SUBJECT TO CONFIDENTIAL TREATMENT UNTIL FEBRUARY 4, 2004

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2003-823

January 21, 2004

MAINE PUBLIC UTILITIES COMMISSION
Standard Offer Bidding Procedure

ORDER DESIGNATING STANDARD OFFER PROVIDERS

WELCH, Chairman; DIAMOND and REISHUS, Commissioners

I. SUMMARY

Through this Order, we designate Calpine Power America – Maine, LLC (Calpine) as the standard offer provider for 20% of the medium non-residential class in the Central Maine Power Company (CMP) service territory, and for 100% of the medium non-residential class and 80% of the large non-residential class in the Bangor Hydro-Electric Company (BHE) service territory. We designate Constellation Power Source Maine LLC (Constellation) as the standard offer provider for 80% of the medium non-residential class and 80% of the large non-residential class in the CMP service territory. We designate J. Aron and Company (J. Aron)[1] as the standard offer provider for 20% of the large non-residential classes in the CMP and BHE service territories. The average blended prices for standard offer service for this period will be 6.33¢/kWh for the medium class and 6.36¢/kWh for the large class in CMP's service territory, and 6.19¢/kWh for the medium class and 5.88¢/kWh for the large class in BHE's service territory.

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, 2004.[2] Accordingly, on November 14, 2003, the Commission initiated the process to solicit bids for the provision of standard offer service to these classes for the period beginning March 1, 2003. *Order Regarding Standard Offer Service for the Large and Medium Classes of CMP and BHE*, Docket No. 2003-823 (Nov. 14, 2003). In our Order initiating the solicitation process, we decided to seek bids for two alternative terms, one for six months and one for a year. *Id.*

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[1] J. Aron is a subsidiary of the Goldman Sachs Group, Inc.

[2] By Order issued September 18, 2001, the Commission designated a standard offer provider for residential and small commercial customers in the CMP and BHE service territories for a 3-year period beginning March 1, 2002. *Order Designating Standard Offer Provider and Directing Utilities to Enter Entitlements Agreements,* Docket No. 2001-399 (Sept. 18, 2001). For this reason, the Commission did not solicit bids for the small classes.

at 2. We explained that in our last two solicitations, we accepted bids for the CMP and BHE medium and large classes for a six-month period to minimize the time for which standard offer prices may deviate from prevailing market prices. However, we decided to also ask for one-year terms to protect against the possibility that six-month bids may be inadequate.

Pursuant to Commission-approved Request for Proposals (RFP), indicative bids were received December 10, 2003. 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, we asked for final, binding bids to be presented on January 21, 2004.

III. DISCUSSION

At the outset, we note that, as in our more recent standard offer solicitations, the current process was very competitive and thus standard offer prices will continue to 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 Calpine as the standard offer provider for 20% of the medium non-residential class in CMP's service territory, and for 100% of the medium non-residential class and 80% of the large non-residential class in BHE's service territory; Constellation as the standard offer provider for 80% of the medium non-residential class and 80% of the large non-residential class in the CMP service territory; and J. Aron as the standard offer provider for 20% of the large non-residential classes in the CMP and BHE service territories, all for the six-month term beginning March 1, 2004. The average prices are as follows:

	CMP	BHE
Medium Class	6.33 cents/kWh	6.19 cents/kWh
Large Class	6.36 cents/kWh	5.88 cents/kWh

The actual prices for both the medium and large classes vary by month, while the large classes prices also vary by time-of-day. The actual prices, which represent a significant increase from the last six-month average prices, are contained in an appendix to this Order.

Our review of the Calpine, Constellation, and J. Aron bids indicate that they comply with all requirements of Chapter 301 and RFP (including the security requirements). Additionally, both Constellation and J. Aron included bidder conditions with their bids. By designating Constellation and J. Aron 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, are attached as appendices to this Order.

Section 8(C)(2) of Chapter 301 establishes the lowest price as the primary selection criteria in considering standard offer bids. However, section 8(C)(4) requires 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%. The acceptance of the lowest bids in the solicitation result in the designation of Calpine and Constellation for the classes and percentages as described above. Section 8(C)(4) operates to require us to designate J. Aron as the standard offer provider for 20% of large non-residential classes in the CMP and BHE service territories, because selecting J. Aron as the third standard offer provider in each service territory does not increase standard offer prices for any class by more than 1.5%.

As in our last solicitation, we have chosen six-month terms for both the medium and large classes to minimize the amount of time standard offer prices for either class may deviate from prevailing market prices. This action is consistent with the recommendations that we made in our December 2002 standard offer report to the Legislature. In that report, we concluded that standard offer service for the medium and large classes should not be just another supply service and that it should be designed to encourage migration to the competitive market. We stated that, in designing standard offer service to be more of a last resort default service, prices should more closely follow market changes; one approach to accomplish this would be for standard offer to have shorter terms. Our decision to accept six-month bids will have desired impact of ensuring that standard offer prices do not deviate from market prices for any substantial period of time.

Finally, we recognize that the bidder conditions approved in this Order create certain risks for CMP and BHE that should be properly borne by customers. Therefore, we explicitly find that any direct or indirect costs, obligations, expenses or damages reasonably incurred by CMP or BHE, including administrative and security costs, in fulfilling its contractual obligations or exercising it contractual rights under the Standard Offer Provider Service Agreements it will enter with Constellation and J. Aron shall be fully recovered, with carrying costs, from customers either through transmission and distribution rates or standard offer rates.

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 21st day of January, 2004.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Diamond
Reishus

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.

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.