

Public Utilities Commission)	
Commission Initiated Investigation)	Amended Stipulation
Pertaining to Electricity Maine, LLC)	

The Commission’s appointed Advocacy Staff, including the Commission’s Consumer Assistance and Safety Division (“CASD” or “Advocacy Staff”), the Office of the Public Advocate (“OPA”) and Electricity Maine, LLC (“EME”), together referenced herein as the “Stipulating Parties,” hereby agree and stipulate as follows:

I. PURPOSE

The purpose of this Amended Stipulation is to resolve all issues related to the Commission’s above-captioned investigation, including to address deficiencies in the February 14, 2024 Stipulation that was filed in this proceeding (the “February 14 Stipulation”) and rejected by the Commission’s June 10, 2024 Order in this proceeding (the “June 10 Order”).

This investigation was opened by the Commission to determine whether EME “renewed small customers’ terms of service without providing the renewal notices required by Title 35-A and Chapter 305, and to further investigate whether Electricity Maine . . . is in full compliance with all applicable statutory and regulatory requirements.” (Notice of Investigation at 2.) The agreement embodied by this Amended Stipulation is based on the CASD’s investigation files, responses to written discovery, information provided during technical conferences, prefiled testimony, and discussions and negotiations among the Stipulating Parties, and Central Maine Power Company (“CMP”). The Stipulating Parties agree that the terms of this Amended Stipulation are in the public

interest and they commit to working together to obtain Commission approval of this Amended Stipulation without material modification.

II. BACKGROUND

A. Initial Procedural History.

On February 9, 2023, the CASD filed a Request for Formal Investigation with the Commission, requesting the opening of a formal investigation of EME pursuant to 35-A M.R.S. §§ 1303(2) and 3203(13-A) to review whether the Company “renewed small customers’ terms of service without providing the renewal notices required by Title 35-A and Chapter 305, and to further investigate whether Electricity Maine, as a licensed CEP in Maine, is in full compliance with all applicable statutory and regulatory requirements.” (CASD Request for Formal Investigation at 1, 3.) The CASD’s Request stated that it had received over 170 calls from customers expressing concerns, including the expiration of fixed rate terms of supply service with EME and renewal at higher priced variable rate terms of service. (*Id.* at 2.) In addition, customers reported to CASD that they did not recall receiving any renewal notice or they denied having received any renewal notice. (*Id.*)

The following day, on February 10, 2023, the Commission issued a Notice of Investigation opening this formal investigation.

Also on February 10, the Hearing Examiners issued a Notice of Proceeding, Opportunity to Intervene, and Scheduling Case Conference.

On February 14, 2023, the OPA filed a Petition to Intervene. On February 17, 2023, CMP filed its Petition to Intervene.

On February 27, 2023, the Hearing Examiners conducted an initial case conference that was attended by Advocacy Staff, EME, the OPA, and CMP. During the case conference,

the interventions of the OPA and CMP were granted. (Feb. 27 Case Conf. Tr. at 5.) In addition, there was discussion of the Advocacy Staff making the CASD inquiry records available to the parties and other procedural issues related to the investigation.

On March 1, 2023, the Hearing Examiners issued a Procedural Order – Filing of Record. Consistent with discussions during the initial case conference, the Procedural Order directed Advocacy Staff to provide the parties with the CASD customer inquiry files on March 3 and 17, 2023. The Procedural Order noted that, after the filing of the first set of files, the Hearing Examiners would issue a subsequent procedural order regarding future steps and deadlines for the parties.

On March 3 and 17, 2023, Advocacy Staff filed notices in the docket confirming that the CASD customer inquiry files had been provided to the parties via a cloud-based file sharing service consistent with the Hearing Examiners’ March 1 Procedural Order.¹

On March 15, 2023, the Hearing Examiners issued a Procedural Order – Filing of Pleadings. In the Procedural Order, the Hearing Examiners noted that they had reviewed the CASD files that had been filed and instructed the Advocacy Staff to file a Complaint in the docket specifying the Commission rules or provisions of Title 35-A that EME allegedly violated with regard to any CASD complaint or group of complaints, and the relief sought. The Hearing Examiners also scheduled a case conference for April 14, 2023 for the purpose of discussing further procedural steps in the investigation.

On March 23, 2023, the CASD filed its Alleged Violations and Requested Relief (the “CASD Complaint”). The CASD Complaint alleged seven general claims that EME violated

¹ On May 18, 2023, the Advocacy Staff re-submitted in a different electronic format the files that were initially provided on March 3, 2023.

35-A M.R.S. § 3203 and Chapter 305 of the Commission’s Rules. Most of the claims related to renewal notices and EME’s transition of customers to non-indexed variable rates beginning in October of 2022, including: (1) failure to provide renewal notices; (2) failure to retain renewal notices; (3) failure to comply with consumer protection standards; (4) failure to comply with dispute resolution procedures; (5) failure to provide notice of non-indexed variable rate; (6) failure to make informational filing of modified rate; and (7) failure to cancel service. (CASD Complaint at 1-3.) The CASD Complaint also requested relief that included declaratory relief, administrative penalties, payment of restitution, suspension of authority to enroll new customers and providing EME’s customers opportunities to transition their supply service from variable rates to standard offer or a different supplier. (*Id.* at 3-4.)

On March 24, 2023, the OPA filed a separate Complaint against EME (the “OPA Complaint”). The OPA Complaint alleged 13 separate claims against EME, many of which were duplicative of the CASD Complaint. For example, in addition to the claims in the CASD Complaint, the OPA Complaint included allegations that EME was required by Maine law to obtain and retain proof that EME’s customers expressly consented to their renewal of supply service at non-indexed variable rates and that EME failed to do so. (OPA Complaint at 5-6.)

Also on March 24, 2023, the Hearing Examiners issued a Procedural Order seeking comment on how the OPA Complaint should be viewed by the Hearing Examiners and whether the pleading was proper.

On April 12, 2023, the Advocacy Staff filed Comments on the OPA Complaint stating that the Advocacy Staff did not object to the OPA Complaint, but did not anticipate joining

or pursuing the OPA's allegations or requested relief. On that same day, EME filed Comments on the OPA Complaint arguing that the Legislature vested the Commission with exclusive authority to conduct investigations for the purpose of enforcing the laws governing competitive electricity providers and that the OPA Complaint should be disregarded.

Also on April 12, EME filed a Response to the CASD Complaint (the "EME Answer"). As to the claim that EME failed to date renewal notices, EME observed that Maine law does not require that renewal notices be dated and explained that certain notices were not dated due to a clerical oversight while using a new vendor for the printing and mailing of the renewal notices. (EME Answer at 6-7.) As to the remaining claims, EME requested that the CASD provide additional factual basis for the alleged violations. (*Id.* at 9-13.)

On April 14, 2023, the Hearing Examiners conducted a case conference that included discussion of the OPA and CASD Complaints and related Comments.

On May 4, 2023, the Hearing Examiners issued a Procedural Order following up on the issues discussed during the April 14 case conference. As to the CASD Complaint, the Procedural Order directed the Advocacy Staff to amend its Complaint for the purpose of providing more specific factual basis for its claims. As for the OPA Complaint, the Procedural Order stated that the OPA's Complaint would be treated as a motion to amend the CASD Complaint and encouraged the Advocacy Staff to consult with the OPA and determine whether to incorporate the OPA's claims into the CASD's amended complaint.²

² On May 19, 2023, the OPA filed a Petition for Reconsideration of the May 4 Procedural Order as it relates to the treatment of the OPA Complaint. On June 5, 2023, the Hearing Examiners issued a Procedural Order tolling the 20-day period for consideration of requests for reconsideration in Chapter 110, Section 11(D) of the Commission's Rules of Practice and Procedure until further order of the Commission or the Hearing Examiners. No further orders have been issued on the OPA's Petition.

On May 26, 2023, the Advocacy Staff filed its Amended Alleged Violations (the “CASD Amended Complaint”), which alleged the same claims as the CASD Complaint and included references to specific CASD files as factual support for the asserted claims.

On June 16, 2023, EME filed its Response to the CASD Amended Complaint. EME’s Response denied all claims related to renewal notices and explained EME’s position that its renewal notices and customer interactions complied with Section 3203 and Chapter 305.

B. Initial Discovery Conducted on EME.

On July 13, 2023, the Advocacy Staff and the OPA served 143 data requests on EME, many of which contained subparts. On July 20, EME filed objections to certain of the OPA’s data requests and otherwise filed timely responses to the data requests.

On August 4 and 21, 2023, the Commission held technical conferences during which Advocacy Staff, the OPA, and CMP were given the opportunity to examine EME witnesses. After the technical conferences, EME submitted responses to the 35 oral data requests that had been issued during the technical conferences.

On August 18, 2023, the OPA filed a Motion to Compel with regard to certain of EME’s objections to the OPA’s July 13 data requests. On August 30, 2023, EME filed its response to the OPA’s Motion. On August 31, the Hearing Examiners issued an order granting the OPA’s motion in part and denying it in part.

C. The Advocacy Staff and OPA Testimony.

On September 26, 2023, the CASD submitted the Direct Testimony of Derek Davidson and the OPA submitted the panel testimony of Elizabeth Deprey and Jesse Houck.

On October 2, 2023, EME filed a Motion to Dismiss or, in the Alternative, that the CASD Re-File its Direct Testimony. The Advocacy Staff and the OPA submitted objections to

EME's Motion on October 6. On October 17, the Hearing Examiners issued an Order denying EME's Motion.

On October 10, 2023, EME served five data requests upon the Advocacy Staff and 43 data requests upon the OPA. Timely responses to the data requests were filed by Advocacy Staff and the OPA.

D. The February 14 Stipulation.

During late October and early November of 2023, counsel for EME conferred with counsel for Advocacy Staff, counsel for the OPA, and counsel for CMP regarding their clients' willingness to engage in settlement discussions. As a result of those discussions, on November 6, 2023, counsel for EME filed a letter in this proceeding requesting that the Technical Conferences scheduled for November 8 and 9, 2023 be cancelled to allow the parties an opportunity to resolve the investigation by settlement.

From mid-November 2023 through early January 2024, the parties to this proceeding engaged in, or had the opportunity to engage in, settlement discussions and the Hearing Examiners were kept advised of the settlement progress. On December 1, 2023, the OPA filed a letter in the docket notifying the Commission that it was unable to reach settlement terms that acceptable to the OPA and EME and that, although the OPA was no longer engaged in settlement discussions with EME, the OPA understood that Advocacy Staff and EME would continue to pursue a settlement.

After further negotiations, on February 14, 2024, the February 14 Stipulation between the Advocacy Staff and EME was filed in this proceeding. The OPA opposed the February 14 Stipulation, and the Hearing Examiners issued Procedural Orders on February

2 and 12 and March 8 and 29 to process the stipulation, including the OPA's opposition to the stipulation.

On June 10, 2024, the Commission issued an Order rejecting the February 14 Stipulation. Although the Commission found that the Advocacy Staff and EME represented a sufficiently broad spectrum of interests, that the process that led to the February 14 Stipulation was fair to all parties, and that the stipulated result was reasonable and not contrary to legislative mandate, a majority of the Commissioners determined that the February 14 Stipulation failed to meet the public interest prong of its analysis governing stipulations.

On June 13, 2024, the Hearing Examiners issued a Procedural Order establishing a schedule for the filing of EME's Direct Testimony and discovery on EME's direct case.

E. EME's Direct Testimony Responded to the Allegations in the Amended Complaint and the OPA's Testimony.

On June 28, 2024, EME filed the Direct Testimony and Exhibits of Kira Jordan (Vice President, Portfolio Management and Business Insights for Spark Energy), Keenia Joseph (Senior Director of Regulatory Affairs and Compliance for Spark Energy) and Paul Konikowski (Chief Operating Officer for Spark Energy). EME's Direct Testimony responded to the claims alleged in the Amended Complaint and the allegations in the OPA's Direct Testimony. (See Attachment A.)

On July 19, 2024, Advocacy Staff and the OPA served 68 data requests on EME, many with subparts. EME filed timely responses to the Advocacy Staff's data requests and timely objections and responses to the OPA's data requests.

A technical conference on EME's Direct Testimony and data request responses was held at the Commission's offices on August 8, 2024 and all parties were given an opportunity to examine EME's witnesses.

F. The Process that Resulted in the Amended Stipulation.

On August 9, 2024, a settlement conference was attended by Advocacy Staff, EME, the OPA and CMP in person at the Commission's offices and via Microsoft Teams. During that settlement conference, an agreement was reached between Advocacy Staff and EME as to the terms of a settlement of this investigation. The terms of the settlement were based on the February 14 Stipulation, supplemented to address the deficiencies in that stipulation that were identified in the Commission's June 10 Order. Although the OPA did not commit to the settlement terms reached between the Advocacy Staff and EME, the OPA indicated that it would give the settlement terms further consideration.

On August 20, 2024, counsel for EME circulated among all parties to this proceeding by e-mail a draft Amended Stipulation based on the terms agreed upon during the August 9 settlement conference.

Also on August 20, counsel for the OPA circulated additional requested terms for the Amended Stipulation among the parties by e-mail.

On August 26, 2024, the Advocacy Staff confirmed via e-mail to all parties that the draft Amended Stipulation circulated by EME's counsel on August 20 was consistent with the discussions during the August 9 settlement conference and that it was acceptable.

Also on August 26, 2024, counsel for the OPA and EME conferred in an effort to resolve the additional issues identified by the OPA. This was followed by additional direct negotiations between counsel for the OPA and EME.

On August 30, 2024 and September 3, 2024, counsel for EME circulated additional revisions to the draft Amended Stipulation among the parties.

On September 3 and 4, 2024, counsel for EME and counsel for the OPA continued to negotiate additional terms for settlement. On September 3, EME and the OPA reached an agreement on additional terms for settlement and, on that same day the Advocacy Staff accepted the inclusion of those additional terms in the settlement.

The Amended Stipulation resulted from these negotiations and is intended to comprehensively resolve the Commission's investigation and address various issues raised during this proceeding by the Advocacy Staff, the OPA and CMP and the Commission's June 10 Order.

III. RECOMMENDED APPROVALS AND FINDINGS

This Amended Stipulation is based on six key points to address issues that were identified during the investigation and the public interest deficiency in the February 14 Stipulation identified in the Commission's June 10 Order.

First, to address deficiencies alleged in the Amended Complaint related to notices EME sent to customers renewing them at non-indexed variable rates, the Amended Stipulation requires EME to issue refunds to a pool of approximately 20,000 prior and current customers of EME, estimated to cost up to \$6 million for up to the first three billing periods of the customer's non-indexed variable rate service.³ Although there were no alleged notice violations or deficiencies after June 2023, to provide customers additional benefits through this settlement the Company will issue refunds to all customers who were

³ The February 14 Stipulation provided for refunds for up to the first two billing periods to this pool of customers.

renewed to non-indexed variable rates EME has already refunded customers more than \$238,712, and the refund due to any customer as a result of this Amended Stipulation will be reduced by any amounts previously sent to that customer by EME related to non-indexed variable rate service.

Second, to ensure that current EME customers that are on a month-to-month non-indexed variable rate product understand they have other supply options, EME will send them two separate initial notices providing an opportunity to transition from the variable rate product to a fixed-price offering from EME, Standard Offer service, or supply service provided by a different competitive electricity supplier. To ensure that customers remaining on non-indexed variable rate supply continue to understand their supply options, beginning in January 2026 and annually thereafter, EME will send a similar notice to all customers on non-indexed variable rate supply service for as long as EME continues to have customers on non-indexed variable rate supply service.⁴ Customers that remain on non-indexed variable rates will also benefit from rate caps that have been negotiated through June of 2026.

Third, to limit the number of customers renewed from fixed to non-indexed variable rate supply in the future, EME customers currently with a fixed-rate contract will be renewed at a fixed-rate contract subject to the 20 percent cap in Title 35-A, Section 3203(4-B)(C).

Fourth, to address concerns related to customer service, EME will undertake specified procedures related to the escalation of customers who express an inability to pay

⁴ The February 14 Stipulation required only the two initial notices and no annual notices. The annual notices have been included in this Amended Stipulation to ensure that all customers on non-indexed variable rate service continue to understand their supply options.

their electric supply bill and undertake additional customer service representative training for representatives who serve Maine customers.

Fifth, to address concerns expressed by the CASD related to certain renewal notices EME sent to customers, EME commits in this Amended Stipulation to specific practices when sending renewal notices generally, and with respect to future non-indexed variable rate renewal notices.

Finally, in response to concerns raised in the June 10 Order that the February 14 Stipulation did not provide sufficient deterrent to EME and other CEPs from violating Maine statutes and Commission rules, this Amended Stipulation requires EME to pay an administrative penalty of \$315,000.

Each of these major provisions of the Amended Stipulation is detailed below.

A. EME Will Issue Refunds to Current and Former Customers Who Were Billed for Supply Service at Non-Indexed Variable Rates.

The Stipulating Parties agree and request that the Commission approve as a term of the settlement that EME will send each eligible current and former non-indexed variable rate customer two separate refunds for the customer's first, second and third month on the variable rate supply service. EME estimates that its financial exposure resulting from this term of the Amended Stipulation could be as high as \$6 million. The number of Eligible Customers, as defined below, will be a pool of customers, with refunds ranging from less than \$10 to nearly \$4,000 based on the customer's consumption. The refunds will be issued as follows:

1. Eligible Customers. Eligibility for this refund treatment is limited to all current and former customers of EME in the pool of approximately 20,000 customers

who were billed for non-indexed variable rate supply service (“Eligible Customers”).

2. Amount of Refunds. EME will send each Eligible Customer a dated notice about, and a refund for, their first three billing periods of service at non-indexed variable rates. For each billing period, the amount of the refund will be calculated as the difference between the non-indexed variable rate charged to the customer and the applicable Standard Offer rate for the customer’s transmission and distribution service territory in effect during the billing period being refunded, multiplied by the customer’s billed consumption during the billing period.
3. Timing of Refunds. EME will issue two separate notices and rounds of refunds. The first round of refunds (“Refund Round 1”) for each Eligible Customer’s first billing period of non-indexed variable rate service will be issued no more than 30 days after the Commission’s order approving this Amended Stipulation becomes final and no longer subject to any request for reconsideration or appeal. The second round of refunds (“Refund Round 2”) for each Eligible Customer’s second and third billing periods of non-indexed variable rate service will be issued between 170 and 190 days after Refund Round 1 was issued.
4. Form of Refund and Method of Delivery. Refunds will be sent to each Eligible Customer at their address of record with EME via US Mail in the form of a paper check or pre-paid debit card, at EME’s discretion. Pre-paid debit cards will be subject to industry standard identity verification to prevent fraud. After Refund

Round 1, if any Eligible Customer contacts EME to update their address of record, EME will update the address of record prior to sending Refund Round 2.

5. Refunds Not Claimed. Any refund amounts for paper check, not cashed, and for pre-paid debit cards, not activated, by the Eligible Customer within 75 days of the dated notice contained in the mailing (the “Refund Window”) will be deemed relinquished by the customer and revert to EME. Without limiting the generality of the foregoing, and for the avoidance of doubt, any Refund Round 1 amount not claimed or used by an Eligible Customer within the Refund Window will not be included in that Eligible Customer’s Refund Round 2 amount.
6. Customer Communications Regarding Refund. EME will work cooperatively with the Advocacy Staff and the OPA to reasonably reach an agreement on language to be included in the customer notices accompanying Refund Round 1 and Refund Round 2 for the purpose of clearly notifying customers:
 - a. of the expiration date of the check or debit card and how to claim or use them in advance of expiration; and
 - b. that the refund provided by EME does not reduce the balance shown on the transmission and distribution (“T&D”) utility’s bill for T&D and supply charges, to ensure that it is clear to the customer that the refund is independent of any amounts that may be owed by the customer as shown on their utility bill issued by the T&D utility.

In addition, EME will inform CMP and Versant Power that the refunds are being issued at least two weeks in advance of the issuance of Refund Round 1 and Refund Round 2.

B. EME Will Provide Customers Currently on a Month-to-Month Non-Indexed Variable Rate Supply Service Two Initial Notices of the Option to Transition to an EME Fixed-Rate Supply Service, Standard Offer Service, or a Supply Service Offered By a Different Competitive Electricity Supplier, Which Will be Followed by Annual Notices Beginning in January 2026 For As Long As EME Has Customers on Non-Indexed Variable Rates

The Stipulating Parties agree and request that the Commission approve as a term of the settlement that EME will provide customers currently on a non-indexed variable rate supply service with two initial notices of the option to transition their supply service to standard offer service, an EME fixed-rate supply service, or a supply service offered by a different competitive electricity supplier, which will be followed by annual notices to all of EME's non-indexed rate customers beginning in January 2026. This term of the Amended Stipulation will be implemented as follows:

1. Customers to be Notified. Current EME customers enrolled in non-indexed variable rate supply service will be provided dated notices offering to transition the customer's service (the "Transition Opportunity Notices").
2. Customer Options and Content of Supply Transition Opportunity Notices.
 - a. The Transition Opportunity Notices will provide the customer with the following options:
 - i. Remain on EME's Non-Indexed Variable Rate;
 - ii. Transfer supply service to Standard Offer;
 - iii. Transfer supply service to an EME fixed-rate product; or
 - iv. The option to enroll in supply service provided by a different competitive electricity supplier.⁵

⁵ The Stipulating Parties acknowledge that EME does not have the ability to enroll a customer in supply service offered by a different competitive electricity supplier and that the customer will need to either drop to

- b. The Transition Opportunity Notices will include the following information:
- i. A conspicuous (*e.g.*, bold type) side-by-side comparison of the current standard offer rate available to the customer, the customer's current non-indexed variable rate (with a statement whether the offered non-indexed variable rate is subject to a cap), and the rate for the fixed rate product EME is offering the customer;
 - ii. A statement that the offer is available for 30-days from the date on the Transition Opportunity Notice (the "Transition Window");
 - iii. A statement that the notice is being sent in accordance with a settlement approved by the Maine Public Utilities Commission and that any questions can be directed to its CASD (with appropriate contact information provided);
 - iv. The First Round Notices and Second Round Notices (defined below) will also include a letter on OPA letterhead, the substance of which is provided in Attachment B to this Amended Stipulation, and
 - v. The Stipulating Parties agree to work cooperatively to ensure any such other information as the Stipulating Parties may reasonably agree upon is included.

Standard Offer service or enroll with the other provider and arrange for the transfer of supply service through the other supplier.

3. Timing of Transition Opportunity Notices. EME will send Transition Opportunity Notices to customers on non-indexed variable rates as follows:
- i. The first round of notices will be sent no more than 20 days after the Commission’s order approving this Amended Stipulation becomes final and no longer subject to any request for reconsideration or appeal (the “First Round Notices”).
 - ii. The second round of notices will be sent between 50 and 70 days after the date on the First Round Notices (the “Second Round Notices”).
 - iii. Beginning in January 2026, notices will be sent annually to all EME non-indexed variable rate service customers to ensure they are aware of their electricity supply options (the “Annual Notices”).
4. Method of Delivery. Transition Opportunity Notices will be sent as follows:
- a. If EME has an e-mail address of record for the customer, either the First Round Notice or the Second Round Notice will be sent by e-mail to that address and the other of the First Round Notice or the Second Round Notice will be sent by US Mail to the customer’s mailing address of record using Intelligent Mail barcode.
 - b. If EME does not have an e-mail address of record for the customer, either the First Round Notice or the Second Round Notice will be sent by US Mail using Intelligent Mail barcode, and the other of the First Round Notice or the Second Round Notice will be sent by US Mail to the customer’s mailing address of record with EME.

- c. The Annual Notices will be sent by US Mail to the customer's mailing address of record with EME.
 - d. All notices will be dated and sent on the same day as the date appearing on the notice.
5. Treatment of Customers Not Responding to Notice. Any customer who does not cancel their variable rate service by signing up for a fixed rate contract or switching to another supplier will remain on EME's non-indexed variable rate, subject to the following caps: (a) 14.99 cents/kWh through December 31, 2024; and (b) standard offer plus 6 cents/kWh from January 1, 2025 through June 30, 2026.⁶

C. EME Will Renew Customers Currently on a Fixed Rate Product at a Fixed Rate, Subject to the 20 Percent Cap Imposed by 35-A M.R.S. § 3203(4-B)(C).

The Stipulating Parties agree and request that the Commission approve as a term of the settlement that EME customers who are subscribed to a fixed rate supply product as of the date the Commission's order approving this Amended Stipulation becomes final (*i.e.*, no longer subject to any request for reconsideration or appeal) will be renewed in accordance with Chapter 305 of the Commission's rules at a fixed rate supply product, subject to the 20 percent cap imposed by 35-A M.R.S. § 3203(4-B)(C). This limitation on renewals applies only to the customer's first renewal after the Commission's order approving this Amended Stipulation becomes final.

⁶ This cap applies only to customers who fail to respond to both Supply Transition Opportunity Notices and does not apply to customers who affirmatively choose to remain on non-indexed variable rate supply in response to a Supply Transition Opportunity Notice.

D. EME Will Implement New Escalation Procedures and Customer Service Training Designed to Improve Customer Service for EME Customers.

The Stipulating Parties agree and request that the Commission approve as a term of the settlement that EME will adopt the following new measures designed to improve customer service for Maine customers:

1. EME will adopt a new automatic escalation from customer service representative to a supervisor for any Maine customer claiming financial hardship or inability to pay their bill; and
2. EME will provide additional customer service representative training on the importance of ensuring that information provided to Maine customers is accurate and verifiable.

E. EME Commits to Specific Practices When Issuing Future Renewal Notices and For Non-Indexed Variable Rates, where Applicable.

The Stipulating Parties agree and request that the Commission approve as a term of the settlement that EME commits to the following when sending renewal notices to customers:

1. EME (or its vendor) will date all notices and send the notices (by e-mail or US Mail) to customers on the date stated on the notice;
2. For any renewal at a non-indexed variable rate, EME will include within the notice the highest and lowest non-indexed variable rates charged to Maine customers during the prior 12-month period, including the following language: “Customers like you on a variable rate over the last 12-month period were charged between [lowest variable rate] and [highest variable rate];” and

EME will send the dated notices within five calendar days of the 30-day and 60-day deadlines set forth in Chapter 305, § 4(B)(9)(a) of the Commission's Rules (i.e., one notice between 55 and 60 calendar days prior to the renewal date and a second notice between 30 and 35 calendar days prior the renewal date).

F. EME Will Pay an Administrative Penalty.

The Stipulating Parties agree the EME will pay an administrative penalty of \$315,000 pursuant to 35-A M.R.S. § 1508-A within 30 days of the Commission's Order approving this Stipulation becoming final and no longer subject to any request for reconsideration or appeal.

IV. STIPULATIONS AS TO PROCEDURE

A. Staff Presentation of Amended Stipulation.

The Stipulating Parties waive any rights they may have under 5 M.R.S. § 9062(4) and Chapter 110, Section 8(f)(4) of the Commission's Rules of Practice and Procedure to the extent necessary to permit Advisory Staff to discuss this Amended Stipulation and the resolution of this proceeding with the Commissioners prior to and during the Commission's deliberations on the Amended Stipulation, without providing to the Stipulating Parties an Examiner's Report or the opportunity to file Exceptions. In the event the Hearing Examiners issue an Examiners' Report, the Stipulating Parties reserve the right to respond to the Examiners' Report pursuant to the applicable provisions of Chapter 110 and any Procedural Orders related to the Examiners' Report.

B. Record.

The record on which the Stipulating Parties enter into this Amended Stipulation and on which the Commission may base its decision whether to accept and approve this

Amended Stipulation shall consist of: (1) this Amended Stipulation; and (2) any and all materials contained in the Commission's Online Case Management System in the above-captioned proceeding as of this date (including the CASD customer inquiry files provided to the parties by the CASD via a cloud-based file sharing platform on March 17 and May 18, 2023 in lieu of filing in CMS).

C. Non-Precedential Effect.

This Amended Stipulation represents a compromise among the Stipulating Parties. The Stipulating Parties agree that, except as expressly stated herein, this Amended Stipulation shall not be considered precedent as to any matter of law or fact and shall not preclude any party, whether participating as a settling party or not, from making any contention or exercising any rights, including the right of appeal, or in any future Commission investigation or proceeding or any other trial or action.

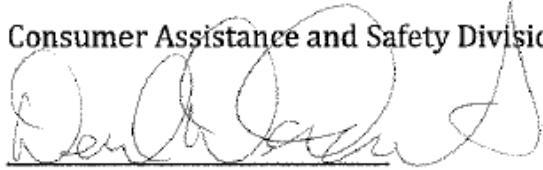
D. Integration and Voidability.

This Amended Stipulation represents the full agreement among the Stipulating Parties to this Amended Stipulation to fully and finally resolve this proceeding, and rejection of any provision or term of this Amended Stipulation by the Commission constitutes a rejection of the whole. If not accepted by the Commission in its entirety and according to each of its terms, this Amended Stipulation shall be void and have no further force or effect.

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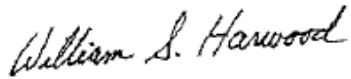
Respectfully submitted on this 23rd day of September, 2024.

Consumer Assistance and Safety Division



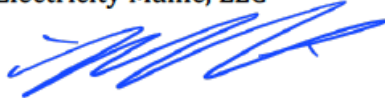
Derek Davidson
Director

Maine Office of the Public Advocate



William S. Harwood
Maine Public Advocate

Electricity Maine, LLC



Paul Konikowski
Chief Operating Officer
Spark Energy, Inc.

[Signature Page to Amended Stipulation; Docket No. 2023-00024]

ATTACHMENT A

Summary of EME's Direct Testimony

EME spent considerable time explaining the unusual circumstances and energy market that it faced in 2022 with extreme volatility in New England's wholesale electricity markets. For example, at the peak of extreme market volatility, 80 percent of EME's customers' fixed rate renewals were up for renewal,

EME explained that the market volatility was not unique to EME, and observed that Maine's residential Standard Offer rates increased significantly from 2021 to 2022 (83.2% for CMP; 88.6% for Versant BHD), and then again from 2022 to 2023 (45% for CMP; 36.4% for Versant BHD).

EME was in a particularly challenging situation because its fixed rate customers up for renewal had rates as low as 7.65 cents/kWh and Maine law limited EME to a 20 percent cap on fixed rate increases without express customer consent. Given the market volatility and statutory limitation on price increases without affirmative consent (not applicable to Standard Offer), renewing customers at below market fixed rates would have been financially devastating to EME. Placing customers on a market indexed rate would have financially insulated EME from market volatility, but would have placed all of the market risk on customers, which could have been devastating to customers if wholesale prices went higher. Realizing that the transition to non-indexed rates would be disruptive to customer relationships, EME chose that as least undesirable of the options.

The timing of the decision making was also challenging for EME because Chapter 305 requires two renewal notices to be sent between 30 and 60 days before the renewal effective date. It was therefore necessary for EME to begin sending notices in August 2022 for fixed rate customers who were up for renewal in October 2022. August 2022 represented peak market prices.

EME also spent considerable time explaining certain administrative issues raised. For example, the Commission's form renewal notice requires the CEP to include the highest and lowest price over the prior 12 months. Because EME did not have any historical non-indexed variable rates when it began sending renewal notices to customers in August 2022, it did not populate the high/low price on the form. As the investigation progressed, in June of 2023, EME changed its processes and begin including the high/low non-indexed variable rates on the form sent to customers. EME estimates that approximately 19,000 customers were sent renewal notices that did not include the high/low rates.

EME also acknowledged that there was a very small number of customers for whom it had no record of sending the two required renewal notices, and those customers were being refunded (and have been refunded). In addition, there was a larger group of customers who were sent a timely first renewal notice by Zytron, but their second renewal notice was sent after the 30-day renewal notice. EME proposed to refund those customers as part of a settlement (and will be refunded in the pool of 20,000 customers referenced in this Amended Stipulation).

EME acknowledged that its representatives did make some errors while communicating with customers during heavy call volumes, but does not believe that the agents did so knowingly or with any intent to deceive customers.

EME also understood that a portion of its customers, including elderly and low income customers were affected by high energy costs, including electricity. The Company was prepared to assist customers with high bills through financial assistance, regardless of whether they enrolled in a new fixed-rate contract or dropped to Standard Offer. Going forward, the Company is willing to escalate customers who contact the Company with concerns about their ability to pay their electric bills (regardless of age or income) to a supervisor for special handling.

ATTACHMENT B



State of Maine
Office of the Public Advocate
112 State House Station, Augusta, Maine 04333-0112
(207) 624-3687 (voice) 711 (TTY)
www.Maine.gov/meopa

Janet T. Mills
GOVERNOR

William S. Harwood
PUBLIC ADVOCATE

_____, 2024

FIRSTNAME LASTNAME
STREET ADDRESS
TOWN, ME ZIP

RE: Electricity Maine Settlement –Supplier Choice

Dear Electricity Maine Customer:

You are receiving this letter because you are a customer of Electricity Maine’s electric supply service. The Maine Public Utilities Commission (“MPUC”) recently approved a settlement agreement that allows you to switch your electricity supplier at any time, without incurring any additional charges. Electricity Maine is an electricity supplier. It is not an electric utility, and it is not affiliated with Central Maine Power or Versant Power.

You are currently paying Electricity Maine’s non-indexed variable rate for your electric supply. The price can change each month and you will not receive notice of the new price when it changes. Unless you contact Electricity Maine to sign up for a fixed rate or choose a different supplier, you will remain on Electricity Maine’s variable rate.

If you are currently paying more than the rates listed below, our office recommends that you switch to standard offer service or sign up for a new fixed rate contract with a competitive supplier. You can see a list of current supplier prices at our website: <https://www.maine.gov/supplyrates>. The standard offer provider is the default electricity supplier selected by the MPUC. The prices listed below will not fluctuate from month-to-month. To switch to standard offer service, contact your electric utility:

	Standard Offer Rate	Contact Information
CMP	10.6 cents per kWh	https://www.cmpco.com/web/cmp/account/understandyourbill/choose-a-supplier/request-standard-offer-pricing-sop 1-800-750-4000
Versant Power	10.3 cents per kWh	207-973-2000

Please contact us with any questions: call 207-624-3687 or email opa@maine.gov.

William Harwood
Public Advocate