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MEMBERS:

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SEN. MARGARET M. CRAVEN
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REP. H. DAVID COTTA
REP. LANCE E. HARVELL
REP. MATTHEW J. PETERSON

MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE

MEETING SUMMARY
September 24, 2014

CALL TO ORDER

The Chair, Sen. Johnson, called the Government Oversight Committee to order at 9:07 a.m. in the Cross Office Building.

ATTENDANCE

Senators:	Sen. Johnson, Sen. Burns, Sen. Craven, and Sen. Youngblood Joining the meeting in progress: Sen. Katz Absent: Sen. Jackson
Representatives:	Rep. Kruger, Rep. Davis, Rep. Boland, and Rep. Cotta Joining the meeting in progress: Rep. Peterson Absent: Rep. Harvell
Legislative Officers and Staff:	Beth Ashcroft, Director of OPEGA Wendy Cherubini, Senior Analyst, OPEGA Etta Connors, Adm. Secretary, OPEGA
Executive Branch Officers and Staff Providing Information to the Committee:	Jim Smith, Chief Information Officer, Office of Information Technology John Driscoll, Manager, Business Continuity/Disaster Recovery, Office of Information Technology Thomas Welch, Chairman, Public Utilities Commission
Others Providing Information to the Committee:	James Page, Chancellor, University of Maine System Kathryn Foster, President, University of Maine Farmington Jake Ward, Vice President for Innovation and Economic Development, University of Maine

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INTRODUCTION OF GOVERNMENT OVERSIGHT COMMITTEE MEMBERS

The members of the Government Oversight Committee introduced themselves for the benefit of the listening audience.

SUMMARY OF THE AUGUST 20, 2014 GOC MEETING

Motion: That the GOC approves the Summary of the August 20, 2014 GOC meeting as written. (Motion by Sen. Craven, second by Sen. Youngblood, unanimous vote 8-0).

NEW BUSINESS

- **Briefing on Status of OPEGA Follow-Up Review of OIT and OIT Progress on Review Areas**

Director Ashcroft said OPEGA has been conducting a follow-up review of the Office of Information Technology regarding three specific areas: project management; business continuity planning and disaster recovery; and supporting the data needs of Executive Branch Departments.

OIT was to develop a strategic plan for making progress over a two year period and that two year period is coming to an end. Director Ashcroft said Mr. Smith was at the meeting to present OIT's progress report and to answer any questions from the GOC.

Mr. Smith said OIT provides all information technology support to the Executive Branch and network access for approximately1,000 different agency application systems.

Project Management was the first emphasis Mr. Smith looked at when he was hired about two years ago. He saw multiple issues including ineffective service and unhappiness within the agency so he revamped the leadership of that function and the resources. He changed OIT's project management approach from the Waterfall methodology to the Agile methodology. He said Waterfall basically says spend a year doing your requirements, spend a year refining these and then spend a year developing it. On a large scale project the end user will not see the results often for a couple of years and there can be a lot of missteps. Agile is a different approach and has been accepted by private industry for about ten years. Agile breaks up a project into very small bites, and also makes sure your business partners are at the table with you every three to six weeks. You might go off track for a month or so, but you are not going to go off track for two years. OIT has had good success with that. It brings transparency, customer involvement and smaller chunks of work into it. OIT has created a center of excellence for Agile within the Project Management Office for training and education. They are doing successful projects in DAFS, DOE, DHHS, DOL and Marine Resources. The idea on Agile is really that you are going to minimize the risk. Mr. Smith noted other states spending millions of dollars and at the end they had no results. He said Maine has been recognized and won national awards in the last six to eight months and most recently the State's group won the Agile Transformation Award, the Innovator of the Year Award and the State Transformation Award. He felt it was safe to say Maine is being viewed as a leader in the direction they are going. An issue he sees is in training because Maine does not have the training dollars.

GOC members did not have any questions regarding Project Management.

Mr. Smith proceeded to **Business Continuity and Disaster Recovery**. Mr. Smith said business continuity is about how a business will continue after a major disaster. If people could not get information, or go to their office, how would they continue the operation of their office. Disaster Recovery is more on the technical side of responding to a major hit to the network, desktop or applications. He said industry practice for disaster recovery is to have a redundant site. You copy all of your applications, data and information so that if one site goes down you can fall over to the other site and continue operations. The problem is that is very expensive and when looking at IT expenses, one of the biggest expense is data storage. He said OIT has hired a dedicated

Business Continuity and Disaster Recovery Manager, has completed its second data site at the Sewall Street Data Center, has completed about 86% of their Business Continuity Disaster Recovery Gap Analysis, which is where OIT sits down with each agency to ask what their most critical applications are, how long they can be out, and what do they need to recover the applications. OIT has also developed a working 180 day plan for the disaster recovery area.

Chair Johnson asked what was meant by a 180 day plan. Mr. Smith said that is what can OIT accomplish in the next 180 days. They are not going to get to a complete redundant site in 180 days, but the plan covers what progress toward that they want to make in the next 180 days. That involves working with the agencies and working with their own internal sites. They are looking at different options for redundancy and having conversations with the University of Maine on whether they have excess capacity that OIT could take advantage of. It gets into expense conversations.

Mr. Smith said as part of the 180 day plan they want to do a desktop disaster recovery exercise and then yearly they want to get to an actual exercise where you pull the plug, recover at a completely different site and the end customers will be able to access that. Until you do a full physical disaster recovery test you cannot say you have a strong disaster plan. He said the constraint on disaster recovery is that it is expensive, both from a data replication and resource perspective. Some agencies are going to have difficulty finding the money and it will be a conversation OIT is going to have to have with them and then finding a middle ground.

Mr. Smith said OIT could handle 90% of disasters today, but if there was a major fire at the data center, that would be a big crisis because OIT does not have a fallback position right now for that.

Chair Johnson asked how far OIT was on their 180 day plan. Mr. Driscoll said the 180 day plan is complete and OIT is on their way to doing the certifications.

Chair Johnson asked if OIT, in their discussion with the various vendors providing outsourced services, had some level of confidence that the external vendors disaster recovery plans are appropriate. Mr. Smith said OIT does do that noting that CGI supports their Advantage System and Molina supports much of the DHHS system. They do a yearly test where they physically pull the plug and bring in people to take the system down in one location and bring it back up at another.

Rep. Boland asked if OIT discussed recovery from a major solar storm or an EMP attack. Mr. Smith said he was not sure that subject has come up in the conversations with the third-party providers. He said OIT has done some data and/or networking hardening in their new Data Center, but could not give the GOC details on that without checking with Greg McNeal from OIT.

Data Analytics and Reporting OIT is working with the agencies to complete a survey on their data and analytics requirements – what do people need, what can OIT provide, how does OIT help with that. Mr. Smith said OIT has created an independent data warehouse and an analytics team within OIT to better provide tools and information on what tools are available to support the agencies' needs for data and analysis. Business intelligence and data analytics is an area that is moving very fast and OIT has to see if they have the tools that can support the agencies' needs for data and analysis.

Mr. Smith said OIT has established best practices for data administration tools, recording and creating supporting data service models for the agencies. There are constraints, and it is one of OIT's most challenging areas. The agency funding makes it difficult to provide these types of enterprise level services because each agency has its own funding for IT. Agencies have different levels of data analytics and business intelligence expertise. Some have strong analytics capabilities and people with strong business intelligence backgrounds and other agencies may not have any. OIT struggles with this topic, but is moving ahead with the tools and the support.

Sen. Craven asked if OIT had the bugs worked out of DHHS' MIHMS Program and whether that System was now able to talk with ACES. Mr. Smith said anytime you have something that complex you are always going to have issues and complications. They are looking at revamping ACES so there will be a lot more information coming regarding that and he thinks a report back in the future regarding DHHS' Systems would be in order. Sen. Craven asked how big the changes were from ACES. Mr. Smith said the changes were significant, but OIT is looking at whether the whole system should be revamped, or do you take bits and pieces. That is what the team is looking at now.

Sen. Craven asked what the changes were. Mr. Smith said it is a combination of coding and business processes. That is what the team is looking at with ACES, asking if there are ways to be more efficient.

Chair Johnson asked if OIT had a good handle on the data analytics and cross referential integrity between the various applications which is relevant to OPEGA's report. Mr. Smith said that was a wide ranging question. Chair Johnson said he has not heard that OIT was working on trying to get a better handle on a structure with capabilities necessary to address the kind of integration and data integrity issues across application environments that Sen. Craven referenced. He said historically DHHS has had issues and asked what the Department was doing to get a better handle in that area. Mr. Smith thought if you compartmentalize and look within an agency at their data integrity, their systems work together, OIT does not have a lot of issues there. But when talking about systems working together across agencies that is a bigger question. In his conversations with Director Ashcroft he has explained that how information is shared in that regard is probably not an OIT responsibility. OIT does not have the background, or the understanding, of what a piece of business data is. When you ask how to share across agencies, that becomes a big question because over the years you have built legacy systems and defined information different ways from agency-to-agency and now you want to share that information. That is a big project and may be a partnership with OIT and another group. What OIT is trying to do is provide the tools and redundancy. OIT is the steward of the data, not the owner of the data. OIT has to make sure an agency's data is secure, it's accessible and can be replicated it if it is lost, but they do not interpret an agency's data.

Sen. Burns said he is constantly being told that within the Department (referring to DHHS) you have two systems that don't communicate with each other and asked whether or not that problem has been solved, or is the State still at the same juncture where the two systems don't communicate. Mr. Smith said he would probably need a more exact question than that so maybe that's a follow-up. He said when they started their MIHMS work two years ago the computer systems were not talking to each other. What they found on MIHMS was there were changes that had to be made and not all the changes had been prioritized. They were never asked to make the changes because there were so many other changes that had to be done. He thinks when DHHS went live they had about 300 outstanding bugs that had to be corrected. Some got fixed and some didn't. Mr. Smith said he would have to find out more information on applications not talking to each other. Sen. Burns said he will put together a more concrete question for Mr. Smith because he has heard that being a problem over and over again.

Chair Johnson referred to Mr. Smith's statement that OIT was not the owner of the data and said the owners are not the ones able to insure the referential integrity of the cross application environment. Some role for OIT in getting a handle on the overall data model for State government applications is of value and asked if there was any work in that area. Mr. Smith said yes. OIT has put together a data warehousing team that looks across agencies, which they did not have before. It is not an OIT only endeavor, they have to work with the State agencies. OIT is responsible for making sure that data is available, is accurate and recoverable.

Chair Johnson said he understands the data warehouse team is trying to find a way to find some union of data from various sources and was pleased to see there was a greater view to all the application data through the data warehouse initiative, but thinks there is still need to get a better handle on more comprehensive data models for applications so the State is not building applications that will be unable to speak to each with integrity. He said that has caused the State various kinds of heartache over the last several years.

Rep. Cotta said he was concerned about an earlier comment when Mr. Smith mentioned there were 300 changes but they were not prioritized for OIT to address them. He did not understand why if there was that much feedback from the field with that many issues, it was not looked at, combed through, and talked about with the users to find out the impact. He asked why that problem would exist for as long as it has. Mr. Smith clarified his earlier statement. He said any major system he has been involved with over the 35 years he has been in the IT field, when any system goes live you have 300 or 400 system fixes, changes in business requirement, or clarifications. The problems are not so much user complaints, but at some point in time when you are doing a Waterfall method you say I think I have fixed as much as I think I should fix before I go live knowing I have a backlog of issues. You go live with that many issues and then you prioritize those issues. Mr. Smith said that is why OIT is trying to go to Agile so you don't end up with that backlog of bugs.

Rep. Boland asked if there is any room for choosing to not need as much communication required all the time if it is not something of immediate need. Mr. Smith said OIT has over 1,000 applications and thousands upon thousands of supporting data and networking systems. Every large organization wrestles with the legacy system problems and they have gone after it multiple times without success.

Sen. Youngblood asked if Mr. Smith could give them a feel for how many issues OIT can handle internally and what percentage has to be subcontracted out. Mr. Smith said he did not think he could give a percentage. It tends to be that on some applications OIT has a dedicated internal staff who will handle those and then other applications, like Molena or Advantage, OIT will not handle the programing as that would be through the third party. It varies by application and agency.

Sen. Burns said he sat in legislative meetings five or six years ago talking about the same issue of computer problems like those at DHHS. He asked what responsibility, or part, does OIT play in trying to work out those problems that are still ongoing, still costing the State money and has been cumbersome for clients who use the system. Mr. Smith said he did not have issues reported by DHHS. He said he testified before the AFA Committee a couple of times when governance and best practice first started and how organizations approach IT projects and a lot of that has been adopted within DHHS and the other agencies. There is more work to do, but there is a methodology and approach to how you build projects, how you make sure your decision-makers are at the table, etc. Mr. Smith said OIT does have some responsibility on that and is trying to work with the agencies in bringing industry best practices.

Sen. Johnson said he is pleased with the initiative and the progress OIT has taken in revamping the project management side of their work and getting a handle on disaster recovery and business continuity. He thinks it is clear from Committee members' questions that they have concerns about whether there is enough being done to address the data management and data administration and avoiding some of the kinds of problems that come from not enforcing the data model across all State government.

The Committee thanked Mr. Smith for the update and for answering their questions.

Director Ashcroft said that is the latest progress report from OIT and in finishing off what was planned to be a two year follow-up review that OPEGA was conducting, the final portion of that review is to hire a consultant with IT expertise to take a more comprehensive look at how OIT's action plan has been implemented, has it been implemented effectively, what is the degree of progress that has been achieved in the last couple of years and are there challenges that are still getting in the way. Director Ashcroft said the next step would be for OPEGA to hire a consultant to review whether or not there has been a successful two year improvement progress in these areas and, if not, what else is remaining to be done that should be a priority. It is OPEGA's intent to issue a request for proposal for the consultant in mid to late October and look to get somebody on board who would conclude their work and give a final report back the first part of next year.

Sen. Burns asked if that will get at the crux of what the GOC is trying to get at with their questions about the MIHMS and ACES or is that a separate issue. Director Ashcroft thought that was a separate issue.

Chair Johnson said it is a distinction between resolving integration issues of data and the analytics which are directly addressed in the review scope. He thinks the role of data administration in this organization is a longer term need for having a stronger process for project management so that does not create such problems in the future.

Director Ashcroft said she thought that might be encompassed within what needs to be happening here in State government for agencies to be able to use and analyze their data in the way that they would like to, whether that is within an agency or across the agencies.

Chair Johnson said in response to Sen. Burns' question, from what has been said so far, looking into resolving particular application issues would not be part of this scope. It is looking at whether the Department has a good structure and practice in place to avoid those sorts of issues in the future and to minimize the opportunity in the future for such problems. Director Ashcroft agreed.

Chair Johnson asked Committee members if they objected to OPEGA proceeding with an RFP for an IT consultant. Hearing none, and no motion required, OPEGA will issue an RFP.

UNFINISHED BUSINESS

Chair Johnson said to accommodate the schedule of some individuals at the meeting, agenda items were going to be taken out of order and asked if there was any objection to doing that. Hearing none, the Committee moved to **OPEGA's Report on Public Utilities Commission**.

- **OPEGA's Report on Public Utilities Commission**

  - **Further Consideration of Possible GOC Actions on Issues and Recommendations**

    Director Ashcroft summarized the Status of Government Oversight Committee Action on OPEGA's Report on Public Utilities Commission as of September 2014. (A copy of that Status document is attached to the Meeting Summary).

    Director Ashcroft believes the GOC is currently considering whether they want to initiate any further action with regard to the PUC beyond what the Commission itself has undertaken and is undertaking.

    Chair Johnson asked how the GOC would best understand whether they have been effective in addressing concerns raised originally. He said there had been concerns raised in the Public Hearing on OPEGA's PUC Report that were outside of the Report and that is why the Committee sent a letter to the EUT Committee asking for those matters to be considered. Director Ashcroft said OPEGA cannot say how effective any actions have actually been unless OPEGA goes in and does a subsequent follow-up review. What OPEGA does in follow-up for the GOC is to take a look at what actions the agency has taken, or said they are going to take, monitor whether or not they have taken those actions, confirm to the degree possible whether those actions occurred and, to the best of OPEGA's ability, assess whether it was an appropriate action for addressing the concern. OPEGA will continue to do that follow-up on their PUC Report. The question of whether the action they took made any difference is always something OPEGA does not know unless the GOC assigns OPEGA to do a more comprehensive follow-up review that would retrace some of the steps done in the original review to see if any improvement is seen. An example of that is the follow-up review being done of the Healthcare in the Correctional System.

    Chair Johnson brought up what was now occurring at the PUC regarding Commissioner recusal that the GOC had suggested and the legislation that has been passed into law. There is unchartered ground in that a couple of the PUC Commissioners have different opinions and a third recused so there is uncertainty of what the

determination of the Commission will be on a matter. He is not sure that anything in the legislation that was passed of having alternate Commissioners appointed addressed that area.

Rep. Boland said she understood the citizens are still concerned about the issue of Smart Meters. PUC says they can ensure that Smart Meters are safe, but then are also saying you do not have to pay for getting out of one if your doctor says they are not safe, and that leaves you wondering where the Commission as a whole seems to have settled on that issue.

Chair Johnson said the question is what the Commission's determination is when there is a disagreement amongst Commissioners and a third recuses themselves.

Chair Johnson recognized Thomas Welch, Chairman, Maine Public Utilities Commission.

Commissioner Welch said he wanted to give the PUC's update and also provide a lay person's opinion of what happened recently regarding Commissioner recusals and different opinions regarding a matter.

Commissioner Welch said the Office of the Public Advocate (OPA) has hired a person to assist in the PUC process and was hired within their existing budget as the Governor directed. So, even though the legislation the GOC introduced did get vetoed, the position still did get filled.

Commissioner Welch said the issue of situations where you do not have enough Commissioners to make a decision was from the Fryeburg Water case issue where all three Commissioners ultimately recused themselves. The Governor did formally appoint two former judges, Judge Atwood and Judge Rudman and they are now doing the case and moving forward.

With regard to the Smart Meter case, Commissioner Welch said he was recused and has not participated in the case at all so he only knows what he heard on deliberations. The Commissioners agreed, in so many words, that Smart Meters are safe. Where they disagreed was whether, as Rep. Boland indicated, with a doctor's certificate indicating a special sensitivity to RF you would be able to have a different kind of meter or have a meter removed at no charge. That was the area of difference between the two Commissioners. The full order, which will be the decision of the Commission, should be out within a couple of weeks and that may clarify that difference. Commissioner Welch said in a situation where you have two Commissioners and they don't agree on something, typically it often boils down to who has the burden. If a Utility were to come in and say we want permission to do "x" and only one Commissioner says you can do "x", it doesn't matter what the other one says, you would need two votes to go forward. He said in this case he believes there was some comment about where the burden might lie so he did not want to opine on which way it would come out if they split one/one. He fully expects the possibility of further litigations.

Rep. Boland noted the Governor appointed two stand-in Commissioners and asked if he would be appointing another. Commissioner Welch said the legislation calls for appointing enough to have a quorum and two is a quorum.

The Committee thanked Commissioner Welch for the information he provided.

Director Ashcroft said the agenda item was to make sure the GOC was done with their work sessions and with whatever action they might want to take on OPEGA's Report.

Rep. Boland said she wanted to comment on the additional review of the PUC that is currently on OPEGA's Work Plan. She had suggested to Director Ashcroft that the Planned Scope of that planned review be adjusted to focus in a more timely way on concerns about the PUC's lack of responsiveness to the Legislature is preparing the study required by LD 131. She noted it has been some time since that emergency legislation was passed and the Report that was submitted in January to EUT was not complete and therefore the PUC has

a subsequent study on-going to continue work on it. It still is not completed, and no updates or documents have been sent or received that she can see and that is concerning to her

Director Ashcroft explained that the additional review of the PUC that the GOC put on OPEGA's Work Plan in April stemmed from concerns that Rep. Boland had related to the PUC's release of a Report and a Study that had been required under a Resolve, LD 131. Rep. Boland talked with the Committee at length at a couple of GOC meetings about her concerns that the Report had not addressed what was directed in the Resolve. Rep. Boland's issues seemed to have a broader context. When the GOC discussed what the focus of a review might be to put on OPEGA's Work Plan, we ended up in a place that was taking a more systemic look at how the PUC takes in and uses information from others, and also independently derives its own assessments, as the scope of that review. Rep. Boland remains concerned, and has specific questions about the status of the work that was going on with regard to LD 131. That Report was released and did not include all of the information that seemed to be required by the Resolve. There is a follow-up study underway to address the missing details and pieces and Rep. Boland now has concerns about the status of that portion of the Report.

Rep. Boland said what was discussed was looking at the Smart Meter case and the study from the bill on electromagnetic pulse and solar storms as examples of whether the PUC is being independent enough in how it proceeds. Her interest is because of the urgency of getting the study done given the risk to the electric grid and there has been so much delay. She thinks that might be something that could be looked at to see if it indicates that the GOC needs to do more of a systemic study. One of the things Rep. Boland was concerned about is the delay factor. The GOC has the opportunity to possibly help impact the final resolution of the study. She said there has been a study group formed, but as she understands from a couple of national experts, the work has not been designed in such a way to actually answer the full questions of the legislation. Rep. Boland said information she provided the GOC in January depicts what the requirements were in the legislation that had not been met. She asked that the Committee ask OPEGA to follow-up to see what is anticipated and being looked at with regard to addressing the risk of man-made electromagnetic pulses, which are weapons used by terrorists and unfriendly nations. It is her understanding that this part of the legislatively-mandated study, is not being addressed. She has concerns it is not being addressed because of a culture issue because it has not been addressed at the federal level for years. There has been such frustration dealing with the Federal Energy Regulatory Commission and NERC that all this horsepower was brought to Maine to make sure that we do it and the question is are we getting it done in a timely way.

Rep. Boland said she was suggesting that perhaps asking some questions would help the GOC determine how much of a need there is, if there is one, to dive more deeply into the issue of whether the PUC is adequately independent of the influence of the utilities.

Chair Johnson said his concerns are that Rep. Boland's questions are delving into a follow-up study that is underway and it is not the GOC's area of jurisdiction. They are not questions about the participation and whether it's an appropriate process. Until the study is completed and examined by the committee of oversight he does not think it would be appropriate for the GOC to examine that. Asking specific questions about the substance of the Report and the follow-up study that is not yet completed would not be within the GOC's scope and would be as inappropriate as the Committee pursuing matters that other people are investigating and are careful in their initial work to avoid.

Rep. Boland said she was saying to take a look at whether the study is getting done and whether it is designed in such a way that it shows independence from what the preference is of the utilities, which is to not provide protections. She said one of the national experts, when referring to work that they had done with the PUC and a task group, said at the end of the meeting CMP showed their work plan and showed how they were self-declared subject matter experts that would be conducting the investigation. Chair Johnson questioned whether what she was seeking was really appropriate for what the GOC was currently considering related to OPEGA's PUC Report or whether it was more getting into the question that would be raised by the review now on OPEGA's Work Plan under "Planned" Reviews. He asked if Rep. Boland was making a request that the GOC move the Planned PUC Review to a current review and replace other work that OPEGA is now

doing. Rep. Boland said she was suggesting that there was enough urgency to ask for an update on that study because the question has been raised of whether or not the design is complete enough to address the concerns of the legislation.

Director Ashcroft thought Rep. Boland wanted a specific update on a particular study, what that study is covering and how it is getting done. She said the process they are using to do that study might well be something OPEGA would look at in the pending PUC Review on OPEGA's Work Plan, but it appears Rep. Boland's questions are more specific to what the current status of that effort is.

Rep. Boland said she just saw OPEGA's potential follow-up work on its PUC Report as an opportunity to get an update on the study to satisfy the GOC that it is going in the right direction and will be accomplished in a timely way. She also feels it would be a shame to let the study finish without seeing if it is doing what the legislation directed it to do since the subject matter it is supposed to address is of great urgency. She said the reason it is of concern is because a week ago a major solar storm again just missed us and because, in general, what has been seen is a reluctance on the part of the PUC and the utilities to move in the direction of addressing those risks.

Sen. Burns asked who was doing the study, who do they report back to and was their report due last January or this coming January. Rep. Boland said earlier this year the EUT Committee received and discussed the report from PUC that was due January of this year. At the close of that meeting with the EUT Committee earlier this year, as she recalls, the PUC did not commit to any specific time to report back to the EUT Committee on the remaining study. She thought Chairman Welch said he didn't know, maybe a year or so. There was not a commitment or a deadline to report back. The Chair of the EUT Committee accepted, without vote of any of the Committee members, the suggestion from Chairman Welch that they take more time to do the remaining study and there was no deadline given or vote of the Committee. LD 131 had also provided the EUT Committee the option of reporting out legislation based on the PUC's report, but members were not permitted to vote on that either so it just drifted along. Rep. Boland said what she is concerned about now is finishing the study that was due January so that the Legislature has all of the information it originally requested in the Resolve..

Chair Johnson said he was cognizant that it is a matter that has had discussion between the EUT Committee, which is the Committee of oversight, and the PUC. It is a report Rep. Boland is interested in seeing the PUC produce and there has been discussion with EUT regarding that. He understands she is frustrated that there was not a timeframe for that to be completed, but he also understood that is how it was left with the Committee of oversight. Rep. Boland said it was left that way, but the GOC also has in its possession information questioning if the design of that going forward is adequate to meet the needs of the legislation. She thinks it could be looked at as part of the question of whether the PUC and the utilities are too closely aligned because the utilities all along have not wanted to do that part of the work that was assigned to them by the Legislature, they are not wanting to do it at the federal level and delay has been part of the issue. The information she has received indicates that it is still not going on and she is concerned that continued delay in meeting the requirements promotes again a culture of autonomy at the PUC. She thinks there is a reluctance at the PUC to do the study the way the legislation asks that it be done and why is that? Is it because traditionally the utilities have not wanted to do this and still don't want to?

Rep. Cotta said he was sympathetic to the intent of LD 131 and pointed out that the EUT Committee is not meeting now and there will be some member changes come November. The GOC, on the other hand, has a schedule and meets regularly. He thinks the issue that Rep. Boland raised about the status of the study is well in line with what the GOC has done on another matter. The GOC would not be interacting, but requesting information regarding the status.

Sen. Katz said there is an LD that says that the PUC is to study this particular issue. He suggested asking Commissioner Welch to answer that question. He did not believe the GOC should be intervening at this point with the design of the study.

Chair Johnson invited Commissioner Welch to address the status of the study.

Commissioner Welch said the PUC expects to have a report to the EUT Committee early next session. The group working on the report includes EMPrimus, which is a group mentioned by Rep. Boland that is being very helpful in the study's design, representatives of the utilities, the Commission and vendors of products who say they can solve this problem. The status of the study is that they have completed the process of accessing exactly what to study because one of the issues is trying to figure out which facilities to study, what their probability of risks are and forming a framework for the examination. The design of the study has been a collaborative effort among that group and noted that none of the participants in the study have complained to him about the inadequacy of the process. He fully expects the study to be released in draft for public comment well before the end of this year and a final report, which he hopes will contain some recommendations and some description of what action items will be taken, very early next year.

Commissioner Welch said that some of Rep. Boland's questions imply answers that he finds offensive and said the PUC was working as quickly as they can to address difficult and complex issues. Rep. Boland said EMPrimus only works on the GMD aspect of it and the concern she had is if the task force was addressing the EMT piece. Commissioner Welch said they were and that during the middle of the process he had a personal concern that was not being given sufficient attention and he made sure that got into the study.

Chair Johnson hopes that when the task force's report is out that it gets addressed appropriately by the EUT Committee of whether it meets the expectation of the legislation as that is the appropriate venue.

- **Report Back on Information Requested by GOC at August 20, 2014 Regarding Request for an OPEGA Review of Certain Matters at Riverview Psychiatric Center**

Director Ashcroft said at the August GOC meeting OPEGA presented to the GOC a request for a review of certain matters at Riverview Psychiatric Center (RPC) that OPEGA had processed. At that time the GOC asked OPEGA to try to access whether the variety of issues that had been raised in the request for a review were being covered by other efforts that were underway with regard to RPC so if the GOC was going to task OPEGA to do a review that they would be within a scope that did not duplicate efforts with some other entity.

Director Ashcroft said OPEGA has now met with the Commissioner of DHHS, the Superintendent of RPC and the Deputy Commissioner who has oversight of RPC at DHHS. OPEGA also met with the Court Master to discuss his upcoming inspection and to share with him what OPEGA had collected for information. OPEGA has reviewed the quarterly reports that RPC publishes publicly and which go to the various oversight agencies. In particular, becoming aware of the performance measures, or statistics, in those reports that the oversight agencies, and the Commissioner herself, use as indicators of how things are going at RPC, i.e. seclusion and restraint rates.

Director Ashcroft thinks there are areas where OPEGA could look at systemic processes without duplicating any of the efforts that they are currently aware of. The possible areas are:

- The adequacy of the reporting avenues for RPC staff and response to reports of incidents, events and concerns. OPEGA has identified as many as five different avenues that employees have where they are required to report, or have available for reporting. The question is how do those avenues work, and what happens when a report is made. What is the response and is it timely and effective? OPEGA would look whether the reporting avenues function to a level that ensures that serious concerns at RPC are getting appropriately addressed.

- The reliability of the data and the performance metrics that are being reported publicly on RPC. It became clear in OPEGA's conversation with both the Commissioner and Court Master that they look to those

statistics to help them assess whether RPC is operating as intended or not.

- RPC's adherence to Rules, Policies, Procedures and Professional Standards that affect client treatment and the working environment for the staff. OPEGA thinks the Court Master's effort and some of the things CMS is following, and may take an additional look at, would cover some of that ground, but she won't be able to tell until OPEGA understood the scope and results of their work whether it would cover all of the various issues. There is potential that if OPEGA tried to look at adherence to Rules, Policies, Procedures and Standards, they would be duplicating some efforts.

- The specific allegations of violations of rules, procedures, and patient treatment protocols that OPEGA has collected already. She noted that some entities are looking into some of those allegations. Consequently, if OPEGA tried to determine the validity and credibility of those specifics, it may also be duplicating work that some other entities are doing. OPEGA did pass information on to the Unit in the Attorney General's Office that investigates healthcare crimes because a number of the issues potentially fall within their purview. She understands they are assessing what OPEGA shared and what the requestors of this review shared with them in terms of whether there is anything criminal that they should be proceeding with. They are also in contact with the Division of Licensing and Regulatory Services that is within DDHS.

Sen. Craven said because of all the outreach by RPC staff she thinks it takes all eyes to make sure that all of the areas of concern would get looked at and said that the information OPEGA has provided was helpful.

Rep. Cotta said the GOC/OPEGA needs to be careful not to get into the duplication and become a hindrance to the ongoing process and thinks OPEGA has outlined the areas the GOC may want to focus on in order to avoid that duplication of work.

Sen. Katz agrees with a limited scope of the review because at a certain point you also start putting great demands on Hospital staff responding to a number of different inquiries at the same time. He thinks OPEGA has carved out an appropriate role for the GOC. He thinks the GOC should move forward because there are credible reports of patient abuse, about failures to report things up the chain of command when things happen, the rate of seclusion of patients being much higher than the national average, questions about appropriate personnel training, a culture that discourages complaining by the staff, and as Director Ashcroft was noting, the reliability of the data. He thinks what they are hearing from Commissioner Mayhew is how seriously she takes this and how she wants to make sure that Riverview becomes an excellent psychiatric facility. He also thinks what they are hearing is that things were bad a year ago, but we have a new Superintendent, we have a new Director of Nursing and things are changing, but then on the other side you hear from people that say things are getting a little better, but not much, and there are still major problems. Sen. Katz thinks the GOC has a role in trying to sort that out.

Chair Johnson said he was convinced that you need to get to the root causes and has concern with the information that has come forward of whether patients are being treated properly at RPC. He thinks the GOC should look at the incident reporting process, data that is used for public performance measures and continue to assess the root causes of the problems and whether or not those are being addressed by the work of the other entities. OPEGA should coordinate and monitor what the results are from the work of those other entities.

Sen. Craven said some people forget how the cultures within institutions happen and grow and it is not a blame game for anybody except it happens and she is worried that a lot of the culture was carried over from AMHI and it grew even though there was a lot of cleaning house in the meantime.

Sen. Burns had several concerns. He noted Sen. Katz had talked about past and present employees talking to him and Sen. Burns does not know how past employees would know if there had been improvements in the system. That concerns him because if there is progress being made at RPC, and the progress is in the right area, and you don't have immediate concerns about patients or work jeopardy, that is important to get out to the public so the integrity of the institution is maintained. He said the GOC has to be careful that they don't

overload the management and staff at RPC so that things go backward because of the several entities that are making inquiries. It is important that information is shared between the entities so there will be no duplication of work.

Chair Kruger noted that what OPEGA can do that other policy committees can't do, and maybe some of the investigations won't do, is look, not only at how can we fix what has been wrong, but how do you do better going forward. He thinks that is where OPEGA is unique and he supports the GOC moving forward with the review request.

Sen. Katz agreed with Sen. Burns' comments and said it was his understanding with respect to patient abuse, and particularly one incident that occurred back in December, people have lost their jobs over that and appropriately so. He has no question that the Administration, and particularly Commissioner Mayhew, wants to get it right and is working hard to do that, but on the other hand he is more concerned with what he hears internally from the facility. It is important to find out how things get reported up the chain of command so, for instance, the Commissioner is fully informed about what is going on at RPC, which he is not sure she has always been, and thinks that is an appropriate role for the GOC to play.

Chair Johnson said he feels confident of the scope Director Ashcroft defined and it is very important that the GOC not allow a problem, which would appear to still exist, regarding abuse of patients to go on unaddressed.

Director Ashcroft said the GOC was in the position of taking a vote on what to do with the request for a review of RPC and have talked about the potential scope of it. She understands the Committee is in agreement that OPEGA would focus on the areas they know they will not be duplicating effort and that, in addition, as part of their initial phase of the review, they would continue to monitor and gather information about the results of the other efforts so as to suggest to the GOC when they get to the end of the preliminary work phase whether there are other areas that OPEGA thinks should be explored toward root causes or whatever else might present itself.

Motion: That the Government Oversight Committee authorizes OPEGA to proceed with a review of the Riverview Psychiatric Center and that it be added to OPEGA's Work Plan. (Motion by Sen. Craven, second by Sen. Katz).

Discussion: Sen. Youngblood said he was in favor of the Motion and that it is critical that the State of Maine have an accredited psychiatric hospital, but just as important it has to be an operation that is acceptable by the citizens of the State of Maine that redevelops some faith at RPC. Sen. Youngblood did not think there was any question that the GOC ought to be doing the review and it should be high on the priority list.

Vote: The above motion passed by unanimous vote 10-0.

Director Ashcroft proposed that the GOC delay, or put in suspended status, the current review underway on DHHS Culture. She said OPEGA was nearing the end of their preliminary research phase on the review where they would typically be coming back to the Committee with a recommendation on whether or not to proceed and, if so, what should be looked at. OPEGA will try to tie up the rest of that phase of the review, but it is at a place where it could be set aside and then come back to it.

Motion: That the Government Oversight Committee moves the DHHS Culture review to suspended status on OPEGA's Work Plan. (Motion by Chair Kruger).

Discussion: Chair Johnson asked if the GOC could combine the two actions on the review and say they want to place the Riverview Psychiatric Center review in active status and move DHHS Culture review to suspended status. Chair Kruger agreed to the amendment to his Motion.

Amended Motion: That the Government Oversight Committee moves the DHHS Culture review to suspended status on OPEGA's Work Plan to add the Riverview Psychiatric Center review into active status. (Motion by Chair Kruger, second by Rep. Davis, passed 9-1. Rep. Cotta voting against the Motion).

Rep. Cotta said he voted against the Motion because he had reservation that the level of activity, although he has the utmost confidence in Director Ashcroft that the involvement level and integrity she brings to the table is not going to interfere with other agencies and their investigation, but on the other hand how far is the GOC/OPEGA getting into the matter, other than observers, because it clearly could be construed to be an indictment of the Commissioner of not reacting appropriately when misconduct was brought forward and is why he voted against it. He did not want to participate in something that looks like it is going to be critical of the ongoing process and may become an impediment to their actions. He said it is not a reflection on the GOC at all.

Sen. Burns agreed with Rep. Cotta although he did vote in favor of the Motion. He asked if there was a process in place where patients, family and staff can go to complain. An independent source in case there is something ongoing that is inappropriate. Director Ashcroft said she thinks that is the concern. There are a number of avenues that are available to people to pursue, but the question is how effective are any of those avenues.

Director Ashcroft said OPEGA staff could draft the scope questions for the RPC review and bring them back for the Committee's consideration after the lunch break.

RECESS

The Government Oversight Committee recessed at 11:30 a.m. on the motion of Chair Johnson.

RECONVENED

Chair Johnson reconvened the meeting at 12:17 p.m.

Director Ashcroft said the proposed OPEGA Scope questions for review of Riverview Psychiatric Center are:

1. To what extent are reporting avenues (staff and patients) effective in ensuring timely and appropriate responses to incidents and concerns affecting patient treatment and the working environment?

2. To what extent are reports of incidents and professional concerns addressed appropriately by responsible parties?

3. To what extent are data and performance metrics reported by RPC to oversight entities accurate and reliable?

4. Are there other areas of concern OPEGA should review that are unaddressed by, or further identified, as a result of work by oversight and regulatory bodies currently in progress?

Chair Johnson thought the questions reflected the GOC's earlier discussion.

Rep. Cotta agreed.

Sen. Youngblood asked for reconsideration of a previous vote.

Motion: That the Government Oversight Committee reconsider its vote taken earlier in the meeting directing OPEGA to give the Riverview Psychiatric Center project priority and suspending the DHHS Culture review that is currently in progress. (Motion by Sen. Youngblood, second by Sen. Craven).

Sen. Katz asked for the reason of Sen. Youngblood's motion to reconsider. Sen. Youngblood said a member of the GOC would like to reconsider his vote.

Rep. Cotta said he addressed his concerns earlier regarding OPEGA's review of RPC so they are on record, but following conversations with members of the GOC he would like to reconsider his vote and thanked Sen. Youngblood.

Vote: Passed, unanimous vote 10-0.

Motion: That the Government Oversight Committee moves to proceed with the review of Riverview Psychiatric Center as previously discussed and suspend the DHHS Culture review. (Motion by Chair Kruger, second by Rep. Davis, passed unanimous vote 10-0).

The Committee moved back to the proposed scope questions for the review of RPC outlined by Director Ashcroft.

Sen. Burns asked if questions 1, 2, and 3 related to current conditions at RPC as opposed to historical conditions. Director Ashcroft said OPEGA would be looking for improvements going forward, but thinks to assess whether avenues are effective OPEGA would have to be looking at things that have been reported, or have not been reported, in the past. If reported, was it effective and if not, has anything changed that would radically improve the situation. OPEGA would have to look at past events in order to make conclusions about whether they have been effective.

Sen. Burns asked if that included going back to previous administrations at RPC. Director Ashcroft said yes it would.

Director Ashcroft said in regard to question 3, she thought it would include the last two fiscal years because they would be looking at reporting data that has been included in quarterly reports and the most current quarterly report goes back that far. The intent is to look at what currently exists, but she cannot promise that OPEGA will not have to look at past incidents to get a feel of what the situation is.

Sen. Burns referred to question 4 and asked if "other areas of concern" was something the GOC normally put in the scope of OPEGA's focus. Director Ashcroft said normally OPEGA would embark on a review and the first phase is called preliminary research. As part of that OPEGA would be ferreting out what all the areas are that they would suggest to the GOC should be reviewed. She said OPEGA was trying to circumvent that a little on this review because of the amount of work OPEGA staff has already done. Also bring in the piece that the Committee talked about earlier as to, for example, if it turns out the Court Master has identified additional problems that they did not get to a root cause on that OPEGA thinks should also be looked at, they would be coming back to the GOC. Director Ashcroft said they included the question to make it clear that it is part of the work the Committee wanted OPEGA to do.

Sen. Burns asked if OPEGA found unaddressed areas would they report back to the GOC to see if they wanted them to go further. Director Ashcroft said that was correct.

Motion: That the Government Oversight Committee approves the Proposed OPEGA Scope Questions for Review of Riverview Psychiatric Center. (Motion by Rep. Kruger, second by Sen. Craven, passed unanimous vote 10-0).

- **OPEGA's Report on Healthy Maine Partnerships' FY13 Contracts and Funding**

  - **Further Consideration of Possible GOC Actions on Issues and Recommendations**

    Director Ashcroft reminded the Committee that the two issues they were still discussing were:

- the lack of statewide expectation and guidance for situations where agencies are making selection and funding decisions among competing entities and the potential lack of clear process; and

- effective codes of ethics or conduct for State employees to set ethical expectations.

Director Ashcroft referred to the first issue and said OPEGA has been looking through what already exists for guidance from the DAFS' Purchasing Division with regard to procurement. OPEGA thinks there is adequate guidance there to deal with these kinds of situations with some tweaks to clarify that they apply in "X, Y, Z" situations. OPEGA is currently reviewing the language tweaks that might need to be done with the intent of returning to the Purchasing Division to review with them and ensure what OPEGA might be suggesting would not have any unintended consequences. If that looks like a good approach, then OPEGA will come back to the GOC at their next meeting with the suggested language changes. This is still in progress.

She said the GOC had questions regarding ethics at their last meeting and there was interest in trying to strengthen the State's ethic framework for employees. Director Ashcroft thought the most direct approach for the GOC would be to initiate legislation that would require the Commissioner of DAFS, or some such authority, to implement the recommendations from the 2009 Ethic's Commission Report. She mentioned the DAFS' Commissioner because the recommendations in that Report clearly bring the Human Resources Department into the picture and specifically mentions the DAFS' Commissioner. The HR Department does have resources that are familiar with ethics programs.

Director Ashcroft said one of her suggestions would be for the GOC to introduce legislation that would direct the DAFS' Commissioner to implement the recommendations in the Ethic's Commission Report. She noted that the 2009 Report was done at the request of the Legislature by the current Commission on Governmental Ethics and the recommendations are for the Legislature to continue advancing the matter. She thinks there was never any legislative action on the 2009 Report which addressed training, the need to bring together, at a minimum, all the various documents departments have that express ethics into one centralized code, and requires information on ethics to be easily available to employees by links on the Human Resources' website to address ethics. Director Ashcroft said it touches to a good degree on the issues the GOC has been discussing without dictating what actually has to be in the code. It leaves the implementation and design up to the Executive Branch. Additional language might be added that says while they are implementing codes of ethics, they should also have adequate avenues to communicate and train employees, for getting guidance and adequate reporting avenues for employees to use if they feel they are faced with potential ethical violations.

Director Ashcroft said her second suggestion would be a similar option. It is to ask the DAFS' Commissioner, or the Executive Branch, to propose a plan for implementing this.

Director Ashcroft said the GOC is at the point of deciding whether they should be taking steps to be doing something more with ethics in State government. This not only addresses what was heard in the HMP situation, it was also suggested in OPEGA's PUC Report. She said the Ethics Commission has already done the work to show what State government currently has and what needs improvement.

Chair Johnson was inclined to move forward with the Resolve because the GOC would be saying that it is time for the recommendations in the 2009 Ethic's Commission Report to be acted upon, but leaves how to implement them to DAFS.

Sen. Craven agreed and said although there is a lot of conversation about misconduct there isn't much that you can do about it when it occurs and it is important that there are clearer lines drawn so people are held accountable.

Rep. Cotta wanted to ensure that conflict of interest and personal gain be included. Recusal may already be included in the information provided, but if not, he wanted to make sure it was. Director Ashcroft said that is part of why they made the recommendation to centralize things because there are statutes that address those

points, but the pieces are in various places and the average employee does not have a one stop place to go to see what the ethical guidance is. Chair Johnson agreed.

Rep. Boland said the GOC has discussed recusals in conjunction with OPEGA's PUC Report and she would like to see that requirement extended to the Legislature, particularly when it involves leadership positions (i.e. Committee chairs) where there is an obvious potential conflict due to past or ongoing associations that could lead to a concern about the impact of that on how things would be directed.

Sen. Craven gave the example of her working in the health field as that is where her interest is, and where she feels she has skills and can contribute in the Legislature. She thinks many legislators would be in a similar situation and it would be problematic if that was considered a conflict of interest when they were voting for any item that they have an affiliation with. She did not agree with Rep. Boland and said legislators have ethical standards that they have to adhere to. Sen. Craven said if it was for personal gain that is also covered in the statute.

Rep. Cotta referred to the Joint Rules and said a legislator has to vote if they are in the chamber unless you recuse yourself and that may be a good template to consider because the Legislature has already addressed that. You would ask your Committee Chairs to abide by the same thing.

Director Ashcroft noted that there was discussion at the GOC's prior meeting regarding whether they were trying to do something for just the Executive Branch or all Branches. She thought the Executive Branch piece could be dealt with right away, the Legislature is in transition in the Executive Director's position and it would be that position working with the Legislative Council to decide if they wanted to participate. It seemed to be getting complex quickly when thinking about trying to do something that would encompass all Branches at this time. The scope of the Ethic's Commission Report did not look at what was going on in other Branches other than the Executive.

Sen. Burns agreed with Director Ashcroft and Sen. Craven, but didn't understand how the Legislature can impose standards on other Branches of Government, but they can't impose them on the Legislature.

Chair Johnson thinks the GOC has struck a balance. As legislators they have a code of ethics, as does the Judicial Branch, but there is very limited communication of any codes of ethics in the Executive Branch. He said the Committee was not imposing a code of ethics on them, but directing them to develop their own and thinks that is a good place to strive for balance.

Rep. Boland said there is an issue within the Legislature that needs to be addressed. It is not just about voting. It is about leading and directing. The situation she is aware of related to a leadership position on a Committee and it did not get addressed. When she brought it to the attention of Leadership there was no disputing the strong conflict, but the response was "well what can I do?" She said that is something she thinks the public is feeling when they see certain activities going on. Rep. Boland said it was not just about voting or sharing your expertise but rather the role the Chairs of a Committee play in driving an issue or leading a discussion. She thinks it is disingenuous of the GOC suggesting ideas to other Branches of Government if the Legislature is not willing to impose them on themselves.

Director Ashcroft said she will draft the Resolve for the Committee's review at their next meeting.

Sen. Youngblood referred back to the RFP issue and asked if DHHS continues to have a lead HMP under the Healthy Maine Partnership Programs in the different geographic areas, and it is the responsibility of the lead to say how funding will be distributed to other entities in their district. Would the lead be required to decide that via an RFP as well. He did not know if that process would stay and expected that in the next legislative session there will be legislation pertaining to how HMP's will work. If that happens it will take care of itself, but if it stays the way it is, it would seem logical that an RFP would be needed for the leads to distribute funding to sub-grantees. Director Ashcroft said that was a good question that she did not know the answer to.

She would suspect it would be in how the State writes the contract that it ends up having with the lead HMP because the lead HMP is not a State agency so they would not fall within the State laws and rules around procurement. The State would somehow have to set the expectation that if the lead is going to contract with other entities that it be done by a competitive process. She could inquire to see if she is correct with the procurement folks but she is not sure it would go without saying that that should be competitively bid but would depend on what the funding stream is in the contract. Sen. Youngblood said there is a lot of debate going on with the secondary groups who are doing an outstanding job, but the leads are not giving them any funds. He said there is a lot of unrest of how the funds are being distributed once they get to the lead agency. Sen. Craven agreed and said there should be a fairer system for distributing the dollars.

Director Ashcroft said the next step is for OPEGA to draft language, double check to make sure they are not creating more problems and then come back to the GOC with the suggestions. The HMP contracts should have required an RFP because of the change in scope but somebody did not identify that because it was an amendment to an existing contract. Somewhere in the rules and statute that guide that process, including how amendments are handled, there are tweaks needed to make sure it is clear how to proceed in certain situations. Also perhaps to provide an exception, such as timing as HMP claimed, then what is expected for a transparent process absent an RFP.

- **Committee Vote on Acceptance of OPEGA Report**

Motion: That the Government Oversight Committee takes the tabled motion of accepting OPEGA's Healthy Maine Partnerships' FY13 Contracts and Funding Report off the Table. (Motion by Sen. Katz, second by Sen. Craven, passed unanimous vote 10-0).

Motion: That the Government Oversight Committee accepts OPEGA's Healthy Maine Partnerships' FY13 Contract and Funding Report. (Motion by Sen. Katz, second by Sen. Craven).

Discussion: Sen. Burns said he had a discussion with Director Ashcroft regarding the Report, but wanted to explain what his reservations were in fully accepting OPEGA's Report. He said it had to do with the Tribes he represents, the section of the Report that refers to the Wabanaki Public Health and the discussion at previous GOC meetings about the Tribes' HMP that they did not agree with. Sen. Burns referred specifically

to the Tribes' concerns. He said he has worked with the Tribes since the mid-seventies in various capacities and he now understands much better what some of their concerns are and empathizes with those concerns. He now represents the Tribes in the Senate and he wants to make sure that their concerns are well known and well documented, as well as his.

Sen. Burns referred to a statement in the letter received from Kristi Ricker, Program Director of Wabanaki Public Health. "It was stated in the OPEGA report that the Tribal district contract was handled differently. There should be clarification that it was handled differently because it is a contract between two governments, not between Maine DHHS and a community coalition, as in other cases." He said that is a significant point and thinks OPEGA made attempts to try to resolve that concern, but it was not resolved to the satisfaction of the Tribes.

Sen. Burns said in another letter from Director Ricker dated January 15, 2014 she writes "The report is written in such a way that it leaves the reader to believe that the Tribal Public Health District and the Office of Health Equity failed to provide you the information needed. I hope you would agree, we provided supporting documentation to contradict the report as it pertains to the tribes." Sen. Burns said she goes on to say "As tribal nations we continue to fight the stigma that we receive more than we deserve and that there is favoritism within the system." He said whether or not that is true or not, and he does not personally believe it is, that is the impression that this Nation has as a result of OPEGA's Report.

Sen. Burns said he empathizes with the Tribes' concerns which still have not been resolved. He is in a place where he would want to vote to support the Report with that exception and would like to have that exception on the record. He believes he can do that as a GOC member.

Sen. Katz asked what the GOC could do so that Sen. Burns' concerns were reflected in the action of the Committee. Director Ashcroft said it will be reflected in the Meeting Summary, which are all publicly assessable on the GOC/OPEGA website and documented. She thinks a similar situation might also happen on

OPEGA's MEIF Report and thought maybe the time had come to develop a document that is a companion to OPEGA's reports that summarizes the GOC's actions and thereby would be a place where Committee members could make sure they have their statements lodged if there are particular things to parse out about the Report. OPEGA has not done anything like that in the past and is something that could be entertained going forward. They could record the dates of the meetings that the GOC discusses a Report in work session, the vote, any commentary on the vote and what specific actions the Committee itself took in regard to the Report. That information could be posted to the website so it is clear what action the Committee took beyond OPEGA's Report.

Chair Johnson asked what the GOC needed to do to start implementing the Committee's summary of actions on OPEGA reports. He thinks it would be an excellent way of reflecting different concerns, as well as actual votes, but does not get into making changes in reports because of particular concerns when it is not factual still. Director Ashcroft will do a mockup of what it will look like for the Committee to review at its next meeting and they could talk about adopting it as a formal Committee process.

Sen. Katz agreed with the above process and said Sen. Burns ought to have the opportunity to have the matter handled after that process is developed and withdrew his motion to accept OPEGA's HMP Report and instead convert it to a motion to table.

Director Ashcroft thought she could accomplish both and would take the Committee members' actions at today's meeting regarding OPEGA's HMP Report and turn it into the document she described. Sen. Katz asked if that was going to be in the context of the HMP Report and she said yes. Because the GOC has taken a lot of action on this Report it would be a good one to use as an example.

Sen. Katz withdrew is Motion to Table.

Vote on Sen. Katz's Motion to Accept OPEGA's HMP Report passed unanimous vote 10-0.

- **Report on Maine Economic Improvement Fund**

  - **Committee Work Session**

Director Ashcroft said the GOC requested at their last meeting that the University provide the criteria they use when making decisions about which projects to fund. She referred the Committee to that information in their notebooks. She pointed out that in OPEGA's MEIF Report it is described how the University of Maine and USM use a large portion of their MEIF appropriation every year to support infrastructure and capacity so departments, labs and functions historically have gotten funding for staffing, equipment, etc. Then a portion of the money is used in what they call more project specific ways, and for some of those, there are competitive processes. The criteria received from the University of Maine were not all laid out in writing, and in talking with Dr. Kim, Director Ashcroft said she understands that some of the criteria apply to her decisions about infrastructure and capacity funding, as well as the more project specific things that they might use MEIF for.

Chair Johnson recognized Dr. Beal.

Dr. Beal introduced himself and said his position at the University of Maine at Machias is half time teaching and half time research. (A copy of Dr. Beal's testimony is attached to the Meeting Summary).

Dr. Beal said his comments are with malice toward none and what he would be addressing is the Machias perspective and not the administration of the Machias perspective, but the perspective of a researcher who has been doing applied marine resource since 1984. He said marine research is biased in Maine geographically caused by infrastructure and people. Most of the marine research is occurring in the southern and western part of the State. A lot of the research that could happen in the Downeast area does not. He said MEIF was

created in 1997 and is supposed to support applied research in seven target areas and the statute says is to go to the University of Maine System, its member institutions, employees and students.

Dr. Beal said MEIF was unknown to him, or any of his colleagues at UMM, prior to 2005. That is the time Chancellor Westphal wanted to reorganize the University of Maine System and make the Machias campus align with Presque Isle and Fort Kent and create the University of Northern Maine. Part of that was also looking at research within the University of Maine System and it was at that time that he learned about MEIF. No one in the UMM administration ever discussed applied research in the targeted areas that was available to the University Maine System and its campuses. UMM asked for some MEIF to do applied research in marine science and aquaculture at the Machias campus and what they heard was that if the Legislature comes up with more funds perhaps the University of Maine at Machias could get in on some of the funds but at the time 80% goes to Orono and 20% goes to USM, that is the way it is and that is the way it is going to be unless the Legislature tells them otherwise. Dr. Beal said a year later Machias invited Chancellor Patenaude to Machias and the Downeast Institute for a tour of all the research being done, education and outreach and when he left his comment was if you really want to do research, well I don't understand why you are not doing it at Orono or USM.

Dr. Beal said in 2012 the System up the amount per proposal to $100,000 and brought in a team of scientists from the American Association for the Advancement of Science to review the proposals. He said he has no qualms about that process and thinks it is a fair process. The problem is it is only the small campuses that are being scrutinized by Triple AS. If I am a researcher on the Orono campus or USM getting the $11.6 million or $2.9 million respectively every year, there is no oversight by Triple AS of how those funds are being used. Dr. Beal said the word fairness sticks in his craw about the process. The RFP is similar to the one developed by the Maine Technology Institute and it takes weeks to put in a proposal for the Small Campus Initiative.

Rep. Cotta was involved in the Small Campus Initiative legislation and said for clarity the legislative intent of the 2.5% and 3% were minimums, not maximum objectives.

Sen. Burns said one thing he did not think Dr. Beal addressed, and the GOC has had a lot of discussion about, is the intent of the original Small Campus Initiative legislation. It was not unclear to him that his understanding from the original legislation was that it was to be, in one form or another, shared with the member institutions which he understood to be the satellite campuses as long as it fit into the seven criteria areas. He did not understand why there is such confusion over that, or why it never happened. The Legislature did not do due diligence to make sure that happened and nothing changed until 2005. He asked if that was Dr. Beal's understanding of the original legislation. Dr. Beal said he was not there in 1997 when the original legislation was done. He said when he reads the statute it says the University of Maine System and for him the system is Orono, USM, Fort Kent, Presque Isle, Farmington, Augusta, Machias and Lewiston. It is not only the University of Maine System, but it also includes its member institutions, faculty, staff and students. Rep. Tilton wanted to really bring research dollars to Machias because Machias had a history of applied marine research but she didn't want anything passed in the Legislature that was not fair to the other small campuses so they were included.

Sen. Katz said what he has heard as the GOC has gone through the process is that everyone recognizes the economic impact in Machias in doing more research and thinks there is a desire by the Legislature to have different areas of the State, particularly ones which are hurting doing research. He has also heard that there is a critical mass of infrastructure you need in order to effectively do more research in terms of buildings, faculty and graduate students and that is the reason that most of the MEIF has or should gravity toward a smaller number of places rather than spreading it out. He asked Dr. Beal to comment on that. Dr. Beal said if it comes across that he is saying that a ton of MEIF should go to Machias, that is not the case he is trying to make. He said most of the money should go to Orono. Dr. Beal noted that Sen. Katz said basic research and if you look at the MEIF statute it defines research as applied research. He had a conversation with Vice-President of Research at Orono before Dr. Kim came on who had been administering MEIF for over a decade and he was unaware that the statute for MEIF specifically stated applied research. If any funds went to infrastructure for basic research that was not within the statute. Dr. Beal said the work he does is applied.

Applied research is something that leads directly to jobs and there is not indirect and roundabout nature when you design.

The GOC thanked Dr. Beal for attending the meeting and providing information to them.

Chair Johnson recognized President Foster and Chancellor Page.

Chancellor Page provided the GOC with specific responses and information to the questions asked by the Committee members at the last meeting. (A copy of Chancellor Page's testimony is attached to the Meeting Summary).

President Foster was at the meeting as the President of a small campus. (A copy of President Foster's testimony is attached to the Meeting Summary).

The GOC members' questions and comments follow.

Sen. Youngblood said a lot of people are familiar with turnover at the Chancellor's Office, and in the past year, turnover in the President's Office. We're all pretty much aware of the political environment within the University of Maine System that probably rivals the political environment of where we are today. He asked how would you put something in place, short of legislation coming from Augusta, that says this is how this is going to work and have it be sustainable and carry on whenever the existing tenures are done. Chancellor Page thought that was one of the key questions to ask in this situation because you heard a history that pointed policy in one direction and myself and others speaking now who are pointing policy in a different direction. He thinks it is the right time to make the changes being made within the University of Maine System and he would be much more in favor of a distribution internally, not as directed by the Legislature, of a distribution of research funds that prioritize. He said for example, in the coming five years, or coming whatever period as defined, we must have certain research done, certain questions answered, certain

economies advance in the area of marine sciences. And then have a structure in place that is included in policies in the way they design the Universities. If marine science is the priority, then the relevant researchers and administrators should get together, given the questions and given the assets of where would the questions be best answered and find out what the bureaucratic hurdles are for eliminating those hurdles so we can make sure that the funds go directly to the researchers who are going to answer those questions best whether it is a team effort for Machias and Portland or the Darling Center because of a particular nature of research, that's where it should go. He said they are missing an opportunity in not leveraging the great strengths they have across their institutions, regardless of where they are geographically located, so need the trustees and the presidents and all their groups working to figure out what is the best way to reach the kinds of outcomes he described. In some instances legislative endorsement will be needed for those changes so when they are one everything doesn't fall back to 2005.

President Foster agreed with the Chancellor and said she hoped that the University did not have to come back to the Legislature for a directive every time they needed to make a change.

Sen. Burns referred to President Foster's earlier remark about green crabs and said he knew it was a joke, which he liked, but was going to elaborate on it because it was a good case in point and a good teaching moment. Green crabs are something the State of Maine needs to know about and if you live on the coast, if you make your living in the marine industry, if you enjoy the benefits of this billion dollar industry that the State of Maine is able to have, everybody needs to know about green crabs because he has been told by the scientists who know, not just Dr. Beal, that it is devastating to Maine's shell fish industry and it may very well get the best of us if we don't get on top of it. President Foster apologized for a joke that didn't go over well.

Sen. Burns said he appreciated the President and Chancellor's comments about the interest in having a deepening investment in applied research because it is extremely important to him and many others because some counties are dying on the vine and they need that investment. He said it is an extremely important

mission of the University of Maine System whether its forestry, marine research or many other areas, they need to develop things that are going to improve the economy in some parts of the State.

Sen. Burns said Dr. Beal talked about fairness and noted that he had raised that issue over and over again. He thinks the University is at a juncture where there is an opportunity to make some changes that are going to enhance, what he thinks was the original intent of the small campus initiative, through collaborative efforts, by utilizing the very best no matter where it is in the State. Sen. Burns thinks Dr. Beal's venue and his expertise is one venue to be pursued. He found it hard to believe that out of the $14.7 million MEIF being received on a regular basis that some projects must have a shelf life and that those funds being received should be made available for somebody else to apply for, and that should include the small campuses.

Sen. Burns' other point was that he didn't understand why out of the three different places the MEIF went to why there is a set of criteria for the smallest piece of the pie, the $100,000, and a different set of criteria for the large piece of the pie. As alluded to by President Foster that the criteria should be looked at and to make sure that everybody is being scrutinized to the same extent. If it's appropriate for that small piece of the pie to be scrutinized by a team of scientists that are aloof, or separated from the University System, maybe it's appropriate for everybody in the System to go under that scrutiny, or maybe it can all be done in-house and done on a fair basis. He said fairness was a word he kept coming back to. Many University staff was not even aware, up until just recently, that there was a pot of money dedicated to this purpose, or if they did know, they kept the secret to themselves because it wasn't promoted on their campuses. He said that is all in the past, but where they go from here is extremely important to him and the rest of the State. Chancellor Page said that for the last two years that President Foster, he and their fellow Presidents have been in their position every campus has dedicated an initiative to solicit proposals from within their campus to bring forward to the administration and although he could not guarantee that every last faculty member knows every detail, but certainly this is the process that is alive on every campus.

The Chancellor hoped he didn't give the impression that the expenditures that go to any campus are expended exclusively on that campus. Jake Ward, Carol Kim, or others can explain the process more clearly, but said for example in Orono, who administers the funds received, may be the primary investigators but will engage with researchers from any number of other institutions, and sometimes other companies like Bigelow or others. So those expenditures may be administered at the place where the critical research happens, but it does not mean that every last dollar is expended within that organization and at that faculty.

Rep. Cotta said he has been involved with the small campus initiative since day one. He said in 2006 in a statement to the Governor the decision was made on an 80/20 split and was something that came out of the University of Maine Orono. He asked by what authority and by whom that decision was made because it is being touted now as a fact and the way it should go forever. Mr. Ward said it was during the formation of the whole MEIF initiative. In 1996, 1997, then Chancellor Terry MacTaggart, worked with Leadership and it was determined that having it fundamentally focused on the research institutions, namely USM and Orono, that ratio made sense. And that was it. The very first MEIF investment was split 80/20. The first $500,000 or $400,000 went to the University of Maine and $100,000 went to USM.

Rep. Cotta pointed out that the first time the 80/20 was actually in print was in the 2006 Report as a blanket statement. It did not exist in 05, 04 or 03. The program was eight years down the road and all of a sudden it becomes a table and a statement of fact to the Governor's Office that the University of Maine was going to distribute those funds on that ratio.

Rep. Cotta said grants are not usually short term and most of those targets are five year programs. You're looking for five year money which means that of 14.8, if you were to pull down 1.1 of it, it would be distributed either 1.1 over the five years or 1.1 per year and is irrelevant. But the point is you would try to provide some stability in the research arena so it wouldn't just go away.

Rep. Cotta agreed with Sen. Burns that perhaps somebody else ought to be involved because this is being accepted as status quo. He asked if the Chancellor envisioned any entity that could probably stand in as a neutral arbitrator that would have the technical expertise to oversee these funds rather than continuing by habit, not by merit. Chancellor Page said there was but would be a very inefficient use of most of their resources and would argue that point another day when they had more time.

Chancellor Page did not believe that real progress would be made by dictating it would be 80% here or 77% here, or 4% here because it restricts their opportunity to allocate researches to where they're going to be most effective in terms of basic research and certainly applied research. Their system needs to be set up so there is a functional response so if the majority of the work was done in Orono because of the laboratories, administrative infrastructure, etc., but if wanted to could bring in outside resources at Machias or Fort Kent to be able to go beyond arbitrary numbers and reach out to those resources and involve them in that project to be able to get the right answers. He said rather than focusing on percentage distributions, which is an artifact when thinking of the campuses as independent, competitive silos that they can't afford any longer, and start thinking of how to allocate resources on which assets, no matter where they're located, are going to get the job done, we'll have a better answer for you.

Rep. Cotta noted that they heard in discussions that Orono would have a physical facility and were building out. He said that probably precedes the Chancellor's tenure there, but he thought that sounds like causing or predicting the result being we have the facility because we spent the money, so it has to be here. It was said to Dr. Beal - well you can come up here and you can do it in Orono. Rep. Cotta said that one statement was unsettling to him. He asked if the University looked at parallel development and rather than squandering resources, collaborates on projects because there would be better results. He asked if the Chancellor had any feel for how the traffic was on that road, which way was it going.

Chancellor Page said it happens a great deal all the time, including work with Dr. Beal's research. He said earlier Dr. Beal was talking to him about the great meetings he was having with his marine science colleagues

at Orono in March and how they are working on projects even now. But there are bureaucratic hurdles to that and my job is to identify those hurdles and eliminate them. That is exactly the sort of thing, not only do we want to encourage, but we need to put systems in place by which that's the first way we think of how we resource our projects and our research projects. We don't think of them as well my campus is going to get this and therefore your campus is not going to get that. It's which of our assets, no matter where they are located, working together. Mr. Ward noted that there were other examples in the Task Force's Report.

Rep. Cotta noted that salaries were $4.7, and benefits $3.5 which totals close to $8 million. The total MEIF is $17.4 so salary and benefits were fifty percent. Faculty salaries and benefits indicated to him a stable full-time employee, a member of the staff dependent on the MEIF for their salary and benefits. Chancellor Page said a lot of researchers are on what is called soft money. Their position within the University depends upon their being successful in securing grants. Dr. Beal, for example, is 50/50. He did not know the exact contractual details, but said typically if you're not in the educational mission, you're expected to pay for that part out of grants and research. So that may not be the same person year-after-year, but that level of expenditures in those areas is probably constant, or relatively constant.

Rep. Boland asked if during the decision-making process regarding the distributions of MEIF the small schools, obviously having less weight, felt their opinions were being weighed adequately and were not being left behind. Chancellor Page said that was one of the reasons they decided to go to an outside evaluating process. He also noted that if the funds, for whatever reason, are not allocated in one year they do not go to Orono or Southern Maine, they roll over to small campus opportunities for the next year. He hoped that helped comfort the people at the small campuses that they are being heard and being treated fairly within the process.

President Foster did not think there was a sense that Farmington wasn't treated fairly when it didn't win last year, but rather that the quality of the proposal wasn't where it needed to be to be a successful grant.

Chancellor Page said Triple AS doesn't just give a point structure back on the grant proposals submitted they also critique a proposal so if submitted next time you know what is needed in order to be successful and how you develop a research program. Those are resources and assets that are typically not available at the small campuses. The Chancellor said in the second round there were a number of people who came back, developed and put their application in for a second round based on those kinds of feedback and developments.

President Foster noted that she just heard about a $2.9 million grant Farmington will be getting from the Department of Education. It's the GEAR UP grant for the State of Maine. MEIF has a very particular set of categories and they don't happen to play to the strength of Farmington so the fact that we're not as successful at the MEIF grants doesn't mean that we don't have researchers who are equally capable and know how to write a grant and know the RFP process, etc. She said in this instance, she was speaking just for Farmington. One of the reasons we are not in that game quite so much is because the areas simply don't happen to be the ones that play to strengths that Farmington has right now. She said she did not want to leave the impression that the small campuses don't have researchers who are well qualified and capable of doing high level research, applied or basic.

Sen. Katz followed up on the comment by Chancellor Page that he thinks the percentage system they now are in should probably be done away with and is looking at a new system and gave an example of marine research and dividing the research up according to the campus that could get the best results. Machias might be best for this, Darling might be best for that part, UMO might be best for this part. He said although that makes incredible sense how do you do that and at the same time ensure that the smaller campuses like Machias are going to get handled fairly when you're not there anymore. He asked how the Chancellor, in his plan, builds in the guaranteed fairness of Washington County, for instance, is always going to be able to participate so we won't be back in fifteen years with the same problem that Machias, Augusta and Farmington aren't being treated fairly.

Chancellor Page said if they don't solve some of the more basic structural problems you don't have to worry about fifteen years from now. He said the challenge is the cultural change part of it and are much more difficult to put into place. The Chancellor agreed with Sen. Burns' earlier remarks that we have an asset whose core mission is to serve directly in, using applied language, the people in our various regions. And therefore if in the long term it makes the best sense in the marine science environment to have a cold water facility at Machias then that needs to be part of the decision process of how they resource the University of Maine System to support the marine sciences' industry independently. Culturally they need to get beyond thinking of it as my little kingdom, and start thinking of how to identify and deploy the resources to serve the people of Maine. Many of the initiatives in play, including the $10 million research tied to applied and direct Maine industries and how to organize those. Vice President Kim, Mr. Ward, himself and others are putting that together with the faculty, including Professor Beal. Chancellor Page said these questions are actively being addressed. We'll have real data on how this is going to work and how we learn from that and move forward within six to eight months.

The members of the GOC thanked the President and Chancellor for attending the meeting and answering their questions. Chair Johnson asked if they had copies of their testimony. Chancellor Page said they would format the testimony and forward it to Director Ashcroft.

Sen. Johnson reminded Committee members that OPEGA's Report was actually on whether the current practices are meeting statutory requirements and recommendations for improving the reporting and measuring to ensure that is the case. He said the current status is a tabling motion to accept the OPEGA Report on the Maine Economic Improvement Fund.

- **Committee Vote on Acceptance of OPEGA Report**

Sen. Burns wanted the opportunity for future discussions on MEIF whether or not OPEGA's Report was approved.

Sen. Johnson thought what was suggested in the Report was not a problem with meeting statutory requirements, but some suggestions for improving the accounting and reporting documentation practices. They have been hearing lots of things about ideas about how to improve this or that and thinks they warrant a legislative solution at some point, but not for the failure to adhere to as this Report was looking into the current statutory requirements. It wasn't a broader question about what is the best way to structure this, or something of that nature, that lead him to believe they should be proposing that change. He believes individual legislators may want to take what has been learned in this process and suggest changes they feel have merit in the next Legislature. Chair Johnson did not see where that fit in the scope of their line of inquiry.

Sen. Katz wanted to clarify that the GOC was not ending the process by accepting the Report.. Director Ashcroft said that was correct. The GOC was free to schedule other work sessions to discuss whether they wanted to consider any further actions.

Rep. Cotta said the GOC was trying to rewrite OPEGA's Report. The Report is what it is.

Motion: That the Government Oversight Committee accepts OPEGA's Maine Economic Improvement Fund Report. (Motion by Rep. Cotta).

Sen. Johnson said just as a matter of procedure, The GOC needed to remove the current Tabling motion on acceptance of the Report. .

Motion: That the Government Oversight Committee take the Tabled Motion to accept OPEGA MEIF Report off the Table. (Motion by Rep. Cotta, second by Rep. Davis, passed unanimous vote, 10-0).

Motion: That the Government Oversight Committee accepts OPEGA's Maine Economic Improvement Fund Report. (Motion by Rep. Cotta, second by Rep. Davis, passed unanimous vote, 10-0).

REPORT FROM OPEGA DIRECTOR

- **Project Status**

  Not discussed.

- **Staffing**

  Not discussed.

NEXT GOC MEETING DATE

The next Government Oversight Committee meeting is scheduled for November 13, 2014 at 9:00 a.m.

ADJOURNMENT

The Government Oversight Committee was adjourned on the motion of Rep. Cotta at 2:58 p.m.

OPEGA's Report on
Public Utilities Commission
Status of Government Oversight Committee Actions
As of September 2014

OPEGA Presentation of Report to GOC: September 19, 2013
GOC Public Comment Period Held: October 28, 2013
GOC Work Sessions on Report: October 28, 2013 - December 12, 2013 – February 28, 2014
GOC Vote to Accept OPEGA Report: December 12, 2013
Other GOC Meetings Where PUC Report Was Discussed: January 24, 2014 - February 21, 2014 – April 11, 2014

OPEGA Recommendations

- Rec. 1 - PUC should explore ways to assist consumers appearing pro se in Commission proceedings.
- Rec. 2 - PUC should continue to improve the usability and accessibility of its on-line case file system.
- Rec. 3 - PUC should clarify how different types of information submitted in a case can be used in the Commission's decision-making.
- Rec. 4 - PUC should take steps to address the need for time extensions in ten-person complaints.
- Rec. 5 - PUC should establish a more structured approach for identifying and addressing issues potentially affecting multiple consumers.
- Rec. 6 - PUC should take additional steps to minimize risk of actual or perceived bias in its regulatory activities.

The report also includes suggestions that the Legislature:

a. consider revisions to PUC's statute to address both the risk and perception of bias. Suggested potential revisions include:
    - increasing the number of Commissioners;
    - requiring certain interests be represented on the Commission;
    - requiring Commissioners to have certain qualifications; and
    - creating independent advocates within the PUC to represent contrarian viewpoints.

b. reconsider the recommendations in the 2009 Ethics Commission report

Other GOC Concerns Stemming from Public Comment Period

Sworn Testimony - Exploring ways to increase accessibility for people who wish to provide sworn testimony at PUC proceedings by enabling remote swearing in either by telephone or video.

Evidence in Cases - Ensuring equitable consideration of evidence filed in PUC cases by clarifying early in cases what types and sources of information can be brought in as evidence and ensuring there is consistency in allowable evidence decisions from case to case.

Safe EMF Levels – Establishing a consistent, rational standard for PUC to use in determining what constitutes safe levels of Electromagnetic Field (EMF) exposure so as to protect people living and working near high voltage transmission lines.

Confidential Documents – Ensuring as much information as practicable is available to the public in cases where confidential documents are filed, perhaps by requiring the posting or distribution of brief descriptions of the contents of confidential documents to better inform the public.

Public Health – Ensuring clear expectations and appropriate duties are established in statutes governing the PUC and the Office of Public Advocate to guide these agencies in considering factors other than consumer cost, such as public health, in cases before the PUC.

Actions Taken by the PUC

Attached are PUC Responses to GOC questions and the status of PUC actions it committed to taking to address OPEGA's recommendations as of December 3, 2013. Since that time the PUC has also reported to OPEGA that it has adopted a policy on recusals as of January 2014 (see attached) and also completed two half-day ethics seminars presented by the Institute for Global Ethics from Camden on May 8, 2014. The sessions were attended by 100% of commission employees and the Commissioners. Both of those actions are in response to Recommendation 6 in OPEGA's report.

Actions Taken by GOC

GOC Solicited Input from Energy, Utilities and Technology Committee

On January 6, 2014, the GOC sent a letter to EUT requesting input on issues raised in the OPEGA report as well as other areas of concern raised during the Public Comment session. EUT responded with a letter on February 20, 2014 which the GOC reviewed at its February 21, 2014 meeting. Copies of the letters are attached.

GOC Introduced Legislation to Establish a Temporary Consumer Advisor Position in OPA

The EUT Committee felt that establishing a Consumer Advisor position in the Office of the Public Advocate would be an appropriate action to address Recommendation 1 in OPEGA's report and funding had been identified in OPA to use for a temporary position of this nature. EUT requested that the GOC introduce a bill to establish that position. OPEGA worked in conjunction with the OPLA Analyst for the EUT Committee to prepare draft legislation. The GOC reviewed that draft and authorized its introduction at its meeting on February 28, 2014. LD 1816 was ultimately passed by the Legislature in April 2014 but was vetoed by the Governor and the veto was sustained by the House. The bill is in legislative files as "dead".

GOC Voted to Put a New Project for a Related Review of the PUC on OPEGA's Work Plan
At the GOC meeting on January 24, 2014, Rep. Boland distributed a letter to the GOC expressing her concerns with a study report the PUC recently submitted to EUT as required by LD131. Rep. Boland did not believe the report fulfilled the requirements set by the Legislature in that Resolve and thereby the PUC did not comply with the Legislature's directive. She suggested that OPEGA should look into this as follow up work on the PUC report as an example of potential bias on the part of the PUC toward the utilities. Rep. Boland subsequently worked with OPEGA to refine the focus of her various concerns and, at its meeting on April 11, 2014, the GOC considered a formal request from Rep. Boland for further OPEGA review of the PUC. OPEGA suggested that the focus of the review would be to address the question as to what extent the PUC is independently assessing risks and costs associated with ensuring safe, reasonable and adequate electrical service. OPEGA noted that this would be a project unto itself and suggested that, in terms of process, the GOC should consider this request as it would a new request for an OPEGA review. After discussion, the GOC voted to put the new review on OPEGA's Work Plan. This review has not yet been initiated.

GOC is Considering Potential Action to Enhance Ethics Framework for State Agencies
As part of its deliberations on OPEGA's Report on Healthy Maine Partnerships FY13 Contracts and Funding, the GOC is currently considering potential actions toward strengthening the ethics framework for State agencies. This includes review and consideration of the recommendations made in the 2009 report from Maine's Commission on Governmental Ethics and Election Practices titled *Report on Ethics for Executive Branch Employees*. These deliberations are also relevant to Recommendation 6 in OPEGA's report on the PUC as OPEGA recommended that the Legislature might, at some point, reconsider the recommendations in that 2009 report.

Other Related Legislative Actions

The Legislature Established a Process for Appointment of Alternate Commissioners
The Legislature enacted LD1860 as PL 2013 Chapter 554 thus establishing a process for the appointment of alternate Commissioners in situations where the permanent Commission cannot maintain a quorum due to recusals. A copy of the Public Law is attached. This action partly addresses Recommendation 6 in OPEGA's report.

Status of PUC Action Items

1. Explore Ways to Assist Consumers Appearing Pro Se in Commission Proceedings.
   a. The Commission has revised the information on its website entitled "How to Participate at the Commission." This section was moved to a new location so it is more prominent (Attachment 1). This document provides a plain English description of how the Commission operates and how citizens can participate or obtain information about Commission proceedings (Attachment 2).
   b. "How to Participate at the Commission" will be distributed to citizen intervenors attending the first case conference in any case.
   c. Chairman Welch and the Public Advocate Timothy Schneider have discussed the creation of a position in the Office of the Public Advocate who would assist citizen intervenors through the PUC process.

2. PUC Should Continue to Improve the Visibility and Accessibility of Its Online Case File System
   a. The Commission has drafted new instructions to provide guidance, and therefore improve the content of the “Description” field and “Document Title” field.
   b. The Commission added information to its website to help guide users to search for documents and cases where they have limited information.
   c. On July 30, 2013, in conjunction with the Office of Information Technology (OIT), PUC conducted technical testing with select end-users of the system who were having difficulty accessing the system. A technical issue was identified and resolved on August 21, 2013. No further issues regarding access have been reported so we consider this issue to be resolved, and therefore closed.
   d. The Commission will continue to improve overall system usability. At the September 19, 2013 external user group meeting, the Commission asked users to provide feedback on the system. Most users were complimentary of the system. One attorney indicated that it was the best system in all the states they do business with.
3. PUC Should Clarify How Different Types of Consumer Input Can Be Used in the Commission Decision Making.
   The Commission has described the different types of proceedings and how to provide input in its "How to Participate at the Commission" document, (Attachment 2), in particular the section on Public Witness Hearings explains the difference between the use of sworn and unsworn testimony.

4. PUC Should Take Steps to Address the Need for Time Extensions for Ten-Person Complaints.
   a. The Commission is documenting the parties’ agreement for an extension in cases that exceed 9 months. (Example in Attachment 3).

5. PUC Should Establish a More Structured Approach for Identifying and Addressing Issues Potentially Affecting Multiple Consumers
   a. The majority of calls from the public are directed to the Consumer Assistance Division (CAD). CAD is recording name, contact information, and subject of call for each call.
   b. Non-CAD staff members receiving calls directly are recording the same information and sending it to CAD so it can be included in CAD's database.
   c. Issues raised by callers will be discussed at monthly staff meetings with the Commissioners. In future cases, callers who expressed an interest in a given topic may be notified that a case is opening that they might be interested in.

6. PUC Should Take Additional Steps to Minimize Risk of Actual or Perceived Bias In Its Regulatory Activities.
   a. The Commission is in the process of drafting a policy related to recusal.
   b. The "How to Participate at the Commission" document referenced above describes the role of the Commission staff in analyzing issues (Attachment 2).

Attachment #1

Maine Public Utilities Commission - Windows Internet Explorer provided by IE8 Policy Ver.8 - State of Maine

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News & Press Releases

MPUC Issues Requests for Proposals for Electric Standard Offer Service for All CMP and BHE Customer Classes (11/13/2013)

MPUC, OPA and AG Warn Mainers of Electricity Disconnection Scam (11/12/2013)

MPUC Request for Proposals for Electric Standard Offer Service for Customers of Maine Public Service Company (9/30/2013)

MPUC and OPA Promote Telephone Assistance for Low-Income Mainers (9/6/2013)

Standard Offer Prices Set for CMP and BHE Commercial and Industrial Customers (7/25/2013)

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Events in the Next 2 Weeks (Click on hyperlink in docket column below to view additional information)

Date	Docket #	Summary

MOST VISITED PAGES
- Case Management Login
- Electric Standard Offer Rates
- List of Retail Electricity Suppliers
- Calendar
- PUC Consumer Services
- MPUC Rules
- RFPs
- Maine911
- Underground Damage Prevention Program
- Natural Gas and Propane Safety
- Maine Green Power Program

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Attachment #2

How to Participate at the Commission

Participating in Commission Proceedings

The Maine Public Utilities Commission welcomes the participation of the public in its proceedings. Individuals or groups may participate or share their views with the Commission in several ways. You may speak at Commission public witness hearings, write a letter to the Commission, or request information from our staff on any issues of concern. A member of the public may become an official "party" (or participant) in a formal Commission case. Read on to understand how the Commission works and what the options are for your participation.

Commission Cases

The Commission conducts much of its official business through formal legal cases. The issues addressed in formal cases include rate adjustments, service adequacy, the prudence of proposed investments, and utility practices. Cases are divided by issue area: Electric, Gas and Gas Safety, Communications (Telephone), Consumer Assistance Division Appeals, Damage Prevention (Dig Safe), Water. You can review a list of current cases on the Commission's Docket listed by title and docket number.

Types of Cases

There are several types of cases that come before the Commission as described below.

Adjudicatory Proceeding: Most cases involving individual utilities are adjudicatory cases, which are very similar to litigation in a court case. The Maine Administrative Procedure Act and the Commission's Rules of Practice and Procedure (Chapter 110) provide formal guidelines on how such cases must be handled. Adjudicatory proceedings typically include pre-filed written testimony, a period of time for written discovery and technical conferences so parties can ask witnesses questions, hearings before the Commissioners, briefs filed by the parties and finally a recommended decision by staff and an opportunity to comment on the recommendation. The Commissioners make a final decision based on the record developed in the case.

Investigation: An investigation is typically initiated by the Commission to review an issue that involves one or more utilities. Investigations are adjudicatory proceedings.

Inquiry: An inquiry is a less formal proceeding initiated by the Commission typically to gather information. The formal rules of adjudicatory proceedings do not apply. If after gathering information the Commission wishes to take an action, it may open an adjudicatory proceeding or rulemaking.

Rulemaking: Rulemaking proceedings are conducted pursuant to the Administrative Procedure Act, 5 M.R.S. §§ 8001-11008. The Commission seeks comment on a proposed rule or rulemaking amendments that have general applicability to more than one utility or entity. Rulemakings are less formal than adjudicatory proceedings.

Staff Role in Commission Cases

The Commission's staff includes accountants, engineers, lawyers, financial analysts, consumer specialists, and administrative and support staff. Staff performs myriad duties in order to carry out the Commission's regulatory responsibilities as well as perform other functions assigned to the Commission by the Legislature (hold auctions for standard offer electricity supply, solicit bids for long-term electricity contracts, investigate green power options, and more).

In adjudicatory (also called "litigation") proceedings, the staff act as advisors to the Commission. Lawyers on staff manage the procedural aspects of a case. The staff assists the Commission by making sure the record of the case is fully developed and by analyzing the information presented by the parties (persons who are formal intervenors in the case). Staff asks questions of parties either orally or through written data requests. If staff intends to rely on facts not in the record or if it conducts an independent financial or technical analysis, this information is provided to the parties in the form of a document called a "Bench Analysis." Parties can ask questions of the staff about the Bench Analysis.

In some cases, the parties try to resolve or settle their differences. During a settlement process(described in detail below), staff can participate in settlement discussions if all parties agree. Staff does not sign any settlement agreement (called a "stipulation") which might result from the discussions. If a case is not settled, formal adjudicatory hearings and briefing occur after which staff issues a recommended decision called a Hearing Examiner's Report. All parties may file comments (called "exceptions") on this Report. The Commission (the three Commissioners) then publicly deliberates the matter and issues a decision. Any party can appeal a Commission decision to the Maine Supreme Judicial Court.

Initiating a Case

A case or proceeding begins when a utility or some other party formally requests the Commission to take action or make a decision on an issue. Each case is referred to as a Docket and given a number (e.g., Docket 2013-00123). The Commission also initiates its own inquiries and investigations. In addition, ten or more consumers may submit a petition requesting that the Commission open a case (see below for more on this process).

Filing Written Comments

You may file written comments in any case that affects or interests you. Letters can be sent electronically using the Commission's on-line filing system. If you do not have access to a personal computer or at your local library, please contact the Clerk of the Commission at (207)287-3831. Your filing must include the docket number of the case about which you are writing. You can find the docket numbers on the website (see instructions in "Commission Cases"). Include your name, address, phone and email. If you are mailing your letter by post, send to the attention of the Administrative Director, MPUC, 18 State House Station, Augusta, ME 04333. Written comments in Inquiries and Rulemakings will be considered in any final decision of the Commission. In Adjudicatory Proceedings, including investigations, comments are read by Staff and Commissioners but facts contained in the letter cannot be considered as evidence in a case unless they are sworn. Letters can provide the basis for the Commission to further look into a matter or issue. Sworn testimony can be provided during a public witness hearing (see below) or by intervenors in cases.

Ten Person Complaint

Ten or more persons can request the Commission open a case by filing a petition with the Commission. The complaint must be about a utility's rates, acts or practices which the petitioners believe are unreasonable, insufficient or discriminatory, or about the fact that utility service is inadequate or cannot be obtained.

The complaint must clearly state full names and addresses of those who've signed the complaint and identify a "lead complainant"—a primary contact person designated the agent for the other complainants. The petition must clearly state the act or thing done (or omitted to be done) about which the complaint is made and include reference wherever possible to the law, order or rule (and sections thereof) related to the claimed violation. The petition will be reviewed and judged as to whether the complaint has merit; if so, the Commission will open an investigation.

Intervening in a Case

You can intervene in a Commission adjudicatory case. If you want to be an official participant in the case, you can file a petition for intervenor status via the Commission's on-line filing system. Mandatory intervention is granted to persons or groups who may be substantially and directly affected by the proceeding and to any government agency. Discretionary intervention may be allowed for any other interested person or group after a determination of the Commission. Once you have filed for intervenor status and it has been granted, you will receive notice by email of official documents in the case. You will be automatically notified of events in the case (hearings, meetings, decision points) and can participate in those events.

Following the Progress of a Case

You can receive information on a particular case in a number of ways.

- If you are an intervenor, you will receive email notice of all materials filed by the parties to a case including legal briefs, and discovery documents.
- You can place yourself on the notification list for any case. You will then receive electronic notice of all filings in the case.
- All documents filed in a case and transcripts of hearings are available to the public and may be viewed at the Commission's on-line filing system without registering or intervening.

How to Access the Commission's On-Line Filing System

The Commission's on-line filing system is where all the publicly available documents in all Commission cases are filed. To access those documents, go to the Commission's on-line filing system. For more information how to use this new system, please view the Commission's training manuals or call 287-3831 if you have any questions.

Public Witness Hearings

The Commission holds public witness hearings in selected proceedings to allow customers of a utility and other interested people to comment on a pending case about their utility. The Commission typically schedules public witness hearings in the service territory of the utility. Prior to a hearing, the Commission will publish a public notice twice in a statewide newspaper at least seven days before the scheduled hearing. The Commission also sends out information to the press about the coming event.

The public witness hearing is held to allow the public to share their comments with the Commission. The Hearing Examiner—a Commission staff member in charge of the case—will explain the format and process of the hearing before it begins. The Hearing Examiner will be available after the hearing is over to answer questions from the public.

Speaking at a Public Witness Hearing

Sign-up sheets will be available; sign in if you wish to speak. The Hearing Examiner will call the speakers' names in order from the sign-in sheet. When your name is called, you can go to the microphone. You will be asked to state your name and whether you are providing "sworn" or "unsworn" testimony.

- Sworn Testimony is part of the official record of the case and is reviewed by the Commission before it makes its final decision. The Hearing Examiner will administer an oath to all those planning to give sworn testimony stating that what they are about to say is the truth.
- Unsworn Testimony will not be part of the official case record, but is considered and can provide the basis for further Commission investigation.

The best testimony is brief and to the point. Those testifying are asked to provide written copy of their comments if possible.

Settlement Process

In some Commission cases, the parties to the case hold settlement discussions during the same timeframe as the adjudicatory or litigation proceeding. Commission staff can participate in settlement discussions if all parties agree. Staff does not sign any settlement agreement which might result from the discussions. If these settlement discussions between parties result in an agreement (called a "stipulation"), that agreement is filed with the Commission by the parties. There may be a hearing on the settlement agreement before the Commission. Whether there is a hearing or not, the Commission schedules a deliberation at which to review and decide whether or not to accept the stipulation. If the Commission approves the stipulation, the case is decided and there is no further adjudicatory process. If the stipulation is not approved, the Commission continues the litigation process to its final conclusion.

Commission Hearings and Deliberations

Members of the public are welcome to observe the Commission at work. At expert and evidentiary hearings, the Commissioners hear from and question parties to the case. At

deliberations, the Commissioners publicly discuss and decide cases. Unlike a public witness hearing, you may only observe, and may not comment, at these regular hearings and deliberations.

Deliberations are usually held at 10am on Tuesdays most weeks at the Commission offices, 101 Second Street, Hallowell. They are usually streamed live from the Commission website. You can listen to or view many hearings and deliberations through the Commission's live audio programming, see information below.

Check the calendar on the Commission's homepage for the time of the deliberations and to confirm that the item that concerns you is on the agenda. The Administrative Director prepares an agenda of issues to be deliberated by the Commission each week. The agenda is sent to all parties in advance and posted on the Commission's homepage. You can also call the Commission office to check on the agenda (207-287-3831).

Commission Decisions

At the conclusion of an adjudicatory proceeding, the Commission makes a decision to approve, approve with conditions, or deny the request. Every decision is made in writing and is not final until the final Order is issued which includes the findings of fact sufficient to explain the basis for the decision to parties and the public. The Order is publicly available at the Commission's on-line filing system.

Using Live Audio to Hear Commission Proceedings

Many Commission proceedings (hearings, deliberations) are streamed through the Commission website. You can listen to sessions live as they happen or go into the audio archives and hear previous sessions. You can find dates and times of proceedings on the calendar on the homepage.

For live audio, go to the Live Audio page. Click on the "Live Audio"; follow directions for entering the recording system, and click on the live session.

To hear audio for past Deliberations during 2010 and forward: go to the Live Audio page. Click on "Live Audio"; follow directions for entering system; and then, click on "Archives" in left-hand navigational bar to get list of archived deliberations sessions by date.

Review, Reconsider, Appeal of Commission Decision

Anyone who is a party to a given case can request that the Commission reconsider a decision by filing a petition with the Commission stating the grounds for reconsideration. This petition for reconsideration must be received by the Commission within 20 days of the date of the final Order in the given case. Any petition not granted within 20 days from the date of filing is denied.

Anyone who is a party to a given case can also appeal a final Commission decision to the Maine Supreme Judicial Court, sitting as the Law Court, by filing within 21 days of the date of the final Order a Notice of Appeal with the Commission (attention: Administrative

Director, MPUC, State House Station 18, Augusta, ME 04333). Such an appeal must follow the Courts Rules of Appellate Procedure.

You can view these rules from the Maine Court's website. Scroll down to "Court Rules Continued"; there you will find the Maine Rules of Appellate Procedure.

Attachment #3

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2011-00262

September 13, 2013

ED FRIEDMAN, ET AL,
Request for Commission Investigation into
Smart Meters and Smart Meter Opt-Out

PROCEDURAL ORDER
(Scheduling)

The Hearing Examiners adopt the following procedural schedule for the remainder of this proceeding:

Hearing (Day 1)	Wednesday, October 30, 2013, 9:00 a.m.
Hearing (Day 2)	Thursday, October 31, 2013, 9:30 a.m.
Briefs (App Parties)	Friday, November 29, 2013
Reply Briefs (All Parties)	Friday, December 13, 2013
Examiners' Report	Friday, January 31, 2014[1]

All filings are due no later than **4:00 p.m.** on the date indicated above.

Dated at Hallowell, Maine, this 13th day of September, 2013

/s/ Mitchell Tannenbaum
/s/ Jordan McColman
/s/ Leslie Raber

Mitchell Tannenbaum
Jordan McColman
Leslie Raber
Hearing Examiners

[1] Title 35-A M.R.S. § 1302(2) requires that the Commission issue a decision upon a ten-person complaint no later than nine months after the filing of such a complaint. This matter was remanded to the Commission by the Law Court on July 12, 2013. The schedule has extended beyond the nine-month deadline at the request, and with the mutual agreement, of the parties to this proceeding. The Examiners have granted extensions for various reasons, including witness availability.

Responses to GOC Questions

1. Ombudsman- Is the PUC aware of other states with such a position?

   The Public Utilities Commission is not aware of other states with a similar position. The Commission contacted the National Association of Regulatory Utility Commissioners and they had no information about other state Commissions having such a position. It is possible that the National Association of State Utility Advocates (NASUCA) would be aware of such a position associated with public advocates.

2. Funding for Intervenors to Pay Experts and Legal Costs – What is available?

   Title 35-A M.R.S. § 1310(B) allows the Commission to compensate an intervenor for reasonable attorney's fees, expert witness fees or other reasonable costs incurred in preparation and advocacy of an intervenor's position. To award the funding the Commission must find: 1) that the position of the intervenor is not adequately represented by the Office of the Public Advocate or the Public Utilities Commission Staff; 2) the intervenor substantially contributed to the approval of a position advocated by the intervenor except if no Commission advocacy staff is appointed, the intervenor must be likely to contribute substantially to the conduct of the proceeding and assist in the resolution of the issues raised; and 3) participation in the proceeding by the intervenor would impose a significant financial hardship on the intervenor. The Commission has adopted a rule, Chapter 840, to implement this section.

   The statute provides in Section 1310(B) that the compensation may be provided from the Commission's regulatory fund and filing fees subject to the Commission's determination of the availability of funds. The Commission most recently awarded intervenor funding in Docket No. 2010-115 on January 30, 2013 (See attachment 1).

3. Evidence in PUC cases – What is the process for allowing evidence in a case?

   The Commission is required by statute to follow the same rules of evidence as in a civil action in Superior Court, as described in 35-A M.R.S. § 1311. That section also provides a more lenient

standard for evidence that would otherwise be hearsay. All Hearing Examiners are lawyers and are trained in the Rules of Evidence and Rules of Civil Procedure. Rulings on evidence are based on the Commission's precedents and precedents established by the courts.

4. Sworn/Unsworn Testimony – What are the requirements?

   The Commission follows the Maine Administrative Procedure Act (MAPA) applicable to all agencies and specific statutory provisions relating to procedures in 35-A M.R.S. §§ 1301-1323. Title 35-A M.R.S. § 1304(4) states that a party to a hearing has a right to be heard pursuant to 5 M.R.S. § 9056. This section of MAPA provides that every party shall have the right to present evidence and arguments on all issues and at any hearing to call and examine witnesses and to make oral cross examination of any person present and testifying. The MAPA states that an agency may require pre-filing of testimony by witnesses in written form. 5 M.R.S. § 9057. MAPA requires that all witnesses be sworn, 5 M.R.S. § 9057(3), and that all witnesses are subject to cross examination. 5 M.R.S. § 9057(4). The Legislature could consider statutory exceptions to these provisions, keeping in mind due process requirements.

5. Confidential Filings in Cases – What are the PUC's policies and procedures for confidential filings?

   Title 35-A M.R.S. §§ 1311-A and 1311-B allow certain information to be treated as confidential. The Commission may issue protective orders that limit access to certain parties or their representatives to protect the interests of parties in confidential or proprietary information, trade secrets or similar matters as provided for in the Maine Rules of Civil Procedures 26(c). 35-A M.R.S. § 1311-A(1)(A). Typically all parties have access to the confidential information for use in the proceeding. Section 1311-A describes a process for protection and allows access to information. A party filing information subject to a protective order must also provide a public version of the documents that redacts (blacks out) the confidential information. Confidential

documents in the Commissions electronic filing system (See example in Attachment 2) include their title, date of filing, and name of person filing.

6. PUC Commissioners – What legislation is possible in the next session?

   A bill title was approved by Legislative Council, An Act to Amend the Law Governing Conflict of Interest and Recusal with Respect to the PUC (LR2328), introduced by Representative Russell.

7. Role of Public Advocate

   This topic is best addressed by the Public Advocate.

8. PUC and OPA Responsiveness Issues - What are the primary considerations for the PUC in making its decision on a case?

   The Commission follows the directives in the legislative statutes which created the PUC. Because the PUC is a creation of the Legislature, it cannot go beyond the authority granted it by the Legislature. The principal guidance for Commission decisions is set forth in Title 35-A, but other statutes (such as the Administrative Procedure Act) also apply to most cases. In addition, the Commission is guided by its own and judicial precedent, its expertise, and by the facts as presented in any particular matter.

9. PUC and Public Health Concerns – What is the Commission's response and interpretation of the Law Court's decision concerning Smart Meters?

   The Commission's interpretation of the Law Court's decision on remand to the Commission will be reflected in the order the Commission issues at the conclusion of the case on remand in Docket No. 2012-00262. In that case, Mr. Friedman filed a 10-person complaint and requested the Commission open an investigation to address the safety of exposure to (RF) radiation emitted by smart meters and privacy and electric trespass concerns. The Commission dismissed the complaint finding that CMP had taken adequate steps to address the complaint because the Commission had previously considered these issues in an earlier investigation in Docket Nos.

2010-345, 389, 390, 400 and 2011-85. The Court said it was not persuaded that Mr. Friedman's health and safety concerns had been resolved by the earlier cases. The Law Court found the Commission's dismissal of the complaint with respect to privacy, trespass, Fourth Amendment, and other constitutional claims issue was not in error. Therefore, the Commission reopened the case to investigate health and safety issues related to smart meter technology. The Law Court stated that although the Commission may not have the technical expertise necessary to conduct an independent investigation on this issue, the Commission is not precluded from considering the findings and conclusions of other state agencies (e.g., Maine CDC) and federal agencies (e.g., Federal Communications Commission and Federal Drug Administration) in reaching its decision about the health and safety of CMP's smart meters.

Attachment #1

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2010-115

January 30, 2013

BRIAN T. MILLS ET AL
Commission Investigation Into
Andover Water District's Practices

ORDER

WELCH, Chair; LITTELL and VANNOY, Commissioners

I. SUMMARY

We approve intervenor funding , pursuant to 35-A MRSA 1310 , in the amount of $1079 be paid to Brian Mills and Sidney Pew for expenses incurred during their participation in the Commission's investigation in Docket No. 2010-115, *Brian T. Mills, et al, Request for Commission Investigation into Andover Water District Practices* (AWD Investigation).

II. BACKGROUND

On August 8, 2012, Brian Mills and Sidney Pew filed a Request for Intervenor Funding pursuant to 35-A M.R.S.A. § 1310 and Chapter 840 of the Commission's rules. Messrs. Mills and Pew were actively involved in the Commission's investigation of the Andover Water District's sale of water resource land in the area of the Stony Brook. Messrs. Mills and Pew participated as Complainants and Parties; submitted briefs; participated in all conferences and events; subpoenaed witnesses and took depositions; and made argument before the Commission. After the Commission's final Order in the case, Messrs. Mills and Pew sought reconsideration of the Commission's decision. The Commission declined to take up the request and the Order became final on July 11, 2012.

Subsequent to the closure of proceedings, Messrs. Mills and Pew filed their request for reimbursement in the amount of $1079. The District filed an initial objection to the request, based on its understanding that the intervenors were seeking reimbursement from the District for their expenses, arguing that Messrs. Mills and Pew's request was untimely and did not meet the filing requirements of the Commission's rules. Messrs. Mills and Pew filed a response to the District's Objection on August 17, 2012 wherein they clarified they were seeking reimbursement from the Commission's regulatory fund. Subsequently, the Commission's staff reviewed the request, determined that it did not contain information necessary to establish that their intervention had worked a substantial financial hardship as required by Chapter 840, and sent Messrs. Mills and Pew a letter directing them to Chapter 840 and inviting them to file additional information. Messrs. Mills and Pew filed their response on September 10, 2012 in which they supplied further itemization.

III. ANALYSIS AND DECISION

Pursuant to 35-A M.R.S.A. § 1310(1)(B), the Commission may compensate intervenors from the regulatory fund for reasonable attorney's fees, expert witness fees, and other reasonable costs incurred in preparation and advocacy of the intervenor's position when the Commission finds:

> (1) The position of the intervenor is not adequately represented by the Office of the Public Advocate or the Commission staff;
>
> (2) The intervenor substantially contributed to the approval, in whole or in part, of a position advocated by the intervenor in the proceeding, except that, if no Commission advocacy staff is appointed to a proceeding, the intervenor must be likely to contribute substantially to the conduct of the commission proceeding and to assist in the resolution of the issues raised in the proceeding; and
>
> (3) Participation in the proceeding by the intervenor would impose a significant financial hardship on the intervenor.

Section 1310 is implemented through Chapter 840 which provides requirements for the timing and content of intervenor funding requests. Chapter 840 requires the Commission, in determining the appropriate amount of reimbursement, to characterize how the intervenor's participation contributed to the final outcome of the proceeding. Section 7(A), in the event that the intervenor has contributed to the resolution of all issues in the proceeding, requires the Commission to determine for each issue for which an award is sought, whether the intervenor's position "substantially contributed to the Commission's adoption of any position advocated by the intervenor" in order to award reimbursement. Chapter 840 was adopted before the enactment of 35-A M.R.S.A §1310(1)(A)(2) which has a more lenient standard if no advocacy staff has been assigned: "the intervenor must be likely to contribute substantially to the conduct of the [C]ommission proceeding and to assist in the resolution of the issues raised in the proceeding."

Messrs. Mills and Pew were the complainants who, without assistance from Commission staff or the Office of the Public Advocate, initially brought the Commission's attention to irregularities in the process by which the Andover Water District sold parcels of water resource land in the area of the Stony Brook. It is possible that without their actions the Commission would not have become aware of either the sale of the property or the manner in which the sale occurred and we find, therefore, that in the filing of their initial complaint, Messrs. Mills and Pew were advocating a position not adequately represented by the Office of the Public Advocate or the Commission's staff. We further find that their subsequent actions substantially

contributed to the conduct of the Commission's proceedings in this docket and the resolution of this matter.

Pursuant to Chapter 840, an intervenor seeking reimbursement must provide all facts known to the intervenor demonstrating that but for the award of compensation, participation in the proceeding will work a substantial financial hardship on the intervenor. This showing should include certified balance sheets and income and expense statements for the last three fiscal years, in all cases where such information is available, together with all other relevant financial information that will aid the Commission in ascertaining the intervenor's financial condition and financial resources. Chapter 840 §3(B)(1). While Messrs. Mills and Pew did not provide the types of detailed financial information described by the rule, we find that it is likely such detailed information was not available to them. From the record in this proceeding we find that the costs associated with Messrs. Mills and Pew's participation in this proceeding would cause substantial financial hardship in the absence of reimbursement. Additionally, the amounts sought to be reimbursed are not excessive and reflect only costs directly associated with Messrs. Mills and Pews participation in this proceeding and do not reflect the substantial time and effort that went into their activities. A Commission decision to reimburse intervenors pursuant to Chapter 840 occurs in the specific factual context of a given case and while it would not be appropriate in all instances, we find that reimbursement of these costs is appropriate in order to avoid causing substantial financial hardship to Messrs. Mills and Pew as a result of their active and substantial contributions to this proceeding.

Accordingly, we

ORDER

1. That the Administrative Director shall disperse $1079 from the Commission's regulatory fund to Sidney Pew and Brian Mills.

Dated at Augusta, Maine, this 30th day of January, 2013.

BY ORDER OF THE COMMISSION

/s/ Karen Geraghty
Karen Geraghty
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Littell
Vannoy

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought. Any petition not granted within **20** days from the date of filing is denied.

2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21** days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.

3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.

Attachment #2

132	6/19/2013	Procedural Order -- Corrected Schedule	COMMISSION STAFF, CMS	COMMISSION STAFF, CMS	1	
131	6/19/2013	Procedural Order Regarding Discovery Dispute	COMMISSION STAFF, CMS	COMMISSION STAFF, CMS	1	
130	6/18/2013	Procedural Order -- Schedule	COMMISSION STAFF, CMS	COMMISSION STAFF, CMS	1	
129	6/18/2013	Letter requesting discovery conference	BANGOR GAS COMPANY, LLC	Stone, Alan	1	
128	6/17/2013	Data Response	BANGOR GAS COMPANY, LLC	Stone, Alan	2	
127	6/12/2013	Data Response	BANGOR GAS COMPANY, LLC	Stone, Alan	2	
126	6/11/2013	OPA Proposed Procedural Schedule	OFFICE OF THE PUBLIC ADVOCATE	Office of Public Advocate, State of Maine	2	
125	6/11/2013	David Brevitz Signed Non-Disclosure Certificate Under Protective Order No. 1	OFFICE OF THE PUBLIC ADVOCATE	Office of Public Advocate, State of Maine	2	
124	6/7/2013	Data Response to OPA-005 - Confidential	BANGOR GAS COMPANY, LLC	Stone, Alan	1	
123	6/7/2013	Procedural Order -- Suspending Schedule	COMMISSION STAFF, CMS	COMMISSION STAFF, CMS	1	
122	6/6/2013	Procedural Order -- Schedule	COMMISSION STAFF, CMS	COMMISSION STAFF, CMS	1	
121	6/5/2013	OPA REDACTED version of the 4th Data Request	OFFICE OF THE PUBLIC ADVOCATE	Office of Public Advocate, State of Maine	2	
120	6/5/2013	OPA Fifth Data Request	OFFICE OF THE PUBLIC ADVOCATE	Office of Public Advocate, State of Maine	2	
119	6/5/2013	OPA Cover Letter and E-mail for 4th set of CONFIDENTIAL Data Requests	OFFICE OF THE PUBLIC ADVOCATE	Office of Public Advocate, State of Maine	2	
118	5/24/2013	Confidential Data Requests BSTEL-04-01 and BSTEL-04-02	BUCKSPORT ENERGY, LLC	Griset Esq., Todd	2	
117	5/24/2013	OPA-003-010 Confidential Supplement	BANGOR GAS COMPANY, LLC	L'Hommedieu, Julie F.	2	

Per Page [redacted]

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iGOVERN™ Compliance & Quality Management

PUC Recusal Policy (January 27, 2014)

Commissioner Recusal

1. Commissioner recusal from a case in which Commissioner decides on own to recuse.

   a. Newly filed cases will be reviewed at weekly Admin Meeting. Following the meeting, a Commissioner will send an email to Division Directors and other Commissioners if he/she will be recusing self from proceeding and the basis for recusal. The appropriate Division Director will forward to industry staff.

   b. Next Procedural Order in case should state that the Commissioner has recused self with the reason as provided by the Commissioner.

   c. Recused Commissioner will not participate in any discussions with other Commissioners or Staff, either substantive or procedural, concerning the case. Staff will not copy recused Commissioner with emails concerning the case. During the Admin Meeting or monthly Industry Meeting discussion of such cases should be held for the end of the meeting without the recused Commissioner.

   d. Final Order notes recusal with reason on Page 1.

   e. General Counsel will maintain a permanent file of all cases involving recusals.

2. Request for Recusal

   a. Upon a formal request for recusal, the Commissioner should respond to the request in writing in a document that will be filed in the case file. See also 5 M.R.S. §9063 (upon a timely charge of bias or personal or financial interest requesting disqualification, that person shall determine the matter as part of the record). If he/she decides to recuse self, all steps in 1 above will be followed. If not, case proceeds as usual.

Staff Recusal

If any staff member has a conflict and cannot participate in a certain type of case or a case involving certain parties, the Division Directors will not assign the staff member to such cases. Upon a formal request for recusal when a staff member is assigned a case, the staff member should respond to the request in writing in a document filed in the case file, in consultation with the Division Directors and Commissioners, as appropriate. If recused, the staff member will not discuss any matters related to the case with other staff members or Commissioners. The Division Director supervising the employee shall keep a record in the staff member's personnel file about the need for disqualification.

Reporting

If any staff member or Commissioner believes that there has been a departure from the recusal policies stated herein, he or she should inform the General Counsel.

Testimony of Brian Beal, University of Maine at Machias

MEIF is a good thing for the state of Maine. It was conceived by forward-thinking researchers at the University of Maine who made the case for increased state funding targeted to R&D to bring Maine into the knowledge-based economy. It has been used by UMaine to provide match/cost-share for EPSCoR grants from NSF that have brought in monies that have, among other things, created the Advanced Structures and Composites Center at UMaine. It has been used for a variety of other important infrastructure projects at that campus, and is a tremendous source of funds for graduate students, new faculty members, and to pay staff. At USM, the funds have been used to increase research infrastructure and also to support faculty, technical staff, and students.

From 1998 to 2009, the year when the first round of Small Campus funding began, the University of Maine had received a total of **$97.56 million** and USM had received **$24.08 million** through the Maine Economic Improvement Fund. That does not include additional funds that both institutions received through separate bond issues and by special appropriations, such as the ones that occurred in FY 1999 that brought $2.7 million to USM for renovations to their science labs and $10.8 million to UMaine for renovations to their food science building and another $20 million in FY 2001 for an engineering and science research facility. My point is that not a cent (until 2009) ever went to any small campus in the University of Maine System, not a dime at Machias that up to 1998 had been involved in applied research in aquaculture and marine technology applied research projects to a collective tune of over $700,000.

Why? Why no MEIF funds for the Machias campus? Why no hue and cry of unfairness from the Machias campus from the president's office or from the provost's office? Why, when legislative hearings that were centered around bringing research dollars to the small campuses, no one from the administration at the Machias campus showed up to support this nor did anyone from the administration provide written testimony to support this? Why? Because this has all been orchestrated through the System office and the UMaine campus! It's really been a scam. And, OPEGA never bothered to interview anyone at the Machias campus or the Presque Isle campus or any of the other smaller campuses when they did their "thorough review" of MEIF. Why? For the same reason.

MEIF has been about protecting the right of the "research institutions" to conduct their research without having to share anything with the smaller campuses. Until the legislature looked closely at MEIF in 2012 and decided that beginning July 2013, the smaller campuses should receive a 2.5% share of MEIF and this should balloon to 3% by July 2015.

I have had a goal since 1999. To be involved in the creation of the easternmost marine research laboratory and education center in the United States somewhere in Downeast Maine. In 2003, I found that spot, an 11-acre tract of rocky, coastal land that is now UMM's Marine Field Station, also known as the Downeast Institute. Why that goal? Again, because marine research in Maine is biased toward the south and west where the most populated areas of the state are, and where most of the infrastructure exists for marine research. Follow the coast from Wells to Portland to the Damariscotta River, and you will see the Wells Estuarine Research Reserve, the Gulf of

Maine Research Institute, Friends of Casco Bay, the Casco l3ay Estuaries Project, Bowdoin's marine lab in Harpswell. the DMR lab in West Boothbay Harbor, and its neighbor the Bigelow Laboratory for Ocean Sciences, and up to the Darling Center — UMaine's Marine Research lab on the Damariscotta River. Do you know how far it is by car from the Darling Center to Beals Island? It's 140 miles — about 3 hours and 15 minutes. Southern and midcoast Maine are very different from the colder waters of Downcast Maine. The assemblage of species is different, the water currents and tides are different, and these abiotic factors play a different role in the biotic interactions of marine organisms. There's a lot of development right up to the water in southern Maine, and a lot of commercial businesses that are on the waterfront. If you were to look out today from the Downeast Institute west towards Acadia National Park that is 40 miles away as the crow flies, your vista would be very similar to the same one that could be seen in the 1930's or 1940's. If we see a yacht, it is a special occasion. We see a very pristine marine environment compared with the rest of the state, and it is that pristine environment that will attract marine and other scientists to that location when infrastructure can be built to accommodate their needs. These folks will bring research dollars to be spent in Downeast Maine. They will purchase groceries from the local stores, they will contract with fishermen to use their boats as research platforms. Who knows, they may even discover something that leads to the creation of new products or services. That's what research does....it creates new knowledge and that can take off at any point along the spectrum to the creation of new wealth and new jobs.

Why can't MEIF funds be used to support a $3.5 million expansion at UMM's Marine Field Station so that it can become the easternmost marine research lab and education center in the U.S. That property already contains a 9,600 square foot shellfish research and production hatchery, a $600,000 30-ft x 100-ft composite pier, two tidal impoundments (one 3.5 acres, the other 2.5 acres) that can be used as research mesocosms, and a 1,200 square foot marine education center/classroom. The addition of several dry labs, office spaces for resident scientists, a quarantine lab for working with invasive or exotic species, a wet lab, climate-control labs with seawater, and access to that cold, clean water will be an attractant for marine scientists and their students. $3.5 million to build that infrastructure is not even half the cost that UMaine used in 1999 to renovate their food science lab!

This goal should have already been attained, but here we are 15 years after this goal was first proposed to the Maine Science and Technology Board, and it is still a dream.

Economic Improvement has occurred in a major way in Penobscot County and Cumberland County. How many times have you heard about the difficulties that people have making a living in Washington County? How many reports, how many schemes, how many promises that have fallen short of the post? Applied research and research in general is designed to generate new knowledge that can be transferred into jobs. There is a huge geographic bias in Maine when it comes to marine research and marine jobs from research. We are not talking about a lot of money, money that could have been easily directed toward the Machias campus if anyone had listened to the goal/the vision to create this entity in the town of Beals. Since 2009, UMaine and 11SM have enjoyed, together, a total of another $72.5 million from MEIF.

OPEGA recommended that the University System work with the University of Maine, University of Southern Maine and the other smaller university campuses to develop specific

objectives for MEIF. Would you like to bet that the specific objectives do not involve creating a marine research laboratory Downeast that could bring new economic opportunities to Washington County.

Apples or oranges? Should we micromanage the University System or should we let these folks figure things out on their own and do what they think is right? Machias isn't Orono. Machias isn't a research institution. Machias doesn't have the departments and administration to support the kind of research infrastructure that occurs on the Orono campus. However, over the past 30 years or so, when you hear anything about soft-shell clams, green crabs, lobster aquaculture, or Arctic surfclams, where's the origin? Machias, and Downeast Maine.

1984: Comparison of growth rates in *Arctica islandica* (L.) between field and laboratory Populations. R/FM-139 Maine/New Hampshire Sea Grant College Program, Orono, ME S32,900 over two years

1986: The Cutler Marine Hatchery — Maine Department of Marine Resources, Augusta, ME
$22,000

1986: The Hatchery, Nursery, and Growout Phases of the Commercially Important Soft-Shell Clam *(Mya arenaria)* in Washington County, Maine. National Coastal Resources Research and Development Institute (NCRI), Newport, OR
$29,300

1987: The Hatchery, Nursery, and Growout Phases of the Soft-Shell Clam, *Mya arenaria.* U.S. Department of Commerce, Economic Development Administration, Philadelphia, PA
$11,000

1988: Development of a Hatchery-Based Shellfish Management Program for Downeast Coastal Communities. Maine Science and Technology Board. Augusta, ME
$32,000

1989: Population Dynamics of Hatchery-Reared Juveniles of the Soft-Shell Clam *(Mya arenaria* L.) in Maine: A Series of Manipulative Experiments. Maine/New Hampshire Sea Grant, Orono, ME
$ **101,390**

1989: Development of an Education Center and Outreach Component for the Beals Island Regional Shellfish Hatchery. Maine/New Hampshire Sea Grant, Orono, ME
$7,500

1991: Sea Scallop (Placopecten magellanicus) Aquaculture in Maine. National Coastal Resources Research and Development Institute (NCRI), Newport, OR
$71,281

1992: The Dana E. Wallace Education Center at the Beals Island Regional Shellfish Hatchery. The Lowery Foundation, Brunswick Maine
$750

992: Soft-Shell Clam Culture: Fostering Technology Transfer Through Large-Scale, Economic Impact Field Demonstration Programs in Downcast Maine. Maine Sea Grant Advisory Program. Orono, ME
$31,000

1992: Production of a "Practical Guide to Soft-Shell Clam Farming in Maine." Maine/New Hampshire Sea Grant. Orono, ME
$10,000

1993: Soft-shell Clam Culture in Downcast Maine. Maine Aquaculture Innovation Center, Orono. ME
$3,200

Innovation Center, Brewer, Maine
S6,000

1995: Maine Shellfish Aquaculture. National Fish and Wildlife Foundation. Washington, DC.
S75,000

1995: Creating a Sustainable Soft-Shell Clam Fishery in Maine Through Intensive Culture Practices: Large-Scale, Field- and Community-Based Demonstrations. Maine/New Hampshire Sea Grant. Orono, ME
$6,000

1995: The Beals Island Regional Shellfish Hatchery: A Community-Based Shellfish Stock Enhancement Program in Transition. Collaboration of Community Foundations
$40,000

1996: Creating a Sustainable Soft-Shell Clam Fishery in Maine Through Habitat Restoration and Intensive Culture Practices. Jessie B. Cox Charitable Trust, Boston, MA
$90,000

1996: Efforts to Create a Sustainable Soft-Shell Clam Fishery in Maine Through Large-Scale Aquaculture Demonstration Projects. Maine Aquaculture Innovation Center, Brewer, ME
$7,675

1996: Technical Assistance for Soft-Shell Clam Stewardship Committees in Washington County. Sunrise County Economic Council, Machias, ME
$1,500

1997: Development of a Clam Seed Dredge to Enhance Maine's Soft-Shell Clam Fishery. Maine Aquaculture Innovation Center, Brewer, ME
$6,570

1997: Creating a Sustainable Soft-Shell Clam Fishery for Maine and the Northeast. Gulf of Maine Council on the Marine Environment
$10,000

1997: Creating a Sustainable Soft-Shell Clam Fishery in Maine: A Community Clam Culture Program. National Coastal Resources Research & Development Institute, Newport, OR
$93,402

1997: Soft-Shell Clam Seed Production for Community Culture Programs. Up East Foundation, Wilmington, DE
$15,000

Total: 1984-1997 = $703,486 23 grants (average = $30,586/grant)

Senator Johnson, Representative Kruger, Members of the Government Oversight Committee. I am James Page, Chancellor of the University of Maine System. I am here today to offer comments in response to Dr. Beal's letter.

- I have a great appreciation of Dr. Beal's research program. It is exactly the kind of practical, applied research of direct value to Maine businesses and industries that we want to encourage and support in practical terms.
    - We are taking immediate practical steps towards that end. The BOT has just this July approved a 5 year, $10MM commitment of funds realized from administrative savings accrued from my Administrative Reviews initiative to support research and economic development initiative tied to Maine industries. (UMS BOT 2014 Strategic Outcomes***).*** Dr. Beal has been invited to be both a member of the initial steering committee and to be a member of its advisory board.
- I cannot support Dr. Beal's request for A $3.5mm "catch-up" allocation, not because of any questions about the value of his research, but because: (i) we do not have the money, and (ii) it would represent an untenable and unsupportable precedent with respect to our evaluation and decision processes.
- As far as the process differences that Dr. Beal points to, there are indeed differences. One he acknowledges is the difference in core mission between the landgrant and UMM. The landgrant as part of its central mission is expected to and indeed must maintain a large, robust infrastructure to support and provide continuity for long term efforts, including those that are central to Maine's economy. We cannot afford to duplicate that infrastructure.
    - I believe that a core part of the solution to this is increased collaboration and integration of our research efforts, one that is functionally based (e.g., around marine sciences) and not geographically based. Let me be clear, I am not saying that Dr. Beal's program, for example, should not be at Machias – it is perfectly placed. I am saying that we should be supporting his initiative as part of a functionally-defined, marine sciences research program that has many locations across Maine (e.g. Machias, Darling, etc.)
    - A second part of that solution has to be a review of the selection process. We all agree it must be fair and relevant. What we also want is one that assesses value by outcomes: How has a research project, no matter where it is based, contributed to the increase of relevant knowledge, and how does it contribute to the economic welfare of the state?
    - While we can play around the edges of these questions with percentage changes, or process exceptions, I believe the real solution lies with my earlier point that we need to develop greater functionally-based collaboration and integration. Indeed, the BOT's 2014 Strategic Outcomes seeks to do just that.
- I trust this last point gets to the heart of Senator Burns's concern that these goals are in tension with certain aspects of the MEIF report. UMS is in transition from a silo'd, campus based federation model that I believe put small but vital research programs at a disadvantage to a truly integrated, functionally, organized model where we will be in better position to support valuable research initiative wherever they may be located.

Maine OPEGA Committee

Hearings on MEIF

Testimony of Kathryn A. Foster, President, University of Maine at Farmington

September 24, 2014

- Thank you for the invitation to come before the committee today. I am Kate Foster, President of the University of Maine at Farmington (UMF), one of the six universities eligible for the MEIF small campus grants.
- MEIF is an important and worthy program. As my testimony indicates, I believe the program merits continued and deepened investment.
- I will offer thoughts on four topics today: 1) context; 2) research capacity; 3) nature of competition for funds; and 4) level of funding.
- **Context.** UMF has not been an active participant in MEIF, not because there aren't strong researchers and scholars – there are – but primarily because our disciplinary strengths lie in areas generally outside of the MEIF topic areas. Faculty at UMF conduct research on many areas of state interest, from bullying behavior and impacts of poverty to modes of governance and personalized learning.
- Within the areas identified by the MEIF program, researchers at UMF and other small campuses also generate significant scholarship. To cite just a few: At UM Machias, Dr. Brian Beal's work in marine ecologies is rightly well known for reasons he just explained in his testimony. The work of Dr. Jason Johnston, UMPI, on wildlife ecologies, particularly bird habitats, has generated key insights. At UMF, Dr. Drew Barton's award-winning book on the Maine forests, Dr. Dan Buckley's studies of the quality of lake waters in western and central Maine, Dr. Matt McCourt's applied research on the economic transformation of the Rangeley Lakes region, and Dr. Chris Bennett's research on new methods for inspiring youth to pursue IT careers have contributed important findings within and beyond their fields.
- All of this scholarship is important to Maine's people, industries and regions.
- **Research Capacity**. With that as context and in no way impugning the work, it's not realistic to claim that small campuses have the same research capacity as larger research-focused universities.
- By design, research-oriented universities have the infrastructure, reputation, track record, expertise, expectations, graduate students, and research divisions to support research. They also have critical mass, with UMaine and USM the two campuses best organized and resourced to manage research functions including technology transfer, commercialization, and grant seeking and administering operations.
- This capacity is what Maine needs to rightly and effectively seek the large federal grants that bring new money into the state.
- **Competition for Funds.** MEIF offers three pots of money, one for UMaine, one for USM, and one for the six other eligible "small campuses." Competition for MEIF funds occurs for funding from any of

- these pots. At UM and USM, which have the critical mass sufficient to drive research competition, competition for a share of the MEIF funds in "their" pot happens on campus between research teams and departments. At small campuses, which lack the critical mass for internal competition, competition for MEIF funds in the third pot happens between the six campuses through the process described in Dr. Beal's testimony.
- Thus, although the process varies, competition occurs for each pot of MEIF funds.
- **Level of funding.** There are two issues relevant to funding, one the amount of total money allocated to MEIF and the other the distribution of funds across the three pools.
- Regarding level: the total amount is $14.7 million, a level that has been flat for years. Given that these funds are allocated to multi-year projects, flat funding makes it difficult to ramp up current projects and nearly impossible to seed new ones. I speak for other campus presidents in therefore advocating strongly for an increase in the total level of funding to $20 million or more to assist current and new scientists and researchers to participate in the MEIF program.
- Regarding distribution: because MEIF funds support multi-year projects, it would not be advisable to redistribute the current allocation of $14.7 million. Worse than not having money for a scientific project is having it taken away part way through the research.
- It would be advisable, though, to consider a revised distribution model for new monies added to the MEIF. This could be by functional topics, as outlined by the Chancellor, or by allocating a certain percentage, say, 25% of new monies for projects at small campuses. Thus if MEIF funding increased by $5.3 million to $20 million total, there would be an additional $1.33 million available for researchers at small campuses. This distribution model enables researchers at small campuses to obtain more support while enabling researchers at large campuses to continue existing research programs and seed new ones.
- In sum, MEIF is valuable in purpose and specifics. I am available to elaborate on these points or to answer questions from the committee. Thank you.