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UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

KATHERINE VEILLEUX, et al.,)
Plaintiffs) Civil Action Docket
v.) NO.: 1:16-cv-00571-NT
ELECTRICITY MAINE, LLC,)
et al.,)
Defendants)

DEPOSITION OF WILLIAM TAYLOR FESSENDEN, taken pursuant to subpoena at the law offices of Hallett Whipple Weyrens, 6 City Center, Portland, Maine, on June 12, 2018, commencing at 9:03 a.m., before Jennifer A. Ridenour, RPR, a Notary Public in and for the State of Maine.

APPEARANCES:

BENJAMIN N. DONAHUE, ESQ., FOR THE PLAINTIFFS.
KATHERINE S. KAYATTA, ESQ.,
FOR ELECTRICITY MAINE, ET AL.
MELISSA A. HEWEY, ESQ., FOR PROVIDER POWER, ET AL.

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I N D E X

WITNESS: WILLIAM TAYLOR FESSENDEN

Examination by:	PAGE
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STIPULATION

It is hereby agreed by and between the parties that reading and signing of the deposition is not waived.

- - - - -

WILLIAM TAYLOR FESSENDEN, having been duly sworn by the Notary Public, was examined and testified as follows:

EXAMINATION

BY MR. DONAHUE:

Q. Good morning --

A. Good morning.

Q. -- Will. Can you just state your full name for the record, please.

A. Sure. William Taylor Fessenden.

Q. Great. Will, thank you for coming this morning. Can I call you Will?

A. Please.

Q. And you're here in response to a subpoena --

A. Yes.

Q. -- that I sent you. You're not here on your own accord but because you have to be here?

A. Right.

Q. Okay. Will, what was your job title when you were employed by Electricity Maine?

1 A. I believe it was director of media strategy.
2 It may have changed slightly, but --

3 Q. Okay. And when did you first start working
4 for Electricity Maine?

5 A. Early December 2012, I believe. It might
6 have been late November, but right in that vicinity. I
7 don't remember what my actual start date was, but --

8 Q. What did you do before Electricity Maine?

9 A. I was -- I worked for a marketing and public
10 relations firm, Encompass Marketing in Auburn.

11 Q. Okay. What was the time frame on that,
12 roughly?

13 A. I was there for -- so about four years. I
14 was with Encompass about four years before Provider
15 Power. Just over four years, four and a half years.

16 Q. And before that?

17 A. Before that, I was a stay-at-home dad for
18 about nine months and also working some free-lance
19 writing from home.

20 Q. Where does that put us time-wise?

21 A. So that puts us through -- all right.
22 2000 -- that puts us towards the end of 2006 that I
23 left Portland, moved to Sabattus, was doing some
24 free-lance writing, so --

25 Q. And what is your -- before coming to

1 Electricity Maine --

2 A. Sure.

3 Q. -- you were at Encompass?

4 A. Yes.

5 Q. Any other marketing experience on your
6 résumé?

7 A. Yeah. I had been a media buyer for --
8 there's a company that was down here in the Old Port
9 called Media Power. I did long-form media buying for
10 them for just shy of two years. I did a little bit of
11 media buying for the old Olympia Sports, but I also
12 worked primarily in the store for the PR and marketing
13 side, so that goes back to 2002 or so. I've been
14 involved in marketing or PR roughly 2002.

15 Q. Got you. And once you got to Electricity
16 Maine --

17 A. Yeah.

18 Q. -- can you just tell me a little bit -- give
19 me your job description, like the highlights?

20 A. Sure. The primary responsibility of the job
21 in general is all things media, media purchasing,
22 content of ads, whether they be social media, whether
23 they be radio, print, direct mail. So -- so
24 negotiating contracts, purchasing the media, evaluating
25 media before they're purchased, reviewing scripts was

1 the primary piece at that time. It develop -- it
2 fluctuated a little bit over time because Provider
3 Power had Electricity Maine, ENH Power, and then
4 Provider Power Mass was coming online. So the job has
5 fluctuating slightly depending on what was happening in
6 each state, but that was primarily what it was. A
7 little bit of strategy with regards to website content,
8 social media content, things like that, but outside
9 facing media.

10 Q. So you were involved in creating advertising
11 content?

12 A. Less on the creation and the actual
13 production part, but more about messaging and language
14 points. We didn't produce. We worked with television
15 producers and radio producers but wasn't really in on
16 the actual production part.

17 Q. Who at Electricity Maine was involved in the
18 actual production or creation of advertising and
19 promotional content?

20 A. Before I got there, I can't really speak to
21 the process. They primarily worked with whatever
22 television station the TV commercials were airing with
23 primarily. So I don't know. After that, myself and
24 Candace Sanborn, we hired outside TV commercial
25 producers to work with. So we would script it, but

1 they would act as the -- I guess we were technically
2 the executive producer, but somebody else would be
3 behind the camera and hire the talent, location, so on
4 and so on and so on.

5 Q. And you were the primary point of contact for
6 the various media outlets --

7 A. Yes.

8 Q. -- that Electricity Maine worked with?

9 A. Yes.

10 Q. So you had the opportunity to review whatever
11 promotional messages Electricity Maine would be
12 distributing to those media outlets?

13 MS. KAYATTA: Objection.

14 You can answer. We might object from
15 time to time.

16 THE WITNESS: Okay.

17 BY MR. DONAHUE:

18 Q. Yeah. Let me just go over a couple things.

19 A. Sure.

20 Q. Have you ever been deposed before?

21 A. I haven't.

22 Q. Okay. So just a conversation, basically.
23 It's important that we try not to talk over each other.
24 I'm sometimes not very good at that.

25 A. Okay.

1 Q. And you are under oath.

2 A. Yes.

3 Q. As you are probably aware.

4 A. Yeah.

5 Q. That's pretty much it.

6 A. Okay.

7 Q. People might object, and we'll sort that out.

8 A. Okay.

9 Q. And you don't have a lawyer here with you
10 today.

11 A. Right.

12 Q. So --

13 A. Yeah.

14 Q. -- if someone objects, you can go ahead and
15 answer, but just let them put their objection on the
16 record.

17 A. Do you want to repeat the question, then, so
18 I know where we landed?

19 Q. Sure. So as part of your job --

20 A. Yes.

21 Q. -- at Electricity Maine, you reviewed media
22 content before it was distributed to various media
23 outlets?

24 MS. KAYATTA: Objection.

25 THE WITNESS: Beginning in -- yes,

1 beginning first quarter of 2013. I can't give you an
2 exact date.

3 BY MR. DONAHUE:

4 Q. Okay. And before that, what was your -- what
5 did you do at Electricity Maine?

6 A. I mean, the first six weeks on the job was
7 just learning the job. It was --

8 Q. Okay.

9 A. -- you know, new company, new everything,
10 knowing people -- I mean, just starting new, so it was
11 getting the lay of the land.

12 Q. As part of that process, did you familiarize
13 yourself with Electricity Maine's prior -- or
14 advertising campaign up until that point?

15 A. Sure, to a certain extent, but beyond having
16 seen what I saw on TV, I didn't know that much about it
17 so I needed to learn those pieces.

18 Q. So you, as part of your getting up to speed,
19 became familiar with Electricity Maine's promotional
20 activities?

21 A. Started the process, yes. Was I fully at
22 that point, no.

23 Q. And after you assumed your
24 responsibilities --

25 A. Yeah.

1 Q. -- you would be communicating with a radio
2 station, for example?

3 MS. KAYATTA: Objection.

4 THE WITNESS: At some point.

5 BY MR. DONAHUE:

6 Q. Okay. Was part of your job to communicate
7 with media outlets?

8 A. Yes.

9 Q. And just tell me a little bit about that
10 process.

11 A. The process varied depending on all kinds of
12 factors. Starting -- because of when I started towards
13 the end of a calendar year, there were some media
14 contracts that were ending at the end of the calendar
15 year anyway, so the focus was on examining what was
16 coming to an end, what needed to be renewed. It was
17 more of a status of the contracts, what was -- what was
18 coming up, what needed to be renewed, what didn't, and
19 depending on where we were in time, that process
20 varied. Sometimes it was strictly what was running
21 when and what needed to be renewed or didn't.

22 Q. Okay. And so if Electricity Maine produced
23 an advertisement either with a radio station or with a
24 third-party production company --

25 A. Yeah.

1 Q. -- how would that final advertising product
2 get to the various media outlets?

3 MS. KAYATTA: Objection.

4 THE WITNESS: How would it finally get
5 there.

6 BY MR. DONAHUE:

7 Q. Let me rephrase the question.

8 A. Yeah, please.

9 Q. So say you've got a prerecorded commercial or
10 radio advertisement.

11 A. Yeah.

12 Q. You want to play it on ten radio stations.
13 How does that happen?

14 A. Rarely in my time there was that the -- was
15 that the process. Most of the time in my time there we
16 didn't -- there wasn't a radio commercial produced by a
17 third party distributed to everyone. Each station
18 usually produced their own from the same script.

19 Q. Okay. So let me step back, then.

20 A. Okay.

21 Q. Say you want to -- you've got a script.

22 A. Yeah.

23 Q. Who produces that script or who, you know,
24 creates the content in the script?

25 A. The marketing department.

1 Q. Which would be you?

2 A. Myself, Candace Sanborn, primarily. Others
3 certainly reviewed it in the building. There was a --
4 it went up and down the line.

5 Q. Got you. So say you got the script.

6 A. Yeah.

7 Q. And you want to get it out to radio
8 stations --

9 A. Yeah.

10 Q. -- so they can use it to create their --

11 A. Yeah.

12 Q. -- their content. How do you get it to those
13 radio stations?

14 A. I would say virtually every time it was
15 e-mailed either as a Word doc or in the body of an
16 e-mail.

17 MR. DONAHUE: Let's go off the record
18 for a second here.

19 (A discussion was held off the record.)

20 (Exhibit No. 80 was marked.)

21 BY MR. DONAHUE:

22 Q. All right. Will, I'm going to show you what
23 we, after much debate, have marked as Exhibit No. 80.
24 Just take a moment to look at this document.

25 Do you recognize Exhibit 80?

1 A. Absolutely.

2 Q. Is this an example of talking points that
3 were distributed to radio stations?

4 A. It is.

5 MS. KAYATTA: I'd just like to note for
6 the record the document is stamped Confidential
7 produced by defendants. Have you had Will sign the
8 acknowledgement to the protective order to review it?

9 MR. DONAHUE: What's that?

10 MS. KAYATTA: The document is stamped
11 Confidential pursuant to the confidentiality agreement
12 in the case.

13 MR. DONAHUE: Sure.

14 MS. KAYATTA: And you're showing it to a
15 third party. Have you --

16 MR. DONAHUE: Well, do defendants want
17 to waive confidentiality with respect to this document
18 as it was distributed to about 10 radio stations?

19 MS. KAYATTA: I can go through them at
20 the end and let you know what we would want to maintain
21 it to.

22 MR. DONAHUE: Let's just -- we can label
23 this testimony confidential for right now.

24 MS. KAYATTA: Sure.

25 MR. DONAHUE: And then at the end we

1 can --

2 MS. HEWEY: It's not confidential.

3 MS. KAYATTA: Yeah. I'm just putting it
4 on the record. Go ahead.

5 BY MR. DONAHUE:

6 Q. Okay. So, Will, this is an example of
7 talking points that were distributed to radio stations?

8 A. Yeah. This appears to be a 30-second -- a
9 script for a 30-second commercial as well as talking
10 points.

11 Q. Okay. So let's just go through the different
12 types of radio advertising that Electricity Maine did.
13 One was these talking points?

14 A. Yeah.

15 Q. And another would be actual -- let's talk
16 about the talking points for a second.

17 A. Sure.

18 Q. So how would a radio station or another media
19 outlet utilize these talking points in their broadcast?

20 A. The difference between the two are one was
21 meant to sound more conversational, sound -- or most of
22 the time they were read live or read to sound like they
23 were airing live even though they may have been saved
24 on a file just for time purposes. So the talking
25 points were just meant to be more conversational. The

1 scripts were more traditional, fit in a perfect timed
2 window and pre produced.

3 Q. So the script is something that a deejay or
4 someone is supposed to literally read every word?

5 A. Correct. Yes.

6 Q. And talking points are where they're supposed
7 to follow a script loosely?

8 A. Right.

9 Q. But they're allowed to ad lib a little bit?

10 A. Not supposed to ad lib.

11 Q. They're allowed to use some of their own
12 words?

13 A. Yes.

14 Q. But they're all supposed to stick to the
15 points --

16 A. Yes.

17 Q. -- the talking points --

18 A. Correct.

19 Q. -- that are distributed by Electricity Maine?

20 A. Correct. Yeah.

21 Q. And so if you -- when Electricity Maine
22 distributed these talking points, they would distribute
23 the same talking points to a group of radio stations;
24 is that correct?

25 A. Not always. Not always. It's -- yeah, not

1 always. I can't speak for this point in time if it
2 went to others. Some of it was dependent upon the
3 radio market itself. If there was only one station in
4 one radio market, for instance, only that one station
5 might get what was relevant to that radio market. I
6 mean, this one specifically notes a radio station on
7 the top, so this particular one would have only gone
8 probably to that one radio station. This one says WABK
9 on it, so this went to that radio station.

10 Q. So this one was -- these talking points were
11 distributed on February 4, 2013?

12 MS. KAYATTA: Objection.

13 BY MR. DONAHUE:

14 Q. Is that correct?

15 A. I don't -- that would have been the effective
16 date of when they should start using them. I don't
17 know when it would have been distributed necessarily.

18 Q. Sure. Roughly around that time period?

19 A. It would have been for use beginning February
20 14.

21 Q. Okay.

22 A. I don't know when it was sent. I don't have
23 the --

24 Q. That's fine. You know, you only know what
25 you know. At that time period, was Electricity Maine

1 distributing similar talking points to other radio
2 stations?

3 A. Probably.

4 Q. So beyond talking points, you have scripts?

5 A. Yes.

6 Q. Where someone is literally supposed to read
7 word for word what's in the script?

8 A. Uh-huh.

9 Q. And you also have prerecorded advertisements
10 that are where the audio itself is produced and then
11 sent to the radio station?

12 MS. KAYATTA: Objection.

13 BY MR. DONAHUE:

14 Q. Maybe that's not how -- just --

15 A. Yeah. I mean, that's --

16 Q. So let me rephrase the question.

17 A. Okay.

18 Q. Okay. So you've got -- I'm just trying to
19 figure out what the different types of advertising --
20 you know, how you got the message out.

21 A. Yeah.

22 Q. So you've got talking points. You've got
23 scripts.

24 A. Right.

25 Q. And then it seems that you have some sort of

1 prerecorded advertisement that's not read live. Maybe
2 nothing's read live, but kind of walk me through
3 anything in addition to scripts and talking points.

4 MS. HEWEY: Object to the form.

5 MR. DONAHUE: Sure.

6 THE WITNESS: In this example, there is
7 a 30-second radio script as well as talking points that
8 were sent to the radio station. The same person who
9 was to read the talking points to make them sound live
10 would also produce a 30-second commercial, which is the
11 section up above. That was the most common format that
12 we dealt with if a station was doing both. They
13 received a 30-second script as well as the talking
14 points. It was our preference that the same person who
15 read it to sound live produced the commercials that
16 aired throughout the rest of the day on the same
17 station.

18 BY MR. DONAHUE:

19 Q. Okay. So --

20 A. So even when this person wasn't live doing
21 their regular shift, their voice was used over the rest
22 of the day. That was the produced part, but it was
23 produced by the same person in the same building.

24 Q. So if there was any prerecorded advertising
25 clip, it would follow the same script?

1 A. Yes.

2 Q. Was radio advertising Electricity Maine's
3 primary form of advertising?

4 Let me walk that back.

5 A. Yeah, please.

6 Q. Sure. So what types -- during your tenure at
7 Electricity Maine --

8 A. Sure.

9 Q. -- what sort of advertising did you focus on?

10 A. When we did external advertising, it was
11 primarily radio in terms of traditional media. There
12 were others -- the hard -- yeah. I mean -- sorry. Not
13 in the marketing world, it's not the right question to
14 ask, so I'm trying to figure out -- I mean, honestly,
15 it's -- I guess -- I don't know.

16 Q. So in terms of -- let's talk about --

17 A. In terms of --

18 Q. -- expenditure.

19 A. Sure.

20 Q. You were in charge of dealing, contracting
21 with --

22 A. Yes.

23 Q. -- various media outlets?

24 A. Yes.

25 Q. You know, what did you spend the most -- what

1 did Electricity Maine spend the most money on in terms
2 of advertising?

3 A. I can't answer that with . . .

4 Q. That's fine.

5 A. Yeah. I can't. I don't know.

6 Q. That's fine.

7 A. If I had accounting statements, I could, but
8 I have no idea. I mean, that's . . .

9 Q. Okay. So during your time at Electricity
10 Maine --

11 A. Yeah.

12 Q. -- you're doing radio?

13 A. Yes.

14 Q. You're doing TV?

15 A. Sure.

16 Q. So maybe not TV?

17 A. There was minimal TV after I started at
18 Electricity Maine.

19 Q. So most of the TV was before --

20 A. Most of the --

21 Q. -- the end of 2012?

22 MS. HEWEY: Objection.

23 THE WITNESS: Most. I don't know.

24 BY MR. DONAHUE:

25 Q. Okay. That's fine.

1 A. I mean . . .

2 Q. Yeah. So Electricity Maine --

3 A. From a dollars and cents standpoint, a bulk
4 of the television ended before we -- as an expenditure
5 a bulk of it finished before we started, before I
6 started.

7 Q. So you were obviously dealing with radio
8 stations --

9 A. Yes.

10 Q. -- pretty frequently?

11 A. Yes.

12 MS. KAYATTA: Objection. Just pause --
13 if you can, just pause a second so I can get an
14 objection in.

15 THE WITNESS: Okay. Sorry.

16 MS. KAYATTA: It just makes it easier
17 for the court reporter.

18 BY MR. DONAHUE:

19 Q. You were dealing with a lot of radio
20 advertising?

21 A. Yes.

22 Q. What other types of advertising were you
23 spending your time on at Electricity Maine?

24 A. It was a little bit of social media, a little
25 bit of Google AdWords, Google advertising, direct mail,

1 things related to social media. If you consider trade
2 shows and so on as a function of advertising versus
3 marketing, we did trade shows, events. We sponsored a
4 race car, which would be considered advertising.

5 Q. Is that it?

6 A. I believe so, yeah.

7 Q. So radio, some social media, some Internet
8 advertising --

9 A. Correct.

10 Q. -- through Google, and then trade show and
11 other non direct?

12 A. Correct.

13 Q. Okay.

14 A. And certainly there was a website strategy.

15 Q. Now, when you joined Electricity Maine,
16 Electricity Maine was still advertising that it would
17 save consumers money in comparison to the standard
18 offer?

19 A. Yes.

20 MS. KAYATTA: Object -- objection.

21 THE WITNESS: Sorry.

22 MS. KAYATTA: That's okay.

23 BY MR. DONAHUE:

24 Q. What -- remind me when you started at
25 Electricity Maine again.

1 A. Late November, early December 2012.

2 Q. Okay. At that time was Electricity Maine
3 still advertising that it would save consumers money in
4 comparison to the standard offer?

5 A. Yes.

6 Q. And at the time these talking points were
7 distributed, whenever that was, that was still
8 Electricity Maine's message?

9 MS. KAYATTA: Objection.

10 MS. HEWEY: Objection. Form.

11 THE WITNESS: I don't know how to answer
12 that question.

13 BY MR. DONAHUE:

14 Q. That's fine. So --

15 A. I mean, this is --

16 Q. That's fine. That's fine. Let me ask a
17 better question. So in December 2012 --

18 A. Yes.

19 Q. -- you're still advertising on price?

20 MS. KAYATTA: Objection.

21 BY MR. DONAHUE:

22 Q. You're advertising that you're going to save
23 consumers money in comparison to the standard offer?

24 MS. KAYATTA: Same objection.

25 THE WITNESS: What was the first part

1 again? When I started?

2 BY MR. DONAHUE:

3 Q. Yeah, when you started.

4 A. Yes.

5 Q. I've already asked you that question.

6 A. Yes. When I started, yes.

7 Q. And would you agree that that was the primary
8 message of Electricity Maine's advertising campaign,
9 saving money?

10 A. I would.

11 Q. And when you advertised on radio, that was
12 your primary message?

13 MS. KAYATTA: Objection.

14 THE WITNESS: For a period of time.

15 BY MR. DONAHUE:

16 Q. Yeah. During -- when you started. We're
17 still talking about that time period.

18 A. Oh, yeah.

19 Q. And if you were doing other forms of
20 advertising, that would still be your primary message
21 at that time period?

22 MS. KAYATTA: Objection.

23 THE WITNESS: I don't know that to be
24 the case. It was with radio and tele -- I don't -- I
25 can't speak to all the other things prior to when I

1 started.

2 BY MR. DONAHUE:

3 Q. I'm just talking about --

4 A. Right.

5 Q. -- during the -- after you started and during
6 that time period.

7 A. I don't have -- you haven't given me a time
8 period, so I can't speak to --

9 Q. Let's talk about late 2012.

10 A. Right.

11 Q. From the time you started to the end of 2012,
12 so that's a couple months. Not even. One month.

13 A. Okay. So, yes, savings was the primary
14 message in the media.

15 Q. I'm going to show you what I'm going to mark
16 as 81.

17 (Exhibit No. 81 was marked.)

18 BY MR. DONAHUE:

19 Q. You recognize our Exhibit No. 81 here?

20 A. I do.

21 Q. Just tell me briefly what it is.

22 A. These are, again, a 30-second script and
23 talking points sent to presumably a radio station.
24 There's no e-mail address. I don't know who it was
25 sent to necessarily. So presumably sent to radio

1 stations with an updated 30-second radio commercial and
2 the corresponding talking points.

3 Q. And you sent this e-mail on February 13,
4 2013?

5 A. If that's what it says, I trust that to be
6 true.

7 Q. Okay. And attached to that e-mail were two
8 sets of talking points?

9 A. No. There's a 30-second script and talking
10 points.

11 Q. Okay. Okay. So one is a talking point. And
12 is the first one a talking point?

13 A. The first one would be considered a 30-second
14 script. It should be read as presented within a
15 specific --

16 Q. And if you look down at the bottom corner,
17 that's Bates stamped Defendants 8547? Bottom right
18 corner.

19 A. Yes.

20 Q. Yeah. Okay. And that's the script, and then
21 the next page is the talking point?

22 A. Correct.

23 Q. Now, you weren't at Electricity Maine before
24 December 2012, were you?

25 A. I was not.

1 Q. Do you have knowledge of how this process
2 works, you distributing talking points to radio
3 stations?

4 A. Uh-huh.

5 Q. Do you have any knowledge of how that worked
6 before you started at Electricity Maine?

7 A. I don't.

8 Q. Okay. That's fine.

9 A. Yeah. Beyond, you know --

10 Q. Well, let me ask you --

11 A. Yes.

12 Q. Let me ask you a different question.

13 A. Sure.

14 Q. Did Electricity Maine use talking points
15 before you started there?

16 A. Yes.

17 MS. HEWEY: Objection. Foundation.

18 BY MR. DONAHUE:

19 Q. And how do you know that?

20 A. When I started with Electricity Maine, there
21 were already contracts in place that spelled out
22 everyone's role, if you will.

23 Q. Okay.

24 A. So when I started, the contract already said
25 whatever it said with regards to produced commercials

1 or the talking point format. So that was already --
2 when I started, that was in play.

3 Q. So they had been using talking points and
4 scripts before you started?

5 A. That is correct.

6 Q. And you reviewed those talking points and
7 scripts or, you know, you had knowledge of those
8 talking points and scripts after you --

9 A. I don't recall --

10 MS. KAYATTA: Objection. Go ahead.

11 THE WITNESS: I didn't review the
12 historic piece, if that's what the question is.

13 BY MR. DONAHUE:

14 Q. Well, just tell me briefly how you knew
15 what -- what -- how these talking points and scripts
16 got to radio stations.

17 A. Prior to my coming on?

18 Q. Yeah.

19 A. I don't know. I'm not familiar with who was
20 in my role or in -- I don't know who did that before I
21 came on, which is why, I believe, that we were brought
22 on.

23 Q. Okay.

24 A. I honestly don't know.

25 Q. So you're aware, though, Electricity Maine

1 had marketing operations --

2 A. Yes.

3 Q. -- before you joined?

4 MS. KAYATTA: Objection. Just try to
5 pause.

6 THE WITNESS: Sorry.

7 BY MR. DONAHUE:

8 Q. It's my fault too. I'm jumping in here and
9 there.

10 So before you started at Electricity Maine,
11 you were aware that they were doing advertising?

12 MS. KAYATTA: Objection.

13 THE WITNESS: I was aware.

14 BY MR. DONAHUE:

15 Q. Okay. Do you have any idea how they got
16 their advertising message to the various media outlets?

17 A. Based on what I learned when I started, we
18 continued with the same process as they already had in
19 place.

20 Q. Okay.

21 A. I don't -- I didn't create this process
22 necessarily.

23 Q. So at some point Electricity Maine stopped
24 advertising that it would save consumers money in
25 comparison to the standard offer?

1 MS. KAYATTA: Objection.

2 BY MR. DONAHUE:

3 Q. Is that correct?

4 A. Yes.

5 Q. Okay. Do you recall roughly when that change
6 occurred?

7 A. With radio, some -- middle or first
8 quarter-ish.

9 Q. Let me --

10 A. Yeah.

11 Q. Let's talk about it a little bit.

12 A. Sure.

13 Q. So at some point Electricity Maine was
14 contacted by the Public Utilities Commission; is that
15 correct?

16 A. Yes.

17 MS. KAYATTA: Objection.

18 MS. HEWEY: Objection. Form.

19 BY MR. DONAHUE:

20 Q. Sure. And there was an inquiry by the PUC
21 into Electricity Maine's advertising operations, right?

22 MS. KAYATTA: Objection.

23 BY MR. DONAHUE:

24 Q. They're just going to do their thing. Don't
25 worry about it.

1 A. I don't know if that was the full scope of
2 the inquiry, but --

3 Q. Well, what is your knowledge of the inquiry?

4 A. There was a really long list of questions
5 that were presented, I think, to Electricity -- I don't
6 know if it was -- who they were initially presented to,
7 with a host of questions regarding, I think, billing,
8 marketing, enrollment or reenrollment.

9 Q. Did you have to help answer any of those
10 questions?

11 A. I provided information to help answer some of
12 the questions.

13 Q. Okay. I'll label this Exhibit 82.

14 (Exhibit No. 82 was marked.)

15 BY MR. DONAHUE:

16 Q. So does Exhibit No. 82 look familiar to you?

17 A. It does.

18 Q. Can you tell us what it is?

19 A. These were questions that were provided to
20 the PUC -- or these were answers to questions posed by
21 the PUC that Electricity Maine sent back to them.

22 Q. Okay.

23 A. Yeah.

24 Q. And so when you were talking earlier a couple
25 minutes ago about a long list of questions, were these

1 the questions that you received from the PUC or that
2 Electricity Maine received from the PUC?

3 A. I believe these are the balance of the
4 questions, yes.

5 Q. And Electricity Maine got these questions
6 sometime in first quarter 2013?

7 MS. KAYATTA: Objection.

8 THE WITNESS: I don't know when the -- I
9 don't know any more than what is stated in the letter.
10 I don't. I believe based on the letter it would be
11 second quarter of -- it's dated May 8. Well, there --
12 is . . .

13 BY MR. DONAHUE:

14 Q. This is Electricity Maine's response to
15 the --

16 A. Right.

17 Q. -- to the PUC, right?

18 A. Yes. I don't know when the letter was
19 received by Electricity Maine or by counsel. I don't
20 know.

21 Q. Will, are you familiar with this -- this
22 document?

23 A. I am.

24 Q. Okay. Let's -- so you testified earlier that
25 at some point Electricity Maine stopped advertising

1 that it would save consumers money in comparison to the
2 standard offer; is that correct?

3 A. That is correct.

4 Q. And you think that that transition occurred
5 sometime in first quarter 2013?

6 A. Correct.

7 Q. Let's look at -- I guess it's the second page
8 of this Exhibit 82. If you go to Question No. 3 and
9 just read that first paragraph there in response to
10 Question No. 3.

11 A. The written communications provided in
12 response to Question No. 2 reflect the talking points
13 or ad content that Electricity Maine has requested that
14 stations work from as either recorded ads or as live
15 spots or blinks. The talking points provided January
16 8, 2013, February 13, 2013, reference standard offer as
17 indicated. The talking points provided March 8, 2013,
18 and thereafter do not reference standard offer or price
19 comparisons to standard offer.

20 Q. Okay. So do you think it's accurate that
21 after March 8, 2013, Electricity Maine stopped
22 comparing on price to the standard offer?

23 MS. KAYATTA: Objection.

24 THE WITNESS: I believe what we provided
25 to the PUC to be accurate.

1 BY MR. DONAHUE:

2 Q. Okay. So if Electricity Maine was telling
3 the PUC that it was going to stop or it stopped
4 advertising or comparing its product on price to the
5 standard offer on March 8, then Electricity Maine
6 complied or followed what it represented to the PUC?

7 MS. KAYATTA: Objection.

8 MS. HEWEY: Objection.

9 THE WITNESS: I'm not sure how to answer
10 that.

11 BY MR. DONAHUE:

12 Q. Okay. So you believe that what you wrote to
13 the PUC was accurate in terms of Electricity Maine's
14 advertising operations?

15 MS. KAYATTA: Objection.

16 THE WITNESS: I didn't write these
17 responses. I believe the responses to be accurate, but
18 I didn't physically write these or do any of the work
19 on these other than to provide the materials. So you
20 said "you wrote." I didn't.

21 BY MR. DONAHUE:

22 Q. Sorry.

23 A. That's okay.

24 Q. By you -- and I mean Electricity Maine.

25 A. Okay.

1 Q. Electricity Maine's response which states
2 that talking points provided on March 8, 2013, and
3 thereafter do not reference the standard offer, that's
4 an accurate reflection of what Electricity Maine
5 actually did with respect to its advertising messages?

6 MS. KAYATTA: Objection.

7 THE WITNESS: That was the intent.

8 BY MR. DONAHUE:

9 Q. Okay. Now, later in this -- this response
10 there's reference to a couple of radio stations playing
11 the wrong advertising message after March 8?

12 MS. KAYATTA: Objection.

13 BY MR. DONAHUE:

14 Q. Let me -- let me ask you a different
15 question.

16 A. Yeah.

17 Q. So when you say "that was the intent" of
18 Electricity Maine not to advertise on price after March
19 8, 2013, you hesitated. It's -- it seems that -- or
20 would it be correct to say that some radio stations
21 continued to play advertisements on price after March
22 8, 2013?

23 MS. KAYATTA: Objection.

24 THE WITNESS: I would have to look
25 forward to -- I don't recall in -- I don't know the

1 dates of those airing. I don't know the dates of
2 those, so I can't speak to the date part. Radio
3 stations admitted to using out-of-date talking points,
4 but I don't know the dates of when they ran or which
5 talking points.

6 BY MR. DONAHUE:

7 Q. That was just -- that was one radio station;
8 is that correct?

9 A. I would have to look at -- I don't -- I
10 don't --

11 Q. Hold on one second. Let's flip to the
12 second-to-the-last page of this packet.

13 A. So this is a radio group.

14 Q. Are you looking at the page that's Bates
15 numbered Defendants 23814?

16 A. I am.

17 Q. Okay. Can you tell us what that is?

18 A. This is a letter from a sales manager of the
19 Portland Radio Group to the Maine PUC I assume in
20 response to one of the questions earlier on as to what
21 ran. It -- so.

22 Q. Okay. And in this, this letter references
23 that a couple commercials ran at the inappropriate
24 times?

25 MS. KAYATTA: Objection.

1 MS. HEWEY: Objection.

2 BY MR. DONAHUE:

3 Q. Can you tell us what the second paragraph of
4 this letter is talking about?

5 A. I believe the second paragraph suggests that
6 they didn't follow the directions that they were given
7 in the talking points.

8 Q. Okay. And -- all right. So let's talk a
9 little bit about the transition of Electricity Maine's
10 advertising program.

11 A. Uh-huh.

12 Q. So at some point Electricity Maine rebranded
13 itself as -- or its slogan as the Power to Help; is
14 that correct?

15 MS. KAYATTA: Objection.

16 MS. HEWEY: Objection.

17 BY MR. DONAHUE:

18 Q. Do you recall the Power to Help slogan?

19 A. We began using the Power to Help.

20 Q. Okay. Was it around that first quarter of
21 2013?

22 A. Electricity Maine had used Power to Help
23 before we started there.

24 Q. Okay.

25 A. Before I started there.

1 Q. Okay.

2 A. In some materials.

3 Q. So --

4 A. We didn't -- I didn't develop it, didn't come
5 up with it.

6 Q. Okay. When did -- after Electricity Maine
7 stopped advertising on price --

8 A. Yes.

9 Q. -- what was its advertising message?

10 A. That's a -- primary statements were around
11 Maine-owned company, Maine jobs, call center here. I
12 mean call center here in Maine. There was a long list.
13 Things related to being a Maine-owned company. When
14 you call Electricity Maine, you're talking to Mainers
15 here in Maine. Knowing what you're going to pay.
16 Things like that.

17 Q. So --

18 A. Support Maine nonprofits, which was what the
19 Power to Help was.

20 Q. So the primary messages -- and I'm just
21 summarizing here -- are you're supporting a local
22 company?

23 A. Yes.

24 Q. You are supporting Maine jobs?

25 A. Uh-huh.

1 Q. And Maine nonprofits?

2 A. Yes.

3 Q. Is that an accurate summary of Electricity
4 Maine's new advertising message?

5 MS. KAYATTA: Objection.

6 MS. HEWEY: Objection.

7 BY MR. DONAHUE:

8 Q. How about --

9 A. Yeah.

10 Q. -- Electricity Maine's advertising message
11 after March of 2013?

12 A. For a period of time, yes. Yeah.

13 Q. Okay. And how -- how long did that new
14 advertising message last?

15 A. That was more of the premise for the
16 marketing plan. So it encompassed more than just what
17 you saw and heard on television or radio. It was what
18 decisions were based on. So it wasn't strictly just a
19 function for advertising. It was the basis of the
20 marketing efforts of Provider Power, not just the
21 Electricity Maine part.

22 Q. Okay.

23 A. So, I mean, it's --

24 Q. Let me -- let me -- let's just talk a little
25 bit more about that.

1 A. Sure.

2 Q. So March 2013 you have a new advertising
3 message?

4 A. Yes.

5 MS. KAYATTA: Objection.

6 THE WITNESS: Sorry.

7 BY MR. DONAHUE:

8 Q. It's okay. How long did this -- did the new
9 advertising -- that's not a good way to ask that
10 question.

11 What sort of promotional activities did you
12 do after March of 2013?

13 A. So it's a -- so everything from direct mail
14 to social media. We created a -- a content platform
15 which talked about energy choice. We sponsored a race
16 car that had Electricity Maine on it. We did fairs,
17 events, Chamber of Commerce-related activities. I
18 mean, it's --

19 Q. Were you doing as much radio and television
20 advertising during that time period?

21 A. I can't answer. There were different periods
22 of time in my course there that -- I can't answer that
23 question. I mean, there were periods of time where we
24 did more than other periods. So, I mean, we're talking
25 a three-year span of when I was there, so I can't -- I

1 don't have a point of comparison to.

2 Q. Okay. So after March of 2013 --

3 A. Yes.

4 Q. -- when, if ever, did you do radio or
5 television advertising?

6 A. We did both at different times. Without
7 having schedules and dates, I can't accurately answer
8 that.

9 (Exhibit No. 83 was marked.)

10 BY MR. DONAHUE:

11 Q. Do you recognize No. 83?

12 A. I do.

13 Q. Who are the people in the cc category under
14 e-mail here?

15 A. They -- with the exception of the last name
16 listed, they are all radio station salespeople.

17 Q. Okay. Those are your points of contacts at
18 various radio stations?

19 A. Correct.

20 Q. Or radio groups?

21 A. Yes.

22 Q. Now, this e-mail was sent on March 8; is that
23 correct?

24 A. That's what it says. I believe it to be
25 true.

1 Q. Okay. 2013. And this e-mail is discussing
2 Electricity Maine's shift away from focusing on
3 savings?

4 MS. KAYATTA: Objection.

5 BY MR. DONAHUE:

6 Q. Well, that's what you say in your e-mail,
7 right, in the second sentence?

8 A. Yes.

9 Q. Can you just read it real quick.

10 A. Please note we are shifting away from
11 focusing on savings, instead talking about doing
12 business with a Maine-owned company, creating jobs at
13 home, supporting Maine nonprofits through the Power to
14 Help fund, while offering a competitive rate on the
15 supply portion of the bill.

16 Q. And then attached to this e-mail are talking
17 points?

18 A. That is correct.

19 Q. Updated talking points?

20 A. Yes.

21 Q. And these talking points don't mention
22 savings?

23 A. They do not mention savings.

24 Q. All right. I'm going to show you 84.

25 (Exhibit No. 84 was marked.)

1 BY MR. DONAHUE:

2 Q. Do you recognize 84?

3 A. Not necessarily, but I'm sure I -- I mean, I
4 don't recall e-mails from that far. I mean, it's --

5 Q. Yeah. It was an e-mail from five years ago.

6 A. Right.

7 Q. Over five years ago.

8 A. Right.

9 Q. Who is Emile Clavet?

10 A. Co-owner, part owner, principal of
11 Electricity Maine.

12 Q. Okay. And this message is -- well, the first
13 message in this e-mail chain is from Emile to Candace
14 Sanborn?

15 A. Yes.

16 Q. And who is Candace Sanborn?

17 A. Candace Sanborn, her title was marketing
18 or -- marketing director. She was my supervisor at
19 Electricity Maine. Marketing director. Vice
20 president. I don't remember what her title was.

21 Q. Okay. I'll show you 85.

22 (Exhibit No. 85 was marked.)

23 BY MR. DONAHUE:

24 Q. Do you recognize Defendants -- or Exhibit No.
25 85?

1 A. It appears to be an e-mail I sent.

2 Q. It looks like you sent it to yourself.

3 A. Well, if I blind cc people, I send it to
4 myself.

5 Q. Okay.

6 A. So this probably -- so yeah. I mean, the
7 subject line is Quick Note to Maine Jocks.

8 Q. So who was this e-mail intended for?

9 A. Based on the content and the subject line, I
10 would suggest it was sent to radio salespeople, perhaps
11 directly to deejays, but we rarely did that.

12 Q. In the third paragraph you say: It is very
13 important we stay away from talk/mentions of the
14 standard offer and/or mention of savings by switching
15 to EME. Why was it so important to stay away from the
16 mentions of the standard offer and savings?

17 A. I don't know what precipitated that e-mail
18 beyond the previous e-mail you had shared.

19 Q. Okay.

20 A. I don't know if there was a particular event
21 or --

22 Q. But in any event, you were -- you did not
23 want radio stations to talk or mention the standard
24 offer or savings in comparison to the standard offer?

25 MS. KAYATTA: Objection.

1 BY MR. DONAHUE:

2 Q. And by you I mean Electricity Maine.

3 A. That is correct.

4 (Exhibit No. 86 was marked.)

5 BY MR. DONAHUE:

6 Q. So Exhibit 86 appears to be more talking
7 points; is that correct?

8 MS. KAYATTA: Objection.

9 BY MR. DONAHUE:

10 Q. Is Exhibit 86 additional talking points?

11 A. They are talking points.

12 Q. Okay. And these talking points are dated
13 April 22?

14 A. The document isn't -- the April 22 to TFN
15 would have been the time frame for which they should
16 use them. I don't know when they would have -- without
17 the body of the e-mail, I don't necessarily know when
18 this went out.

19 Q. Okay.

20 A. So they would -- they would know this to be
21 the talking points for the time frame -- time frame
22 indicated on the top.

23 Q. Okay. And these were talking points that
24 were supposed to have aired after March of 2013?

25 MS. KAYATTA: Objection.

1 THE WITNESS: Yes. Again, though,
2 without the corresponding, I don't know what context
3 they're in.

4 BY MR. DONAHUE:

5 Q. Yeah, but can you -- your answer is based on
6 the content of the talking points --

7 A. Yes.

8 Q. -- themselves?

9 MS. KAYATTA: Objection.

10 BY MR. DONAHUE:

11 Q. That content would not have been aired before
12 March of 2013?

13 MS. KAYATTA: Objection.

14 MS. HEWEY: Objection.

15 THE WITNESS: I don't know that to be
16 the truth other than this is what they would have been
17 told to air after April 22.

18 BY MR. DONAHUE:

19 Q. Okay. So you and I spoke before your
20 deposition today, right?

21 A. We did.

22 Q. And I actually sent you some files, right?

23 A. You did.

24 Q. Okay. And I represented to you that those
25 files were documents that had been produced in this

1 case, right?

2 A. You did.

3 Q. And I asked you to try and group those
4 documents into -- into time periods?

5 A. You did ask that.

6 Q. Were you able to do that?

7 A. I was not able -- I started the process. I
8 did not finish it before coming in this morning, in
9 part because I wasn't able to open the Word doc. I did
10 listen to and watch everything on the thumb drive.

11 Q. Okay. If I gave you a computer, do you
12 think you -- and I gave you a list of all the media
13 files, could you -- would it take you a long time to
14 group those files up into --

15 A. I would pretty easily be able to take some
16 out of the mix and provide some context. A bulk of
17 them, no. Some of them I hadn't seen before, I don't
18 think, I saw them on the thumb drive, so I could not
19 speak to if they even -- I don't know where they came
20 from.

21 Q. Yeah.

22 A. So I don't know -- I wouldn't be able to tell
23 you if they ever even aired.

24 Q. Okay.

25 A. So if there were context as to where they

1 came from, that could help me because it looks like
2 there's raw file video in there too, so those,
3 obviously, would never have aired.

4 MR. DONAHUE: Let's go off the record
5 for a second.

6 (A discussion was held off the record.)

7 (Exhibit No. 87 was marked.)

8 BY MR. DONAHUE:

9 Q. Do you recognize Exhibit No. 87?

10 A. It appears to be the response to an e-mail I
11 sent to Candace Sanborn. I believe that's what this
12 is.

13 Q. Do you want to take a second to read the
14 e-mail that you sent her?

15 A. Okay.

16 Q. When you're talking about the PUC letter, is
17 that what we were looking at earlier?

18 A. I would -- I believe so.

19 Q. Or perhaps a letter that they sent you and
20 then Electricity Maine's response?

21 A. Yeah. I -- based on the timing, I believe it
22 to be the one that we already reviewed.

23 Q. Now, one of the questions that the PUC had
24 for Electricity Maine was how did they calculate -- how
25 did Electricity Maine calculate its advertised savings;

1 is that correct?

2 MS. KAYATTA: Objection.

3 THE WITNESS: I don't know that to be
4 the case. I would have to read -- I would have to
5 re-read the questions.

6 BY MR. DONAHUE:

7 Q. At some point Electricity Maine advertised
8 that it would save consumers \$6.8 million in 2013. Do
9 you recall that advertising message?

10 MS. KAYATTA: Objection.

11 THE WITNESS: Not directly, but if
12 the -- yeah.

13 BY MR. DONAHUE:

14 Q. Let's just look at the PUC questions here,
15 which is Exhibit No. 82.

16 A. Question 7.

17 Q. Question 7 says: Please provide the basis
18 for the statement in the Electricity Maine promotions
19 that Electricity Maine customers will save nearly \$7
20 million in 2013.

21 A. Uh-huh.

22 Q. And Electricity Maine's response was: This
23 statement was an error that we are now addressing. The
24 7 million savings figure represents total cumulative
25 savings from the initiation of service by Electricity

1 Maine in 2013 [sic] through early 2013. It was
2 incorrectly advertised as prospective savings in 2013.

3 So one of the things, obviously, that
4 Electricity Maine was addressing for the PUC was this
5 projected savings of \$7 million, right?

6 MS. KAYATTA: Objection.

7 THE WITNESS: The PUC asked -- I guess
8 the PUC's question was what was that dollar figure
9 based on.

10 BY MR. DONAHUE:

11 Q. And so in your e-mail you say down towards
12 the bottom: I don't know how to address the 7 million
13 in savings. I was there in your office when Kevin did
14 the math.

15 Can you tell us a little bit about -- well,
16 who is Kevin?

17 A. I believe the reference would be to Kevin
18 Dean, co-owner, principal of Electricity Maine.

19 Q. And can you tell us about his math?

20 A. I can't.

21 Q. Well, how did -- how did he calculate the \$7
22 million in savings?

23 A. I don't know. Well, other than how it was --
24 other than the response to the question. I don't know
25 if it was done on a dry erase board or a calculator or

1 a sheet of paper. I don't know.

2 Q. Did he calculate the \$7 million based on an
3 inflated customer count?

4 MS. KAYATTA: Objection.

5 MS. HEWEY: Objection.

6 THE WITNESS: Again, I don't know
7 what -- other than the response to the question, I
8 don't know how the number was -- how the number came
9 about.

10 BY MR. DONAHUE:

11 Q. So you don't know whether Kevin used, for
12 example, 200,000 customers to get to the \$7 million
13 number?

14 MS. KAYATTA: Objection.

15 MS. HEWEY: Objection.

16 THE WITNESS: Yeah, I don't know what
17 numbers in terms of customers or rates was used to come
18 up with the number. Beyond his -- beyond the answer
19 that was provided, I can't speak to the math.

20 (Exhibit No. 88 was marked.)

21 BY MR. DONAHUE:

22 Q. Do you recognize 88?

23 A. It looks like a copy -- a portion of the HR
24 handbook is my assumption.

25 Q. From Provider Power?

1 A. Yes.

2 (Exhibit No. 89 was marked.)

3 BY MR. DONAHUE:

4 Q. Do you recognize this document?

5 A. I do.

6 Q. Can you tell us a little bit about it?

7 A. Critical Insights was or is a public polling
8 firm from Portland. I don't know if they're still
9 here. At the time they were based in Portland. They
10 do regularly scheduled, I believe quarterly, polls --
11 or they did at the time do quarterly polls of all
12 things happening around the state. Organizations, for
13 profits, nonprofits are allowed to, for a fee, tack on
14 some questions to their already established polls,
15 which is what we did in this case.

16 Q. Okay. So this is a marketing study done for
17 Electricity Maine?

18 MS. KAYATTA: Objection.

19 THE WITNESS: I don't know if I'd
20 classify it as a marketing study, but it was --

21 BY MR. DONAHUE:

22 Q. Consumer research done for -- actually for
23 Provider Power?

24 A. Yes.

25 Q. Okay. That's all I have.

1 MS. KAYATTA: I have a few questions.
2 Do you want to take like a five-minute break?

3 MR. DONAHUE: Sure.

4 (A recess was taken.)

5 EXAMINATION

6 BY MS. KAYATTA:

7 Q. Will, I just have a few questions for you.
8 My name is Katherine Kayatta. I represent Electricity
9 Maine and Spark HoldCo in the case.

10 You mentioned -- oh, probably an hour back at
11 this point you said in December 2012 savings was the
12 primary message that was in place when you arrived at
13 the company in terms of media strategy?

14 A. Yes.

15 Q. When you arrived and learned what that
16 primary message was, did you have an opinion, given
17 your experience in the industry, about savings being
18 the primary or only message?

19 A. I did. When I joined, when I was hired, I
20 made it clear that I didn't feel that price point is
21 ever a sustaining, successful media strategy because
22 there's always somebody less.

23 Q. Less in price you mean?

24 A. Yes.

25 Q. Such as other competitors?

1 A. Yeah. I mean . . .

2 Q. Did you and Candace have any discussions
3 about making any changes to the messaging when you were
4 hired?

5 A. There were -- yeah. I mean, some were
6 casual, so I had -- yes, we had.

7 Q. And what sort of changes were you discussing
8 with Candace?

9 A. Looking forward to the opportunity to talk
10 about the other things that make a local company
11 successful.

12 Q. And what were some of those other things?

13 A. Some of the things we were able to implement.
14 Maine owned. Jobs here in Maine. In particular,
15 though, identifying -- because Electricity Maine was
16 already doing what it was doing in terms of being a
17 known commodity; ENH Power, which is the same business
18 model but in New Hampshire, was starting to expand; and
19 then there were plans for Massachusetts -- was building
20 the brand in a way that would -- wasn't state specific.

21 Q. And did you begin implementing some of that
22 new messaging into new ad content when you were hired
23 at Electricity Maine?

24 A. Yes.

25 Q. And the changes in the messaging that you

1 just mentioned, when did you begin implementing that
2 into new ad content?

3 A. For radio, it would have been beginning
4 February, March-ish. For other things, like printed
5 materials, fliers, rack cards, brochures, it might have
6 been sooner that we started developing the materials,
7 but I can't say when they would have been put out in
8 the public.

9 Q. Did you start working on modifying the ad
10 content to incorporate new messaging or additional
11 messaging prior to knowing about the anticipated change
12 in the standard offer?

13 A. In certain areas, yes, but not necessarily in
14 areas of direct response.

15 Q. But -- oh, go ahead. Sorry.

16 A. No. So it's kind of a broad question, so
17 certain areas, yes, but certain areas, no.

18 Q. In what areas did you begin implementing that
19 before the change in the standard offer?

20 A. Printed materials that were representative of
21 the company, not the product, so rack cards, brochures.
22 The website, we started to use different language,
23 things that were relevant regardless of -- branding
24 materials versus direct response materials.

25 Q. Just one other quick question. Exhibit 89,

1 which we just looked at, which is this -- what looks
2 like a presentation or slides from Critical Insights,
3 had you seen this document before today?

4 A. Yes.

5 Q. And do you recall seeing it while you were
6 working at Electricity Maine?

7 A. I'm sure I did.

8 Q. So when do you recall seeing it before today?

9 A. Probably around the date -- it probably was
10 e-mailed to me around the date specified on the cover
11 page.

12 Q. Did Ben e-mail you this document prior to the
13 deposition?

14 A. I don't believe so, unless it was part of the
15 piece that I couldn't open. I don't think I had seen
16 this in this context before today.

17 Q. Okay. Thanks. I don't have any other
18 questions.

19 MS. HEWEY: I have none. I think you
20 both have done a very in-depth and excellent job.

21 MR. DONAHUE: I have a couple follow-up
22 questions.

23 THE WITNESS: Sure.

24 FURTHER EXAMINATION

25 BY MR. DONAHUE:

1 Q. So you just testified, Will, that you started
2 implementing or thinking about implementing non-price
3 advertising in late 2012 and early 2013. Is that
4 correct?

5 A. Non-price-focused marketing materials. Not
6 necessarily non-price advertising materials. Those
7 are --

8 Q. So what's the difference between the two
9 things?

10 A. Your sign outside the building is branding
11 material. It's not an advertisement for you. It's a
12 who you are. It's not a what you sell.

13 Q. Okay. So advertising is -- would be media?

14 A. Advertising -- direct response advertising is
15 when the expectation of the advertiser is that you take
16 some action when you hear or see it. Branding is more
17 traditionally -- you know, when you see a Coke logo,
18 the expectation is not that you buy a Coke right then,
19 but when you are ready to buy a Coke -- or when you're
20 ready for soda, you'll buy a Coke because you recognize
21 the logo.

22 Q. So the radio and television advertising that
23 Electricity Maine did would be direct response?

24 A. During the period of a savings message, yes.

25 Q. Okay. And you continued to promote the

1 savings message into 2013?

2 MS. KAYATTA: Objection.

3 BY MR. DONAHUE:

4 Q. Electricity Maine continued to promote the
5 savings message into 2013?

6 MS. KAYATTA: Same objection.

7 THE WITNESS: There was a period in 2013
8 where we referenced savings in advertising materials.

9 BY MR. DONAHUE:

10 Q. Until March of 2013?

11 MS. KAYATTA: Objection.

12 THE WITNESS: I would have to review.
13 That rough time frame, yes.

14 MR. DONAHUE: Now -- I think I'm done.

15 MS. KAYATTA: On the confidentiality
16 piece, I think we can waive it as to everything
17 except -- I just want to take a look through 89, so if
18 we could keep that marked as confidential, I can take a
19 look through that after the deposition and let you
20 know --

21 MR. DONAHUE: Okay.

22 MS. KAYATTA: -- if we keep it or not.
23 I just want to read through it.

24 (The deposition concluded at 10:40 a.m.)

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CERTIFICATE

I, Jennifer A. Ridenour, RPR, a Notary Public for the State of Maine, hereby certify that the within-named witness was sworn to testify to the truth, the whole truth, and nothing but the truth in the aforementioned cause of action.

I further certify that this deposition was stenographically reported by me and later reduced to print through Computer-Aided Transcription, and that the foregoing is a full and true record of the testimony given by the witness.

I further certify that I am a disinterested person in the event or outcome of the above-named cause of action.

Any change in form or substance which the witness has made has been entered upon the record by me.

IN WITNESS WHEREOF I subscribe my hand and affix my seal this 18th day of June, 2018. Dated at Richmond, Maine.

Jennifer A. Ridenour, RPR, Notary Public

My Commission Expires: October 14, 2019

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SIGNATURE PAGE

I, WILLIAM TAYLOR FESSENDEN, have read the foregoing pages of my transcript or have had the foregoing pages of my testimony read to me and have noted any changes in form or substance of my testimony, together with their respective corrections and the reasons therefore, on the following _____ Errata Sheet(s).

(Signature) _____

WILLIAM TAYLOR FESSENDEN

(Date) _____

TO BE COMPLETED BY NOTARY PUBLIC OR ATTORNEY:

I, _____, a Notary Public/ Attorney in and for the State of Maine, hereby acknowledge that the above-named witness personally appeared before me, swore to the truth of the foregoing statements and affixed his/her signature above as his/her true act and deed.

(Date) _____

My commission expires: _____

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Please note on the errata sheet below any changes in form or substance to your testimony contained in your deposition transcript. For each change, list the page and line number, the words you wish to change, the change, and the reason for the change; ex: typo, wrong word, word omitted, etc. Be sure to sign the errata sheet. You must also sign the signature page and have it notarized. Please return the errata sheet and signature page to the attorney mentioned on the cover letter.

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June 18, 2018

Re:
Veilleux, et al., v. Electricity Maine, LLC, et al.
Deposition of: WILLIAM TAYLOR FESSENDEN

INSTRUCTIONS FOR READING & SIGNING TRANSCRIPT

Enclosed please find a copy of your deposition taken on June 12, 2018, in the above-referenced matter.

Within thirty (30) days, please read the transcript, indicating any errors on the enclosed errata sheet, and sign the signature page and errata sheet before a notary public.

Please return the properly executed original signature page and errata sheet to:

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<p>1</p> <p>10 [2] - 2:16; 13:18 10:40 [1] - 58:24 12 [2] - 2:11, 19 13 [3] - 2:13; 26:3; 33:16 14 [2] - 16:20; 59:24 18th [1] - 59:19</p>	<p>6</p> <p>6.8 [1] - 49:8</p>	<p>16, 18; 14:15 ad [6] - 15:9; 33:13; 54:22; 55:2, 9 addition [1] - 18:3 additional [2] - 45:10; 55:10 address [2] - 25:24; 50:12 addressing [2] - 49:23; 50:4 admitted [1] - 36:3 ads [2] - 5:22; 33:14 advertise [1] - 35:18 advertised [4] - 24:11; 48:25; 49:7; 50:2 advertisement [4] - 10:23; 11:10; 18:1; 57:11 advertisements [2] - 17:9; 35:21 advertiser [1] - 57:15 advertising [52] - 6:10, 18; 9:14; 11:1; 14:12; 17:19; 18:24; 19:2, 9-10; 20:2; 21:20, 22, 25; 22:2, 4, 8, 16; 23:3, 19, 22; 24:8, 20; 29:11, 16, 24; 30:21; 32:25; 34:4, 14; 35:5, 11; 37:10; 38:7, 9; 39:4, 10, 14, 19; 40:2, 9, 20; 41:5; 49:9; 57:3, 6, 13-14, 22; 58:8 AdWords [1] - 21:25 affix [1] - 59:19 affixed [1] - 60:19 aftermentioned [1] - 59:6 ago [3] - 31:25; 43:5, 7 agree [1] - 24:7 agreed [1] - 3:2 agreement [1] - 13:11 ahead [4] - 8:14; 14:4; 28:10; 55:15 Aided [1] - 59:9 air [1] - 46:17 aired [5] - 18:16; 45:24; 46:11; 47:23; 48:3 airing [3] - 6:22; 14:23; 36:1 allowed [3] - 15:9, 11; 52:13 answer [12] - 7:14; 8:15; 20:3; 23:11;</p>	<p>31:9, 11; 34:9; 40:21; 41:7; 46:5; 51:18 answers [1] - 31:20 anticipated [1] - 55:11 anyway [1] - 10:15 appeared [1] - 60:18 April [4] - 2:17; 45:13; 46:17 areas [5] - 55:13, 17 arrived [2] - 53:12, 15 assume [1] - 36:19 assumed [1] - 9:23 assumption [1] - 51:24 attached [2] - 26:7; 42:16 ATTORNEY [1] - 60:14 Attorney [1] - 60:16 attorney [1] - 61:6 Auburn [1] - 4:10 audio [1] - 17:10 aware [4] - 8:3; 28:25; 29:11, 13</p>	<p>6:2, 7; 10:9; 15:9; 21:24; 30:11; 37:9; 39:25; 50:15; 52:6 blind [1] - 44:3 blinks [1] - 33:15 board [1] - 50:25 body [2] - 12:15; 45:17 bottom [3] - 26:16; 50:12 brand [1] - 54:20 branding [3] - 55:23; 57:10, 16 break [1] - 53:2 briefly [2] - 25:21; 28:14 broad [1] - 55:16 broadcast [1] - 14:19 brochures [2] - 55:5, 21 brought [1] - 28:21 building [4] - 12:3; 18:23; 54:19; 57:10 bulk [3] - 21:3, 5; 47:16 business [2] - 42:12; 54:17 buy [3] - 57:18 buyer [1] - 5:7 buying [2] - 5:9, 11 BY [61] - 3:10; 7:17; 9:3; 10:5; 11:6; 12:21; 14:5; 16:13; 17:13; 18:18; 20:24; 21:18; 22:23; 23:13, 21; 24:2, 15; 25:2, 18; 27:18; 28:13; 29:7, 14; 30:2, 19, 23; 31:15; 32:13; 34:1, 11, 21; 35:8, 13; 36:6; 37:2, 17; 39:7; 40:7; 41:10; 42:5; 43:1, 23; 45:1, 5, 9; 46:4, 10, 18; 48:8; 49:6, 13; 50:10; 51:10, 21; 52:3, 21; 53:6; 56:25; 58:3, 9; 60:14</p>
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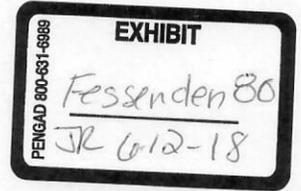
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Feb 4, 2013-TFN
Electricity Maine
:30
MX: None (dry read)
WABK

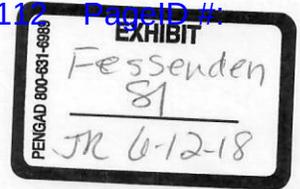
Nearly 2 hundred thousand Mainers can't be wrong. Hundreds are making the switch every day, making Electricity Maine the largest electricity supplier in the state. In 2013 Electricity Maine customers will combine to save nearly 7 million dollars.

When you switch to Electricity Maine you put the power to help to work - supporting Maine jobs, supporting Maine non-profit organizations and saving you and your family money.

If your bill still says Standard offer, you're paying too much. Enrolling is quick and easy - grab your utility bill and visit Electricity ME dot com. That's Electricity ME dot com.

****ENDORCEMENT TALKING POINTS** (Mike Dow)**

- Every day hundreds of Mainers switch to Electricity Maine. Some switch to save on the supply portion of their power bill, some switch to support a Maine-owned company that builds jobs here at home, while others switch to support Maine non-profits through the Power to Help Fund.
- Switching is easy - I recently did it. Just grab your power bill, if on page 2 it says "Standard Offer" you're paying too much. Visit electricity M E dot com, click Enroll Now. It takes just a couple minutes and you are on your way.
- If you prefer to speak with a customer service representative call 866-573-2674 (repeat as many times as necessary). Try to have your power bill available - either on line or by phone. Enrolling is quick and easy.
- To learn more, visit electricity M E dot com, Facebook.com/electricityme or go to your favorite search engine and do a search for Electricity Maine.



Will Fessenden

From: Will Fessenden
Sent: Wednesday, February 13, 2013 2:13 PM
Subject: Electricity Maine Update
Attachments: ME 30.wav; ME 60.wav; ElectricityME_Febtalkingpoints.docx

Good Afternoon,

Attached are updated talking points for endorsements-these mimic and reinforce new TV which will begin in a week or so.

These talking points are a bit tighter than you might be used to seeing, but I want to keep focus on these prime areas. You will notice, less about savings-more about choice and why we are the best choice including: The Power to Help and working with a Maine company focused on community.

Also attached is a :30 and a :60 voiced by Kiley Bennett. Please use the attached :30's and :60's for all traffic that are non-endorsement live spots.

For traffic purposes you can use the attached through March 1. I'll send along new traffic and info early the week of 2/25th.

Let me know if you need anything else from me, happy to answer any questions you might have.

Chat soon.

-Will

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ProviderPOWER
The Power to HELP

Companies of Provider Power:
Electricity Maine
Toll Free: 1-866-573-2674
www.electricityme.com

ENH Power
Toll Free: 1-866-266-2641
www.enhpower.com

January 7, 2013-TFN
Electricity Maine
:30
MX: None (dry read)

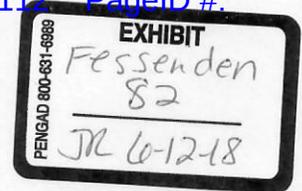
Nearly 2 hundred thousand Mainers can't be wrong. Electricity Maine was the first and now the largest competitive electricity supply provider in Maine. In 2013 Electricity Maine customers will combine to save 6 point 8 million dollars.

When you switch to Electricity Maine you put the power to help to work - supporting Maine jobs, supporting Maine non-profit organizations and saving you and your family money.

Enrolling is quick and easy - grab your utility bill and visit Electricity ME dot com. That's Electricity ME dot com.

****Electricity Maine Radio ENDORCEMENT TALKING POINTS****
Feb 14, 2013-TFN

- Every day hundreds of Mainers switch to Electricity Maine. Some switch to save on the supply portion of their power bill, some switch to support a Maine-owned company that builds jobs here at home, while others switch to support Maine non-profits through the Power to Help Fund.
- Mainer's have choices as to where to get their electricity. Electricity Maine is the largest provider in the state-nearly 200,000 have made the switch and they are proud so many people have placed their trust in electricity Maine. If you are among those who have made the switch-share your good fortune with family, friends and neighbors.
- Switching is easy - Just grab your power bill, if on page 2 it says "Standard Offer" you're paying too much. Visit electricity M E dot com, click Enroll Now. It takes just a couple minutes and you are on your way to supporting the Power to Help.
- If you prefer to speak with a customer service representative call 866-573-2674 (repeat phone as many times as necessary). Electricity Maine's talented, knowledgeable customer service team will can answer all your questions and help you enroll.
- To learn more, visit electricity M E dot com, visit them on Facebook or go to your favorite search engine and do a search for Electricity Maine.



Mitchell Tannenbaum, Esq.
Deputy General Counsel
Maine Public Utilities Commission
18 State House Station
Augusta, ME 04333-0018

Re: Electricity Maine - Request for Information

Dear Mitch:

On behalf of Electricity Maine, I am writing to respond to your letter of May 8, 2013 requesting information. I will respond to each of your questions in turn.

1. Please describe the process by which Electricity Maine informs radio stations to change or discontinue a particular promotion.

Electricity Maine's marketing department periodically, as messaging or promotions require, sends e-mails to our radio station sales representatives that includes scripts, talking points, message changes or general information. In addition to this, we speak regularly (some times weekly) via phone with the sales representatives at particular radio stations. We also meet face to face periodically with station representatives and radio personalities, but not necessarily every time we change messaging.

In most cases in which we are altering our advertising messages or content, we send the stations an e-mail with the updated content and request that it be used until further notice. Please see our response to question number 2 for examples. Occasionally our marketing department will call particular stations and asked that particular marketing messages be aired, but we do not keep records of those calls.

Electricity Maine radio promotions take several forms. Occasionally Electricity Maine will produce its own ads of :30 or :60 seconds that it provides to radio stations to run. Electricity Maine has also provided scripts of :15, :30, or :60 seconds in length for the radio stations to produce with their own local talent. A third category of radio spot are :05 "blinks", that are previously recorded and air as scheduled. More frequently Electricity Maine provides radio stations with talking points that are read live on the air, or recorded to sound live and played at other times of the day. These live or "sound live" spots may then be put into the automated system as part of the mix of commercials.

The stations typically keep a library of these recorded ads that their automated system draws from to air at various times.

Electricity Maine currently runs promotions with approximately 11 radio stations, each running approximately 150 ads ("mentions") in one of the above forms per month, for a total of approximately 3,000 mentions per month.

2. Please provide copies of all communications/e-mails with radio stations that include a script for promotions to air during the period of February 1, 2013 to March 31, 2013 or that involve a change or discontinuation of a particular promotion.

Enclosed are copies of written communications with radio stations from our marketing department on January 8, 2013, February 13, 2013 and March 8, 2013, April 5, April 8, April 23 2013 and May 8, 2013. As noted above, our marketing staff is in regular verbal contact with radio station sales representatives, but we do not keep written records of those phone or in-person communications.

3. Please confirm that it is Electricity Maine's position that its radio promotions during the period February 1, 2013 to March 31, 2013 (except for possible mistakes by the radio station) did not provide comparisons to standard offer prices in effect during the period March 2012-February 2013 and/or include a statement at the end of promotion that referred to standard offer rates in the CMP and BHE service territories in effect as of March 1, 2012.

The written communications provided in response to question number two reflect the talking points or ad content Electricity Maine has requested that stations work from as either station recorded ads or as live spots or blinks. The talking points provided on January 8, 2013 and February 13, 2013 reference standard offer as indicated. The talking points provided on March 8, 2013 and thereafter do not reference standard offer or price comparisons to standard offer.

Because the radio stations maintain a library of prerecorded ads and there is no record of which prerecorded ads were picked by the automation to run at any particular time, and because other radio station ads are live mentions of which no written record is kept (other than date or time), we cannot track what ads were aired when. We now understand that in recent months some radio station staff may have aired out of date station-recorded ads or relied on out of date talking points in airing live spots. As a result, we have followed up with all of our radio stations and asked that they destroy out of date recorded ads and use only current talking points in airing live spots. A letter from the Portland Radio Group reflecting their acknowledgement of this problem is attached.

The residential and small commercial standard offer rate as of March 1, 2013 is 6.826 cents/kWh in the CMP service territory and 6.696 cents/kWh in the Bangor Hydro territory. Electricity Maine currently offers customers three price options: 1) an 18-month fixed rate of 7.58 cents/kWh, 2) a 12-month fixed rate of 7.78 cents/kWh, and 3) a 6-month fixed rate of 6.8 cents/kWh. Attached to this letter is a table that identifies the rates at which new customers were enrolled and current customers were renewed in February and March 2013. As reflected in the table, Electricity Maine has consistently attempted to offer a product at rates below the applicable standard offer price, although the term of the product has differed. The only time we were not able to achieve this was for new enrollments beginning March 20, 2013 in the Bangor Hydro territory, where we offer a 9-month rate of 6.8 cents/kWh compared to the BHE Standard Offer rate of 6.696 cents/kWh.

4. Please confirm that it is Electricity Maine's position that its radio promotions during the period February 1, 2013 to March 31, 2013 (except for possible mistakes by the radio station) did not include a statement to the effect that if your power bill says standard offer you're paying too much.

Please see response to question 3 above.

5. Please provide audio files for all radio promotions that aired during the period February 1, 2013 to March 31, 2013 and dates for which the promotions aired.

Please see my response to question 1 above. I am provided with this letter a disc with audio files for all radio promotions prepared by Electricity Maine and all recorded promotions prepared by radio stations based on the talking points provided by Electricity Maine. Because the radio stations do not keep written records of when particular prerecorded ads or live spots were aired, we cannot identify which ads were aired in the time period in question.

6. Did Electricity Maine change or discontinue any of its promotions after receipt of the MPUC Staff's letter to Electricity Maine dated April 5, 2013? If so, please provide the reason(s) for the change/discontinuance.

See our response to question 3 above. Our recent promotional materials and talking points are based on our current marketing plans and not based on the MPUC Staff's letter of April 5, 2013. However, based in part on the letter and our communications with Staff, we now understand that some radio stations have aired out of date promotions over the past few months and we have addressed that in our written materials provided to the stations, as submitted with this letter, and in our oral communications with the stations.

7. Please provide the basis for the statement in Electricity Maine promotions that Electricity Maine customers will save nearly \$7 million in 2013.

This statement was an error that we are now addressing. The \$7 million savings figure represents total cumulative customer savings from the initiation of service by Electricity Maine in 2011 through early 2013. It was incorrectly advertised as prospective savings in 2013.

8. Please indicate whether the supply contract of any Electricity Maine customers that initially enrolled with a Terms of Service that contained the following statement "Upon commencement of service, this Supply Contract will renew automatically on an annual basis at your current plan rate until terminated by you or Electricity Maine" or a similar statement were "automatically" renewed (i.e., the lack of action resulted in renewal) at a higher price than the customer's prior price. If so, please indicate how such automatic renewals are consistent with the language in the applicable Terms of Service.

Earlier versions of Electricity Maine's Terms of Service contained the statement quoted above. Our terms of service were revised most recently on November 28, 2012. Whenever Electricity Maine automatically renews a customer it notifies a customer by email in advance and provides the customer with the opportunity to opt out of the renewal. Customers without a valid email address or customers that request notification by mail receive letters. The notice includes the new rate and term. All customers are directed to the website to review the current terms of service. In addition, when Electricity Maine amends its Terms of Service, we provide all customers with advance notice of the

change, even though the change will not affect the customer's then current contract. If a customer raises a concern about an automatic renewal product we give the customer the option to select a different product with Electricity Maine, transfer to Standard Offer Service, or switch to another CEP

9. Has Electricity Maine received any customer complaints regarding "automatic" renewals? If so, please provide the nature of each complaint and Electricity Maine's response.

Electricity Maine receives calls from customers on a daily basis with questions, comments and concerns. These calls are addressed by our staff at the time and we do not keep records that would allow us to know how many any calls received concern automatic renewals. Customers also use our on-line written comment option, and we are able to track complaints that we receive through that system. Based upon our research, during the period February 1, 2013 through April 30, 2013, there have been only 3 complaints registered on our on-line system related to automatic renewals. In each case in which a customer raises a complaint or concern about automatic renewal, whether received by phone or on our on-line system, our policy is to give the customer the choice to move to a different Electricity Maine product, to switch to Standard Offer service, or to switch to a different CEP, all at no cost to the customer. Each of the three on-line complaints was resolved in that fashion.

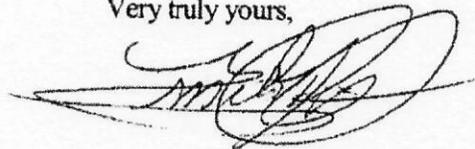
10. Please provide the script for all promotions that have aired on WCLZ, 98.9 during May 2013.

An electronic version of the only prerecorded promotion provided to WCLZ for airing during May 2013 is being provided with this letter. As noted in response to question 3 above, in recent months some radio station staff may have aired out of date station-recorded ads or relied on out of date talking points in airing live spots. As a result, we have followed up with all of our radio stations and asked that they destroy out of date recorded ads and use only current talking points in airing live spots.

I appreciate the time and attention the Commission and its Staff invests in supporting the development of a competitive market for residential and small customers and in ensuring that customers are provided with accurate information. Electricity Maine will continue to strive to provide competitive rates and honest and correct information to our existing and prospective customers.

Please contact me if you have additional questions. I also suggest that I meet with you at your earliest convenience to discuss our responses to your concerns, to answer any follow up questions and to identify things we can do to eliminate any ongoing concerns.

Very truly yours,

A handwritten signature in black ink, appearing to be "M. J. [unclear]", written over a horizontal line.

Sent: Tuesday, January 08, 2013 2:51 PM
Subject: [BULK] Electricity Maine Update
Importance: Low

Good Afternoon,

Attached are two items: doc with :30/:60 scripts and a separate sheet with updated talking points for endorsements. Endorsement talking points should focus on the top 4 items & Free Power Giveaways.

Please send me produced :30's and :60's to review. Occasional air checks on testimonials would also be appreciated. Along those lines, we'll be providing you with an email address to send air checks and audio files to. For now they can come to me...but, well, I get so many and would like to give them a home to call their own.

In the category of you'll be wicked thrilled to hear...We are working on refining our process for tracking calls and enrollments. This will be part of a larger IT update to our sites, using the promo codes will become easier and more intuitive for our users.

For those of you we have web ads running with we'll be providing new creative (please send me any sizes you need).

We will be creating unique url landing pages to direct your web traffic too. Where possible we'll customize the message based on the station folks listened to, this way when they click "to enroll", *hopefully* your station will be top of mind and select the corresponding promo code. This is still a couple weeks out, new URL's will be provided with new web creative. We believe this will definitely help with tracking enrollments.

Let me know if you have any questions-comments-concerns or just want to say "hi".

Cheers, -Will

Will Fessenden
Director Media Strategy

4/18/13 CONT.



- Electricity Maine was the first, and now the largest, competitive supply provider in Maine, with nearly 200,00 customers
- In 2013 customers will combine to save \$6.8 million!
- When you choose Electricity Maine as your electricity supplier, you're not only saving money, you're also building jobs right here in Maine, with a Maine owned company.
- Each enrollment with Electricity Maine helps to support local non-profits, including the Good Shepard Food Bank, St. Mary's Health System and the Dempsey Center, plus many more.
- It's easy to switch! Just grab your electric bill, go to www.electricityme.com, and click the "Enroll Now" button (takes less than 5 minutes!). Or call (866) 573-2674.

FREE POWER

Electricity Maine is giving away Free Power for YEAR to 100 lucky MAINE HOMES!!!

- That's right, you could be one of the lucky Mainers to win free power for a year from Electricity Maine
- 25 winners will be chosen each quarter during the promotion
- Electricity Maine will pay the power supply portion of the winner's electric bills every month for an entire year!!!

AND Free Power for a Month!!

- Once a month Electricity Maine will continue to provide FREE Power for a MONTH to ONE LUCKY Winner.
- All Maine residents are eligible to win Free Power for a Month.
- Check out our website to view winners since September 2011.

How do you register to Win?

- If you are ALREADY a customer of Electricity Maine, you are already included in the promotions
- If you are NOT a customer, you can log on to electricityme.com to review the official rules and entry form
- If for any reason you do not want to be part of these promotions, you can call Electricity Maine's customer service team and asked to be removed 1-866-573-2674.

Why is Electricity Maine offering these promotions?

- That's what makes Electricity Maine unique...they are focused on giving back!
- As a way to thank their 190,000 customers, and others supporting their efforts, they decided to create these promotions.

STANDARD FACTS

- If your CMP or Bangor Hydro Bill stills says "Standard Offer" you are paying too much for your power supply.
- Electricity Maine's goal is to always be LOWER than the "Standard Offer"
- Providing One Year Fixed Rates
- Pay Less and Support Maine
- Creating NEW Jobs for Maine People
- Share the news and make the Switch
- It's Quick, It's Easy.
- *Join the movement across Maine to save on your monthly power supply and support Maine's economy.*
- **ENROLL TODAY!!!** www.electricityme.com

January 7, 2013-TFN
Electricity Maine
:30
MX: None (dry read)

Nearly 2 hundred thousand Mainers can't be wrong. Electricity Maine was the first and now the largest competitive electricity supply provider in Maine. In 2013 Electricity Maine customers will combine to save 6 point 8 million dollars.

When you switch to Electricity Maine you put the power to help to work - supporting Maine jobs, supporting Maine non-profit organizations and saving you and your family money.

Enrolling is quick and easy - grab your utility bill and visit Electricity ME dot com. That's Electricity ME dot com.

Will Fessenden

From: Will Fessenden
Sent: ~~Wednesday, February 13, 2013~~ 2:13 PM
Subject: Electricity Maine Update
Attachments: ME 30.wav; ME 60.wav; ElectricityME_Febtalkingpoints.docx

Good Afternoon,

Attached are updated talking points for endorsements-these mimic and reinforce new TV which will begin in a week or so.

These talking points are a bit tighter than you might be used to seeing, but I want to keep focus on these prime areas. You will notice, less about savings-more about choice and why we are the best choice including: The Power to Help and working with a Maine company focused on community.

Also attached is a :30 and a :60 voiced by Kiley Bennett. Please use the attached :30's and :60's for all traffic that are non-endorsement live spots.

For traffic purposes you can use the attached through March 1st. I'll send along new traffic and info early the week of 2/25th.

Let me know if you need anything else from me, happy to answer any questions you might have.

Chat soon.

-Will

Will Fessenden
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www.enhpower.com

****Electricity Maine Radio ENDORCEMENT TALKING POINTS****
Feb 14, 2013-TFN

- Every day hundreds of Mainers switch to Electricity Maine. Some switch to save on the supply portion of their power bill, some switch to support a Maine-owned company that builds jobs here at home, while others switch to support Maine non-profits through the Power to Help Fund.
- Mainer's have choices as to where to get their electricity. Electricity Maine is the largest provider in the state-nearly 200,000 have made the switch and they are proud so many people have placed their trust in electricity Maine. If you are among those who have made the switch-share your good fortune with family, friends and neighbors.
- Switching is easy - Just grab your power bill, if on page 2 it says "Standard Offer" you're paying too much. Visit electricity M E dot com, click Enroll Now. It takes just a couple minutes and you are on your way to supporting the Power to Help.
- If you prefer to speak with a customer service representative call 866-573-2674 (repeat phone as many times as necessary). Electricity Maine's talented, knowledgeable customer service team will can answer all your questions and help you enroll.
- To learn more, visit electricity M E dot com, visit them on Facebook or go to your favorite search engine and do a search for Electricity Maine.

Will Fessenden

From: Will Fessenden
Sent: Friday, March 08, 2013 1:59 PM
Cc: Gail Ruwe (Gail.Ruwe@cumulus.com); Biette, Bruce (BruceBiette@blueberrybroadcasting.com); Peter Hoglund (PHoglund@portlandradiogroup.com); Steve Landry (SLandry@portlandradiogroup.com); mike.sambrook@cumulus.com; PCollins@binradio.com; Merry St Pierre (Merry.StPierre@townsquaremedia.com); Kim Daellenbach (kimdaellenbach@gmail.com); Morgan Wilkins (morgan.wilkins@maine.edu); 'marketingintern@providerpower.com'
Subject: Electricity Maine Radio Endorsements
Attachments: ElectricityME_March8 endorsement_draft.docx

Good Afternoon,

Hope this note finds everyone doing well.

Attached are the latest talking points for jock endorsements. Please note we are shifting away from focusing on savings-instead talking about doing business with a Maine owned company, creating jobs here at home, supporting Maine non-profits through the Power to Help Fund, while offering a competitive rate on the supply portion of the bill.

This is part one of the new "branding" of Electricity Maine (as opposed to direct response) as a Maine company, dedicated to Maine's long term economic health.

Please use attached until further notice. If we haven't spoken and confirmed in studio interviews with ownership, lets talk as I would like to get them in this month.

Regards and thanks. Our media partners will continue to play a strong role in the next phase of EME's development.

-Will

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www.electricityme.com

ENH Power
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www.enhpower.com

Electricity Maine-ENDORCEMENT TALKING POINTS

March 8-TFN

*Every day hundreds of Mainers switch to Electricity Maine. With more than 200,000 thousand enrollments Electricity Maine is the state's largest and most trusted electricity supply company.

*Mainers are enrolling with Electricity Maine for a host of reasons-some switch to support a Maine owned and operated company-creating jobs here at home. Others make the switch to support Maine non-profits through the Power to Help Fund, others enrolled with Electricity Maine because they want a competitive rate on their electricity supply.

*Mainers have choices where to get their power. If you want a local company, building jobs here in Maine, supporting Maine communities, make the switch to electricity Maine.

*The Electricity Maine Power to Help fund has given thousands of dollars to local non-profit organizations like the Dempsey Center, St. Mary's Regional Medical Center, and Good Shepherd Food Bank. When enrolling with Electricity Maine simply use the promo code of the organization of your choice and Electricity Maine will contribute \$5.00 to that organization. That is what the Power to Help is all about.

*Switching is easy-Just grab your power bill, visit [electricity M E dot com](http://electricityME.com), click "Enroll Now". It takes just a couple minutes.

*If you prefer to speak with a customer service representative call 866-573-2674 (repeat as many times as necessary). Try to have your power bill available-either on line or by phone, enrolling is quick and easy.

*To learn more, visit [electricity M E dot com](http://electricityME.com), [facebook.com/electricityme](https://www.facebook.com/electricityme) or go to your favorite search engine and do a search for Electricity Maine.

Will Fessenden

From: Will Fessenden
Sent: Friday, April 05, 2013 9:08 AM
To: Will Fessenden
Subject: Updated Talking Points
Attachments: ElectricityME_April6_Endorsements.docx

Good Morning and Happy Friday-

Updated Talking jock endorsement talking points for Maine are attached. Focus continues to be that Electricity Maine is a Maine owned company, the Power To Help Fund being a key component of our mission.

Having received some feedback, as your (jocks) are interested in greater detail, more specifics, about Power to Help Partners, I have included info on 3 upcoming Power To Help partner events. When talking about The Power To Help, jocks are encouraged to rotate mentions of the events.

Along with Power To Help info there is also more familiar talking points/info.

Please review the attached, share with on-air talent and as always thanks for your continued support. Don't hesitate to contact me with questions/concerns (or great praise)!

Regards, -Will

Will Fessenden
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www.linkedin.com/in/willfess

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Electricity Maine-ENDORCEMENT TALKING POINTS

April 5-TFN

*Every day hundreds of Mainers switch to Electricity Maine. With more than 200,000 thousand enrollments Electricity Maine is the state's largest and most trusted electricity supply company.

*As a Maine Owned Company, one of the core principals-part of the mission of Electricity Maine is to give back to the communities and raise awareness of some of the great non-profit organizations in Maine. Through the Power to Help Fund, Electricity Maine supports organizations through direct donations as well as technical expertise and volunteers. Power to help organizations include:

Examples of Power to Help partner organizations (please rotate mentions):

- Androscoggin Home Care & Hospice-Electricity Maine is a primary sponsor of the Hospice House 5k and Remembrance Walk-in Farmington, South Paris and Auburn. Money raised from this event supports patient care at the Hospice House.
- United Way of Androscoggin County Touch A Truck event on May 4th at Central Maine Community College. Kids and the young at heart are invited to attend the free event and get up close with dozens of cool vehicles including fire trucks, tractor trailers, police cars and much more.
- Museum L-A Bands on the Run Half Marathon and 5K-a unique event supporting Museum L-A, a 5k & Half marathon along roads and trails along the Androscoggin River and Lewiston/Auburn-along the route runners and walkers will be treated to the sweet sounds of local bands and musicians.

For more information about the Power to Help Fund, partners and events-visit Electricity M E dot com, click the "Power to Help" button.

*Mainer's have choices where to get their power. If you want a local company, building jobs here in Maine, supporting Maine communities, make the switch to electricity Maine.

*The Electricity Maine Power to Help fund has given thousands of dollars to local non-profit organizations like the Dempsey Center, St. Mary's Regional Medical Center, and Good Shepherd Food Bank. When enrolling with Electricity Maine simply use the promo code of the organization of your choice and Electricity Maine will contribute \$5.00 to that organization. That is what the Power to Help is all about.

*Switching is easy-Just grab your power bill, visit [electricity M E dot com](http://electricityME.com), click "Enroll Now". It takes just a couple minutes.

*If you prefer to speak with a customer service representative call 866-573-2674 (repeat as many times as necessary). Try to have your power bill available-either on line or by phone, enrolling is quick and easy.

*To learn more, visit [electricity M E dot com](http://electricityME.com), facebook.com/electricityme or go to your favorite search engine and do a search for Electricity Maine.

Will Fessenden

From: Will Fessenden
Sent: Monday, April 08, 2013 7:01 AM
To: Will Fessenden
Subject: Quick Note for Maine Jocks

Importance: High

Follow Up Flag: Follow up
Flag Status: Completed

Good Morning,

In addition to talking points sent along last week a quick note to please pass along to air staff.

It is very important we stay away from talk/mentions of the "Standard Offer" and/or mention of "Savings" by switching to EME. While we do have a product where there is a savings (compared to the standard offer), it is somewhat complicated and not a product we are advertising or talking about at this time. I realize this is a bit of switch-transition, but we have to be very careful with any statements regarding "savings".

Focus should remain on: Switching to EME means doing business with a Maine Owned Company-supporting jobs and Maine's economy-supporting the Power to Help Fund/Maine non-profits while getting a competitive rate on electricity for you home/small business.

Please let me know if you have any questions. Your helps is greatly appreciated.

Regards, -Will

Will Fessenden
Director Media Strategy
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Mobile: (207) 632-8926
wfessenden@providerpower.com
www.linkedin.com/in/willfess

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Will Fessenden

From: Will Fessenden
Sent: Tuesday, April 23, 2013 10:06 AM
To: Will Fessenden
Subject: Updated Maine :30 and talking points
Attachments: ElectricityME_April22_Endorcements_v2.docx; ElectricityME_april22_script_V2.docx

DESTTYPE: OUTBOUND
OPACUSARCHIVE: YES

Good Morning-hope this finds you all doing well.

Attached is an updated :30 (for those of you running :30's) and endorsement talking points. This :30 and these talking points should be the only spots & messaging you use.

- A slight shift, introducing language about two contract options (outlined in yellow). The goal drive interest/calls for these options and talk about the security of fixed rates (versus variable rates offered by many of our competitors).
- Don't hesitate to promote the phone number as often as you are comfortable
- Don't hesitate to encourage listeners to use respective promo codes "Don't forget to mention you heard it here....."

Please send me produced :30's to OK and the usual occasional airchecks. Talking points can begin ASAP.

Let me know if you have any questions.

Thank you.

Regards, -Will

Will Fessenden
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Electricity Maine-ENDORCEMENT TALKING POINTS

April 22-TFN

*Every day Mainers switch to Electricity Maine. With more than 200,000 thousand enrollments Electricity Maine is the state's largest and most trusted electricity supply company.

*Now Electricity Maine has 12 and 18 month plans to meet the needs of you and your family. All rates are fixed that way you have the security of knowing your rates won't increase. That's right no variable rates, no guessing on your part. This is part of Electricity Maine's commitment to you.

*Signing up for a 12 or 18 month fixed rate means Electricity Maine is able to give back to community and non-profit organizations through the Power to Help Fund- raising awareness of some of the great non-profit organizations in Maine. Through the Power to Help Fund, Electricity Maine supports organizations through direct donations as well as technical expertise and volunteers. Power to help organizations include:

Examples of Power to Help partner organizations (please rotate mentions):

- Androscoggin Home Care & Hospice-Electricity Maine is a primary sponsor of the Hospice House 5k and Remembrance Walk-in Farmington, South Paris and Auburn. Money raised from this event supports patient care at the Hospice House.
- United Way of Androscoggin County Touch A Truck event on May 4th at Central Maine Community College. Kids and the young at heart are invited to attend the free event and get up close with dozens of cool vehicles including fire trucks, tractor trailers, police cars and much more.
- Museum L-A Bands on the Run Half Marathon and 5K-a unique event supporting Museum L-A, a 5k & Half marathon along roads and trails along the Androscoggin River and Lewiston/Auburn- along the route runners and walkers will be treated to the sweet sounds of local bands and musicians.

***Switching to Electricity Maine also builds jobs here at home. They're a Maine company...hiring local people and working with local companies to supply them with their business needs.**

*Switching is easy-Just grab your power bill, visit electricity M E dot com, click "Enroll Now". It takes just a couple minutes.

*If you prefer to speak with a customer service representative call 866-573-2674 (repeat as many times as necessary). Try to have your power bill available-either on line or by phone, enrolling is quick and easy.

*To learn more, visit electricity M E dot com, facebook.com/electricityme or go to your favorite search engine and do a search for Electricity Maine.

***DON'T FORGET TO SPIKE IN LANGUAGE SIMILAR TO: "WHEN YOU ENROLL-DON'T FORGET TO MENTION YOU HEARD IT HERE...." (ENCOURAGE USE OF YOUR STATION PROMO CODES**

April 22, 2013-TFN
Electricity Maine
:30
MX: None (dry read)

Every day Mainers are making the switch - more than 2 hundred thousand have already enrolled, making Electricity Maine - a Maine owned company - the largest electricity supplier in the state.

Now with 12 and 18 month options - you pick the plan that best suits you and your family.

Best of all, Electricity Maine rates are fixed, protecting you from fluctuations in the market. None of the variable rates you get from other supply companies. No guessing on your part - just security.

Learn more about Electricity Maine at [electricity me dot com](http://electricity.me.com) or call 866-573-2674. The number again: 866-573-2674.



May 15, 2013

Mitchell Tannenbaum, Deputy General Counsel

Maine Public Utilities Commission,

18 State House Station

Augusta, Maine, 04333-0018

Dear Mr. Tannenbaum,

The stations of Portland Radio Group have been broadcasting paid commercials for Electricity Maine. In February and March we received instructions from Electricity Maine via email asking us to refrain from references to "saving money" in commercials we produce. Some of the commercials, per our agreement with Electricity Maine, are performed extemporaneously by various on-air personalities.

It has come to our attention that during some of the extemporaneous commercials during this period, there had been references to "saving money". We have reiterated the correct instructions to the on-air personalities that there can be no references to saving money in any commercials produced or performed on behalf of Electricity Maine.

Sincerely,

A handwritten signature in black ink, appearing to read 'W. Maddock'.

Warren T. Maddock

Portland Radio Group Sales Manager

A handwritten signature in black ink, appearing to read 'Larry Julius'.

Larry Julius

Portland Radio Group Sales Manager

WGAN • WPOE • WMOX • WYNZ • WZAN • WBAE

420 Western Avenue • South Portland, Maine 04106 • (207) 774-4561 • FAX (207) 774-3788

RESPONSE TO QUESTION 3.

NEW ENROLLMENTS MONTH OF FEBRUARY 2013			NEW ENROLLMENTS MONTH OF MARCH 2013 (03/01/2013 ~ 3/19/2013)			NEW ENROLLMENTS MONTH OF MARCH 2013 (03/20/2013 ~ CURRENT)		
UTILITY	TERM (MONTHS)	RATE	UTILITY	TERM (MONTHS)	RATE	UTILITY	TERM (MONTHS)	RATE
CMP	9	0.06823	CMP	9	0.06823	CMP		
BHE	9	0.06689	BHE	9	0.06689	BHE		
RENEWALS MONTH OF FEBRUARY 2013			RENEWALS MONTH OF MARCH 2013			These Are Electricity Maine's Current Terms and Rates. Please See Website For Details.		
UTILITY	TERM (MONTHS)	RATE	UTILITY	TERM (MONTHS)	RATE			
CMP	9	0.06823	CMP	9	0.06823			
BHE	9	0.06823	BHE	9	0.06823			

PENGAD 800-831-6339
EXHIBIT
Fessenden
83
JR 6-12-18

Will Fessenden

From: Will Fessenden
Sent: Friday, March 08, 2013 1:59 PM
Cc: Gail Ruwe (Gail.Ruwe@cumulus.com); Biette, Bruce (BruceBiette@blueberrybroadcasting.com); Peter Hoglund (PHoglund@portlandradiogroup.com); Steve Landry (SLandry@portlandradiogroup.com); mike.sambrook@cumulus.com; PCollins@binradio.com; Merry St Pierre (Merry.StPierre@townsquaremedia.com); Kim Daellenbach (kimdaellenbach@gmail.com); Morgan Wilkins (morgan.wilkins@maine.edu); 'marketingintern@providerpower.com'
Subject: Electricity Maine Radio Endorsements
Attachments: ElectricityME_March8 endorsement_draft.docx

Good Afternoon,

Hope this note finds everyone doing well.

Attached are the latest talking points for jock endorsements. Please note we are shifting away from focusing on savings-instead talking about doing business with a Maine owned company, creating jobs here at home, supporting Maine non-profits through the Power to Help Fund, while offering a competitive rate on the supply portion of the bill.

This is part one of the new "branding" of Electricity Maine (as opposed to direct response) as a Maine company, dedicated to Maine's long term economic health.

Please use attached until further notice. If we haven't spoken and confirmed in studio interviews with ownership, lets talk as I would like to get them in this month.

Regards and thanks. Our media partners will continue to play a strong role in the next phase of EME's development.

-Will

Will Fessenden
Director Media Strategy
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Electricity Maine-ENDORCEMENT TALKING POINTS

March 8-TFN

***Every day hundreds of Mainers switch to Electricity Maine. With more than 200,000 thousand enrollments Electricity Maine is the state's largest and most trusted electricity supply company.**

***Mainers are enrolling with Electricity Maine for a host of reasons-some switch to support a Maine owned and operated company-creating jobs here at home. Others make the switch to support Maine non-profits through the Power to Help Fund, others enrolled with Electricity Maine because they want a competitive rate on their electricity supply.**

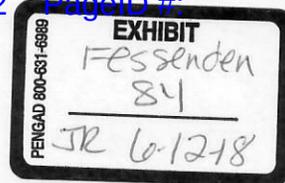
***Mainer's have choices where to get their power. If you want a local company, building jobs here in Maine, supporting Maine communities, make the switch to electricity Maine.**

***The Electricity Maine Power to Help fund has given thousands of dollars to local non-profit organizations like the Dempsey Center, St. Mary's Regional Medical Center, and Good Shepherd Food Bank. When enrolling with Electricity Maine simply use the promo code of the organization of your choice and Electricity Maine will contribute \$5.00 to that organization. That is what the Power to Help is all about.**

***Switching is easy-Just grab your power bill, visit electricity M E dot com, click "Enroll Now". It takes just a couple minutes.**

***If you prefer to speak with a customer service representative call 866-573-2674 (repeat as many times as necessary). Try to have your power bill available-either on line or by phone, enrolling is quick and easy.**

***To learn more, visit electricity M E dot com, facebook.com/electricityme or go to your favorite search engine and do a search for Electricity Maine.**



From: Candace Sanborn <CSanborn@providerpower.com>
Sent: Sunday, March 10, 2013 10:05 AM
To: Will Fessenden </O=PROVIDER/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=Will Fessenden549>
Subject: Fwd: standard offer

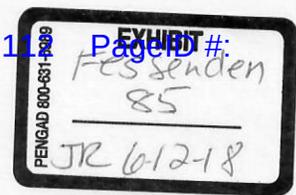
Morning! This is from Emile.

Sent from my iPhone

Begin forwarded message:

From: Emile Clavet <eclavet@providerfinancial.com>
Date: March 10, 2013, 9:28:04 AM EDT
To: Candace Sanborn <CSanborn@providerpower.com>
Subject: standard offer

Hi, Candace. I listened to CLZ radio yesterday and the DJ hypes, (if you see standard offer on the second page you're paying too much !) We need to screen our radio to take the focus off price and onto power to help. It will probably be a task to retrain them and maintain momentum. Emile



Will Fessenden

From: Will Fessenden
Sent: Monday, April 08, 2013 7:01 AM
To: Will Fessenden
Subject: Quick Note for Maine Jocks

Importance: High

Follow Up Flag: Follow up
Flag Status: Completed

Good Morning,

In addition to talking points sent along last week a quick note to please pass along to air staff.

It is very important we stay away from talk/mentions of the "Standard Offer" and/or mention of "Savings" by switching to EME. While we do have a product where there is a savings (compared to the standard offer), it is somewhat complicated and not a product we are advertising or talking about at this time. I realize this is a bit of switch-transition, but we have to be very careful with any statements regarding "savings".

Focus should remain on: Switching to EME means doing business with a Maine Owned Company-supporting jobs and Maine's economy-supporting the Power to Help Fund/Maine non-profits while getting a competitive rate on electricity for you home/small business.

Please let me know if you have any questions. Your helps is greatly appreciated.

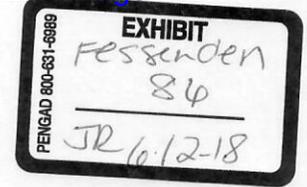
Regards, -Will

Will Fessenden
Director Media Strategy
Direct: (207) 440-5022
Mobile: (207) 632-8926
wfessenden@providerpower.com
www.linkedin.com/in/willfess

ProviderPOWER
The Future is HELP

Companies of Provider Power:
Electricity Maine
Toll Free: 1-866-573-2674
www.electricityme.com

ENH Power
Toll Free: 1-866-266-2641
www.enhpower.com



Electricity Maine-ENDORCEMENT TALKING POINTS
April 22-TFN

*Every day Mainers switch to Electricity Maine. With more than 200,000 thousand enrollments Electricity Maine is the state's largest and most trusted electricity supply company.

*Now Electricity Maine has 12 and 18 month plans to meet the needs of you and your family. All rates are fixed that way you have the security of knowing your rates won't increase. That's right no variable rates, no guessing on your part. This is part of Electricity Maine's commitment to you.

*Signing up for a 12 or 18 month fixed rate means Electricity Maine is able to give back to community and non-profit organizations through the Power to Help Fund- raising awareness of some of the great non-profit organizations in Maine. Through the Power to Help Fund, Electricity Maine supports organizations through direct donations as well as technical expertise and volunteers. Power to help organizations include:

Examples of Power to Help partner organizations (please rotate mentions):

- Androscoggin Home Care & Hospice-Electricity Maine is a primary sponsor of the Hospice House 5k and Remembrance Walk-in Farmington, South Paris and Auburn. Money raised from this event supports patient care at the Hospice House.
- United Way of Androscoggin County Touch A Truck event on May 4th at Central Maine Community College. Kids and the young at heart are invited to attend the free event and get up close with dozens of cool vehicles including fire trucks, tractor trailers, police cars and much more.
- Museum L-A Bands on the Run Half Marathon and 5K-a unique event supporting Museum L-A, a 5k & Half marathon along roads and trails along the Androscoggin River and Lewiston/Auburn-along the route runners and walkers will be treated to the sweet sounds of local bands and musicians.

*Switching to Electricity Maine also builds jobs here at home. They're a Maine company...hiring local people and working with local companies to supply them with their business needs.

*Switching is easy-Just grab your power bill, visit electricity M E dot com, click "Enroll Now". It takes just a couple minutes.

*If you prefer to speak with a customer service representative call 866-573-2674 (repeat as many times as necessary). Try to have your power bill available-either on line or by phone, enrolling is quick and easy.

*To learn more, visit electricity M E dot com, facebook.com/electricityme or go to your favorite search engine and do a search for Electricity Maine.

***DON'T FORGET TO SPIKE IN LANGUAGE SIMILAR TO: "WHEN YOU ENROLL-DON'T FORGET TO MENTION YOU HEARD IT HERE..." (ENCOURAGE USE OF YOUR STATION PROMO CODES**

PENGAD 800-631-6888
EXHIBIT
Fessenden
87
JR 6-12-18

From: Candace Sanborn <CSanborn@providerpower.com>
Sent: Sunday, May 12, 2013 11:01 PM
To: Will Fessenden </O=PROVIDER/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=Will Fessenden549>
Subject: Re: PUC letter

Agreed. Thanks Will.

Sent from my iPhone

On May 12, 2013, at 7:31 PM, "Will Fessenden" <WFessenden@providerpower.com> wrote:

I spoke with both Kevin and Emile (separately) regarding the PUC letter and expectations about the response. I sent an email to Emile and i believe i cc'd you with a bit of info and requesting an extension on one piece of the PUC request.

I feel confident we are on solid ground regarding intent and what message we wanted out when and directions to the stations.

Clearly the PUC believes that even in February we should not have been making any comparison to standard offer. They are right, we shouldn't have.

Admittedly, while i knew CMP was going to a lower rate on March 1, at the time i was under the impression we were going to come down to just under their rate. Otherwise i wouldn't have spent hundreds of dollars on radio spots that only had a shelf life of two weeks. Kiley recorded the spots and they only went out around Feb 12. In anycase i have the email stating they were only to run until 2/28.

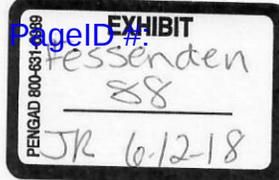
I dont know how to address the \$7 million in savings. I was there in your office when kevin did the math. I believe it was a result of that meeting that i was under the impression we were going to adjust our rate. Otherwise, no way were Mainers going to see that savings.

I think we have to learn what we learned in Maine and apply in NH. This week i'll adjust spots and talking points and pull the 24% savings. The reality is if someone in NH enrolls today they wont see the 24%, we have to assume July 1 there will be a new PSNH rate.

We can talk more in a day or so.

Thanks,
Will

Sent via DroidX2 on Verizon Wireless™



2/18/13

ProviderPOWER

The Power to HELP

Code of Conduct

Provider Power commits itself to employing individuals who practice the highest standard of professional ethical norms and values. These norms and value represent established standards of conduct that are expected by society and/or professional organizations. The values our employees and our company coincide with what communities find desirable, important and morally proper.

As a company we recognize that we not only serve our organization but also act as stewards of society in creating, facilitating and executing the transactions that are part of the greater good. In this role, our employees are expected to embrace the highest professional ethical norms and the ethical values implied by our responsibility toward multiple stakeholders (e.g., customers, employees, investors, peers, partners, regulators and community).

Expectations:

We must:

- Do no harm. This means consciously avoiding harmful actions or omissions by embodying high ethical standards and adhering to all applicable laws and regulations in the choices we make.
- Foster trust in the marketing system. This means striving for good faith and fair dealing so as to contribute toward the efficacy of the exchange process as well as avoiding deception in product design, pricing, communication, and delivery of distribution.
- Embrace ethical values. This means building relationships and enhancing consumer confidence in the integrity of marketing by affirming these core values: honesty, responsibility, fairness, respect, transparency and citizenship.
- Be honest and to be forthright in dealings with customers and stakeholders.
- Offer products of value that do what we claim in our communications.
- Stand behind our products if they fail to deliver their claimed benefits.
- Honor our explicit and implicit commitments and promises.

Responsibility

- Accept the consequences of our decisions and strategies.
- Strive to serve the needs of customers.
- Avoid using coercion with all stakeholders.
- Acknowledge the social obligations to stakeholders that come with increased marketing and economic power.
- Recognize our special commitments to vulnerable market segments such as children, seniors, the economically impoverished, market illiterates and others who may be substantially disadvantaged.
- Consider environmental stewardship in our decision-making.
- Represent products in a clear way in selling, advertising and other forms of communication; this includes the avoidance of false, misleading and deceptive promotion.

2/18/13

- Reject manipulations and sales tactics that harm customer trust.
- Refuse to engage in price fixing, predatory pricing, price gouging or "bait-and-switch" tactics.
- Avoid knowing participation in conflicts of interest.
- Seek to protect the private information of customers, employees and partners.

Respect

- Value individual differences and avoid stereotyping customers or depicting demographic groups (e.g., gender, race, sexual orientation) in a negative or dehumanizing way.
- Listen to the needs of customers and make all reasonable efforts to monitor and improve their satisfaction on an ongoing basis.
- Make every effort to understand and respectfully treat buyers, suppliers, intermediaries and distributors from all cultures.
- Acknowledge the contributions of others, such as consultants, employees and coworkers,
- Treat everyone, including our competitors, as we would wish to be treated.
- Create a spirit of openness in marketing operations. To this end, we will:
- Communicate clearly with all constituencies.
- Accept constructive criticism from customers and other stakeholders.

EXHIBIT
Fessenden
89
JR 6/2/18
PENGAD 800-831-6888



CRITICALINSIGHTS

Critical Insights on Maine™ Tracking Survey

~ Spring 2014 ~

Summary Report of Findings from Proprietary Items

Prepared for:
Provider Power

May 2014

172 Commercial Street, 14th Floor • Portland, Maine 04101
www.criticalinsightsmaine.com

Introduction

Background & Methodology

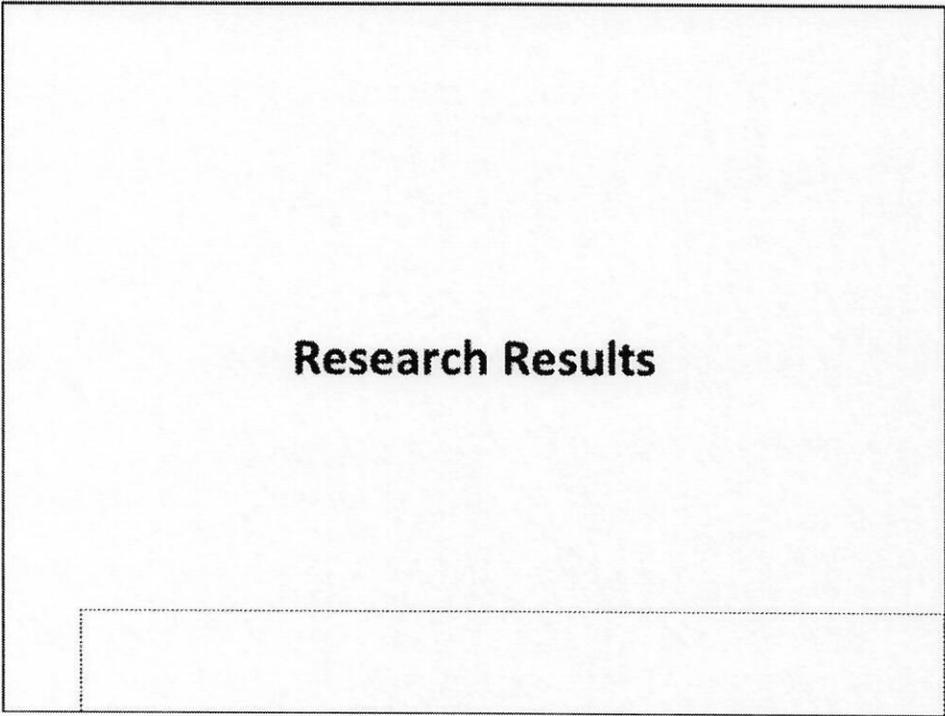
- Each Spring and Fall, Critical Insights conducts the *Critical Insights on Maine™* Tracking Survey, a comprehensive, statewide public opinion survey of registered voters which covers a variety of topics of interest to business, government, and the general public.
- *Critical Insights on Maine™* has been documenting the attitudes, perceptions, and preferences of Maine's residents for over 17 years, making it the longest running consistently administered Tracking Survey in the Northeast.
 - In addition to general interest items (the results of which are released to the media as a public service) the survey also includes a number of proprietary items included in the poll on behalf of sponsoring entities, with results of those items released only to those sponsors.
- For the current wave of the study, Critical Insights completed a total of 601 telephone interviews (including cell phones) with randomly selected voters across the state between April 16th – 23rd, 2014.
 - With a sample of 601 interviews, results presented here have an associated sampling error of +/- 4 percentage points at the 95% confidence level.
 - All interviews were conducted with self-reported registered voters; final data were statistically weighted according to relevant demographics to reflect the voter base in Maine.
 - On average, the entire survey instrument -- including both general interest items and all subscriber questions -- was 20 minutes in administrative length.
- This document presents results of questions proprietary to Provider Power.



Critical Insights, Inc. 2014-2015

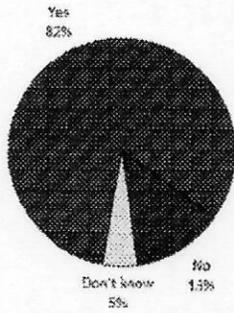
171 Commercial Street, 3rd Floor
Portland, Maine
www.criticalinsights.com

3



The vast majority of residents polled claim to be aware that Mainers may purchase their home electricity from a supplier other than their utility.

Do you know if Maine residents have the option to purchase their home electricity from a competitive supplier other than their utility?



Awareness of this option is particularly significant among the 45-64 age band, more affluent households, and residents within the Southern and Central regions of Maine.

In contrast, older respondents (65+), lower-income households, and those residing in the Northern and Coastal/Downeast regions are less likely to know about this option.

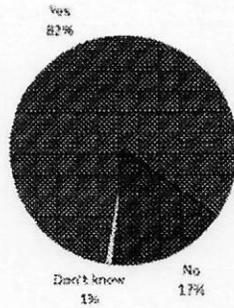


CENTER FOR PUBLIC INTEGRITY

173 Cambridge Street, 2nd Floor
Portland, ME 04104
www.cpi-rights.com

Stated awareness of Electricity Maine is quite robust with more than 8-in-10 residents claiming they have heard of the supplier.

Electricity Maine is a competitive electricity supplier. Have you heard of them?



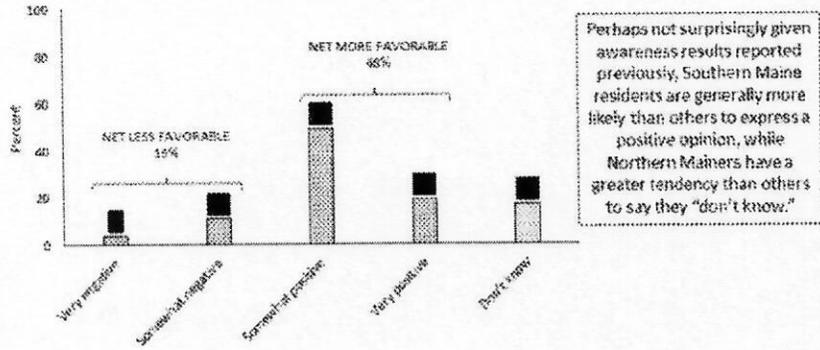
Awareness of Electricity Maine is most prevalent within the Southern and Central regions of Maine, while Northern and Coastal/Downeast Mainers are less likely to have heard of them.



173 Commercial Street, 3rd Floor
Portland, ME 04101
www.crisisinsights.com

Among those who are aware of Electricity Maine, two-thirds state a favorable opinion. Notably, despite familiarity with the supplier, 17% are unable to form an opinion.

*Based on what you know or have heard, what is your opinion of Electricity Maine? Would you say...**



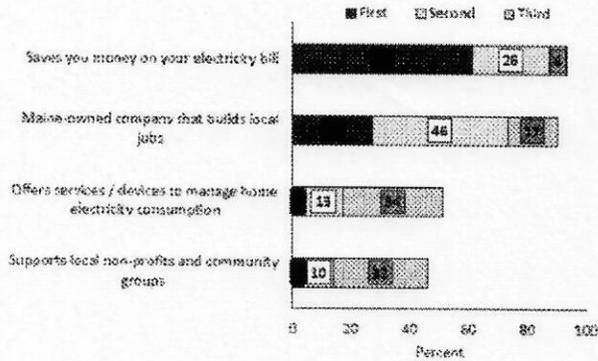
* Asked of respondents who have heard of Electricity Maine (n=450).



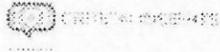
173 Commercial Street, 2nd Floor
Portland, ME 04101
www.orfresearch.com

Cost savings emerges as the number one consideration when choosing a competitive electricity supplier by more than 6-in-10 residents.

*If you were to shop for a competitive electricity supplier, what would be the most important consideration for you in making your choice?
 What would be the second most important consideration?
 And what about the third most important consideration?*



A locally-owned company is a distant second with one-quarter of Mainers citing it as their top consideration, while there is much less value associated with selecting a supplier who offers services to manage consumption or who gives back to the community.



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 Portland, Maine
www.localinsights.com

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