

Maine Smart Meter Appeal Summary History [as of 10/15/16]

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On August 3, 2011, a group of 19 customers of Central Maine Power [CMP] filed a “10 Person Complaint” with the Maine Public Utilities Commission [PUC]. [Our initial complaint](#), followed the PUC’s order of the nation’s first pay-to-opt-out-of-smart-meters plan. In fact, this was the first opt out plan period, and resulted from negotiations involved with several earlier complainants. Complainants in the new case issued a [press release on 4/4/11](#) providing an excellent summary of the issues directed at both the PUC who ordered the smart meter program and CMP, Maine’s largest utility provider.

The Complaint was [dismissed by the PUC on 8/31/11](#) without an investigation on grounds that issues raised had previously come before the PUC and been decided. In response, Complainants filed a [Petition for Reconsideration](#) on 9/9/11. With the PUC failing to respond within 20 days, the Petition was by PUC Rules, deemed denied.

On 10/31/11, Complainants filed a [Notice of Appeal to the Maine Supreme Judicial Court](#), also known as the Law Court. Because the PUC is considered quasi-judicial, all PUC appeals go straight to the Law Court as opposed to a Superior Court where a normal agency appeal would first go. While appealed to the high court, the actual notice of filing is sent to the PUC, as it would be to a lower court in a normal appeal. The PUC then files all papers with the high court. The group issued a [press release on 11/4/11 detailing the Notice of Appeal filing](#).

The actual [Appeal Brief](#) was filed on 1/10/12 accompanied by the required [Supplement of Legal Authorities](#) and [Appendix](#). A [press release on the Brief filing](#) was issued 1/11/12. Several weeks later the US Supreme Court decided unanimously in [US v. Jones](#) that the attachment of a detailed information gathering device [in this case a GPS tracker on a car] by the government without a warrant was illegal. Appellants submitted a [letter re. Jones](#) to the Law Court, this being a situation quite similar to a smart meter attached to ones’ home.

Reply briefs were filed with the court on 2/28/12 by the PUC ([PUC Reply Brief](#)) and by CMP ([CMP Reply Brief](#)). Appellants filed their [Response Brief](#) on 3/13/12. Oral arguments were heard by the court on May 10 at 9:50am EST. Arguments can be heard via live streaming available through the Maine Supreme Judicial Court web site. Click on link to [audio of oral arguments](#). Click on link to [courtroom video footage](#).

The [Maine Court published its decision on July 12, 2012](#) remanding our case to the Maine PUC for a determination of smart meter safety, another first in the nation. Here is our [7/16 Press Release on Decision](#). The Court did not rule on constitutional claims and on 7/25/12 we filed a [Motion for Reconsideration](#) addressing these issues and also requesting a stay on opt out fees pending results of the upcoming lengthy PUC investigation. Motions for reconsideration are never granted [after all, the court just decided and they’d have to admit they were wrong]. Ours was no exception and we received a [denial of our Motion for Reconsideration on 8/9/12](#).

In the fall of 2012 we began a major smart meter safety investigation at the PUC. It will likely run into the summer of 2013. There were a ton of filings with the Maine PUC in this case. These

can be accessed from the [Maine PUC website in the docket section](#). Docket number is 2011-00262. The filing system is unfriendly.

In summary, the investigation included many technical conferences, a great deal of evidence submitted (and rejected “because we {the PUC} have to whittle this down somehow”), our international team of independent expert and lay witnesses, CMP’s expert witnesses from Exponent, a product defense firm who has represented the tobacco and asbestos industries as well as Monsanto and recently Toyota for their accelerating cars. All witnesses submitted pre- filed written testimony with opportunities for cross examination by opposing parties and the PUC.

Expert & lay witness testimony

<http://www.mainecoalitiontostopsmartmeters.org/?p=267>

Intervener Filed Evidence

<http://www.mainecoalitiontostopsmartmeters.org/?p=358>

Following all testimony and hearings, all sides submitted written briefs and reply briefs.

Written briefs

<http://www.mainecoalitiontostopsmartmeters.org/?p=819>

Reply briefs

<http://www.mainecoalitiontostopsmartmeters.org/?p=920>

After a very long wait, the PUC issued its very odd decision with about 31 pages of the 81decision written by Commissioner Dave Littell (Commissioner Vannoy wrote 17 pages and the balance were case history) in which he praised our experts, recognized people were suffering legitimate injuries, recognized the FCC guidelines do not apply to non-thermal radiofrequency radiation and discounted much of what CMP had to say. Littell felt there should be no cost or low cost medical opt outs but this was not reflected in the simple and short Final Order at the end of the commissioner’s report and decision stating basically smart meters were safe enough.

Commissioner’s Final Report & Opinion

<http://www.mainecoalitiontostopsmartmeters.org/?p=1257>

January 9, 2015 we appealed again and found ourselves back in the Maine Supreme Court for oral arguments after both sides had briefed their arguments.

Our briefs filed May 12, 2015

<http://www.mainecoalitiontostopsmartmeters.org/?p=1334>

PUC and CMP briefs filed May 30, 2015 and our Reply brief filed June 14, 2015. All linked here: <http://www.mainecoalitiontostopsmartmeters.org/?p=1372>

Oral Arguments were heard in Court on November 3, 2015

<http://www.mainecoalitiontostopsmartmeters.org/?p=1408>

On January 26, 2016 the Maine Supreme Judicial Court issued their decision against us. <http://www.mainecoalitiontostopsmartmeters.org/?p=1453>

One of their memorable lines was this bit of doublespeak:

“It’s one thing to make a finding that evidence is credible regarding potential harm and quite another to find there is a legally credible threat of harm-that a credible threat of harm is in fact credible: likely and probable to result in harm.”

This smart meter opposition began with a number of complaints in 2010. These led to the first opt out in the country albeit a paid opt out utilizing a punitive fee as disincentive to retaining a safe electromechanical meter rather than the radiation emitting, privacy violating and detailed information-gathering digital utility (so called “smart”) meter. Still, about 8,500 CMP customers elected to opt out.

Our case began August 3, 2011 after the WHO classified this RFR as a possible human carcinogen and ran until January 26, 2016, about 4 ½ years. As I finish this overdue update on October 15, 2016, widespread opposition to smart meters continues around the world. More and more public awareness is growing about the health hazards of RFR exposure, much of this helped by the release early in the summer of partial results from the National Toxicology Program study of whole body exposure to rats from cell phone/smart meter type RFR in which 8.3% of male rats suffered brain and heart tumors and 5.5% developed cancer. <http://www.mainecoalitiontostopsmartmeters.org/?p=1508>

<http://www.friendsofmerrymeetingbay.org/fombnew/pages/newsletter/FOMB%20Spring%202016%20Newsletter-Mod.pdf> (See NTP article in this issue)

Currently litigation over smart meter injuries is in progress in PA, VA, MI and probably some other states. A discrimination lawsuit over electromagnetic hypersensitivity in school continues in MA and various ADA/Fair Housing complaints are also in progress around the country. Here is part of a posting from our website, excellent words to remember:

Smart meter deployments are equivalent to experimenting on humans without their consent, and if an application for such an experiment were to be submitted to an Institutional Review Board (which is the requirement prior to experimenting on humans) it would be rejected outright. Smart meter deployment is in violation of all ten points of the Nuremberg Code, a set of ethical research principles to be fulfilled in any human experimentation, laid down at the end of World War II.

As we move forward, please take to heart:

Resistance... because harm is not an option and extortion not a choice.