

SUBJECT TO CONFIDENTIAL TREATMENT UNTIL FEBRUARY 8, 2012

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2011-491

January 25, 2012

MAINE PUBLIC UTILITIES COMMISSION
Standard Offer Bidding Process for
Medium and Large Non-Residential Customers
In the Central Maine Power Company and
Bangor Hydro Electric Company Service Territories

ORDER DESIGNATING
STANDARD OFFER
PROVIDERS FOR
MEDIUM NON-
RESIDENTIAL CLASS

WELCH, Chairman; VAFIADES and LITTELL, Commissioners

I. SUMMARY

Through this Order, we designate NextEra Energy Power Marketing, LLC (NextEra) as the standard offer provider for 100% of the medium non-residential class in the Bangor Hydro-Electric Company (BHE) service territory. We designate NextEra as the standard offer provider for 80% and New Brunswick Power Generation Corporation (NB Power) for 20% of the medium non-residential class in the Central Maine Power Company (CMP) service territory. All designations are for a six month period, beginning March 1, 2012. The weighted average prices (blended for the CMP medium class) for standard offer service for this period will be 5.54¢/kWh for the medium class in the CMP service territory, and 5.32¢/kWh for the medium class in the BHE service territory. These prices, which will go into effect on March 1st, represent a 23% reduction in the current average standard offer price for CMP's medium class, and a 27% reduction in the current average standard offer price for BHE's medium class.

II. BACKGROUND

Maine's Restructuring Act directs the Commission to administer periodic bid processes to select providers of standard offer service. 35-A M.R.S.A. § 3212(2). The arrangement with the current standard offer providers for service to customers in the medium and large standard offer classes in the CMP and BHE service territories terminates on February 29, 2012. Accordingly, on December 8, 2012, the Director of Electricity & Gas Utility Industries initiated the process to solicit bids for the provision of standard offer service to these classes for the period beginning March 1, 2012 by issuing a Request for Proposals (RFP).¹ The RFP set out the procedure to be followed in soliciting bids and selecting standard offer providers, *i.e.* winning bidders.

In our last several solicitations for the CMP and BHE medium and large classes, we accepted bids for six-month terms to minimize the time for which standard offer

¹ On May 18, 2004 in Docket No. 2004-314, we delegated to the Director of Electricity & Gas Utility Industries the authority to decide and carry out all matters related to the development, issuance and conduct of standard offer bid processes.

prices may deviate from prevailing market prices. Accordingly, the Director of Electricity & Gas Utility Industries asked for bids only for six-month terms.

Pursuant to the RFP, indicative bids were received on January 4, 2012. Since that time, our staff has been discussing various non-price terms with bidders. Upon the conclusion of discussions on non-price terms with a sufficient number of bidders, the Director of Electricity & Gas Utility Industries asked for final, binding bids to be presented today, January 25, 2012.²

III. DISCUSSION

At the outset, we note that the bid process was competitive and thus standard offer prices will be established by a competitive electricity market as contemplated by the Restructuring Act. Upon review of all the bids received today, and applying the selection criteria specified in section 8(C)(2) and (4) of Chapter 301, we designate the following as standard offer providers for the six-month term beginning March 1, 2012.

	CMP	BHE
Medium Class	80% NextEra	100% NextEra
	20% NB Power	

The average weighted prices are as follows:

	CMP	BHE
Medium Class	5.543 cents/kWh	5.324 cents/kWh

The actual prices for CMP and BHE's medium classes vary by month. The actual prices are contained in Exhibits A and B to this Order.

Our review of the NextEra and NB Power bids indicate that they comply with all requirements of Chapter 301 and the RFP (including the security requirements). Additionally, all of the bidders included bidder conditions with their bids. By designating NextEra and NB Power as standard offer providers, we hereby accept their bidder conditions and incorporate them into this Order. The bidder conditions, as well as the statements of commitment of all of the winning bidders, are attached as appendices to this Order.

² On January 18, 2012, the Commission issued an Order in the above-captioned docket rejecting the bids for the provision of standard offer service for CMP and BHE's large non-residential classes. The Order directed Staff to work with the utilities to arrange for standard offer service through alternative means. The Commission expects to deliberate the arrangement for the large class standard offer provider(s) within the next few weeks.

The bidder conditions provide clarifications as to the precise nature of the standard offer provider obligations, as well as reasonable protections for the provider with respect to actions of the Commission or the utility. We understand all conditions are satisfied at this time or will be satisfied shortly after we issue this Order. NextEra and NB Power attached a modified version of the Standard Offer Provider (SOP) Service Agreement to their bids. We are informed that the modified versions of the proposed SOP standard service agreement are acceptable to CMP, BHE and the Director of Electricity & Gas Utility Industries,³ and that the winning bidders, CMP and BHE will execute the proper agreements upon issuance of this Order.

Section 8(C)(2) of Chapter 301 establishes the lowest price as the primary selection criteria in considering standard offer bids, although section 8(C)(4) does require the Commission to select three standard offer providers within a utility service territory if this can be accomplished without increasing standard offer prices within any standard offer class by more than 1.5%. During the March 1, 2012 term, the residential and small non-residential class for BHE is served by only one supplier, NB Power. The Commission reviewed the bids received for the BHE medium class and determined that the bids presented did not provide an opportunity for the Commission to meet the three provider provisions of Chapter 301. During the March 2012 term, CMP's residential and small non-residential class is served by NextEra and Constellation Energy Commodities Group Maine, LLC. The selection of NextEra and NB Power to serve CMP's medium class satisfies the requirement in section 8(C)(4) that the Commission select three standard offer providers within a service territory if it can be accomplished without increasing standard offer prices within any standard offer class by more than 1.5%.

The Commission recognizes that Chapter 301 does not require T&D utilities to perform margining functions with respect to standard offer service and that such a margining function imposes additional risk on T&D utilities. CMP and BHE have agreed to calculate the Excess Market Exposure Security amounts and manage the process of obtaining any required Excess Market Exposure Security from standard offer providers for this standard offer period if they have protection from the risk of this activity. We explicitly find that CMP and BHE shareholders shall not be subject to any prudency risk or financial liability with respect to its margining activities related to standard offer service for any actions that CMP and BHE take and decisions that CMP and BHE make in the ordinary course of business of managing the margining requirements, as long as they take reasonable steps to inform the Commission of their activities in this regard.⁴ To the extent that any other person or entities seek to impose any such prudency risk or liability on CMP and BHE in contravention to the previous sentence, any resulting direct

³ By our May 18, 2004 Delegation Order, we also delegated authority to accept alternative SOP Standard Service Agreements to the Director of Electricity & Gas Utility Industries. The Director consulted with the Commission's legal staff in deciding to accept changes to the Standard Service Agreement.

⁴ The reasonable steps will include, but not be limited to, weekly e-mail communications from the T&D to Commission Staff reporting current market prices and the T&D's calculation of Excess Market Exposure.

or indirect costs, obligations, expenses or damages incurred by CMP or BHE shall be fully recovered, with carrying costs, from customers either through T&D rates or standard offer prices.

Finally, we recognize that the bidder conditions approved in this Order create certain risks and obligations for CMP and BHE. Risks imposed by the bidder conditions are properly borne by customers and not shareholders. We are informed by Commission staff that CMP and BHE agree to accept the obligations imposed on it by bidder conditions, as long as it is compensated for the financial consequences of satisfying those obligations. Therefore, we explicitly find that any direct or indirect costs, obligations, expenses or damages reasonably incurred by CMP and BHE, including administrative and security costs, in fulfilling its contractual obligations or exercising its contractual rights under the SOP Service Agreements, or in satisfying the bidder conditions we have accepted, shall be fully recovered, with carrying costs, from customers either through transmission and distribution rates or standard offer prices.

This Order will be treated as designated confidential information pursuant to the Protective Order issued in this proceeding for a two-week period. After that, the confidential treatment of this Order will be removed.

Dated at Augusta, Maine, this 25th day of January, 2012.

BY ORDER OF THE COMMISSION



Karen Geraghty
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Vafiades
Littell

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.