

ELECTRONICALLY FILED ON JANUARY 14, 2015

STATE OF MAINE
PUBLIC UTILITIES COMMISSION
January 14, 2015

Docket No. 2011-262
Docket No. 2012-412

ED FRIEDMAN, et al)
Request for Investigation into Smart)
Meters and Smart Meter Opt-Out)

DEBORAH OLIVER, et al)
Request for Investigation into Central)
Maine Power Company and Smart Meters)

AMENDED NOTICE OF APPEAL

Ed Friedman and other Complainants and Intervenors,¹ file this Appeal from an Order of the Maine Public Utilities Commission (the “Commission”) dated December 19, 2014, a copy of which is attached to this Notice. The nature of the proceeding terminated by the Order was the Commission’s investigation into the health and safety of Central Maine Power Company’s (“CMP”) smart meter system. The Order sets forth two separate and differing opinions issued by Commissioner Littell and Commissioner Vannoy,² but states a joint conclusion that CMP’s smart meter system is safe (“Joint Conclusion”).

Pursuant to M.R.App.P. 5(b)(2)(A), the issues on this appeal are as follows:

¹ The *Ed Friedman et al* Complainants joining Ed Friedman in this appeal are: Kathleen McGee, Chester Gillis, Eleanor Gillis, Andrew Fiori, Melissa Fiori, Joe Ciarroco, Jeanne Johnson, Dan Burk, Deborah Burke and Nancy Gray. The *Deborah Oliver, et al* Complainants joining Deborah Oliver in this appeal are Jennifer Lunden, Brita Light, and Laurie Wolfrum. Intervenors joining in the appeal are Dianne Wilkins and Suzanne Foley-Ferguson. All are represented in the appeal by the undersigned attorneys.

² Commissioner Welch did not participate in the proceeding.

1. The Commission limited its determination of safety to a set of circumstances where CMP customers are exposed to radio frequency radiation considered to be “typical” or “average,” rendering the Order erroneous and unjust for:

- a) failing to satisfy the statutory mandate to ensure the safety of all utility facilities and services for all CMP customers (35-A M.R.S. §101);
- b) failing to satisfy the Law Court’s mandate in *Friedman v. PUC*, 2012 ME 90;
- c) contravening every Maine citizen’s constitutional right to “pursue and obtain safety” (Me. Const. Art. I, §1); and
- d) contravening the judicial maxim *salus populi suprema lex* -- the safety of the people is the supreme law. *Seavey v. Preble*, 64 Me. 120, 121 (Me. 1874). .

2. The Order does not ensure safety for individuals with medical conditions that make them more susceptible to adverse reactions from exposure to radio frequency radiation, rendering the Order erroneous and unjust for:

- a) failing to satisfy the statutory mandate to ensure the safety of all utility facilities and services for all CMP customers (35-A M.R.S. §101);
- b) failing to satisfy the Law Court’s mandate in *Friedman v. PUC*, 2012 ME 90;
- c) contravening every Maine citizen’s constitutional right to “pursue and obtain safety” (Me. Const. Art. I, §1); and
- d) contravening the judicial maxim *salus populi suprema lex* -- the safety of the people is the supreme law. *Seavey v. Preble*, 64 Me. 120, 121 (Me. 1874).

3. The Joint Conclusion is not supported by a common set of findings approved by both Commissioners, rendering the Joint Conclusion erroneous, unreasonable, arbitrary, and an abuse of discretion.

4. The Joint Conclusion is contrary to the findings and conclusions in Commissioner Littell’s opinion, rendering the Joint Conclusion unreasonable, arbitrary, and an abuse of discretion.

5. The Order misapplies the burden of proof, rendering the Joint Conclusion and the separate opinions erroneous, unreasonable, and arbitrary.

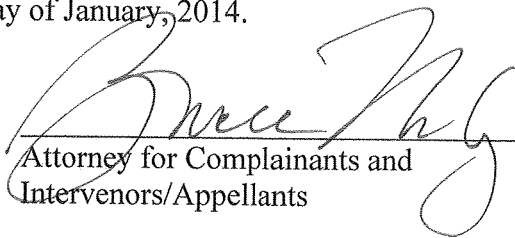
6. The Order misapplies the standard set out in *Friedman v. PUC*, 2012 ME 90, P. 10 (“credible threat to health and safety of CMP customers”), rendering the Joint Conclusion and the separate opinions erroneous, unreasonable, and arbitrary.

7. The Joint Conclusion, Commissioner Vannoy’s opinion, and portions of Commissioner Littell’s opinion are not supported by substantial evidence in the record

In satisfaction of M.R. App.P (2)(1), we understand that transcripts have been prepared for all technical conferences and testimonial hearings in this proceeding and request that they be included in the record. We further request that a transcript be prepared of the Commissioners’ deliberations on September 23, 2014, to be included in the record.

In satisfaction of 35-A M.R.S. §1320(4) the undersigned attorney certifies his opinion that there is probable ground for the appeal as to make it a fit subject for judicial inquiry and that it is not intended for delay.

Dated at Portland, Maine this 9th day of January, 2014.



Attorney for Complainants and
Intervenors/Appellants

Petrucelli, Martin & Haddow, LLP
Two Monument Square, Suite 900
Post Office Box 17555
Portland, Maine 04112-8555
(207) 775-0200

By: Bruce A. McGlaufflin, Esquire
Maine Bar # 8337

Copy to Mary Fournier (via e-mail)