

MAINE PUBLIC UTILITIES COMMISSION
Request for Proposals for Community-
Based Renewable Energy Projects
(2013 Issuance)

May 28, 2013

ORDER APPROVING LONG-
TERM CONTRACTS

WELCH, Chairman; LITTELL and VANNOY, Commissioners

I. SUMMARY

Pursuant to 35-A M.R.S.A. § 3604, we direct Bangor Hydro Electric Company (BHE) to enter into long-term contracts for energy with two Community-Based Renewable Energy Projects: Jonesport Wind, LLC, a 9.6 MW wind facility to be constructed in Jonesport, Maine and the 2 MW expansion of the Exeter Agri-Energy, LLC (EAE) anaerobic digester to be constructed in Exeter, Maine.

II. BACKGROUND

During the 2009 session, the Legislature enacted An Act To Establish the Community-based Renewable Energy Pilot Program (Act), P.L. 2009, ch. 329. Part A of the Act establishes a community-based renewable energy pilot program, to be administered by the Commission, to encourage the sustainable development of community-based renewable energy. The Act provides incentives, on a pilot program basis, for the development of community-based renewable projects that qualify for participation in the program. The projects must generate electricity from an eligible renewable resource, which includes fuel cells; tidal power; solar, wind and geothermal installations; hydroelectric generators; generators fueled by landfill gas; and biomass generators whose fuel includes anaerobic digestion of agricultural products, byproducts or wastes. These projects must be "locally owned electricity generating facilities," which means that 51% or more of the facility must be owned by "qualifying local owners." An individual project must not exceed 10 MW and the total installed generating capacity of all program participants in the pilot program combined may not exceed 50 MW. The pilot program is repealed on December 31, 2015. 35-A M.R.S.. §§ 3601-3609.

The incentive mechanisms provided by the Act are either: 1) a long-term contract for the output of the facility with a transmission and distribution (T&D) utility; or 2) a renewable energy credit (REC) multiplier in which the value of the REC is 150% of the amount of the produced electricity. Projects electing the REC multiplier are responsible for negotiating their own transactions for energy, capacity or RECs. Certified projects of less than 1 MW that elect a long-term contract can complete a standard form contract with the T&D utility at a price per kWh that has been established by the Commission. For certified projects with generating capacity of 1 MW and larger, the Act provides that

the Commission shall periodically conduct a competitive solicitation to select projects that will be awarded a long-term contract with the T&D utility. On April 28, 2011, the Commission issued a Request for Proposals for Community -Based Renewable Energy Projects of 1 MW or larger. Bids were due on May 31, 2011 and on October 14, 2011, the Commission issued an Order directing BHE to enter into long-term contracts for energy with three Community-Based Renewable Energy Projects: Jonesport Wind, LLC, a 4.8 MW wind facility to be constructed in Jonesport, Maine; Lubec Wind, LLC, a 4.8 MW wind facility to be constructed in Lubec, Maine; and Pisgah Mountain, LLC, a 9 MW wind facility to be constructed in Clifton, Maine. *Maine Public Utilities Commission*, Docket No. 2011-150, Request for Proposals for Community-Based Renewable Energy Projects, Order Approving Long-Term Contracts (October 14, 2011).

On March 21, 2013, the Commission issued a second Request for Proposals for Community-Based Renewable Energy Projects. Bids were due on April 5, 2013. Among the bids received were a proposal to combine the previously approved long-term contracts for Jonesport Wind and Lubec Wind into one contract for an expanded Jonesport Wind project and a proposal for a long-term contract for a planned 2MW expansion of the EAE anaerobic digester project.

III. DISCUSSION AND DECISION

At the outset, we note that the Legislature, in establishing the Community-Based Renewable Energy Pilot Program, has indicated the objective of encouraging the sustainable development of community-based renewable energy projects up to the 50 MW overall capacity limit statewide by the time the pilot program ends on December 31, 2015. Our role in administering the pilot program is to ensure that the projects meet the standards for program participation established by the Legislature, and to ensure that in any contract entered into: 1) the average price per kilowatt-hour does not exceed 10 cents, and 2) the cost of the contract does not exceed the cost of the project plus a reasonable rate of return on investment as determined by the Commission.

Both of the projects have submitted bids that comply with the requirement that the price per kilowatt-hour may not exceed 10 cents. Jonesport bid a fixed price for a 20-year term of 8.5 cents per kilowatt-hour and expressly relinquished the rights of Lubec Wind with respect to both the certification as a Community-Based Renewable Energy Project and our prior award of a long-term contract. EAE has proposed a structure in which the contract for the existing .98 MW project will remain in effect at \$0.10 per kilowatt-hour and the output from the planned 2 MW expansion will be at a fixed price of \$0.085 per kilowatt-hour for a 20 year term beginning on the commercial operations date of the expansion. Each of the bidders submitted complete project financial information and return calculations that were analyzed by Staff. The indicated rates of return are within a range that is reasonable for stand-alone project developments and indicate that the developers are not receiving a "windfall" return from the projects.

We continue to be sensitive to the potential burden that the Community-Based contracts may place on BHE ratepayers. In approving this contract with the larger

Jonesport Wind project, there is no incremental burden created for ratepayers since the proposal specifically provides that the previously granted certification and approved long-term contract for the Lubec Wind project are relinquished by the developer. With the 2 MW expansion of the EAE project, the total installed capacity certified for the Community-Based Renewable Projects in the BHE service territory is 21.58 MW and the total installed capacity subject to long-term contracts is 21.58 MW. Although we assess the additional burden to ratepayers of approving the proposed EAE contract as relatively modest, we note that the overall ratepayer burden associated with the Community-Based Renewable Energy Pilot Program long-term contracts is being borne exclusively by BHE ratepayers and we may be reluctant to approve additional certifications or contracts in the BHE service territory in the future.

Accordingly, we direct BHE to enter into the following long-term contracts:

- Jonesport Wind, LLC, for energy only, for 20 years to begin at the commercial operation date of the project, at a fixed price throughout the term of 8.5 cents per kWh.
- Exeter Agri-Energy, LLC, for the energy produced by the planned 2 MW expansion, for 20 years to begin at the commercial operation date of the project, at a fixed price throughout the term of 8.5 cents per kWh.

The Lubec Wind, LLC contract award and certification is, hereby rescinded...

We delegate to the Director of Electric and Gas Utility Industries the authority to approve proposed modifications to the terms and conditions of the standard form contract for the Community-Based Renewable Energy Pilot Program.

Consistent with provisions in statute and the rule, 35-A M.R.S.A. § 3604 (8) and Ch. 325, § 6, the Commission will allow BHE to recover in rates all costs of the contracts entered into, including but not limited to any effects on BHE's costs of capital.

Dated at Hallowell, Maine, this 28th day of May, 2013.

BY ORDER OF THE COMMISSION

/s/ Harry Lanphear

Harry Lanphear
Administrative Director

COMMISSIONERS VOTING FOR:

Welch
Littell
Vannoy

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought. Any petition not granted within 20 days from the date of filing is denied.

2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 21 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.

3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.