



**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

Barry J. Hobbins  
PUBLIC ADVOCATE

**Testimony of the Office of the Public Advocate on the Biennial Budget**  
**FY22-23**

Senator Breen, Representative Pierce, Senator Lawrence, Representative Berry, 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 Barry Hobbins and I am the Public Advocate with the Office of the Public Advocate.

**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, telecommunications, natural gas and water utilities. In the past 39 years, the OPA has represented 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. We also provide information to the public to help them make informed decisions about increasingly deregulated and complex markets.

In addition to myself the office has four Senior Counsel's, who are supported by three experienced staff members, a Consumer Advisor, and also by outside independent consultants who provide expertise in engineering, accounting, and finance under contract as needed in individual 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 that we face.

Our funding comes from an assessment on the more than 146 regulated utilities providing electric, ferry, gas, telephone, and water services in Maine. Once the Legislature and Governor approve our budget, we are authorized to assess each of these utilities for a share of our allotted budget pursuant to Maine Revised Statutes, Title 35-A M.R.S. Subsection 116. The allocation to each type of utility is based on the proportion of our staff time and consultant expenditures devoted to each industry for the previous year. For example, in 2019, 79% of our staff time and consultant expenditures was devoted to electric utility matters, so 79% of our FY 2021 budget was collected from electric utilities and their customers. Once these industry-specific amounts are determined, each utility pays its share based on their proportional share

of their gross intra-state operating revenues for that type of utility in Maine.

Traditionally our office has measured its effectiveness in terms of ratepayer savings attributable solely to OPA advocacy before state and federal regulators. Last year, we estimated these ratepayer savings to be approximately \$338 million (reference: [OPA FY2019-2020 Annual Report, pg. 38](#)).

## II. Biennial Budget Summary

The Office of the Public Advocate's Department Summary appears on pages A-203, A-204 of the Governor's Recommended Fiscal Year 2022-2023 General Fund Biennial Budget – Part A document, 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 combined budget for FY 2020-2021 is currently \$3,324,186. The Biennial Budget I am presenting to you increases this budget to \$3,670,097 in FY 2022 and \$3,687,001 in FY 2023. In order to prevent requesting additional funds in any supplemental budget, the Office is requesting additional funds in FY 2022 amounting to increase in Personal Services of \$114,687 and in All Other of \$164,470; and for FY 2023 in Personal Services of \$118,544 and in All Other of \$164,644. This increase is attributable to four initiatives. After careful review and justification by the

Bureau of Budget, our proposed additional funds were recommended and are included in Governor Mills' Recommended Fiscal Year 2022-2023 General Fund Biennial Budget.

### **Initiative 1: Economic Analyst Position**

In Part of the Biennial Budget, the Office of the Public Advocate is requesting reinstatement of a position. The position was removed from the payroll in 2011. The economic analyst position was established as a critical resource providing valuable internal analysis of utilities in pending proceedings. The original position (Research Assistant) was changed to Economic Analyst, Salary range 36 in statute by Public Law chapter 226, attached hereto.

This initiative provides the necessary increase in allocation for the position title and salary range change. This initiative allows for the position to be assessed pursuant to Maine Revised Statutes, Title 35-A M.R.S., Subsection 116. Permanent funding of the position will provide valuable support in utility cases.

### **Initiative 2: Office Specialist I (*Confidential*) – 10<sup>th</sup> Position**

In Part of the Biennial Budget, the Office of the Public Advocate is requesting funding for related All Other costs for one Office Specialist I position previously authorized by Public Law 2019, chapter 226.

This initiative provides the necessary headcount, associated All Other funding,

and allocation that allows the position to be filled and assessed for pursuant to Maine Revised Statutes, Title 35-A M.R.S., Subsection 116.

### **Initiative 3: Funding for Projected Increases in Operational Expenditures**

This initiative provides funding for anticipated increases in operational expenses. This initiative also adjusts funding among object codes to better reflect historical expenditure trends. For these reasons, we are requesting an increase in All Other of \$12,550 in FY 2022 and \$12,660 in FY 2023 to assure that the OPA has the monetary resources to continue to perform exceptional work on behalf of Maine ratepayers before the PUC, Maine courts, Federal Energy Regulatory Commission, Federal Communications Commission, and the Maine Legislature. The Office of the Public Advocate is supported by dedicated revenues from assessments on utilities as authorized by Maine Revised Statutes, Title 35-A, chapter 1, section 116, subsection 8, attached for ease of reference.

### **Initiative 4: NonWires Alternative Coordination Fund Adjustment**

This initiative adjusts funding and aligns allocation with projected dedicated revenue from special assessment on investor-owned transmission and distribution utility authorized in Maine Revised Statutes, Title 35-A M.R.S., chapter 1, section 116, subsection 9 for contracted services and administrative costs associated with nonwires

alternative coordination. We are requesting an increase in All Other of \$150,000 for both FY2022 and FY2023 so to align expenditures with dedicated revenue pertaining to the activities of the nonwires alternative coordinator established pursuant to Maine Revised Statutes, Title 35-A M.R.S. section 1701, subsection 2-A and previously authorized by Public Law 2019 chapter 298, attached hereto.

I appreciate the opportunity to come before you and I look forward to answering any questions you may have.

Respectfully Submitted,



Barry Hobbins  
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> 2019-20	<u>Current</u> 2020-21	<u>Budgeted</u> 2021-22	<u>Budgeted</u> 2022-23
<b>Program Summary - OTHER SPECIAL REVENUE FUNDS</b>				
Positions - LEGISLATIVE COUNT	9,000	9,000	9,000	9,000
Personal Services	1,299,544	1,308,115	1,374,869	1,387,742
All Other	2,017,571	2,016,071	2,016,071	2,016,071
Total	3,317,115	3,324,186	3,390,940	3,403,813

	<b>2021-22</b>	<b>2022-23</b>
<b>Initiative:</b> Continues one Economic Analyst position previously continued by Financial Order 001055 F1 and makes the position permanent as authorized in Maine Revised Statutes, Title 35-A, section 1701, subsection 3. Also, provides funding for related All Other costs.		

**OTHER SPECIAL REVENUE FUNDS**

Personal Services	32,025	31,918
All Other	536	534
Total	32,561	32,452

	<b>2021-22</b>	<b>2022-23</b>
<b>Initiative:</b> Establishes one Office Specialist I position to bring staffing level to ten employees as authorized in Maine Revised Statutes, Title 35-A, section 116, subsection 8 and provides funding for related All Other costs.		

**OTHER SPECIAL REVENUE FUNDS**

Positions - LEGISLATIVE COUNT	1,000	1,000
Personal Services	82,662	86,626
All Other	1,384	1,450
Total	84,046	88,076

	<b>2021-22</b>	<b>2022-23</b>
<b>Initiative:</b> Provides funding for projected increases in operational expenditures.		

**OTHER SPECIAL REVENUE FUNDS**

All Other	12,550	12,660
Total	12,550	12,660

	<b>2021-22</b>	<b>2022-23</b>
<b>Initiative:</b> Adjusts funding to align with current revenue projections.		

**OTHER SPECIAL REVENUE FUNDS**

All Other	150,000	150,000
Total	150,000	150,000

	<u>Actual</u> 2019-20	<u>Current</u> 2020-21	<u>Budgeted</u> 2021-22	<u>Budgeted</u> 2022-23
--	--------------------------	---------------------------	----------------------------	----------------------------

**Revised Program Summary - OTHER SPECIAL REVENUE FUNDS**

Positions - LEGISLATIVE COUNT	9,000	9,000	10,000	10,000
Personal Services	1,299,544	1,308,115	1,489,556	1,506,286

Executive Department

	<u>Actual</u>	<u>Current</u>	<u>Budgeted</u>	<u>Budgeted</u>
	2019-20	2020-21	2021-22	2022-23
<b>Revised Program Summary - OTHER SPECIAL REVENUE FUNDS</b>				
All Other	2,017,571	2,016,071	2,180,541	2,180,715
Total	3,317,115	3,324,186	3,670,097	3,687,001



## STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

S.P. 492 - L.D. 1557

**An Act To Adjust the Staffing and Resources of the Office of the Public Advocate****Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 35-A MRSA §116, sub-§8, ¶B**, as amended by PL 1999, c. 259, §3, is further amended to read:

B. The Public Advocate may use the revenues provided in accordance with this section to fund the Public Advocate and 9 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.

**Sec. 2. 35-A MRSA §1701, sub-§3**, as amended by PL 2011, c. 655, Pt. P, §1, is further amended to read:

**3. Salaries of certain employees.** The salaries of the following employees of the Public Advocate are within the following salary ranges:

- A. Deputy Public Advocate, salary range 53;
- B. Senior Counsel, salary range 36;
- ~~D. Research Assistant, salary range 30;~~
- E. Business Services Manager, salary range 26; ~~and~~
- F. Special Assistant to the Public Advocate, salary range 20; and
- G. Economic Analyst, salary range 36.

The employees listed in this subsection serve at the pleasure of the Public Advocate and are confidential employees. All other employees of the Public Advocate are subject to the Civil Service Law.

The Public Advocate may compensate one or more Senior Counsels at salary range 37 if, in the judgment of the Public Advocate, an increase is necessary to provide competitive salary levels.

## §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. 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).]

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 2013, c. 600, §1 (AMD).]

**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. The revenues produced from this assessment are transferred to the Public Advocate Regulatory Fund and may only be used 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).]  
[PL 2019, c. 226, §1 (AMD).]

**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).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

*All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the First Regular Session of the 129th Maine Legislature and is current through October 1, 2019. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.*

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.

STATE OF MAINE

IN THE YEAR OF OUR LORD  
TWO THOUSAND NINETEEN

H.P. 855 - L.D. 1181

**An Act To Reduce Electricity Costs through Nonwires Alternatives**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 35-A MRSA §102, sub-§13**, as amended by PL 2009, c. 539, §1, is further amended to read:

**13. Public utility.** "Public utility" includes every gas utility, natural gas pipeline utility, transmission and distribution utility, telephone utility, water utility and ferry, as those terms are defined in this section, and each of those utilities is declared to be a public utility. "Public utility" does not include the operation of a radio paging service, as that term is defined in this section, or mobile telecommunications services unless only one entity or an affiliated interest of that entity, as defined in section 707, subsection 1, paragraph A, exclusively controls the use of the radio frequency spectrum assigned by the Federal Communications Commission to provide mobile service to the service area. ~~"Public utility" includes a smart grid coordinator as defined in section 3143, subsection 1, paragraph B.~~

Nothing in this subsection precludes:

- A. The jurisdiction, control and regulation by the commission pursuant to private and special act of the Legislature;
- B. The commission's jurisdiction and control over and regulation of a public utility that provides, in addition to other services, radio paging service or mobile telecommunications services;
- C. The commission's jurisdiction and control over and regulation of basic exchange telephone service offered by a provider of mobile telecommunications services if, after investigation and hearing, the commission determines that the provider is engaged in the provision of basic exchange telephone service; and
- D. Negotiations for, or negates agreements or arrangements existing on the effective date of this paragraph relating to, rates, terms and conditions for interconnection provided by a telephone utility to a company providing radio paging or mobile telecommunications services.

**Sec. 2. 35-A MRSA §116, sub-§9** is enacted to read:

**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.

**Sec. 3. 35-A MRSA §1701, sub-§2-A** is enacted to read:

**2-A. Nonwires alternative policy; coordinator; services.** The Public Advocate shall contract with a person or entity, referred to in this subsection as "the nonwires alternative coordinator," to provide services in accordance with this subsection. As used in this subsection, "nonwires alternative" has the same meaning as in section 3131, subsection 4-C. The nonwires alternative coordinator shall:

A. Review small transmission project and distribution project planning studies in accordance with section 3132-B;

B. Investigate and make recommendations regarding nonwires alternatives to proposed capital investments in the transmission and distribution system pursuant to sections 3132, 3132-A and 3132-B and in accordance with section 3132-C;

C. Conduct benefit-cost analyses to evaluate the cost-effectiveness of nonwires alternatives and make recommendations regarding nonwires alternatives and procurement of recommended nonwires alternatives in accordance with sections 3132-C and 3132-D; and

D. Track the implementation of nonwires alternative projects in the State and issue quarterly reports on the projects' progress, including project budgets, timelines, in-service dates, costs incurred, operational savings and other benefits.

The nonwires alternative coordinator shall collaborate with the Efficiency Maine Trust, transmission and distribution utilities and interested parties in performing the services required by this subsection.

The Public Advocate shall include in its annual report required under section 1702, subsection 6 information regarding the services provided by the nonwires alternative coordinator.

**Sec. 4. 35-A MRSA §1701, sub-§3, ¶F**, as enacted by PL 1999, c. 259, §4, is amended to read:

F. Special Assistant to the Public Advocate, salary range ~~20~~ 25.

**Sec. 5. 35-A MRSA §3131, sub-§§4-C and 4-D** are enacted to read:

**4-C. Nonwires alternative.** "Nonwires alternative" means a nontransmission alternative or an infrastructure, technology or application that defers or reduces the need



for capital investment in the transmission and distribution system and addresses system reliability needs proposed to be met by the transmission or distribution system investment.

**4-D. Nonwires alternative coordinator.** "Nonwires alternative coordinator" means the person or entity providing services under contract to the Office of the Public Advocate as described in section 1701, subsection 2-A.

**Sec. 6. 35-A MRSA §3131, sub-§8** is enacted to read:

**8. Cost-effective.** "Cost-effective" means, with respect to nonwires alternatives, that benefits exceed costs, as determined by benefit-cost analysis conducted pursuant to section 3132-C, subsection 2.

**Sec. 7. 35-A MRSA §3132, sub-§2-D,** as enacted by PL 2017, c. 201, §4, is amended to read:

**2-D. Nontransmission alternatives investigation; consideration.** In considering whether to approve or disapprove all or portions of a proposed transmission line and associated infrastructure pursuant to subsection 5, the commission shall, for a transmission line proposed by an investor-owned transmission and distribution utility, consider the results and recommendations of an investigation by an independent 3rd party, which may be the commission or a contractor selected by the commission, of nontransmission alternatives to construction of the proposed transmission line. The investigation must set forth the total projected costs of the transmission line as well as the total projected costs of the alternatives over the effective life of the proposed transmission line the nonwires alternative coordinator conducted in accordance with section 3132-C.

**Sec. 8. 35-A MRSA §3132, sub-§3,** as amended by PL 2009, c. 123, §3, is further amended to read:

**3. Transmission line rebuilding or relocation projects.** Each transmission and distribution utility shall file annually with the commission and the Office of the Public Advocate, for review by the nonwires alternative coordinator, a schedule of transmission line rebuilding or relocation projects that it intends to carry out during the next 5 years concerning transmission lines that will become, or will remain at, voltages of 69 kilovolts or more. The schedule must describe each project, showing the length, location and estimated cost.

If the commission determines that an investigation of any transmission line rebuilding or relocation project is warranted, it shall notify the transmission and distribution utility within 60 days of the annual filing and the transmission and distribution utility is then required to comply with the provisions of this section with respect to that project. The absence of commission notification requiring the utility to file a petition does not preclude such notification in subsequent years.

**Sec. 9. 35-A MRSA §3132, sub-§3-A,** as amended by PL 2009, c. 123, §4, is further amended to read:

**3-A. Minor transmission line construction projects.** Each domestic transmission and distribution utility shall file annually with the commission and the Office of the Public Advocate, for review by the nonwires alternative coordinator, a schedule of minor transmission line construction projects that it intends to carry out during the next 5 years concerning transmission lines that will be capable of operating at 69 kilovolts or more. A minor transmission line construction project is a transmission line construction project the cost of which does not exceed 25% of the utility's current annual transmission property depreciation charge. The schedule must describe each project, showing the length, location and estimated cost.

If the commission determines that an investigation of any minor transmission line construction project is warranted, it shall notify the transmission and distribution utility within 60 days of the annual filing and the utility must then comply with the provisions of this section with respect to that project. The absence of commission notification requiring the utility to file a petition does not preclude such notification in subsequent years.

**Sec. 10. 35-A MRSA §3132, sub-§5**, as amended by PL 2013, c. 369, Pt. C, §4, is further amended to read:

**5. Commission approval of a proposed transmission line; nontransmission alternatives.** The commission may approve or disapprove all or portions of a proposed transmission line and shall make such orders regarding its character, size, installation and maintenance and regarding nontransmission alternatives to the proposed transmission line as are necessary, having regard for any increased costs caused by the orders. ~~The~~ In its review and consideration of nontransmission alternatives, as required by subsection 2-D, the commission shall give preference to the nontransmission alternatives that have been identified as able to address the identified need for the proposed transmission line at lower total cost to ratepayers in this State most cost-effectively. ~~When the costs to ratepayers in this State~~ cost-effectiveness of the identified nontransmission alternatives are reasonably equal, the commission shall give preference to the alternatives that produce the lowest amount of local air emissions, including greenhouse gas emissions.

**Sec. 11. 35-A MRSA §3132, sub-§6**, as amended by PL 2013, c. 369, Pt. C, §5, is further amended to read:

**6. Commission order; certificate of public convenience and necessity.** In its order, the commission shall make specific findings with regard to the public need for the proposed transmission line. The commission shall make specific findings with regard to the likelihood that nontransmission alternatives can sufficiently address the identified public need over the effective life of the transmission line at lower total cost more cost-effectively. ~~Except as provided in subsection 6-A for a high-impact electric transmission line and in accordance with subsection 6-B regarding nontransmission alternatives, if~~ If the commission finds that a public need exists, after considering whether the need can be ~~economically~~ and reliably and more cost-effectively met using nontransmission alternatives, it shall issue a certificate of public convenience and necessity for the transmission line. In determining public need, the commission shall, at a minimum, take into account economics, reliability, public health and safety, scenic, historic and recreational values, state renewable energy generation goals, the proximity of the

proposed transmission line to inhabited dwellings and nontransmission alternatives to construction of the transmission line, including energy conservation, distributed generation or load management. If the commission orders or allows the erection of the transmission line, the order is subject to all other provisions of law and the right of any other agency to approve the transmission line. The commission shall, as necessary and in accordance with subsections 7 and 8, consider the findings of the Department of Environmental Protection under Title 38, chapter 3, subchapter 1, article 6, with respect to the proposed transmission line and any modifications ordered by the Department of Environmental Protection to lessen the impact of the proposed transmission line on the environment. A person may submit a petition for and obtain approval of a proposed transmission line under this section before applying for approval under municipal ordinances adopted pursuant to Title 30-A, Part 2, Subpart 6-A; and Title 38, section 438-A and, except as provided in subsection 4, before identifying a specific route or route options for the proposed transmission line. Except as provided in subsection 4, the commission may not consider the petition insufficient for failure to provide identification of a route or route options for the proposed transmission line. The issuance of a certificate of public convenience and necessity establishes that, as of the date of issuance of the certificate, the decision by the person to erect or construct was prudent. At the time of its issuance of a certificate of public convenience and necessity, the commission shall send to each municipality through which a proposed corridor or corridors for a transmission line extends a separate notice that the issuance of the certificate does not override, supersede or otherwise affect municipal authority to regulate the siting of the proposed transmission line. The commission may deny a certificate of public convenience and necessity for a transmission line upon a finding that the transmission line is reasonably likely to adversely affect any transmission and distribution utility or its customers.

**Sec. 12. 35-A MRSA §3132-A**, as amended by PL 2017, c. 201, §§5 and 6, is further amended to read:

**§3132-A. Construction of transmission projects prohibited without approval of the commission**

A person may not construct any transmission project without approval from the commission. For the purposes of this section, "transmission project" means any proposed transmission line and its associated infrastructure capable of operating at less than 69 kilovolts and projected to cost in excess of ~~\$20,000,000~~ \$5,000,000.

**1. Submission requirement.** A person that proposes to undertake in the State a transmission project must provide the commission with a description of the need for the proposed transmission project.

**1-A. Nonwires alternatives investigation; consideration.** In considering whether to approve or disapprove all or portions of a proposed transmission project pursuant to subsection 2, the commission shall, for a transmission project proposed by an investor-owned transmission and distribution utility, consider the results and recommendations of an investigation by an independent 3rd party, ~~which may be the commission or a contractor selected by the commission~~, of nontransmission alternatives to construction of

~~the proposed transmission project the nonwires alternative coordinator conducted in accordance with section 3132-C. The investigation must set forth the total projected costs of the transmission project as well as the total projected costs of the alternatives over the effective life of the proposed transmission project.~~

**2. Commission approval of a proposed transmission project; nontransmission alternatives.** In order for a transmission project to be approved, the commission must consider whether the identified need over the effective life of the proposed transmission project can be ~~economically and~~ reliably and more cost-effectively met using nontransmission alternatives ~~at a lower total cost.~~ During In its review and consideration of nontransmission alternatives, as required by subsection 1-A, the commission shall give preference to nontransmission alternatives that ~~are~~ have been identified as able to address the identified need for the proposed transmission project ~~at lower total cost to ratepayers most cost-effectively.~~ Of the identified nontransmission alternatives, the commission shall give preference to the lowest cost nontransmission alternatives. When the ~~costs to ratepayers~~ cost-effectiveness of the identified nontransmission alternatives are reasonably equal, the commission shall give preference to the alternatives that produce the lowest amount of local air emissions, including greenhouse gas emissions.

**3. Exception.** A transmission project that is constructed, owned and operated by a generator of electricity solely for the purpose of electrically and physically interconnecting the generator to the transmission system of a transmission and distribution utility is not subject to this section.

**Sec. 13. 35-A MRSA §3132-B** is enacted to read:

**§3132-B. Small transmission and distribution projects**

For the purposes of this section, "small transmission project" means any proposed transmission line and associated infrastructure capable of operating at less than 69 kilovolts and projected to cost \$5,000,000 or less.

**1. Planning study.** Each investor-owned transmission and distribution utility in this State shall annually complete and submit to the Office of the Public Advocate, for review by the nonwires alternative coordinator, a planning study for small transmission projects and distribution projects. In completing the planning study, an investor-owned transmission and distribution utility shall develop and use system planning models. The study must:

A. Analyze system needs for the next 5 years and provide a schedule of proposed projects and associated costs;

B. Describe system capacity and load by substation and circuit; and

C. Identify corresponding planned and anticipated growth-related investments.

After review of a planning study submitted under this subsection, the nonwires alternative coordinator may provide comments or recommendations, which may include recommendations to achieve the policy goals established in section 3143. An investor-owned transmission and distribution utility may, at its discretion, incorporate recommendations on a planning study made by the nonwires alternative coordinator.

Failure to incorporate recommendations made by the nonwires alternative coordinator may not result in a presumption of imprudence.

**2. Nonwires alternatives investigation.** Except as provided in subsection 3, for a proposed project presented in a planning study under subsection 1, the nonwires alternative coordinator:

A. Shall investigate nonwires alternatives if the project is a small transmission project or is a distribution project estimated to cost \$500,000 or more; and

B. May investigate nonwires alternatives if the project is a distribution project estimated to cost less than \$500,000 and, in the judgment of the nonwires alternative coordinator, there is a reasonable likelihood that a nonwires alternative would be more cost-effective than the proposed distribution project.

An investigation of nonwires alternatives under this subsection must be conducted in accordance with section 3132-C.

**3. Excluded projects; criteria.** The commission, by rule, shall develop criteria to exclude from investigation by the nonwires alternative coordinator small transmission projects and distribution projects best suited to transmission and distribution investments, including but not limited to projects that are:

A. Necessary for redundant supply to a radial load;

B. Necessary to address maintenance, asset condition or safety needs;

C. Necessary to address stability or short circuit problems; or

D. Required to be in service within one year based on the controlling load forecast.

**4. Nonwires alternatives recommendations.** Based on the investigation under subsection 2, the nonwires alternative coordinator shall make recommendations to the investor-owned transmission and distribution utility regarding nonwires alternatives to proposed small transmission projects and distribution projects. The nonwires alternative coordinator and the utility shall attempt to reach a good faith agreement regarding the adoption of nonwires alternatives that are most cost-effective. If agreement is reached, the utility shall pursue the agreed-upon nonwires alternatives. If there is no agreement, the utility shall petition the commission to resolve the dispute.

**5. Dispute resolution.** In responding to a petition by an investor-owned transmission and distribution utility pursuant to subsection 4, the commission shall review the planning study prepared under subsection 1 and the recommendations of the nonwires alternative coordinator under subsection 4. In resolving the dispute, the commission shall give preference to nonwires alternatives that are identified as able to address the identified need for the proposed small transmission project or distribution project and are most cost-effective. Of the identified nonwires alternatives, the commission shall give preference to the lowest-cost nonwires alternatives. When the costs to ratepayers in this State of the identified nonwires alternatives are reasonably equal, the commission shall give preference to the nonwires alternatives that produce the lowest amount of local air emissions, including greenhouse gas emissions.

Sec. 14. 35-A MRSA §3132-C is enacted to read:

**§3132-C. Nonwires alternatives investigation and recommendations**

**1. Investigation required.** The nonwires alternative coordinator shall conduct an investigation of and make recommendations regarding nonwires alternatives to a wires project under section 3132, 3132-A or 3132-B in accordance with this section. The investigation must be conducted in coordination with the Efficiency Maine Trust. For the purposes of this section, "wires project" means a transmission line and associated infrastructure subject to the requirements of section 3132, a transmission project as defined in section 3132-A or a small transmission project or distribution project covered by section 3132-B.

**2. Investigation methods; benefit-cost analysis.** An investigation under subsection 1 must set forth the total projected costs and annual carrying costs of the wires project and the nonwires alternatives over the effective life of the wires project. The investigation must include a benefit-cost analysis that evaluates the cost-effectiveness of nonwires alternatives as compared to the wires project, under which:

A. Benefits and costs are measured in net present value;

B. Benefits reflect total, quantifiable avoided costs and are calculated from the perspective of the investor-owned transmission and distribution utility and ratepayers, including any deferral value; and

C. Costs are calculated from the perspective of the investor-owned transmission and distribution utility. For a nonwires alternative, costs include the utility's cost of any contracts required to deliver the nonwires alternative but do not include any ratepayer contributions to the cost of the nonwires alternative.

**3. Data.** An investor-owned transmission and distribution utility shall provide data requested by the Public Advocate or the Efficiency Maine Trust, subject to enforcement by the commission, to allow the nonwires alternative coordinator, in conjunction with the trust, to carry out investigation and analysis under this section. The trust shall use utility ratepayer usage data to identify cost-effective nonwires alternatives on the customer side of the meter. An investor-owned transmission and distribution utility may request a protective order if necessary to protect the confidentiality of data provided under this section in accordance with section 1311-A.

**4. Recommendations.** On the basis of the investigation under subsection 1, the nonwires alternative coordinator shall develop and provide to the commission or to an investor-owned transmission and distribution utility, as appropriate, recommendations regarding cost-effective nonwires alternatives to the wires project, including a proposed plan for procurement of the recommended nonwires alternatives. The proposed procurement plan must be consistent with the provisions of section 3132-D.

Sec. 15. 35-A MRSA §3132-D is enacted to read:

### **§3132-D. Nonwires alternatives procurement**

When the commission determines a nonwires alternative is appropriate under section 3132, 3132-A or 3132-B or an investor-owned transmission and distribution utility agrees voluntarily to a nonwires alternative under section 3132-B, the utility shall procure the nonwires alternative in accordance with this section.

**1. Behind the meter alternatives.** For a nonwires alternative on the customer side of the meter, the investor-owned transmission and distribution utility shall contract with the Efficiency Maine Trust to deliver the nonwires alternative through the trust's programs.

**2. Grid-side alternatives.** For a nonwires alternative on the grid side of the meter, the commission shall determine an entity, which may include but is not limited to the investor-owned transmission and distribution utility or a 3rd party, to deliver the nonwires alternative and shall make orders as necessary; except, when a utility voluntarily agrees to a nonwires alternative on the grid side of the meter under section 3132-B, the utility shall determine the entity to deliver the nonwires alternative.

An investor-owned transmission and distribution utility's prudently incurred costs to deliver nonwires alternatives directly or under contract with the Efficiency Maine Trust or a 3rd party are recoverable in rates. For purposes of this section, prudently incurred costs do not include a financial or performance incentive for the utility.

**Sec. 16. 35-A MRSA §3143, sub-§1,** as enacted by PL 2009, c. 539, §2, is amended to read:

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Smart grid" means the integration of information and communications innovations and infrastructure, including nonwires alternatives, with the electric system to enhance the efficiency, reliability and functioning of the system through smart grid functions.

~~B. "Smart grid coordinator" means an entity, authorized by the commission in accordance with subsection 5, that manages access to smart grid functions and associated infrastructure, technology and applications within the service territory of a transmission and distribution utility.~~

C. "Smart grid functions" means those functions that advance the policy of the United States as specified in the federal Energy Independence and Security Act of 2007, Public Law 110-140, Section 1301, including functions that enable consumers to access information about and to manage and adjust their electricity consumption or to generate and store electricity and functions specified in Section 1306(d) of that Act.

**Sec. 17. 35-A MRSA §3143, sub-§2, ¶¶D and E,** as enacted by PL 2009, c. 539, §2, are amended to read:

D. The State currently lacks a comprehensive smart grid policy but faces critical decisions regarding the implementation of smart grid functions and associated infrastructure, technology and applications, and the commission and the Legislature will play central roles in making those decisions; ~~and~~

E. It is vital that a smart grid policy be developed in order to ensure that all ratepayers and the State as a whole are afforded the benefits of smart grid functions and associated infrastructure, technology and applications; and

**Sec. 18. 35-A MRSA §3143, sub-§2, ¶F** is enacted to read:

F. It is in the public interest to establish a nonwires alternative coordinator for the State.

**Sec. 19. 35-A MRSA §3143, sub-§5**, as enacted by PL 2009, c. 539, §2, is repealed.

**Sec. 20. 35-A MRSA §3143, sub-§10**, as enacted by PL 2009, c. 539, §2, is amended to read:

**10. Consumer education.** A If a transmission and distribution utility that or the Efficiency Maine Trust implements smart grid functions, the utility or the trust shall, to the extent the commission determines appropriate, provide information to customers about the purpose and goals of smart grid functions, the ways in which smart grid functions, including but not limited to time-of-use pricing, may involve customer interaction and how the implementation of smart grid functions can benefit customers.

**Sec. 21. 35-A MRSA §10104, sub-§4, ¶G** is enacted to read:

G. In developing the triennial plan, or an annual update plan under subsection 6, the trust may include, as part of its budget for electric efficiency and conservation programs under section 10110, the costs of providing nonwires alternatives in accordance with section 3132-D.

**Sec. 22. 35-A MRSA §10104, sub-§9**, as amended by PL 2017, c. 110, §34, is further amended to read:

**9. Coordination with other entities.** Consistent with the requirements of this chapter and other applicable laws, the board shall coordinate with the activities and programs of state agencies and authorities that relate to the purposes of this chapter in order to align such activities and programs with the plans and programs of the trust. For purposes of this subsection, activities and programs of state agencies and authorities that relate to the purposes of this chapter include but are not limited to energy efficiency programs relating to state facilities administered by the Department of Administrative and Financial Services, Bureau of General Services, the adoption, amendment and maintenance of the Maine Uniform Building and Energy Code by the Technical Building Codes and Standards Board, established in Title 5, section 12004-G, subsection 5-A within the Department of Public Safety, energy efficiency or green energy workforce development activities of the Department of Labor or the State Workforce Board ~~and~~, energy efficiency and weatherization programs administered by the Maine State Housing



Authority and the activities of the nonwires alternative coordinator established pursuant to section 1701, subsection 2-A.

**Sec. 23. Appropriations and allocations.** The following appropriations and allocations are made.

**EXECUTIVE DEPARTMENT**

**Public Advocate 0410**

Initiative: Provides allocations for the contracted services of a person or entity to serve as a nonwires alternative coordinator.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2019-20</b>	<b>2020-21</b>
All Other	\$800,000	\$800,000
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<u>\$800,000</u>	<u>\$800,000</u>

**Public Advocate 0410**

Initiative: Provides allocations for an increase in the salary range of the Special Assistant to the Public Advocate from range 20 to range 25.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2019-20</b>	<b>2020-21</b>
Personal Services	\$3,039	\$4,052
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<u>\$3,039</u>	<u>\$4,052</u>

**EXECUTIVE DEPARTMENT  
DEPARTMENT TOTALS**

	<b>2019-20</b>	<b>2020-21</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$803,039</b>	<b>\$804,052</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<u><b>\$803,039</b></u>	<u><b>\$804,052</b></u>