

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

**MAINE PUBLIC UTILITIES
COMMISSION**

**RE: Political Activities, Charitable
Contributions, Educational
Expenditures, Institutional
Advertising, Promotional
Advertising, and Promotional
Allowances by Public Utilities
(Chapter 830)**

Docket No. 2024-00239

**FINAL COMMENTS OF THE
OFFICE OF THE PUBLIC
ADVOCATE IN RESPONSE TO
NOTICE OF RULEMAKING**

October 21, 2024

I. BACKGROUND

On September 4, 2024, the Commission issued a Notice of Rulemaking through which it initiated this rulemaking proceeding for the purpose of repealing Chapter 83 of its rules, which governs political activities, institutional advertising, promotional advertising, and promotional allowances by public utilities, and replacing it with Chapter 830 to implement recent legislation. The Notice of Rulemaking provides that written comments on the proposed rule may be filed until October 21, 2024. However, the Commission requested that initial comments be filed by October 4 in order to allow for follow-up inquiries during the public hearing held on October 10. Initial comments were filed by the Office of the Public Advocate (OPA), Central Maine Power Company (CMP), Versant Power (Versant), the Maine Water Utilities Association (MWUA), and Northern Utilities, Inc. The OPA would like to take this opportunity to address several issues raised in these comments and at the public hearing held on October 10, 2024.

II. OPA FINAL COMMENTS ON PROPOSED RULE

As noted in our initial comments, the OPA believes that the proposed reporting threshold of \$100,000 for Major Political Activities is too high, as it is double the current \$50,000 threshold. Given that one purpose of An Act to Require Transparency in Public Utility Advertising Expenditures, P.L. 2023, ch. 286 (the Act), is to increase transparency with respect to utility expenditures on political activities, raising the threshold would be contrary to this purpose of the Act. At the public hearing, both Versant and CMP expressed a willingness to file with the Commission all reports that are filed with the Maine Ethics Commission. The OPA supports this proposal.

In its initial comments, MWUA requested that the Commission modify the proposed rule to exempt consumer-owned water utilities from quarterly and annual reporting requirements. The rationale stated by MWUA is that consumer-owned water utilities “are exempt from the requirements of subsection 2” of the rule. The OPA does not support the MWUA’s recommended change because consumer-owned utilities (COUs) are not exempt from all of the limitations set forth in subsection 2 of the proposed rule. Of note, COUs are exempt from the restrictions on political activity expenses under subsection 2 only with respect to “expenditures related to notifying the public of or conducting trustee elections or local referendum elections directly related to or legally required for the operation of these utilities or district.” This is consistent with the language used by the Legislature in An Act to Clarify Permissible Election and Lobbying Expenditures by Consumer-Owned Utilities and the Casco Bay Island Transit District. To the extent that a COU is exempt from restrictions on the activities listed in subsection 2, the COU would also be exempt from the reporting requirements for that activity under Section 3, which provides that utilities are only required to file reports related to expenses for activities that may not be included in operating expenses.

Finally, the OPA would like to comment on Northern’s recommendation that the Commission consider the value of trade association memberships in developing its final rule. Section(B) of the proposed rule would, with the exception of consumer-owned water utilities, prohibit the inclusion in operating expenses of contributions to trade

associations. This language is consistent with the language of the Act, which provides that contributions to trade associations and chambers of commerce may not be included or incorporated in operating expenses to be recovered in rates. Northern urges the Commission to consider when implementing Chapter 830 that trade association memberships provide opportunities for pro-consumer utility activities that are prudent and aligned with state policy goals. Under the Act, the Commission does not have the discretion that Northern seeks the Commission to exercise.

III. CONCLUSION

The OPA appreciates the opportunity to provide these final comments in response to the Commission's Notice of Rulemaking. Please contact us if the Commission has any questions regarding these comments.

Respectfully submitted,

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/s/ Richard P. Hevey

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