

155 FERC ¶ 61,230
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Cheryl A. LaFleur, Tony Clark,
and Colette D. Honorable.

Emera Maine and BHE Holdings	EC10-67-002
	EC13-81-001
	ER00-980-016
	ER15-1434-001

Emera Maine and BHE Holdings	EC10-67-003
	EC13-81-002
	ER95-836-006
	ER15-1429-003

(consolidated)

ORDER ACCEPTING COMPLIANCE FILINGS AND ESTABLISHING
CONSOLIDATED HEARING AND SETTLEMENT JUDGE PROCEDURES

(Issued June 2, 2016)

1. On March 31, 2016, Emera Maine submitted two separate compliance filings requesting authorization to recover under the ISO New England Transmission, Markets and Services Tariff (ISO-NE Tariff)¹ and the Emera Maine Open Access Transmission Tariff (Emera Maine Tariff)² certain costs (Compliance Filings) incurred in connection with merger transactions, as contemplated in the 2010 and 2013 Merger Orders, as

¹ Emera Maine's filing for the ISO-NE Tariff was made as a compliance filing in the merger dockets, Docket Nos. EC10-67-002 and EC13-81-001, and in the tariff dockets, Docket Nos. ER00-980-016 and ER15-1434-001.

² Emera Maine's filing for the Emera Maine Tariff was made as a compliance filing in the merger dockets, Docket Nos. EC10-67-003 and EC13-81-002, and in the tariff dockets, Docket Nos. ER95-836-006 and ER15-1429-003.

described below.³ In this order, we accept the Compliance Filings for filing, consolidate the dockets for the purposes of settlement, hearing and decision, and establish hearing and settlement judge procedures.

I. Background

2. Emera Maine operates two separate systems: the former facilities of Bangor Hydro Electric Company (Bangor Hydro) located in eastern and coastal Maine (Bangor Hydro System) and the former facilities of Maine Public Service Company (Maine Public) in northern Maine (Maine Public System).⁴ The Bangor Hydro System and the Maine Public System are not directly interconnected, and each provides transmission service under separate Open Access Transmission Tariffs—namely, the ISO-NE Tariff and the Emera Maine Tariff, respectively.⁵

3. On December 21, 2010, the Commission authorized the merger of Maine & Maritimes Corporation, the parent company of Maine Public, into BHE Holdings, Inc., the parent company of Bangor Hydro.⁶ From that date through December 31, 2013, Bangor Hydro and Maine Public operated as separate utilities under common ownership. On January 1, 2014, Maine Public merged into Bangor Hydro and was renamed Emera Maine.⁷ Concurrent with its authorization of both mergers, the Commission accepted the merger applicants' five-year hold harmless commitment to restrict the merger applicants from recovering transaction-related costs through their wholesale power or transmission rates during that period.⁸ However, the Commission stated that, should the merger

³ *BHE Holdings Inc.*, 133 FERC ¶ 61,231 (2010) (2010 Merger Order); *Bangor Hydro Elec. Co.*, 144 FERC ¶ 61,030 (2013) (2013 Merger Order).

⁴ Emera Maine Transmittal, Docket No. ER00-980-016, at 1.

⁵ Under the ISO-NE Tariff, Emera Maine recovers its annual transmission revenue requirement for the Bangor Hydro System under two distinct formula rates. Costs associated with Emera Maine's Pool Transmission Facilities are recovered pursuant to Attachment F of the ISO-NE Tariff, and costs associated with its local facilities are recovered pursuant to Schedule 21-BHE of the ISO-NE Tariff. ISO-NE, Transmission, Markets and Services Tariff, Section 2, Attachment F (13.0.0); Schedule 21-BHE (7.0.0).

⁶ 2010 Merger Order, 133 FERC ¶ 61,231 at P 2.

⁷ 2013 Merger Order, 144 FERC ¶ 61,030 at P 2.

⁸ *See* 2010 Merger Order, 133 FERC ¶ 61,231 at P 37; 2013 Merger Order, 144 FERC ¶ 61,030 at P 20.

applicants seek to recover those costs related to the transaction, “[the merger] applicants must: (1) specifically identify the transaction-related costs they are seeking to recover, and (2) demonstrate that those costs are exceeded by the savings produced by the transaction, in addition to any requirements associated with filings made under section 205.”⁹

4. On January 4, 2016, the Division of Audits and Accounting of the Commission’s Office of Enforcement (Division of Audits) issued a report on Emera Maine’s compliance with the conditions of the 2010 and 2013 Merger Orders.¹⁰ In the Audit Report, the Division of Audits found that Emera Maine inappropriately included the costs of four merger-related capital initiatives and other merger-related activities through its formula rates without first making a compliance filing under section 205.¹¹ Accordingly, the Division of Audits recommended that Emera Maine prepare and file, within 30 days of issuance of the Audit Report, a refund report for those costs inappropriately included in and recovered through its formula rates.¹² On January 28, 2016, as amended March 31, 2016, Emera Maine submitted a refund report detailing the amount of transaction-related costs that it will have recovered through the ISO-NE Tariff and Emera Maine Tariff by May 31, 2016.¹³ Emera Maine explains that it will issue refunds for the identified amount through its annual update for charges under the ISO-NE Tariff and Emera Maine Tariff, effective June 1, 2016.¹⁴

⁹ 2010 Merger Order, 133 FERC ¶ 61,231 at P 37; 2013 Merger Order, 144 FERC ¶ 61,030 at P 21 (paraphrasing same).

¹⁰ Federal Energy Regulatory Commission Office of Enforcement Division of Audits and Accounting, Audit of Emera Maine’s Compliance with the Order Authorizing Disposition of Jurisdictional Facilities, Docket No. PA15-4-000 (Jan. 4, 2016) (Audit Report).

¹¹ Audit Report at 3.

¹² *Id.* at 4, 13, 16.

¹³ Emera Maine Refund Report, Docket No. PA15-4-000 (Jan. 28, 2016); Emera Maine Amended Refund Report, Docket No. PA15-4-000 (Mar. 31, 2016) (Amended Refund Report).

¹⁴ Emera Maine Transmittal, Docket No. ER00-980-016, at 10-11.

II. Emera Maine Compliance Filings

5. In the Compliance Filings, Emera Maine seeks to recover certain transaction-related costs through the ISO-NE Tariff and the Emera Maine Tariff. As explained in the prepared testimony of Emera Maine's witness, in order to comply with the directives of the 2010 and 2013 Merger Orders, Emera Maine analyzed transaction-related costs for three time periods: 2012-2016, 2016-2017, and 2017-2018.¹⁵ The 2012-2016 period reflects direct and indirect transaction-related costs which flowed through the formula rate but were not appropriately filed with the Commission under section 205, as noted in the Audit Report.¹⁶ All direct and indirect transaction-related costs accepted in the Compliance Filings will flow through the formula rates. Emera Maine states that any further impacts on its annual transmission revenue requirement in additional future years as the result of transaction-related costs (i.e., changes due to continued depreciation of transaction-related capital) will be less than those reported for the 2017-2018 rate year.¹⁷

6. Emera Maine states that for each of these periods, it grouped transaction-related costs into three categories: transition capital costs, transition operations and maintenance (O&M) costs, and other non-capital transaction costs.¹⁸ Transition capital costs include merger-related capital initiatives such as consolidating supervisory control and data acquisition systems, financial information system integration, capital and maintenance planning, and rebranding. Emera Maine states that transaction-related capital costs will flow into charges for the 2018-2019 rate year and beyond, given that Emera Maine will earn a return on transaction-related capital costs, and will incur depreciation expense until the capital is fully depreciated.¹⁹ Emera Maine states that transition O&M costs include all internal labor and related non-labor costs associated with the merger. Lastly, Emera Maine states that other non-capital transaction costs comprise certain expenses, mainly external legal counsel services that were erroneously included in rate calculations that should have been booked "below the line" to Account 426.5, Other Deductions.

¹⁵ Emera Maine Filing, Testimony of Kris Chahley, Docket No. ER00-980-016, at 17 (Chahley Test.).

¹⁶ Emera Maine Transmittal, Docket No. ER00-980-016, at 9.

¹⁷ Chahley Test., Docket No. ER00-980-016, at 17.

¹⁸ *Id.* at 18.

¹⁹ *Id.* at 23.

7. Similar to its analysis of transaction-related costs, Emera Maine analyzed transaction-related savings for the periods 2012-2016, 2016-2017, and 2017-2018.²⁰ It states that for each of these time periods, it identified three areas of savings: system operations integration, financial information system integration, and other employee reductions.²¹ Emera Maine describes system operations integration savings as those savings achieved through reductions in Emera Maine personnel working on system operations. Emera Maine states that system operations integration savings that start in 2017 or later years are not quantified in the analysis. Similarly, it describes financial information system integration savings as those savings achieved through reductions in Maine Public and Emera Maine (i.e., Bangor Hydro) financial services personnel. Emera Maine explains that these savings were identified by comparing the combined salaries of the affected employees (including labor loaders)²² for 2009 to the combined salaries (including labor loaders) for 2011 through 2015. Lastly, Emera Maine states that the third category, other employee reductions, represents savings achieved by reducing Maine Public personnel to decrease other redundancies. Emera Maine explains that these savings were also identified by comparing the combined salaries of the affected employees (including labor loaders) for 2009 to the combined salaries (including labor loaders) for 2011 through 2015.

8. Emera Maine states that the transaction-related savings associated with the Bangor Hydro System and Maine Public System through May 31, 2016 are \$982,783 and \$692,156, respectively.²³ It states that the transaction-related costs included in such transmission charges during this time period are considerably less, resulting in a net benefit to Bangor Hydro System and Maine Public System customers through May 31, 2016 of \$606,242 and \$561,296, respectively.²⁴ Furthermore, Emera Maine states that

²⁰ *Id.* at 28-34.

²¹ *Id.* at 29.

²² According to Emera Maine, the labor loader values represent the allocable portion of payroll taxes and employee benefits associated with that allocable portion of labor. *Id.* at 24.

²³ Emera Maine Transmittal, Docket No. ER00-980-016, at 10; Emera Maine Transmittal, Docket No. ER95-863-006, at 9; Emera Maine Filing, Exhibit No. EM-2, Cost-Savings Summary Spreadsheet, Column (e), Lines 8, 18.

²⁴ Emera Maine Transmittal, Docket No. ER00-980-016, at 10; Emera Maine Transmittal, Docket No. ER95-863-006, at 9; Emera Maine Filing, Exhibit No. EM-2, Cost-Savings Summary Spreadsheet, Column (e), Lines 10, 20.

transaction-related savings will continue to exceed transaction-related costs in future years, given that transaction-related capital will continue to depreciate and transaction-related savings will remain steady or increase.

9. As noted above, Emera Maine states that it will refund the amount identified in the Amended Refund Report through its annual update to the formula rates included in the ISO-NE Tariff and Emera Maine Tariff. However, should the Commission approve Emera Maine's recovery of the identified transaction-related costs, Emera Maine will adjust its annual update so that it may re-recover the refunded amounts, with interest calculated in accordance with 18 C.F.R § 35.19a (2015).²⁵

III. Notice of Filing and Responsive Pleadings

A. Bangor Hydro System Compliance Filing (ER00-980-016, *et al.*)

10. Notice of the filing was published in the *Federal Register*, 81 Fed. Reg. 22,072 (2016), with interventions and protests due on or before April 21, 2016. On April 14, 2016, a notice of intervention and protest was submitted by the Maine Public Utilities Commission (Maine Commission). Timely motions to intervene were filed by Eversource Energy Service Company, Central Maine Power Company, and The United Illuminating Company.

11. On April 27, 2016, Emera Maine filed an answer.

B. Maine Public System Compliance Filing (ER95-836-006, *et al.*)

12. Notice of the filing was published in the *Federal Register*, 81 Fed. Reg. 22,072 (2016), with interventions and protests due on or before April 21, 2016. On April 14, 2016, a notice of intervention and protest was submitted by the Maine Commission. On April 21, 2016, Maine Customer Group filed a motion to intervene and protest.²⁶ Timely motions to intervene were filed by Central Maine Power Company and The United Illuminating Company.

13. On April 27, 2016, Emera Maine filed an answer.

²⁵ Emera Maine Transmittal, Docket No. ER00-980-016, at 11.

²⁶ Maine Customer Group consists of: Maine's Office of the Public Advocate, Houlton Water Company, Van Buren Light and Power District, and Eastern Maine Electric Cooperative, Inc.

IV. Responsive Pleadings

14. The Maine Commission states that there are several inconsistencies in the Compliance Filings that make it impossible to understand exactly what Emera Maine is seeking and whether its request is consistent with Commission precedent.²⁷ For example, the Maine Commission states that Emera Maine's supporting materials never actually report the dollar amount that it seeks to recover. It argues that this lack of transparency and explanation makes it impossible to fully understand the basis for Emera Maine's application, and requests that the Commission either reject the Compliance Filings or set them for hearing.

15. The Maine Commission also states that Emera Maine appears to be seeking approval to recover future depreciation of some of its capital transaction-related costs, which it incurred during the five-year hold harmless period.²⁸ It argues that Emera Maine appears to depreciate the capital costs beyond the five-year hold harmless period and, accordingly, may not be holding ratepayers harmless for the five-year period since only a portion of the capital costs incurred during this period are being compared to the savings that Emera Maine claims are the result of the merger. Furthermore, the Maine Commission argues that to the extent that Emera Maine is relying on future savings to justify the recovery of depreciation beyond 2015, such reliance is contrary to the requirement that savings be actual and not projected.²⁹

16. Lastly, the Maine Commission states that Emera Maine has failed to demonstrate that the reported savings were actually produced by the merger. For example, the Maine Commission notes that Emera Maine attributes savings from employee headcount reductions to the integration of utility operations but does not provide support for this statement.³⁰ It argues that discovery is needed to understand whether Emera Maine's asserted employee headcount reductions resulted from the merger or were the result of headcount reductions planned prior to the merger.

²⁷ Maine Commission Protest at 6.

²⁸ *Id.*

²⁹ *Id.* at 7 (citing *Wisc. Energy Corp.*, 151 FERC ¶ 61,015, at P 56 (2015) (*Wisc. Energy*) (“[S]avings must be realized prior to, or concurrent with, any authorized recovery of merger-related costs and cannot be based on estimates or projects of future savings, but must be based on a demonstration of actual merger-related savings realized by jurisdictional customers.”)).

³⁰ *Id.*

17. Maine Customer Group states that the Compliance Filing in Docket No. ER95-836-006, *et al.* fails to demonstrate that merger-related savings exceed transaction-related costs.³¹ It states that the claimed personnel reduction savings are based on company records, none of which are included in the Compliance Filing to permit scrutiny of the claimed reductions. Maine Customer Group argues that discovery is necessary to determine whether Emera Maine's asserted employee headcount reduction has in fact occurred, and whether employees displaced resulted from the merger.³²

18. Maine Customer Group also argues that the comparison between transaction-related costs and transaction-related savings, as presented in the Compliance Filing, fails to take into account all transaction-related costs billed to transmission customers. It states that Emera Maine has previously charged transmission customers other transaction-related costs that are not acknowledged in the Compliance Filing, such as costs related to a refinancing of debt that was undertaken as a condition of the merger.³³ Moreover, it argues that Emera Maine's Account 426.5 shows a total amount of transaction-related costs that far exceeds the amount of costs that Emera Maine compares against purported transmission-related savings in the Compliance Filing.

19. Lastly, Maine Customer Group argues that the Compliance Filing fails to identify the exact level of transaction-related costs Emera Maine seeks to recover.³⁴ It states that Emera Maine capitalizes certain transaction-related costs with associated depreciation and carrying charges that will extend beyond the period for which the Compliance Filing shows transaction-related savings. It argues that the Compliance Filing does not address how those unarticulated transaction-related costs are to be weighed in the balance against the claimed transaction-related savings.

20. In its answer, Emera Maine submits that the best solution to address issues raised by parties is to set the Compliance Filings for hearing and settlement procedures.³⁵ With respect to the Maine Commission's protest that the Compliance Filings lack clarity, Emera Maine clarifies that the Compliance Filings seek authorization to recover: (1) \$507,400 of transaction- and transition-related costs included in formula rates over the

³¹ Maine Customer Group Protest at 7.

³² *Id.* at 8.

³³ *Id.* at 9.

³⁴ *Id.* at 10.

³⁵ Emera Maine Answer, Docket No. ER00-980-016, at 1.

June 1, 2012 to May 31, 2016 period;³⁶ (2) the approximately \$62,052 in labor and non-labor transition-costs incurred in 2015;³⁷ and (3) depreciation expense and a return on specific capital projects through their depreciated life, as such amounts are appropriately allocated to Emera Maine's Bangor Hydro and Maine Public transmission functions.³⁸

21. With respect to Maine Customer Group's protest, Emera Maine states that it does not need to reconcile or justify the total amounts of transaction-related costs that it has recorded to Account 426.5.³⁹ It explains that it does not dispute that transaction-related costs have been recorded to Account 426.5, and notes that the Emera Maine Tariff does not provide for the recovery of Account 426.5 expenses in transmission rates. Emera Maine argues that the Commission only requires it to demonstrate that transaction-related savings exceed the transaction-related costs that Emera Maine seeks authorization to recover through rates.⁴⁰

V. Discussion

A. Procedural Matters

22. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,⁴¹ the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to the proceedings in which they filed them.

³⁶ Emera clarifies that it seeks to recover \$376,540 of these costs under the ISO-NE Tariff and \$130,860 of these costs under the Emera Maine Tariff. Emera Maine Answer, Docket No. ER00-980-016, at 2-3; Emera Maine Answer, Docket No. ER95-836-006, at 3.

³⁷ Emera clarifies that it seeks to recover \$48,240 of these costs under the ISO-NE Tariff and \$13,812 of these costs under the Emera Maine Tariff. Emera Maine Answer, Docket No. ER00-980-016, at 3; Emera Maine Answer, Docket No. ER95-836-006, at 3.

³⁸ Emera Maine specifies these capital projects as Project Nos. 9339, 296A, 9093, 9489, 9324, 9558, 2225, 2226, 2073, and 2208. Emera Maine Answer, Docket No. ER00-980-016, at 3; Emera Maine Answer, Docket No. ER95-836-006, at 3.

³⁹ Emera Maine Answer, Docket No. ER95-836-006, at 2.

⁴⁰ *Id.* at 3.

⁴¹ 18 C.F.R. § 385.214 (2015).

23. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure prohibits an answer to a protest unless otherwise ordered by the decisional authority.⁴² We will accept Emera Maine's answer because it has provided information that assisted us in our decision-making process.

B. Substantive Matters

24. We find that the Compliance Filings raise issues of material fact that cannot be resolved based on the record before us, and that are more appropriately addressed in the hearing and settlement judge procedures ordered below. Our preliminary analysis indicates that Emera Maine has not shown that the inclusion of transaction-related costs in its formula rates is just and reasonable and that the inclusion of such costs may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we accept the Compliance Filings for filing and establish hearing and settlement judge procedures.

25. To assist parties to this proceeding in identifying transaction-related costs and savings, we reiterate several points with respect to transaction-related cost recovery, as explained in prior Commission orders. First, the applicant must demonstrate its use of appropriate internal controls and procedures for proper identification, accounting, and rate treatment of all transaction-related costs.⁴³ Second, transaction-related savings must be realized prior to, or concurrent with, any authorized recovery of transaction-related costs.⁴⁴ Third, the applicant must demonstrate the level of transaction-related "savings produced by the merger and realized by jurisdictional customers;"⁴⁵ that is, the savings must be shown to have a nexus with the transaction and must directly benefit (i.e., be passed on to) transmission customers. Fourth, the applicant's filing must be shown to be just and reasonable in light of all the other factors underlying the new rate.⁴⁶ Finally, the

⁴² 18 C.F.R. § 385.213(a)(2) (2015).

⁴³ *ISO New England Inc.*, 155 FERC ¶ 61,136, at P 28 (2016) (*ISO New England Inc.*) (citing *Exelon Corp.*, 149 FERC ¶ 61,148, at P 150 (2014) (*Exelon*)).

⁴⁴ *Id.* (citing *Wisc. Energy*, 151 FERC ¶ 61,015 at P 56).

⁴⁵ *Id.* (citing *Exelon*, 149 FERC ¶ 61,148 at P 107).

⁴⁶ *Id.* (citing *Exelon*, 149 FERC ¶ 61,148 at P 106).

applicant must demonstrate that the transaction-related costs are exceeded by the savings produced by the transaction.⁴⁷

26. We also take this opportunity to provide guidance on other points with respect to transaction-related cost recovery. Only costs that would have been eligible for inclusion in the then-existing transmission rates, but for the hold harmless commitment, will be eligible for cost recovery. Moreover, transaction-related savings should not be calculated based on an after-the-fact reconstruction of costs that would have been incurred absent the transaction, but instead should be based on a comparison of costs known prior to consideration of the transaction compared against actual spending.⁴⁸

27. While we are setting these matters for a trial-type evidentiary hearing, we encourage the participants to make every effort to settle their dispute before hearing procedures commence. To aid the participants in their settlement efforts, we will hold the hearing in abeyance and direct that a settlement judge be appointed, pursuant to Rule 603 of the Commission's Rules of Practice and Procedure.⁴⁹ If the participants desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding; otherwise the Chief Judge will select a judge for this purpose.⁵⁰ The settlement judge shall report to the Chief Judge and the Commission within 30 days of the date of the appointment of the settlement judge, concerning the status of settlement discussions. Based on this report, the Chief Judge shall provide the participants with additional time to continue their settlement discussions or provide for commencement of a hearing by assigning the case to a presiding judge.

⁴⁷ *Id.* (citing *Exelon*, 149 FERC ¶ 61,148 at PP 106-07; *Wisc. Energy*, 151 FERC ¶ 61,015 at P 56; *Pennsylvania Elec. Co.*, 154 FERC ¶ 61,109, at P 49 (2016)).

⁴⁸ *Id.* P 29.

⁴⁹ 18 C.F.R. § 385.603 (2015).

⁵⁰ If the participants decide to request a specific judge, they must make their joint request to the Chief Judge by telephone at (202) 502-8500 within five days of this order. The Commission's website contains a list of Commission judges available for settlement proceedings and a summary of their background and experience (<http://www.ferc.gov/legal/adr/avail-judge.asp>).

The Commission orders:

(A) Emera Maine's Compliance Filings are hereby accepted for filing as discussed in the body of this order.

(B) The Compliance Filings dockets are hereby consolidated for the purposes of settlement, hearing and decision.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and the FPA, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the FPA (18 C.F.R. Chapter I), a public hearing shall be held concerning the justness and reasonableness of Emera Maine's Compliance Filings, as discussed in the body of this order. However, the hearing shall be held in abeyance to provide time for settlement judge procedures, as discussed in Ordering Paragraphs (D) and (E) below.

(D) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603 (2015), the Chief Judge is hereby directed to appoint a settlement judge in this proceeding within fifteen (15) days of the date of this order. Such settlement judge shall have all powers and duties enumerated in Rule 603 and shall convene a settlement conference as soon as practicable after the Chief Judge designates the settlement judge. If the participants decide to request a specific judge, they must make their request to the Chief Judge within five (5) days of the date of this order.

(E) Within thirty (30) days of the appointment of the settlement judge, the settlement judge shall file a report with the Commission and the Chief Judge on the status of the settlement discussions. Based on this report, the Chief Judge shall provide the participants with additional time to continue their settlement discussions, if appropriate, or assign this case to a presiding judge for a trial-type evidentiary hearing, if appropriate. If settlement discussions continue, the settlement judge shall file a report at least every sixty (60) days thereafter, informing the Commission and the Chief Judge of the participants' progress toward settlement.

(F) If settlement judge procedures fail and a trial-type evidentiary hearing is to be held, a presiding judge, to be designated by the Chief Judge, shall, within fifteen (15) days of the date of the presiding judge's designation, convene a prehearing conference in these proceedings in a hearing room of the Commission, 888 First Street, NE, Washington, DC 20426. Such a conference shall be held for the purpose of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates, and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.