



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

Janet T. Mills  
GOVERNOR

William S. Harwood  
PUBLIC ADVOCATE

**Testimony In Support of the Office of the Public Advocate on LD 258, “An Act Making Unified Appropriations and Allocations from the General Fund and Other Funds for the Expenditures of State Government and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2023, June 30, 2024 and June 30, 2025.”**

March 1, 2023

Senator Rotundo, Representative Sachs, Senator Lawrence, Representative Zeigler, Members of the Joint Standing Committee on Appropriations and Financial Affairs, and Members of the Joint Standing Committee on Energy, Utilities and Technology. My name is William Harwood, and I am the Public Advocate of the Office of the Public Advocate. I’m here today to testify in support of the Office’s allocation within the Governor’s Recommended Biennial Budget for Fiscal Years 2024 and 2025 (L.D. 258).

**I. Overview of the Office of the Public Advocate**

The Office of the Public Advocate (“OPA”) was created by the Maine Legislature in 1981 to “represent the using and consuming public,” in recognition that most utility ratepayers do not have the time, resources or expertise to participate in proceedings that determine the cost and quality of the services they receive from electricity, ferry, natural gas, telecommunications, and water utilities.



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The OPA's primary responsibility is to represent the interests of Maine utility consumers. Our attorneys and staff advocate for rates, services, and practices to benefit residential and small commercial customers in state and regional forums and provide information and advice to ratepayers. This office has pursued its mission for the past 41 years by representing those interests before the Public Utilities Commission ("PUC"), the Legislature, the courts, federal regulators, and the regional bodies such as ISO New England that increasingly effect our electricity rates. Typically, we actively participate in approximately 80 PUC cases/year. We also assist customers with questions about their utility bills and issues relating to utility service as well as provide help navigating the Consumer Assistance Division established at the PUC. The OPA also provides support for the development of programs that help maximize energy savings at a low cost.

Currently the OPA has 11 employees consisting of the Public Advocate, Deputy Public Advocate, four Senior Counsel, an Economic Analyst, a Consumer Advisor and three Assistants. The attorneys are also supported by outside independent consultants who provide expertise in engineering, accounting, and finance under contract as needed in individual Public Utilities Commission cases. This combination of a core legal staff supplemented by on-demand expertise allows our office the flexibility to respond to the diverse mix of cases and issues before the Maine Public Utilities Commission, Federal and State courts, and Federal agencies.



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While there are a variety of ways to measure the success of the office, the most easily understood is money saved for the utility consumers. Advocacy by OPA, up to and including Fiscal Year 2022, brings the OPA's 41-year cumulative savings to \$960,376,872.00. (reference: OPA FY2021-2022 Annual Report, pg. 33).

## II. Biennial Budget Summary

The Office of the Public Advocate's Department Summary appears on page A-292 of the Governor's Recommended Fiscal Years 2024-2025 Biennial Budget – Part A, a copy of which is attached. The OPA's recommended Biennial Budget is made up of three separate funds: (1) OPA Regulatory Fund, (2) Transmission Line Fund and (3) NonWires Alternative Coordination Fund.

The OPA's current budget is \$3,986,360 for FY 2023. The budget I am presenting today reflects a small reduction for the next two fiscal years, \$3,727,215 in FY 2024 and \$3,757,202 in FY 2025.

The OPA is funded by assessments on utilities as authorized by Maine Revised Statutes, Title 35-A, chapter 1, section 116, subsection 8 (attached for ease of reference). Costs are allocated to each industry (electric/ferry/gas/telecommunications/water) based on hours worked by OPA staff and consultant expenditures. This current Fiscal Year 2023, I am pleased to report that we were able to keep the total amount of assessments flat and thereby avoid adding to the financial burden on ratepayers caused by rising utility and energy costs.



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The OPA continues to manage its budget in a fiscally prudent way and asks that you authorize the baseline biennial budget as proposed.

Thank you for your time this afternoon. I am available to answer any questions.

Respectfully Submitted,

A handwritten signature in cursive script that reads "William S. Harwood".

William S. Harwood  
Public Advocate

## PUBLIC ADVOCATE 0410

## What the Budget purchases:

The Public Advocate represents Maine utility consumers in matters overseen by the Public Utility Commission (PUC) so that consumers have affordable, high quality utility services, and seeks to carry out this representation in a principled, diligent and compassionate manner. The advocacy role includes negotiating for the lowest feasible level of rates and for the delay of increases when supported by adequate evidence; implementing policy set by the PUC, the Governor, and the Legislature; maintaining frequent and consistent contact with ratepayer organizations, individual consumers and their representatives in order to better identify emerging problems affecting service quality for utility customers; pursuing in federal agency proceedings and courts each of these objectives in order to protect the interests of Maine ratepayers; and working with ISO-NE and being a member of the NEPOOL to stabilize and lower electricity prices for Maine and the northeast region.

	<u>Actual</u>	<u>Current</u>	<u>Budgeted</u>	<u>Budgeted</u>
	2021-22	2022-23	2023-24	2024-25
<b>Program Summary - OTHER SPECIAL REVENUE FUNDS</b>				
Positions - LEGISLATIVE COUNT	10,000	10,000	10,000	10,000
Personal Services	1,427,403	1,505,631	1,546,486	1,576,473
All Other	2,179,518	2,480,729	2,180,729	2,180,729
Total	3,606,921	3,986,360	3,727,215	3,757,202

2023-24 2024-25

Initiative: NONE

	<u>Actual</u>	<u>Current</u>	<u>Budgeted</u>	<u>Budgeted</u>
	2021-22	2022-23	2023-24	2024-25
<b>Revised Program Summary - OTHER SPECIAL REVENUE FUNDS</b>				
Positions - LEGISLATIVE COUNT	10,000	10,000	10,000	10,000
Personal Services	1,427,403	1,505,631	1,546,486	1,576,473
All Other	2,179,518	2,480,729	2,180,729	2,180,729
Total	3,606,921	3,986,360	3,727,215	3,757,202

## §116. Funding of the commission

**1. Entities subject to assessments.** Every transmission and distribution, gas, telephone and water utility and ferry subject to regulation by the commission and every qualified telecommunications provider is subject to an assessment on its intrastate gross operating revenues to produce sufficient revenue for expenditures allocated by the Legislature for the Public Utilities Commission Regulatory Fund established pursuant to this section. The budget for the Public Utilities Commission Regulatory Fund is subject to legislative review and approval in accordance with subsection 2. The portion of the total assessment applicable to each category of public utility or qualified telecommunications provider is based on an accounting by the commission of the portion of the commission's resources devoted to matters related to each category. The commission shall develop a reasonable and practicable method of accounting for resources devoted by the commission to matters related to each category of public utility or qualified telecommunications provider. Assessments on each public utility or qualified telecommunications provider within each category must be based on the utility's or qualified telecommunications provider's gross intrastate operating revenues. Within each category of public utility, the assessment must be apportioned and applied separately to investor-owned utilities and consumer-owned utilities. The portion of the assessment applicable to investor-owned utilities and consumer-owned utilities within each category must be determined based on an accounting by the commission of the portion of the commission's resources devoted to matters related to investor-owned utilities and the portion devoted to matters related to consumer-owned utilities. The commission shall determine the assessments annually prior to May 1st and assess each utility or qualified telecommunications provider for its pro rata share for expenditure during the fiscal year beginning July 1st. Each utility or qualified telecommunications provider shall pay the assessment charged to the utility or qualified telecommunications provider on or before July 1st of each year. Any increase in the assessment that becomes effective subsequent to May 1st may be billed on the effective date of the act authorizing the increase.

A. The assessments charged to utilities and qualified telecommunications providers under this section are just and reasonable operating costs for rate-making purposes. [PL 2011, c. 623, Pt. B, §1 (AMD).]

B. For the purposes of this section, "intrastate gross operating revenues" means:

- (1) In the case of all utilities except telephone utilities, revenues derived from filed rates except revenues derived from sales for resale;
- (2) In the case of a telephone utility, all intrastate revenues, except revenues derived from sales for resale, whether or not the rates from which those revenues are derived are required to be filed pursuant to this Title; and
- (3) In the case of a qualified telecommunications provider, all intrastate revenues except revenues derived from sales for resale. [PL 2013, c. 600, §1 (RPR).]

C. Gas utilities subject to the jurisdiction of the commission solely with respect to safety are not subject to any assessment. [RR 1995, c. 1, §29 (COR).]

D. The commission may correct any errors in the assessments by means of a credit or debit to the following year's assessment rather than reassessing all utilities or qualified telecommunications providers in the current year. [PL 2011, c. 623, Pt. B, §1 (AMD).]

E. The commission may exempt utilities or qualified telecommunications providers with annual intrastate gross operating revenues under \$50,000 from assessments under this section. [PL 2011, c. 623, Pt. B, §1 (AMD).]

F. The portion of the assessment applicable to investor-owned utilities and consumer-owned utilities within each category of public utility, as determined by the commission under this

subsection, must be allocated to each utility based on a 3-year rolling average of revenue reported by the utility. [PL 2021, c. 318, §1 (NEW); PL 2021, c. 318, §24 (AFF).]

For purposes of this section, "qualified telecommunications provider" means a provider of interconnected voice over Internet protocol service that paid any assessment under this subsection, whether voluntarily, by agreement with the commission or otherwise, prior to March 1, 2012. [PL 2021, c. 318, §1 (AMD); PL 2021, c. 318, §24 (AFF).]

**2. Committee recommendations; legislative approval of budget.** The commission shall submit its budget recommendations, using a zero-based budgeting process or other process or method directed by the State Budget Officer, as part of the unified current services budget legislation in accordance with Title 5, sections 1663 to 1666. The commission shall make a presentation of its budget recommendations contained in any current services budget legislation and any supplemental budget legislation to the joint standing committee of the Legislature having jurisdiction over public utilities matters. The joint standing committee of the Legislature having jurisdiction over public utilities matters shall review the commission's recommendations and make recommendations to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs regarding the budget of the commission, including but not limited to all expenditures from the fund established pursuant to this section. The commission shall make an annual report in accordance with section 120 of its planned expenditures for the year and on its use of funds in the previous year. In addition to the assessments authorized under this section, the commission may also receive other funds as appropriated or allocated by the Legislature. [PL 2011, c. 590, §2 (AMD).]

**3. Deposit of funds.** All revenues derived from assessments levied against utilities or qualified telecommunications providers described in this section must be deposited with the Treasurer of State in a separate account to be known as the Public Utilities Commission Regulatory Fund. [PL 2011, c. 623, Pt. B, §2 (AMD).]

**4. Use of funds.** The Public Utilities Commission may use the revenues provided in accordance with this section to defray the costs incurred by the commission pursuant to this Title, including administrative expenses, general regulatory expenses, consulting fees and all other reasonable costs incurred to administer this Title. [PL 2007, c. 240, Pt. P, §1 (AMD).]

**5. Unexpended funds.** Any amount of the funds that is not expended at the end of a fiscal year does not lapse, but is carried forward to be expended for the purposes specified in this section in succeeding fiscal years. [PL 2005, c. 135, §2 (AMD).]

**6. Violations.**  
[PL 2003, c. 505, §11 (RP).]

**7. Special assessment.**  
[PL 1991, c. 343, §4 (RP).]

**8. Public Advocate assessment.** Every utility or qualified telecommunications provider subject to assessment under this section is subject to an additional annual assessment on its intrastate gross operating revenues to produce sufficient revenue for expenditures allocated by the Legislature for operating the Office of the Public Advocate. The portion of this assessment applicable to each category of public utility or qualified telecommunications provider is based on an accounting by the Public Advocate of resources devoted to matters related to each category. The Public Advocate shall develop a reasonable and practicable method of accounting for resources devoted by the Public Advocate to matters related to each category of public utility or qualified telecommunications provider. Assessments on each public utility or qualified telecommunications provider within each category must be based on the utility's or qualified telecommunications provider's gross intrastate operating revenues.

Within each category of public utility, the assessment must be apportioned and applied separately to investor-owned utilities and consumer-owned utilities. The portion of the assessment applicable to investor-owned utilities and to consumer-owned utilities within each category must be determined based on an accounting by the Public Advocate of the portion of the resources of the Office of the Public Advocate devoted to matters related to investor-owned utilities and the portion devoted to matters related to consumer-owned utilities. The revenues produced from this assessment are transferred to the Public Advocate Regulatory Fund and may be used only to fulfill the duties specified in chapter 17. The assessments charged to utilities and qualified telecommunications providers under this subsection are considered just and reasonable operating costs for rate-making purposes. The Public Advocate shall develop a method of accounting for staff time within the Office of the Public Advocate. All professional and support staff shall account for their time in such a way as to identify the percentage of time devoted to public utility and qualified telecommunications provider regulation and the percentage of time devoted to other duties that may be required by law.

A. The Public Advocate shall submit its budget recommendations, using a zero-based budgeting process or other process or method directed by the State Budget Officer, as part of the unified current services budget legislation in accordance with Title 5, sections 1663 to 1666. The assessments and expenditures provided in this section are subject to legislative approval. The Public Advocate shall make an annual report of its planned expenditures for the year and on its use of funds in the previous year. The Public Advocate may also receive other funds as appropriated by the Legislature. [PL 2011, c. 590, §3 (AMD).]

B. The Public Advocate may use the revenues provided in accordance with this section to fund the Public Advocate and 10 employees and to defray the costs incurred by the Public Advocate pursuant to this Title, including administrative expenses, general expenses, consulting fees and all other reasonable costs incurred to administer this Title. [PL 2019, c. 226, §1 (AMD).]

C. [PL 1993, c. 633, §1 (RP); PL 1993, c. 633, §3 (AFF).]

C-1. Funds that are not expended at the end of a fiscal year do not lapse but must be carried forward to be expended for the purposes specified in this section in succeeding fiscal years. [PL 2005, c. 135, §3 (AMD).]

D. [PL 2003, c. 505, §12 (RP).]

E. The portion of the assessment applicable to investor-owned utilities and consumer-owned utilities within each category of public utility, as determined by the Public Advocate under this subsection, must be allocated to each utility based on a 3-year rolling average of revenue reported by the utility. [PL 2021, c. 318, §2 (NEW); PL 2021, c. 318, §24 (AFF).]

[PL 2021, c. 318, §2 (AMD); PL 2021, c. 318, §24 (AFF).]

**9. Public Advocate special assessment.** Each investor-owned transmission and distribution utility subject to assessment under this section is subject to an additional annual assessment on its intrastate gross operating revenues to produce sufficient revenue for expenditures of the Office of the Public Advocate for contracted services and administrative costs associated with the nonwires alternative coordinator pursuant to section 1701, subsection 2-A. Revenue produced from the assessments must be deposited in the Public Advocate Regulatory Fund and used only for purposes specified in this subsection.

[PL 2019, c. 298, §2 (NEW).]

## SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1987, c. 631, §§4,5 (AMD). PL 1989, c. 58, §§1,2 (AMD). PL 1989, c. 571, §A3 (AMD). PL 1989, c. 875, §§E44,45 (AMD). PL 1991, c. 9, §§E19-21 (AMD). PL 1991, c. 343, §§1-4 (AMD). PL 1991, c. 528, §CC2 (AMD). PL 1991, c. 528, §RRR (AFF). PL 1991, c. 591, §CC2 (AMD). PL 1993, c. 118, §4 (AMD). PL 1993, c. 174, §1 (AMD). PL



1993, c. 633, §§1,2 (AMD). PL 1993, c. 633, §3 (AFF). RR 1995, c. 1, §29 (COR). PL 1995, c. 225, §4 (AMD). PL 1995, c. 368, §L1 (AMD). PL 1995, c. 665, §O1 (AMD). PL 1997, c. 424, §§B4,5 (AMD). PL 1997, c. 586, §4 (AMD). PL 1997, c. 643, §J1 (AMD). PL 1997, c. 719, §1 (AMD). PL 1999, c. 259, §3 (AMD). PL 1999, c. 398, §C1 (AMD). PL 2001, c. 28, §1 (AMD). PL 2001, c. 136, §1 (AMD). PL 2003, c. 272, §§1,2 (AMD). PL 2003, c. 505, §§11,12 (AMD). PL 2005, c. 3, §J1 (AMD). PL 2005, c. 135, §§1-3 (AMD). PL 2007, c. 16, §§1, 2 (AMD). PL 2007, c. 240, Pt. P, §1 (AMD). PL 2007, c. 478, §1 (AMD). PL 2007, c. 539, Pt. KK, §13 (AMD). PL 2011, c. 590, §§2, 3 (AMD). PL 2011, c. 623, Pt. B, §§1-3 (AMD). PL 2013, c. 600, §1 (AMD). PL 2019, c. 226, §1 (AMD). PL 2019, c. 298, §2 (AMD). PL 2021, c. 318, §§1, 2 (AMD). PL 2021, c. 318, §24 (AFF).

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