



October 1, 2012

William Schneider  
Office of the Attorney General  
6 State House Station  
Augusta, Maine 04333-0006

Dear Sir,

Please find enclosed a copy of my letter to Central Maine Power (CMP) dated 5/17/12. (A-1) At item 12, I advise CMP I will be seeking criminal charges based on their charging coercive fees to avoid the actual and or threat of harm from smart meters. I'm joined today in this request by additional signers listed below. Outrage over smart meter issues crosses all political, social, geographical and economic lines and meter associated problems have long term implications for all our citizens. While a limited set of these problems will at least be given an airing during the recently mandated PUC investigation, we believe there is also a criminal component to what has and is occurring in regard to the implementation and use of smart meters. The imposition and mandatory installation of a radiation emitting device on one's home avoided only by payment of coercive fees, is a problem the seriousness of which has not been seen in many years and that affects every Maine utility customer. Arguably this is the most serious toxics tort issue of our time. By this letter, we request your office open an investigation into the filing of criminal charges against CMP and perhaps the Public Utilities Commission (PUC) upon whose orders CMP is acting.

In our opinion and that of thousands of other citizens knowledgeable on this issue, CMP is committing not only extortion as defined by the Hobbs Act (18 U.S.C. § 1951) as "*the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence or fear, or under color of official right*" but "*theft by extortion*" as defined by Maine Criminal Codes Title 17-A §355:

1. *A person is guilty of theft if the person obtains or exercises control over the property of another as a result of extortion and with intent to deprive the other person of the property.*
2. *As used in this section, extortion occurs when a person threatens to:*
  - A. *Cause physical harm in the future to the person threatened or to any other person or to property at any time; or*
  - B. *Do any other act that would not in itself substantially benefit the person but that would harm substantially any other person with respect to that person's health, safety, business, calling, career, financial condition, reputation or personal relationships.*

In order to prove a violation of Hobbs Act extortion by the wrongful use of actual or threatened force, violence, or fear, the following questions must be answered affirmatively:

1. Did the defendant induce or attempt to induce the victim to give up property or property rights?
2. Did the defendant use or attempt to use the victim's reasonable fear of physical injury or economic harm in order to induce the victim's consent to give up property?
3. Did the defendant's conduct actually or potentially obstruct, delay, or affect interstate or foreign commerce in any (realistic) way or degree?
4. Was the defendant's actual or threatened use of force, violence or fear wrongful?

We believe all of these questions may be answered in the affirmative and the Friedman, et al., Motion to the PUC for Reconsideration summarizes some of the legal arguments to meet this standard.

It is the partial intent (along with eliminating meter reader costs) of the PUC and of CMP to control and capture extraordinarily detailed personal data from ratepayers as well as control real ratepayer property where the meter is installed. Control of the real property and collection of data is obtained under coercive or extortive pressure because in order to avoid these harms and disconnection, the customer must pay an additional fee to the utility.

Control of the customer property and the capacity to trespass with measurable radiofrequency (RF) radiation is not necessary for the simple metering of electricity usage but is necessary for the utility's mesh network of data-gathering devices to communicate with each other exchanging ratepayer data. The harm and threat of harm come from:

- the emission of RF radiation known to create adverse biological effects,
- the invasion of privacy facilitating warrant-less search and seizure of individual data by an agent of the government (utility acting under specific orders of the PUC),
- the compromising of personal cybersecurity, and;
- a taking of real property without due process of law or just compensation.

In order to avoid these and other harms, we are forced to pay a coercive fee which if not paid leads to disconnection of electrical service by the monopolistic utility as well as adversely impacting credit ratings.

There are thousands of peer reviewed studies showing biological effects from low level radiofrequency (RF) microwave radiation of the type and wavelengths emitted by smart meters, so called. Adverse effects shown include:

- heating of organs,
- changes in physiological functions,
- central nervous system effects,
- changes to the autonomic nervous system,
- peripheral nervous system impacts,
- psychological disorders,
- behavioral changes,
- blood disorders,
- vascular disorders,
- enzyme and other biochemical changes,
- metabolic disorders,
- gastro-intestinal problems,
- histological changes,
- genetic and chromosomal changes,
- pearl chain effects and
- re-orientation of cellular and other particles.

As someone who is distinguished ex-military, you will no doubt appreciate the above list comes from work done by the US Navy in 1971.<sup>1</sup> Since then, much more research has been done and we have attached some examples.

We've also included here as background, the well-cited Friedman, et al., *Complaint (A-2)* to the PUC last year and subsequent *Petition for Reconsideration (A-3)*. Both are valuable documents although some of the references are already dated by new [and reinforcing] research. This case was appealed to the Maine Supreme Judicial Court (Docket No. CUM-11-532) and oral arguments were heard May 10. A number of justices questioned the PUC and CMP attorneys rather harshly on how the PUC could fulfill its legislative mandate to ensure safe delivery of power when the agency specifically refused to investigate and reach determinations on issues of health,

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<sup>1</sup> Glaser, Zorach R., *Bibliography of reported Biological Phenomena (Effects) and Clinical Manifestations Attributed to Microwave and Radio-frequency Radiation*. Naval Medical Research Institute, Research Report MF12.524.015-0004B, National Technical Information Service, US Dept. of Commerce, 1971

safety, cybersecurity and privacy <http://www.electrosmogprevention.org/smart-meter-opt-out-videos/me-supreme-court-oral-arguments-in-smart-meter-case-5-10-12/> . The issues brought before the court were statutory (35- M.R.S.A. §101, §301(1), and §104) and constitutional (4<sup>th</sup> and 5<sup>th</sup> amendments).

What has been missing from smart meter challenges is an investigation of criminal conduct directed both at the PUC and CMP. This is critical with so many victims in harm's way, whether they opt out or have a smart meter installed. As you probably heard, the Court issued their decision on July 12, 2012 ordering a partial remand to the PUC on issues of health and safety the Commission refused to rule on. Constitutional and privacy issues remain untested as the Court would not consider these through appeal of a 10-Person Complaint. A lengthy investigation into safety has just begun but in the interim, the PUC has refused to halt the ongoing exposure and extortionate fees and continues in violation of 35- M.R.S.A. §101, §301(1), and §104.

Symptoms of RF exposure commonly experienced include heart palpitations, chest pain, blurred vision, ringing in the ears, insomnia, migraines, dizziness, inability to concentrate, fainting spells, nose bleeds, nausea, anxiety and memory loss.

Between 3% and 10% of the population have a known electromagnetic hyper-sensitivity (EHS) to RF (**A-14**). Vastly higher numbers of people have symptoms of RF exposure but no understanding yet of what is causing them. It is believed by some experts this epidemic will reach 50% of the population by 2017 (**A-7**). Because EHS often comes from cumulative exposure, we are all susceptible, being exposed to an ever-increasing level of *electrosmog* from cell towers, smart meters, personal and other wireless devices.

There are many people homeless and or sick from smart meter RF exposure. Tragic cases abound of people who can't go home and are living with friends, or in tents and in cars to get away from RF (**pers. com. & A-16**). It is important to realize even if someone who is sensitive pays the punitive fee to opt out; if they live in the vicinity of neighborhood smart meters, their medical problems are not relieved. Even if the extortive opt out fees were eliminated, a large percentage of our population would remain in jeopardy. Opt outs really only work if you have enough acreage around you to be protective of other RF in the vicinity.

Without coercive fees, we know the number of opt outs would sky rocket. It's entirely possible given true freedom of choice to have a smart meter or not, enough gaps in the system would open so that the network would implode from lack of meter repeaters and pole mounted collectors. A true remedy would be complete product recall as we do for any product found to cause harm. Smart meters removal should be followed by a return to proven safe, secure and effective analog meters.

Wiring the network while eliminating most of the external RF and reducing the risk of hacking, still leaves users vulnerable to RF within the home if smart appliances continue to come on-line and communicate wirelessly with the meters, and does not eliminate 4<sup>th</sup> and 5<sup>th</sup> amendment conflicts nor voltage transient generation and exposure also known as dirty electricity, possibly more toxic than RF.

Not only are ratepayers harmed physiologically from smart meter RF but because smart meters are detailed information gathering devices attached to our homes, no different than the GPS tracker in *U.S. v. Jones* (decided unanimously for Jones recently in the U.S. Supreme Court)<sup>2</sup>, we are harmed through potential privacy violations including:

- identity theft,
- the ability of meters to determine personal behavior,
- real time surveillance,
- targeted and or accidental home invasions,
- activity censorship and

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<sup>2</sup> *United States v. Antoine Jones*, No. 10-1259 (U.S. January 23, 2012)

- sale or theft of individual data for marketing or fraudulent purposes.<sup>3</sup>

Wireless meters in particular are easily hacked. (A-26) But a week doesn't go by without also reading of major wired systems falling victim to cybersecurity attacks. A smart grid is particularly vulnerable. (A-23) While the 4<sup>th</sup> amendment applies to ratepayers in this case because CMP acts at the order of and as an agent of the PUC/government, it matters not from the criminal aspect because we suffer harm regardless whether it originates from a statutory or constitutional origin.

From the criminal code perspective, everyone with a wireless smart meter and those opting out are suffering from actual and or threat of harm to themselves, their property and business, personal relationships, financial condition and careers. From the health perspective we are a nation of guinea pigs in a massive uncontrolled experiment on the effects of overexposure to wireless RF. In the case of smart meters, participation in the experiment is mandated. If you are forced to pay to protect your family's health, safety and security from harm or threat of harm that is a crime. Because Maine utilities are monopolies, we have no choice on who delivers our electricity. We can pay up, get disconnected, or risk illness from exposure to RF and violations to the sanctity of our private lives. There has NEVER been a shred of INFORMED consent in this process (half way through the meter deployment, the PUC required CMP to send out a brochure extolling the benefits of smart meters and offering two "pay-to-opt-out" choices).

If we have to pay to avoid actual or threat of harm (whether getting sick or commercial goods in our freezers thawing), we are being extorted, we are forced to pay what amounts to protection money. And if there were no fee, we would still be willfully endangered because the utilities and the PUC know full well there is a substantive and substantial body of peer-reviewed evidence in areas of health/safety and privacy/security contradicting their current actions. In fact, there is a very-well documented history going back many years of utilities and telecommunication companies manipulating and suppressing research results showing the adverse effects of microwave RF radiation exposure (A-4). Still, the PUC and CMP have proceeded with the deployment of this flawed system. Original enabling federal legislation in 2005<sup>4</sup> for time-of-use- metering was to make smart meters available "upon the customer's request." Maine and other states have taken federal grant money from the Obama administration to facilitate this "optional" smart meter rollout and made it mandatory without exercising due diligence. Now we all are paying the true costs.

We understand an inquiry and prosecution of criminal charges in this matter is serious and will be resource intensive. The offense however is unprecedented and affecting virtually all Mainers, residents who look to your office for protection. We all know even though our civil case has been remanded to the PUC the cards are stacked against us when courts consistently defer to lower bodies, and those bodies are intimately tied to those they regulate. This in part, is why the ante must be raised and the proverbial criminal extortion elephant on the table named and dealt with. We are fully aware extortion or other criminal claims may give many attorneys and judges discomfort but it's time to own the responsibility and deal with the violations, too many lives are at risk.

As we look at your record and accomplishments it's clear you have the strength and experience and after learning more about the smart meter issue, hopefully the desire and commitment to take this on. Two important things to remember as you consider this epidemic: FCC exposure *guidelines* often used as an excuse for inaction, date to 1996 and aside from their obsolete data for thermal radiation (not protective of sensitive populations-children and pregnant women-having been developed on 200 pound males), do not cover non-thermal radiation generated by smart meters, cell phones and other wireless devices at the low

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<sup>3</sup> Comments of the Electronic Privacy Information Center; Joined by: Privacy Activism, Privacy Rights Clearinghouse, Liberty Coalition, Electronic Frontier Foundation, Government Accountability Project, U.S. Bill of Rights Foundation, Center for Media and Democracy, Cyber Security Project, The Rutherford Institute, World Privacy Forum, Center for Financial Privacy and Human Rights, American Civil Liberties Union, American Library Association to the National Institute of Standards and Technology on Docket No. 0909301329-91332-01. "Draft NIST Interagency Report (NISTIR) 7628, Smart Grid Cyber Security Strategy and Requirements: Request for Comments" Dec 1, 2009 [http://privacycoalition.org/EPIC\\_Smart\\_Grid-Cybersecurity\\_12-01-09.2.pdf](http://privacycoalition.org/EPIC_Smart_Grid-Cybersecurity_12-01-09.2.pdf)

<sup>4</sup> 16 U.S.C. §2621(d)(14)(A) and (C)

end of the microwave range with which we are concerned. The guidelines only deal with thermal radiation. They are completely inapplicable for the RF in question (A-6). Neither is the FCC the agency tasked with regulating health. This responsibility falls to the EPA and FDA. There is not much specific research yet on smart meters which are brand new, but cell phones, the subject of many studies, emit the same RF as smart meters so from this standpoint, medical effects are in many respects comparable. In general, research on the biological effects of RF goes back longer than 50 years and much of the early work has been done in Eastern Europe.

To show extortion we don't need to prove harm but only threat of harm. The recent classification of all RF as "possibly carcinogenic" by the World Health Organization's International Agency for Research on Cancer (IARC) Committee means the threat of harm is real. The device mandated for placement on our homes may cause cancer (and or a full suite of other harmful medical conditions), and our property is being taken to expose us to the ("possible" cancer causing RF microwave radiation unless we pay a fee.

Enclosed as appendices are a small sample of documents describing the acute dangers from smart meters. The danger if not of actual harm then at least the threat of harm, from involuntary RF exposure and from infringement of our rights to be free from government intrusion is very real. We've made an effort to supply supplements not already cited in the Friedman, et al., complaint. At your request we certainly can supply you with far more material plus any and all legal briefs and would happily meet with you to discuss our request as well other instances of harm such as house fires and appliance melt-downs caused by smart meters.

Thanks so much for your thoughtful consideration.

Sincerely,



Ed Friedman,

Nancy E. Galland, Dianne Wilkins, Deborah LaPointe, Deborah Oliver, Gayle Halperin, Normand & Suzanne Renaud, Piers Beirne, Jack & Deborah Daw Heffernan, Joe Ciarrocca, Brita P. Light, Theodore & Susan Kanellakis, Kathleen McGee, Suzanne Foley-Ferguson, Connie Lewis, Kristen M-N Salvatore & Joseph Stanley, Patricia Galloway, Jack Glatter, Julie Tupper, Chris Beck, Robert Foley, David Colt, Jeanne Johnson, Rosalie Paul, Jane E. Edwards, Autumn Brook, Jennifer Lunden, David J. Saunders, Carl Sierak, Laura Hannan, Elery Keene & Laurie Wolfrum.

Appendices:

1. CMP opt out letter 5/17/12
2. Ten-Person Complaint to PUC 7/29/11
3. Petition for Reconsideration to the PUC 9/19/11
4. American Trial Lawyer article: *Illusion & Escape-The Cell Phone Disease Quagmire* Fall 2008
5. AAEM letter to the CPUC 1/19/12
6. EPA letter to the EMR Network re. FCC regulations 3/8/02
7. *Will We All Become Electrosensitive?* Hallberg & Oberfeld, *Electromagnetic Biology & Medicine*. 2006
8. EMF Fields, Special Issue. Abstracts from Pathophysiology, 8/09
9. PubMed Abstract-*2.45 GHz RF fields alter gene expression in cultured human cells* 8/05
10. France National Library gives up WiFi. Article 4/08
11. Sebastopol Cell Tower Q & A Brochure
12. *Electromagnetic Hypersensitivity: Evidence for a Novel Neurological Syndrome*, McCarty, et al. *International Journal of Neuroscience*. 2011
13. Peoples Initiative Foundation Opening Brief on Smart Meter Opt Out Fees. 3/24/11
14. *Electromagnetic Intolerance Elucidated*, La Maison. Fauteax, A. ed., 1/17/12
15. *New Electricity Meters Cause More Electrosmog*, Austrian Chamber of Physicians. 4/10/12

16. Johnson Affidavit, 4/30/12
17. Environmental Working Group-Cell Phone Radiation Review References-downloaded 6/21/12
18. EMH.org- Expressions of concern from experts on RF-downloaded 6/21/12
19. AAEM Medical Conditions for Smart Meter Removal Statement 7/14/12
20. The Heart of the Matter-Electronic Load Signatures-from Quinn, 2009 [complaint citation]
21. Categories of Concern-from Quinn, 2009 [complaint citation]
22. Pike Research-Utility Cyber Security, 4Q, 2011
23. Private Memoirs of a Smart Meter, *BuildSys*, 11/10
24. Smart Hacking for Privacy-Abstract of presentation at 28<sup>th</sup> Chaos Communication Congress 1/12
25. Private Actions Challenging Online Data Collection Practices are Increasing: Assessing the Legal Landscape-Intellectual Property & Technology Law Journal, 2/11
26. Homeland Security Newswire-Experts say smart meters are vulnerable to hacking, 3/30/10
27. NHBR (New Hampshire Business Review), Are Smart Meters Spying on You? 6/22/12
28. Maker of Smart Grid Control Software Hacked., *Wired*. 9/26/12
29. List of co-signers