

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 86-198

January 30, 1987

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RULEMAKING

Re: Revenue Adjustments for
Tax Reform Act of 1986 and
Decreased Cost of Capital
(Chapter 90)

ORDER ADOPTING RULE AND
STATEMENT OF FACTUAL AND
POLICY BASIS

BRADFORD, Chairman; HARRINGTON and MOSKOVITZ, Commissioners

I. PROCEDURAL HISTORY

On November 12, 1986, the Commission issued for comment a Proposed Rule (Chapter 90), which would establish procedures for adjusting the rates of investor-owned public utilities to reflect the impact on their revenue requirements of the Tax Reform Act of 1986, recent decreases in the cost of capital, and other pertinent factors. The Commission proposed to adopt the Rule under 35 M.R.S.A. §§3, 51, 64, 69, 294, 296, 298, 307, 311 and 313.

Pursuant to 5 M.R.S.A. §8053, notice of this rulemaking was sent to all investor-owned Maine utilities, all persons on the Commission's subscriber list who have requested notice of rulemaking proceedings, the Executive Director of the Legislative Counsel, and the Secretary of State for publication. A hearing on the proposed Rule was held on December 2, 1986. Written comments were filed prior to the hearing by Maine Public Service Company, Central Maine Power Company, Continental Telephone Company, Telephone Association of Maine and the Public Advocate. At the hearing, oral comments were made by representatives of Bangor Hydro-Electric Company, Consumers Water Company, Northern Utilities, Inc., the Telephone Association of Maine, and the Public Advocate. The deadline for written comments was December 12, 1986. Written comments were submitted after the hearing by the Public Advocate, New England Telephone and Telegraph Company, the Industrial Energy Consumer Group, Northern Utilities, Inc., Bangor Hydro-Electric Company, the Telephone Association of Maine, the Staff, and Berry, Dunn, McNeil & Parker. Deliberations on the proposed rule were conducted on December 17, 1986.

II. GENERAL DISCUSSION OF RULE

On October 22, 1986, President Reagan signed the Tax Reform Act of 1986. Although the Act will eliminate a number of tax breaks for utilities, the overall impact will generally be a

significant reduction in utility tax expenses for ratemaking purposes due to the reduction in the corporate tax rate from 46% to 40% in 1987 and to 34% in 1988.^{1/}

Over the past few years interest rates and capital costs for utilities have decreased significantly because of a number of factors including reduced inflation, and the ending of certain high risk situations such as telecommunications restructuring and nuclear plant construction. Moreover, there are a significant number of utilities which have not undergone a rate review for several years and which may be earning in excess of a reasonable rate of return by current standards.

The rates of all utilities were set in a period prior to the effectiveness of the Tax Reform Act of 1986 and, in many cases, prior to and without anticipation of the significant reduction in the cost of capital. Accordingly, if all other elements of investment, revenues, and expenses remain in balance, the effect of the tax changes and cost of capital changes may be to produce significant reductions in a utility's revenue requirement.^{2/} Thus, it is incumbent upon the Commission to review the rates of all investor-owned utilities in order to ascertain their continuing reasonableness and to implement rate adjustments where necessary to maintain just and reasonable rates.

The Commission could accomplish this purpose by exercising its powers under 35 M.R.S.A. §296 to commence separate plenary investigations of the rates of all investor-owned public utilities.^{3/} The Commission could require each utility to file a general rate case, including all of the information required by

1/

The 34% rate is effective July 1, 1987, resulting in a blended rate of 40% for 1987.

2/

The Rule provides for the recognition of other elements of utility expenses, revenues, or investments which have increased or decreased so as to change the balance, i.e., "other pertinent factors." (Section 11(c) & 2(A)).

3/

The Rule will not necessarily be implemented with respect to all investor-owned utilities. Utilities which are the subject of already on-going rate cases will be exempted from the Rule. Furthermore, the Staff will exercise judgment and reasonable discretion in deciding for which utilities to propose revenue adjustments under this Rule.

Chapter 12, to sustain its burden of proving the continuing justness and reasonableness of existing rates in light of changed factors. Such a process would be very time consuming and burdensome for most utilities and for other parties. The completion within a reasonable period of time of about 50 full general rate cases for all Maine investor-owned utilities would be doubtful.

Therefore, the Commission will adopt this procedure for the investigation and implementation of rate adjustments. The procedure will involve an initial review and investigation by the Commission's Staff of the impact of tax, capital cost, and other changes on a utility's revenue requirement. As a reference point, the Staff will use the test year in the utility's most recent rate case. In the event that the utility's last rate case may be out of date, the Staff will construct a test year from the utility's most recent annual report filed with the Commission. The Staff shall determine a revised revenue requirement and proposed revenue adjustment for the utility. Before filing its proposed revenue adjustment, the Staff will notify the utility and the Public Advocate of its proposal, so as to provide an opportunity to discuss and consider modifications to the proposal. The Staff will file a copy of its proposal with the Administrative Director, which proposal will be assigned a docket number, and send a copy to the utility. Notice of the proposed revenue adjustment will be published and an opportunity to intervene will be provided. The utility shall notify the Administrative Director whether it will accept the rate adjustment or wishes to file a general rate case. If the utility accepts, it must file revised rates which produce the revenue requirement proposed by the Staff.

If the utility wishes to challenge the proposed revenue requirement it should file a general rate case containing all the information required by Chapter 12 and any other direct information requested by the Commission or its Staff. If the utility, the Staff, and intervenors are able to reach agreement as to a different revenue requirement, a modified revenue requirement may be filed with the Commission. If the utility wishes to initiate a general rate case in response to the Staff's proposed rate adjustment, it may do so either by filing rates pursuant to §64, accompanied by a Chapter 12 filing; or submit Chapter 12 filing alone, which will be considered to be its direct case pursuant to a Commission rate investigation and under §§296 and 298.

This special ratemaking procedure does not change the Commission's policy against single issue rate cases. The rate adjustments proposed by the Staff are based on a review of all known factors that might have impacted the utility. The burden is then on the utility, to assess whether the proposed revenue requirement is a fair reflection of the utility's current revenue

requirement. If the utility is of the opinion that the proposed rate adjustment is too limited in scope and would produce an unreasonable revenue requirement, it may file a general rate case. Thus, this procedure is not designed to result in single or limited issue rate adjustments, but rather to produce rates which are just and reasonable overall.

III. DISCUSSION OF COMMENTS

The following is a discussion of representative comments on the proposed rule, pursuant to 5 M.R.S.A. §8052(5):

1. Authority for Rule. A number of commentators challenged the Commission's statutory authority to adopt the Rule or portions thereof. The Commission has authority under 35 M.R.S.A. §3 to "make all necessary rules." This rule is necessary to an effective and orderly consideration and implementation of the effects of the Tax Reform Act and decreased capital costs on utility revenue requirements. This Rule in essence, constitutes an advance promulgation of standard procedures which the Commission could otherwise adopt in individual rate investigations conducted pursuant to 35 M.R.S.A. §296. Substantive authority for the conduct of individual investigations, as well as the standardized investigative procedures, may be found in 35 M.R.S.A. §§51, 64, 69, 293, 294, 307, and 311-A. To the extent the procedural and substantive aspects of this Rule might not be expressly authorized by statute, they are authorized by the Commission's "implied and inherent powers ... which are necessary and proper to faithfully execute its express powers and functions" 35 M.R.S.A. §313.

One commentator suggested that the proposed Rule contained an unlawful delegation of Commission authority to its Staff. To the extent that the Rule contains a delegation of Commission authority to the Staff rather than the exercise of traditional Staff functions, such delegation is authorized by 35 M.R.S.A. §1, which provides, "The commission may delegate to its staff such powers and duties as the commission finds proper." In this respect it should be noted that the final rule deletes the proposed provisions that in certain circumstances the Staff's proposals would automatically be adopted without the further opportunity for Commission review. (See Sections 4(A) and 5(C).)

2. Applicability. The proposed Rule was applicable to all investor-owned utilities, with the exception of radio common carriers, cellular radio providers, resellers and sharers of telephone service, and carriers in Casco Bay. Some commentators suggested that they be exempted from the Rule because they were or might be subject to independent rate proceedings. The Commission agrees that there is no reason that a utility should be subject to more than one rate review in which the effects of the Tax Reform

Act and lower capital costs may be examined. Accordingly, Section 9 has been added to the Rule to exempt utilities subject to contemporaneous rate cases. (It is not the intent of the Commission that this exemption apply to Central Maine Power Company by virtue of the Supplemental Order Implementation Method ("SOIM") provided for in Docket No. 85-212. The SOIM is limited to the effects of the Tax Reform Act only and does not allow for review of the cost of capital.) Furthermore, the Staff may request the Commission to initiate a \$296 investigation in cases where proceeding under Chapter 90 may not be productive.

The independent telephone company members of the Telephone Association of Maine (TAM) argue that the Rule should not apply to small telephone companies because of their size and unique ratemaking problems. We cannot agree to such a wholesale exemption. The customers of the small telephone companies are entitled to the same potential benefits of the applicability of Chapter 90 to their telephone utility as the customers of larger utilities. In fact, information compiled by the Commission indicates that several independent telephone companies are currently earning rates of return significantly in excess of reasonable levels and greater than any other class of utilities. Accordingly, we will not specifically exempt small telephone companies as a class from the Rule.

However, we do take this opportunity to elaborate on the Commission's expectations with respect to the Staff's implementation of the Rule, as noted in the footnote on page 2 of the Order Commencing Rulemaking, "The Staff will exercise judgment and reasonable discretion in deciding for which utilities to propose revenue adjustments under this Rule." Thus, Staff should take into account the circumstances of the utility in its decision whether to implement the Rule and how to implement the Rule. Parties are also encouraged to find novel ways to address the revenue implications of the Tax Reform Act and decreased capital costs. For example, the parties may negotiate on whether the deferred savings approach suggested by TAM might be adopted as an appropriate resolution.

In addition, the proposed Rule and final Rule are drafted in such a manner as to facilitate the use of informal means at a number of locations.

The Commission Staff routinely engages in informal means of discovery and discussion and negotiations in an attempt to resolve cases on a mutually agreeable basis. Utilities are encouraged and expected to work with the Staff to provide the Staff with required information on a timely basis and to use informal means to resolve revenue requirement issues.

Finally, Northern Utilities commented that the Rule should be established as a permanent ratemaking tool to provide a mechanism to address the rate implications of significant changes on an expedited basis short of a full rate case. New England Telephone and Telegraph Company opposed this proposal. The Commission finds that there is merit to Northern Utilities' suggestion that a Chapter 90 mechanism be permanently established. For the time being the Commission will monitor the implementation of Chapter 90 and assess its usefulness. At some point in the future we will determine whether to permanently adopt a Chapter 90 mechanism and, if so, in what form.

3. Limited Issue Rate Adjustments. A number of commentors expressed the concern that the proposed rule was designed to recognize the revenue requirement implications of only two changes, i.e., the Tax Reform Act and decreased capital costs, both of which are generally expected to reduce rates. Significant changes which would have the opposite effect of increasing a utility's revenue requirement might be ignored, thus producing rates which were not overall reasonable. This is not the intent nor effect of the rule either as proposed or adopted. The Rule permits a presumption that, with the exception of taxes and capital costs, all other elements of revenue, expense, and investment elements of a utilities' revenue requirement calculation have remained in balance. Thus, the Rule reflects a rebuttable presumption that an adjustment for taxes and decreased capital costs alone would produce reasonable rates. Such a presumption is a reasonable effectuation of the burden of proof in 35 M.R.S.A. §§69 and 307.

The Rule anticipates and invites adjustment for other factors. The paramount objective is that the overall level of rates be just and reasonable. The Staff is free to propose additional adjustments in its proposed revenue adjustment sua sponte or as a result of its initial informal communications with the utility. Also, the rule provides ample opportunity for the utility to raise additional issues and adjustments in order to achieve what in its view are overall reasonable rates, either in negotiations with Staff or by filing a general rate case. Section 1(B) has been added and Section 2(A) modified to make it clear other pertinent factors may be considered.

4. Burden of Proof. A number of commentors questioned the allocation of the burden of proof contained in the proposed rule. In particular, commentors objected to the provision in section 5(A) that, in addition to proving the reasonableness of its own revenue requirement, the utility had the burden to prove that the Staff's proposed revenue adjustment should not be adopted. The final rule deletes the requirement that the utility prove that the Staff's proposed revenue adjustment should not be adopted. Maine Public Service Company commented that the Staff

should be required to provide an adequate explanation of the basis for its proposed revenue adjustment. We believe that the requirements of section 2(C) to submit workpapers as originally proposed are adequate to meet this concern.

5. Schedule. A number of changes have been made to the rule in response to concerns with respect to the schedule on which chapter 90 would be implemented and the proposed deadlines therein. The most frequently expressed concern with respect to the schedule was that the time allowed for a utility to file its objections to the Staff's proposed revenue requirement (30 days, §3) and to file its rate case (60 days, §5(A)), were inadequate. In response to these concerns, the Commission has added section 2(B) which requires the Staff to give the utility at least 30 days prior notice before the filing of a proposed revenue adjustment. With this modification, utilities should be able to meet the subsequent 30 and 60 day deadlines if necessary.

6. Temporary Rates. A number of commentators objected to the provisions of section 5(B) that the Staff's proposed revenue adjustment be implemented on a temporary basis pending final resolution in those cases where the utility failed to make a Chapter 12 filing or the Chapter 12 filing is defective. The objections were based upon alleged lack of statutory authority for the Commission to implement temporary rates on this basis, unauthorized delegation of Commission authority to the Staff, and failure to provide statutory or constitutional due process before the implementation of temporary rates. The Commission's authority for temporary rates in this respect is found in 35 M.R.S.A. §293 and §311-A and its authority to delegate is in 35 M.R.S.A. §1. (It would be difficult to argue that the circumstances being addressed by the Rule rise to the magnitude for which the Commission has permitted temporary rate adjustments under 35 M.R.S.A. §311 in the past.) However, section 293 allows for temporary orders pending resolution of investigations after notice and opportunity to be heard; and, upon consideration of the likelihood that the temporary order would be issued at the conclusion of the case, the benefit to the public compared to the harm to the utility, and the public interest. The Rule reflects a decision that a weighing of these factors in the content of a Chapter 90 proceeding would permit the ordering of temporary rates. Chapter 90 proceedings are essentially section 296 investigations. Failure of a utility to file a chapter 12 filing or a filing of defective filing, in light of the utility's burden of proof, permits a finding of the likelihood of the Staff's proposed revenue adjustment would be adopted at the conclusion of the proceeding. In light of these circumstances, a temporary rate adjustment produces benefits to the customer which outweigh the harm to the utility and is consistent with the public interest. Furthermore, a utility's failure to make a valid chapter 12 filing may be construed in some circumstances to be agreement by silence

or lack of dispute with temporary rates under 35 M.R.S.A. §311-A. However, in order to meet the statutory requirement of section 293 and any constitutional due process requirements, we have added the provision that "before issuance of any such order, the Commission shall provide the utility with notice and opportunity to be heard." (Section 5(B)).

7. Effective Date. Maine Public Service Company recommended deletion of section 6 of the proposed rule as unnecessary. We agree and have deleted section 6.

8. Cost - Benefits. The Order Commencing Rulemaking Proceeding contained the following discussion of the regulatory impact or cost/benefit analysis of the proposed rule:

"With respect to the fiscal impact of the proposed rule and a cost/benefit/alternatives analysis, such information can not be determined with reasonable certainty at this time. In general terms, the fiscal impact of the rule will depend upon the number of utilities to which it is applied and their responses thereto. Acceptance by the utility of the Staff's proposed revenue adjustment or the utility's negotiation of a revised revenue adjustment would reduce cost considerably. Implementation of the rule will cause the potential use of considerable resources on behalf of the Commission, utilities and intervenors. However, the benefits include the implementation of reasonable rates, which in many cases may reflect significant rate reductions, on an expedited basis. As noted in the discussion of the proposed rule, a more time consuming and costly alternative might be the initiation of section 296 investigations for all utilities. The Commission invites comments from all interested parties on the rule's fiscal impact, cost benefit analysis, and alternatives."

Only one party, Maine Public Service Company, responded to the Commission's invitation for comments on the rule's fiscal impact. Maine Public noted that a full rate case might cost the Company in the area of \$100,000 and questioned the reasonableness of the burden on the Commission of conducting up to fifty rate cases under Chapter 90 with respect to these issues. The Commission finds nothing in Maine Public Service's comment, and in the absence of comments from any other parties on this matter to

dissuade it from its assessment that the rule reflects an economic and effective means to reflect changes having a significant impact on utility rates in an expeditious and cost minimalization manner.

IV. CONCLUSION

The Commission finds the attached Rule to be a reasonable and necessary exercise of its ratemaking responsibilities.

Accordingly, it is

O R D E R E D

1. That the attached Rule 65-407 C.M.R. 90, Revenue Adjustments for Tax Reform Act of 1986 and Decreased Cost of Capital (Chapter 90), is hereby approved and adopted for effect 5 days after acceptance of filing by the Secretary of State pursuant to 5 M.R.S.A. §8056(1)(B).

2. That the Administrative Director shall mail a copy of this Order and the attached Rule to all persons listed on the Service List ordered by be compiled by Ordering Paragraph No. 2 of the Order Commencing Rulemaking.

3. That the Administrative Director shall send a written notice of adoption of Rule to the Secretary of State, as the form provided by the Department of State for that purpose, for publication in accordance with 5 M.R.S.A. §8053(5).

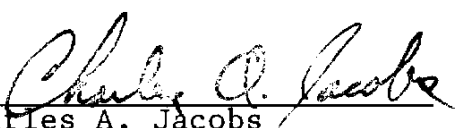
Dated at Augusta, Maine, this 30th day of January, 1987.

BY ORDER OF THE COMMISSION

Charles A. Jacobs
Charles A. Jacobs
Administrative Director

A true copy.

Attest:


Charles A. Jacobs
Administrative Director

COMMISSIONERS VOTING FOR: Bradford
 Harrington
 Moskovitz

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65 - INDEPENDENT AGENCIES - REGULATORY

407 - PUBLIC UTILITIES COMMISSION

CHAPTER 90 - REVENUE ADJUSTMENTS FOR TAX REFORM ACT OF 1986 AND
DECREASED COST OF CAPITAL

SUMMARY: This Rule prescribes procedure and responsibilities for the implementation of rate adjustments which reflect changes in utility revenue requirements resulting from the Tax Reform Act of 1986, decreased cost of capital, and other pertinent factors.

1. Definitions.

A. "Chapter 12" means Chapter 12 of the Commission's Rules, 65-407 C.M.R. 12. Reference in this rule to a filing under Chapter 12 shall mean the filing of all the information required by Section 5 of Chapter 12, provided that Subsection 5(D) shall apply to all utilities regardless of size. A utility's rate case filing under Chapter 12 shall reflect the utility's view as to a just and reasonable revenue requirement which it proposes the Commission approve.

B. "Other Pertinent Factors" means new or changed items of revenue, expense, or investment which are so significant as to cause an imbalance in the relationship among revenue, expense, and investment, thereby causing a change in the utility's revenue requirement.

C. "Proposed Revenue Requirement" means the annual revenues which a utility needs to receive in the indeterminate future in order to meet its reasonable expenses and provide a reasonable return to investors. The proposed revenue requirement shall reflect the impact of the Tax Reform Act of 1986, decreased costs of capital, and other pertinent factors.

D. "Revenue Adjustment" means the amount by which a utility's current annual revenues as measured on an adjusted test year basis should be increased or decreased to reflect the Tax Reform Act of 1986, decreased costs of capital, and other pertinent factors. The revenue adjustment shall be the difference between the utility's current annual revenues and the proposed revenue requirement.

E. "Staff" means those members of the Commission's Staff who are assigned to be the Advocate Staff on any contested or adjudicatory rate proceeding which results from the implementation of this Rule.

F. "Tax Reform Act of 1986" means the Tax Reform Act of 1986, Pub. L. No. 99-514, which was signed into law by the President on October 22, 1986.

G. "Test Year" means the test year in the utility's most recent rate case, provided that if such test year is older than calendar year 1984, the test year shall be a more recent 12 month period selected by the Staff.

H. "Utility" means an investor-owned public utility subject to the jurisdiction of the Maine Public Utilities Commission, with the exception of radio common carriers, cellular radio providers, resellers and sharers of telephone service, and carriers in Casco Bay.

2. Proposed Revenue Adjustment.

A. Staff Determination of Proposed Revenue Adjustment. The Staff may determine a proposed revenue adjustment for a utility, which shall take into account the effect of the Tax Reform Act of 1986 and current capital costs on the utility's revenue requirements. The proposed revenue adjustment may also take into account significant changes in other pertinent factors. The revenue adjustment shall be based on a test year, adjusted for the Tax Reform Act and current capital costs, plus any adjustment for other pertinent factors, which the Staff proposes to be made. The Staff's proposed revenue adjustment shall be accompanied by a proposal for the implementation of the revenue adjustment in rates, which, unless otherwise provided, shall be on an "across-the-board" equal percentage basis to all customer classes.

B. Pre-Filing Notification. At least 30 days prior to filing a proposal revenue adjustment under Section 2(B), the Staff shall provide notification to the utility and the Public Advocate of the amount and basis for the proposed revenue adjustment which Staff plans to file.

C. Filing of Proposed Revenue Adjustment. The Staff shall file the proposed revenue adjustment and supporting work papers with the Administrative Director and send copies to the utility and the Public Advocate. The Administrative Director shall assign a docket number to the Staff's filing. The utility automatically shall become a party to the proceeding.

D. Notice of Filing and Intervention. The Administrative Director shall cause notice of the proposed revenue adjustment to be published twice in newspapers of general circulation in the territory served by the utility. The notice shall make reference to this Rule and the availability of copies thereof, and shall require that any petition to intervene be filed no

later than 10 days after the first date of publication of the notice of the proposed revenue adjustment. The proposed intervention shall state whether the intervention accepts or objects to the proposed revenue adjustment. Failure to so state shall constitute acceptance.

3. Response to Proposed Revenue Requirement.

Within 30 days after the filing of the Staff's proposed revenue adjustment, the utility shall file its Response to the Staff's proposed revenue adjustment. The utility shall send a copy of the response to all persons who have petitioned to intervene. The Response shall be either an Acceptance or Rejection of the proposed revenue adjustment. Failure to file a timely Response shall constitute an Acceptance under Section 4 of this Rule.

4. Acceptance of Proposed Revenue Adjustment.

A. Compliance Rates. If the utility files an Acceptance of the Staff's proposed revenue adjustment, the utility shall file rates which generate the revenue requirement within 21 days after the date of acceptance. The compliance rates shall implement the revenue requirement on an across-the-board basis to all customer classes, unless (i) otherwise proposed by the Staff and agreed to by the utility or (ii) otherwise ordered by the Commission, using billing units applicable to the test year used by the Staff in generating the revenue requirement.

B. Objection by Intervenor. If a proposed intervenor has objected to a proposed revenue adjustment which has been accepted by the utility, the proposed intervenor must file a request for hearing within 7 days after the Acceptance is filed in order to maintain its objection. The Commission shall promptly schedule a hearing on whether to grant the proposed intervention, if it has not already been ruled on, and to hear the intervenor's objections to the proposed revenue adjustment. At the hearing, the Staff and the utility shall justify the reasonableness of the proposed revenue adjustment and the intervenor shall be prepared to demonstrate the basis for its objection. If the Commission decides to disapprove the proposed revenue adjustment, it may issue a notice of rate investigation of the utility under 35 M.R.S.A. §§296 and 298 order that the utility submit a general rate case filing under Chapter 12. The utility may request a delay of the Chapter 12 filing deadline in order to pursue negotiations with the Staff and intervenors.

5. Rejection of Proposed Revenue Requirement.

A. Filing of General Rate Case. If the utility rejects the Staff's proposed revenue requirement, or the Commission orders a rate investigation pursuant to the fourth sentence of §4(B), the utility shall file rates pursuant to 35 M.R.S.A. §64, accompanied by a Chapter 12 filing, or submit a general rate case filing under Chapter 12, within 60 days after the filing of the Staff's proposed revenue adjustment or 60 days after the §4(B) order, whichever applies. The utility's filing under Chapter 12 alone shall be considered a filing pursuant to an investigation of rates initiated by the Commission under 35 M.R.S.A. §§296 and 298. The case shall proceed as a §§296 and 298 rate case. In such rate case the burden shall be on the utility to prove that the revenue requirement contained in its Chapter 12 filing is just and reasonable.

B. Insufficient Filing. If the utility fails to file under Chapter 12 or its filing is defective under Section 8(A) of Chapter 12 and the utility fails to cure the defects pursuant to Section 8(C) of Chapter 12, the Commission may order that the Staff's proposed revenue adjustment be implemented on a temporary basis until a permanent revenue requirement is approved and implemented. Before issuance of any such order, the Commission shall provide the utility with notice and an opportunity to be heard.

C. Negotiated Revised Revenue Adjustment. If the utility rejects the Staff's proposed revenue adjustment, it may submit a proposed revised revenue adjustment with the agreement of the Staff and all proposed intervenors within 60 days after the filing of the Staff's proposed revenue adjustment. If such negotiated revised revenue adjustment is timely filed, the Commission may approve the revised revenue requirement without further hearing. In such case, compliance rates shall be filed within 15 days after approval of the negotiated revised revenue adjustment.

6. Deviation or Modification.

For just cause shown, the Commission or the Hearing Examiner may permit deviation from or a modification to this Rule where compliance with the rule may be unnecessary, burdensome or impractical.

7. One Year Moratorium.

To the extent the one year prohibition on new rate case filings in 35 M.R.S.A. §64 would prohibit a utility from acting under this Rule unless approved by the Commission, such approval is hereby granted. The filing of rates pursuant to 35 M.R.S.A.

§64 as a result of the application of this Rule shall not operate to invoke the one year prohibition until respect to future rate filings and the Commission hereby gives its approval for such filings.

8. Termination of Rule.

Unless otherwise ordered by the Commission, the Staff must file a proposed revenue requirement no later than June 30, 1987, in order to invoke the provisions of this Rule. Unless otherwise provided by Commission Order, this Rule shall terminate on December 31, 1988. Upon termination of the Rule, the Administrative Director shall remove the Rule from the Commission's collection of rules in effect.

9. Certain Utilities Exempted.

This Rule shall not apply to any utility that is or has been subject to a rate case initiated pursuant to either 35 M.R.S.A. §64 or 35 M.R.S.A. §296 during the period of November 1, 1986 through June 30, 1987.

BASIS STATEMENT: The factual and policy basis for this Rule is set forth in the Commission's Order Adopting Rule and Statement of Factual and Policy Basis, Docket No. 86-198, issued January 30, 1987. Copies of the Order and Statement have been filed with this Rule at the Office of the Secretary of State. Copies may also be obtained from the Administrative Director, Public Utilities Commission, 242 State Street, Augusta, Maine 04333-0018.

AUTHORITY: 35 M.R.S.A. §§1, 3, 51, 64, 69, 293, 294, 296, 298, 307, 311, and 313.

EFFECTIVE DATE: February 5, 1987, or such subsequent date as the Secretary of State approves.

This Rule was accepted for filing by the Secretary of State on FEB 0 6 1987 and will be effective on FEB 1 1 1987.