and (2) that further information is contained on the back of the label and in the terms of service.¹⁸ The adoption of language that best promotes customer understanding of the nature of the electric grid and the meaning of the label information takes precedence over maintaining label format uniformity in this regard. We note that, because Massachusetts requires labor information on the label, there cannot be complete uniformity with respect to label format.

The proposed rule did not contain "back-of-label" requirements, but we sought comment on the Massachusetts requirements.¹⁹ The IEPM proposed back-of-label language describing emissions, similar to those in the Massachusetts rule. The provisional rule contains a back-of-label requirement, with the required language contained in an attachment to the rule. Such information should help customers understand the components of the label: generation price and contract, power sources, and air emissions. For generation price and contract, we adopt the Massachusetts language. As stated above, the power source statement is a modified version of the California requirement. For air emissions, we require a modified version of the Massachusetts language that is more content neutral.

The IEPM, GMER, Ms. Holt and Mr. Tilton commented that the label should inform customers of the existence of Maine's 30% renewable portfolio requirement and contain a

¹⁸This change responds to MainePower's objection that the note on the proposed rule's label would require, at a customer's request, broad information on generating units.

¹⁹The model rule does not contain a "back of label" requirement, but its attached label referred to such information.

format, similar to California, in which "eligible renewable" resources are listed together on the label with an aggregate renewable percentage, along with individual resource percentages. These commenters state that the existence of a 30% renewable requirement is not widely known and would be important information for customers considering the environmental attributes of a product relative to the State requirement. Further, grouping "eligible" renewables together would be a more "user friendly" way to show the power mix. The Public Advocate, CSE and REAP generally supported listing renewable resources together as on the California label.

Although notification of the 30% requirement and grouping of eligible renewable resource would provide useful information in an easy to understand format, we decline to modify the label in these respects because of the potential for substantial customer confusion. The potential derives from several aspects of the portfolio requirement. First, the portfolio requirement designates cogeneration as an eligible resource. Because cogeneration is often fired by fuels not generally considered renewable, inclusion of such resources as "eligible" on the label would likely be confusing. Additionally, if a provider's portfolio requirement is met by large amounts of cogeneration, it may appear that the 30% requirement is not being satisfied. Second, under the disclosure rule, the 12-month label period is updated quarterly, while the portfolio requirement is based on a calendar year. This could result in a mismatch that might imply non-compliance at various times. Third, because the portfolio is a company requirement and providers may differentiate their products, some products may not contain 30% renewables, again creating an impression of non-compliance. Finally, we note that the portfolio requirement and the disclosure rules have different purposes. The portfolio requirement implements a policy that ensures that a minimum amount of kilowatt-hours consumed in the State will be generated with renewable resources. The disclosure rule is to provide accurate information calculated on a consistent basis across providers so that consumers can make valid comparisons. There is no particular need for both requirements to be consistent in all respects, nor is it necessary that the label contain information on the portfolio requirement in order for the label to successfully accomplish its purpose.²⁰

²⁰We note that our decision on this matter is not based on a desire for regional uniformity on this aspect of the label. It may be appropriate for states to differ in how the resource mix table is presented. Our decision is based only on customer confusion concerns.

MainePower proposed the label should be expanded to include the providers' energy-related affiliations, arguing customers may feel misled if not made aware of such affiliations and that such a disclosure would not constitute joint marketing prohibited under the Act. 35-A M.R.S.A. § 3205(3)(J); Chapter 304. We decline to adopt such a requirement. Although some customers may be interested in this information, we cannot endeavor to include all information that might be of interest. Moreover, such a requirement would be inconsistent with State policy favoring clear separation between utilities and their marketing affiliates.

Finally, we have added a provision that allows a provider to request approval to use a label format that has been approved in another state. This provision could reduce provider costs and facilitate entry into Maine's markets without sacrificing the customer information objectives of the rule.

f. Section 2(B)(6): Standard Offer Service

We have added a new section 2(B)(6) relating to standard offer service. The section requires T&D utilities to prepare the disclosure labels on behalf of standard offer providers and charge the providers the corresponding costs of doing so.

CMP commented that the proposed rule was unclear as to how standard offer providers would comply with the label requirement and asked for clarification as to label production, distribution and cost responsibility. CMP also raised questions regarding the potential for multiple standard offer providers in the same territory, suggesting two approaches: (1) separate labels for each provider, or (2) a "blended" label. MainePower, GMER and Enron commented that standard offer providers should have to comply with and bear the costs of the label requirements. The OPA, CSE and IEPM agreed that disclosure labels should be provided to standard offer customers. The OPA, CSE and IEPM recommended that each standard offer provider should have its own label, while the IEPM favors a "blending" for multiple standard offer providers. The IEPM also commented that the label should be provided to standard offer customers every month because more frequent distribution of the label may stimulate customers to enter the market. Finally, CMP questions the need for labels with respect to standard offer service, because it is a default service and the label is to help customers make choices.

With respect to multiple standard offer providers, we conclude that utilities should prepare and

distribute a single "blended" label to standard offer customers. In our view, a single blended label (weighted based on each provider's percentage of the standard offer load) provides customers with accurate information as to their generation service and avoids the expense of producing and mailing multiple labels for each standard offer customer.

3. Section 2(C): Company Disclosure

Section 2(C) requires the disclosure of aggregated company information in a format similar to the label, upon the request of customers. The model and Massachusetts rules contain a similar provision but require a company label upon the initiation of service and annually thereafter. The model rule requires an aggregation of all affiliated provider portfolios, not just the products of an individual company. Our proposed rule did not contain a company disclosure requirement, because it appeared to be unnecessary and potentially confusing; however, we sought comment on the issue.

The OPA strongly favors a company disclosure requirement, stating that it provides useful and important information in comparing suppliers, and promotes fully-informed choice by revealing the true nature of the provider's portfolio. The IEPM does not view company data as particularly useful, but would not object to annual reporting of aggregated company information for all products sold within the region as long as reasonably limited (e.g., not include affiliates). REAP supports a company disclosure report that aggregates the portfolio of all affiliated providers, stating that companies should not be able to hide the nature of operations through the creation of affiliates.

Upon consideration, we find that a narrowly drawn company disclosure requirement could help customers decide among providers, without being unduly burdensome or costly to providers. The provisional rule requires only providers offering disaggregated products in the region to make available aggregated company data. The rule does not include affiliates' portfolios, as does the model rule. Because the disaggregation of a company's products is merely an allocation of a provider's portfolio, company-wide data may be of particular interest to customers when comparing offerings. To avoid customer confusion and unnecessary costs, the rule requires that the company information be available upon request. Providers with disaggregated products are required to notify customers of the availability of the aggregated information on the back of the disclosure label. This information logically follows the explanation of the electric grid and the consequences of

purchasing electricity from the provider. The language is included on the back-of-label information attached to the rule.

As part of an annual company disclosure (but not on the label), REAP, the Public Advocate and CSE recommend a requirement that additional information on environmental impacts be included. Such information might include migratory bird habitat destruction, water pollution, major land use impacts, radioactive releases, safety factors, and mercury build-up in the food chain. REAP suggests the information could be general in nature. REAP also proposed that the company disclosure include a list of generation units, by size, type and location, that were part of the portfolio. Ms. Holt and Mr. Tilton made similar suggestions.

We decline to adopt the commenters' recommendation for a broad annual information disclosure requirement. As discussed, the purpose of the disclosure requirements is to promote effective competition by facilitating comparison among providers. The purpose is not to create a vehicle for general education. The label will provide customers reasonably accurate information regarding the providers' resource portfolio; interested customers can then use other means to educate themselves on the environmental impacts of the stated resources. We expect that competitive providers or other entities, in making marketing claims or refuting such claims, will seek to inform customers of the actual environmental qualities of specific resources. Moreover, developing the required information could be controversial, as environmental impacts are often subject to legitimate debate. Finally, such a requirement is not included in the model or Massachusetts rule and would add costs to providing service in Maine.

4. Section 2(D): Terms of Service Document

This provision requires providers to prepare and distribute a terms of service document. The document must be distributed to customers according to the provisions of the Commission's customer protection rules (Chapter 305). These rules require the document to be provided prior to the initiation of service and upon request to customers eligible for service; providers must notify customers annually of the availability of the terms of service.

The provisional rule lists items that must be included in the terms of service document. The proposed rule did not contain the list. We first proposed the items to be included in the terms of service in our licensing and customer protection rule, Chapter 305 (Docket No. 98-608). However, in that proceeding, MainePower argued that the contents of the terms of

service document are governed by 35-A M.R.S.A. § 3203(3) and, therefore, must be a part of a major substantive rulemaking. As discussed in our Order adopting Chapter 305, we agreed to consider and adopt the terms of service requirements in this major substantive rulemaking.²¹

Both the Massachusetts and model rules contain the same list of the terms of service items. The list contained in the provisional rule is nearly identical, but adds a disclosure of the customers' 5-day rescission right and notice of the "Do-Not-Call" list availability and deletes educational information unrelated to the provider's service (e.g., low-income programs). In response to concerns raised in Pennsylvania, we have also added notice of contracts that allow for assignment or transfer without customer consent. See *Order*, Docket No. M-00960890F at 10, 12 (Pa. Comm'n., Aug. 13, 1998).

Our proposed list of items included notification of the existence of bill payment and energy management assistance programs for low-income customers. MainePower and EA commented that the terms of service document should include only information related to the providers service and should not include general educational materials. Similarly, MainePower argued that information related to items such as estimated bills, third-party billing and deferred payments should only be included if such services are available. The Public Advocate and CSE commented that educational information on low-income programs should remain in the terms of service document.

We agree with MainePower and other commenters in this area and have modified the list of items accordingly. The terms of service document should contain information regarding the relationship between the provider and customers, and a general indication of customer rights with respect to generation service, but not be a forum for broad educational notices that relate to electricity generally. This should help promote customer understanding that generation and delivery service are distinct and provided by different entities.

MainePower argued that the terms of service requirement should apply to standard offer service, because it is equally important for standard offer customers to receive and understand the terms of their electric service. MainePower suggested that standard offer providers be required to issue a terms of service document as a means to promote fair competition

²¹The Chapter 305 proposed items were attached to the notice initiating this rulemaking and comments were requested (we specified that commenters could reference their Chapter 305 comments).

by equalizing costs among standard offer and competitive providers.

We decline to apply the terms of service requirement to standard offer service and have added language to the rule to clarify this point.²² A review of the terms of service items reveals that most apply to competitive service, rather than the standard offer. The terms of service document requirements are intended as a consumer protection measure to promote understanding of the individual terms of what is now a competitive service. Standard offer service terms and conditions remain regulated, with the utility continuing as the entity for customer contacts. We do, however, agree with MainePower that it may be desirable to provide standard offer customers with some type of terms of service information (e.g., length of the price term, existence of Do-Not-Call list). However, it is more appropriate for this matter, including cost responsibility, to be considered in the context of the Commission's standard offer rule and we will do so.²³

5. Section 2(E): Distribution of Disclosure Label

This section contains the requirements for providing the disclosure label to customers. The provision requires that the disclosure label be provided to customers prior to the initiation of competitive service and semi-annually thereafter, at a minimum. The provision also requires the label to be available to eligible customers upon request.

The proposed rule required provision of the label to customers every quarter. The Massachusetts and model rules both require the label to be provided quarterly. MainePower and EA stated that the quarterly requirement would add unnecessary costs and be of little value, because portfolios are not likely to change substantially over that time period. These commenters suggest that the label should be provided only if there is a substantial change in the label information or, at most, once annually. The Public Advocate and CSE stated that the label should be available as often as possible, preferably with each

²²We note that the Massachusetts rule does not require a terms of service document for default generation service, but requires utilities to notify customers that a tariff for such service is on file with the Department and available upon request.

²³The standard offer rule requires the Commission to conduct a proceeding on a standard contract between standard offer provider and utilities. Ch. 301, § 5(D). This may be the appropriate forum to consider the matter.

bill, but no less than quarterly, because the more customers see the label, the more comfortable they will become in relying upon it. REAP supports quarterly distribution. The IEPM commented that quarterly distribution of the label would be sufficient.

We have reduced the requirement to semi-annual as a reasonable balance between providing information to customers and the cost of doing so. Because the label is intended as a tool customers can use to continually compare product offerings, the label should be provided on a regular basis, regardless of whether there are significant changes to the provider's resource portfolio. However, semi-annual distribution should be sufficient in this regard and decrease the potential for continually providing a document that customers have no interest in reviewing. Moreover, there is no particular need for regional consistency in this regard, and reducing the distribution requirement should lower the cost of doing business in Maine.

The provisional rule adds a new section 2(E)(4) that states that the T&D utilities shall be responsible for the distribution of the disclosure labels. This is consistent with the basic structure of standard offer service in which utilities are responsible for customer contacts and communications. The rule specifies that utilities will directly charge standard offer providers for the cost of distribution to promote more equal competition among competitive and standard offer service. To avoid sending the label to all standard offer customers during March, 2000, the rule requires initial distribution of the label to occur within 6 months of the initiation of standard offer service, and every 6 months thereafter.²⁴

6. Section 2(F): Information Disclosure in Advertising

This provision requires competitive providers to prominently state the availability of the disclosure label in all written marketing materials that describe available generation service, and to indicate in non-print media that the disclosure label is available upon request. The provision also requires provider websites that promote generation service to have a link to a page that contains the label.

²⁴The Massachusetts rule requires utilities to provide the label to standard offer customers with the first bill and then quarterly.

The proposed rule contained an additional requirement that the disclosure label accompany all direct mailed marketing materials. This requirement is in the model rule. GMER commented that the proposed rule represented a good balance, and suggested requiring that the label appear somewhere on any website that promotes a provider's generation service. GMER states this would be a valuable source of information and pose little or no burden to providers. MainePower and EA argued that the label should not have to accompany direct mailings, because it would be unnecessarily costly to send materials to customers who may not be interested and would encourage providers to seek alternative advertising. MainePower also requested that the Commission clarify that notice of the label is not required for image-advertising, but only for advertising that promotes a product.

We have deleted the requirement to provide the label with direct mailing. This provision is not in the Massachusetts rule and would appear to unnecessarily increase the cost of this type of advertising. Requiring notice of the availability of the label to be prominently displayed should be sufficient to ensure that interested customers obtain the label. As discussed, providers are required to provide the label to customers prior to initiating service. Additionally, we have added a provision to the rule's informational filing section requiring providers to submit current labels to the Commission. This will create a convenient mechanism for interested customers to obtain the labels of all licensed providers in Maine for comparison purposes. We have also adopted GMER proposal requiring that the label be available on websites. We agree with GMER that such a requirement presents little burden and is consistent with the rule's general requirement that the label be available to customers upon request. Finally, we have added language to clarify that the requirement does not apply to image-advertising, but only to promotions of generation service.²⁵

7. Section 2(G): Enforcement

This provision specifies that failure of a provider to disseminate accurate information or otherwise comply with this rule may result in suspension or revocation of a provider's license or other sanctions that may be imposed in accordance with the Commission's licensing rule. We received no comments on this section, and it is unchanged from the proposed rule.

²⁵We also deleted the language in the proposed rule requiring the provision of the label before initiation of service, because the matter is covered in more detail earlier in the rule.

8. Section 2(H): Verification; Annual Reporting

The provisional rule places the obligation on providers to verify compliance, and requires providers to file annual reports that contain the prior year's disclosure labels and verification of the accuracy of the labels' information. The rule provides for audits by the Commission to verify compliance and the accuracy of the resource mix and emissions information. The model rule does not include an annual reporting requirement, but does allow for the state commissions to obtain supporting information upon request. The proposed rule included an annual reporting provision similar to the annual reporting requirement in the Massachusetts rule. The Notice of Rulemaking requested comments on the desirability of independent auditors to verify compliance and the accuracy of the disclosed information.

GMER sought clarification of the intended function of the proposed rule's reporting requirements and the type of documentation required. GMER also commented that independent, certified auditors could be useful in the verification process. MainePower views annual reporting as unnecessary, in that the Commission can obtain supporting information upon request. MainePower also argued that any required reports should apply only to providers making resource-based claims. EA commented that the proposed rule's reporting provisions would be burdensome. The Public Advocate and CSE supported annual reporting, stating that either a third-party auditor or the Commission should independently verify compliance.

We have retained an annual reporting requirement, but have modified the rule to mirror the verification and reporting provision in the renewable resource portfolio requirement rule, Chapter 311. The rule provides substantial discretion to providers in the type of information submitted to verify label information. Because regional electricity markets and state disclosure systems are developing, it is difficult to articulate the precise information necessary to support compliance. As with the portfolio rule, we will instead rely on our ability to obtain additional information and on periodic Commission audits to monitor compliance. Also consistent with the portfolio requirement, we decline to adopt a provision requiring or allowing certified audits. See *Order Provisionally Adopting Rule*, Docket No. 98-619 at 14-15 (Dec. 2, 1998). We remain unsure of the type of entities that might perform this function, and how we would ensure the auditors' competence and credibility. Moreover, requiring certified independent audits could be costly for providers.

C. Section 3: Informational Filings

This section of the provisional rule contains provisions to implement the informational filing provisions of the Act. 35-A M.R.S.A. § 3203(3). Section 3(A) requires all providers to file with the Commission their rates, terms and conditions that are generally available to the public or any segment of the public; the requirement does not apply to standard offer service.²⁶ Providers must file any modifications to such terms and conditions before their effective date. The rule specifies that the terms and conditions do not require Commission review or approval.

MainePower commented that the informational filing should be held under protective order as proprietary information, and that filings should not be required prior to the effective date of modification because it would impede individual negotiations. Instead, MainePower states that they should be provided as part of the annual report. GMER and Enron suggested that the filings be made "simultaneously" with the effective date, as opposed to "prior to" the date. The informational filings required by this section are essentially the items included in the terms of service document. They contain rates, terms, and conditions of service generally available to the public, not individualized contract terms. As such, we see no reason why they would be proprietary. This is the same type of information that competitive telecommunication providers have on public file with the Commission. We also decline to change the requirement that modifications be filed prior to their effective date. Because such modifications would have to be disclosed to customers prior to the change under our customer protection rule, Chapter 305, § 4(E), there should be little additional burden to file the modification with the Commission.

Section 3(B) specifies that providers are not required to file individual service contracts, but that the Commission may obtain such contracts subject to the appropriate protective orders.

Section 3(C) states that the Commission may request other information that is necessary or useful in carrying out its duties and obligations.

As mentioned above, we have added a new provision (section 3(D)) that requires providers to have on file with the Commission their current disclosure labels.²⁷ To minimize

²⁶At the suggestion of the Public Advocate, we clarified that the provision does not apply to standard offer "service," rather than "providers,"

²⁷The rule requires the label information to be updated every quarter. Providers are required to file their new labels after each update.

provider costs, we have reduced the frequency with which labels must be distributed to current and prospective customers. See sections VI(B)(5) and VI(B)(6), above. As a consequence, it is desirable for customers interested in comparison shopping to have a means for easily obtaining the labels of all providers doing business in Maine. The requirement that labels be on file with the Commission accomplishes this goal.

D. Section 4: Waiver or Exemption

This provision contains the Commission's standard language allowing for a waiver or exemption of the provisions of the Chapter for good cause when such waiver or exemption is consistent with the purposes of this Chapter.

VII. STATUTORILY REQUIRED CONSIDERATIONS

As mentioned above, section 4 of the Act directs the Commission to consider adoption of requirements for the filing by competitive providers of the following information:

1. A statement of average prices at representative levels of kilowatt-hour usage in the most recent 6-month period;
2. A description of the average duration of supply arrangements with retail customers in the most recent 6-month period;
3. An explanation addressing whether pricing arrangements are fixed or will vary over a specified time period;
4. A statement indicating percentages of electricity supply over the recent 6-month period under categories of generation, including, but not limited to, oil-fired, nuclear, hydroelectric, coal, biomass or other renewable resources and regional spot market purchases; and
5. A listing of expected air emissions and a comparison of those emissions to a regional average, as determined by the Commission, for nitrous oxide, sulfur dioxide, mercury, fine particulates, radionuclides and carbon dioxide, calculated for a competitive electricity provider's supply sources in the aggregate over the most recent 6-month period.

The provisional rule requires the disclosure label to contain most of the types of information specified in section 4

of the Act, and, thus, complies with the legislative purpose of making useful comparative information available to consumers. The only type of information that is not included is comparative information on emissions of mercury, fine particulates, and radionuclides. The Public Advocate and CSE urged the Commission to include these emissions as part of an annual company disclosure requirement.

Our view is that the disclosure of such information should not be required at this time. It will be a difficult task to establish mechanisms for tracking and verifying CO₂, SO₂, and NO_x emissions as contemplated in the provisional rule. Additionally, we are unsure whether the other emissions referenced in section 4 can be accurately measured and tracked at this time. Accordingly, it would appear to be impractical and may discourage entry into the Maine market to add a requirement for these emissions, especially if other states in the region do not have similar requirements. We note, however, that section 2(B)(4)(c)(ii) of the provisional rule allows the Commission, in consultation with the Department of Environmental Protection, to add other pollutants to the disclosure requirements.

Accordingly, we

O R D E R

1. That the attached Chapter 306, Uniform Information Disclosure and Informational Filing Requirements, is hereby provisionally adopted;
2. That the Administrative Director shall submit the provisionally adopted rule and related materials to the Legislature for review and authorization for final adoption;
3. That the Administrative Director shall file the provisionally adopted rule and related materials with the Secretary of State;
4. That the Administrative Director shall send copies of this Order and attached rule to:
 - a. All electric utilities in the State;
 - b. All persons who have filed with the Commission within the past year a written request for Notice of Rulemaking;
 - c. All persons on the service list or who filed comments in the Inquiry, Public Utilities Commission, Inquiry

into Regional Uniform Customer Information Disclosure for Retail Electricity Sales, Docket No. 98-234;

d. All persons who filed comments in Docket No. 98-708; and

e. The Executive Director of the Legislative Council, State House Station 115, Augusta, Maine 04333 (20 copies);

5. That the Administrative Director shall notify all persons on the Commission's list of persons who wish to receive notice of all electric restructuring proceedings that the rule was provisionally adopted and is available upon request.

Dated at Augusta, Maine this 23rd day of February, 1999.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Diamond