Request for Proposals

for the Sale of Energy from Biomass Resources

***Issued by the Maine Public Utilities Commission***

*June 17, 2016*

## Background

The Maine Public Utilities Commission (Commission) is seeking proposals from Biomass Resources for the sale of energy under two-year contract(s). Bidders may also offer to sell capacity and/or renewable energy attributes as part of the contract.

During its 2016 session, the Maine Legislature enacted An Act To Establish a Process for the Procurement of Biomass Resources (Act) P.L 2015, ch. 483. The Act directs the Commission to initiate a competitive solicitation for the procurement of energy[[1]](#footnote-2) from up to 80 MW of Biomass Resources and authorizes the Commission to direct T&D utilities to enter into one or more two-year contracts contingent upon available funds. The Act establishes a Cost Recovery Fund (Fund) to pay the above-market costs of any contract and directs the State Controller to transfer up to $13.4 million to the Fund at the close of fiscal year 2015-16.

Bidders selected will enter into contract(s) with one or both of Maine’s investor-owned transmission and distribution utilities - Central Maine Power Company (CMP) and Emera Maine (EM) (T&D utilities). Payments under the contracts are contingent upon available funds from the Cost Recovery Fund as described further in Section 6 of this RFP.

Additional information about this RFP, including a copy of the Act, the standard form contract and instructions for submitting bids is available at: <http://www.maine.gov/mpuc/electricity/rfps/biomass2016/>index2.html

## 2. Objectives and Evaluation Standards

**2.1 Qualifying Biomass Facilities**

A Biomass Resource is a source of electrical generation fueled by wood, wood waste or landfill gas that produces energy delivered to the ISO-NE or NMISA region. The objective of this RFP is to acquire two-year contracts that produce in-state economic benefits with up to 80 MW of Biomass Resources. Contracts will be for the sale of energy, and possibly capacity and/or renewable energy attributes to one or more of the T&D utilities.

**2.2 Evaluation Standards**

Proposals will be evaluated based upon the requirements and objectives stated in the Act and within this RFP. In evaluating proposals, the Commission will evaluate the extent to which a contract:

* 1. Provides benefits to ratepayers;
  2. Provides in-state benefits, such as capital investments to improve long-term viability of the facility, permanent direct jobs, payments to municipalities, payments for fuel harvested in the State, payment for in-state resource access, in-state purchases of goods and services and construction-related jobs and purchases;
  3. Reduces greenhouse gas emissions;
  4. Promotes fuel diversity; and
  5. Supports or improves grid reliability

In selecting among bids, the Commission will determine the total in-state economic benefits of the contract and the cost to fund the above-market costs of the contract and will identify those proposals that maximize the overall benefits to the State.

Acceptance of any proposal will be determined by the Commission based upon the requirements of the Act and this RFP and the Commission’s statutory public interest obligations. In making its determinations, the Commission and Commission Staff may consult with the T&D utilities, Maine’s Office of Public Advocate (OPA), the Maine Department of Economic and Community Development (DECD) and the Maine Department of Environmental Protection (DEP).

If the Commission concludes that this solicitation is not competitive, based either on the solicitation process or the resulting bids, no bidders may be selected. The Commission may accept or reject any proposal, or it may reject all proposals, based on its assessment of whether a proposal meets the requirements of the Act and this RFP; satisfies applicable statutory policies and objectives; is within the applicable contracting authority; and conforms with generally accepted business practices.

***Proposals are due on or before July 29, 2016.***

**3. Proposal Requirements**

## 3.1 Form of Product

Proposals should be for the sale of energy from Biomass Resources to the T&D utilities. Bidders may also offer to sell capacity and/or renewable energy attributes as part of the contract.

## 3.2 Required Attributes

The Commission may authorize contracts with Biomass Resource facilities that generate electricity from wood, wood waste or landfill gas and are interconnected to the ISO-NE or NMISA region. The Commission shall ensure that a biomass resource facility is operating at least at a 50% capacity for 60 days prior to the initiation of this competitive solicitation and continues to operate at that capacity except for planned and forced outages.

**3.3**  **Transaction and Pricing Structures**

Proposals should specify annual quantities or quantity caps for the amounts of energy for each year of the contract term. If capacity and/or RECs are included, the proposal should specify annual quantities or quantity caps for the amounts of capacity and/or RECs for each year of the proposed contract term.

Proposals may be structured as physical or financial transactions.

If capacity or RECs are included in the proposal, separate prices may be proposed for energy, capacity and/or RECs, or a single bundled price for all components that are included may be proposed. Proposals should clearly specify which contract products are included in the pricing. Prices must be fixed prices and may not be defined by formula or indices.

Prices must be in nominal dollar terms.

The same project/resource may submit multiple pricing proposals, as long as they are mutually exclusive. A pricing proposal for one project cannot be contingent on another project being accepted, but can be mutually exclusive.

**3.4 Contract Payment Adjustment**

The contract shall establish a process under which a generator of biomass resources provides information to allow the Commission to verify on an annual basis that the projected in-state economic benefits as determined by the Commission are achieved during the term of the contract. If the Commission finds the in-state benefits are not being achieved, the Commission may reduce the contract payment by the percentage difference between actual in-state benefits achieved and the projected in-state benefits.

## 3.5 Performance Security

The contract will include a requirement for performance security to ensure the availability of any amounts that may be due to the T&D utilities as a result of the contract payment adjustment as provided in section 3.4. The specific amount of performance security required will be determined on a project-specific basis based on the Commission’s assessment of the contract prices and payments, the expected in-state economic benefits and other risks and benefits of the contract.

Proposals shall include the proposed form of performance security. Acceptable forms of performance security are: (1) cash (U.S. currency); or (2) an irrevocable, transferable and unconditional standby letter of credit issued by a U.S. commercial bank or a foreign bank with a U.S. branch with such bank having a minimum credit rating of A- from S&P or A3 from Moody’s. The Commission may consider other forms of performance security and will determine whether security in a form other than cash or an LOC is acceptable in the context of a specific proposal and prevailing economic conditions. Winning bidders must post performance security within 2 business days of contract execution.

Proposals should include evidence of a bidder’s intent and ability to fulfill the Performance Security requirements should the proposal be selected. In particular, Proposals should include a statement from a qualified bank meeting the minimum credit rating criteria noted above that it would provide the Performance Security required for the proposal.

**3.6 Contract**

A standard form Biomass Resource Purchase and Sale Agreement will be posted at the RFP website at <http://www.maine.gov/mpuc/electricity/rfps/biomass2016/>index2.html

Bidders are **required** to submit any requested modifications to the standard form Agreement with their proposal.

**3.7 Term**

The term of the contract shall be two (2) years. Bidders should include a proposed starting date for the contract term.

## 3.8 Firm and Final Bids; Proposal Information; Project Cost Data

Proposals and pricing submitted are firm and final bids and will be binding on the bidder. Changes to proposals will not be accepted after the submission of bids except to the extent requested by the Commission. The Commission reserves the right to ask bidders to provide additional information related to any aspect of a proposal, or to clarify, correct or amend a proposal.

## 3.9 Confidentiality

A bidder may designate information included in its proposal as proprietary or confidential information. The Commission will take every reasonable step, consistent with law, to protect information that is clearly identified as proprietary or confidential on the page on which it appears. Protected information may be made available to the T&D utilities, the OPA, DECD and/or the DEP under appropriate protective order and non-disclosure agreements. The identity of bidders and general information about proposals selected will become public at the time of the Commission’s decision. The contracts and associated prices of selected proposals will ultimately become public; however, such information may be withheld for a period of time at the request of the bidder.

# 4. RFP Process

## 4.1 Overview of Process; Schedule

**Proposals are due on or before July 29, 2016**.

Instructions for submitting proposals will be posted to the RFP website at: <http://www.maine.gov/mpuc/electricity/rfps/biomass2016/>index2.html

The Commission Staff will review all proposals; may ask for supplemental and/or clarifying information from bidders; may propose modifications to the proposed pricing or structure of the bid; and/or may propose changes to the requested modifications to the standard form Agreement. Bidders may accept or reject any modifications proposed by Commission Staff.

The Commission reserves the right to revise, suspend, or terminate the RFP at its sole discretion. In such event, the Commission will inform all bidders as soon as reasonably possible.

### RFP Documents and Information; Contact Persons

The RFP and all related documents and information are available on the RFP Website at: <http://www.maine.gov/mpuc/electricity/rfps/biomass2016/>index2.html

All changes and supplements to the RFP and related materials will be posted to the RFP Website. Bidders are responsible to obtain these updates and additions.

The RFP Contact Person is:

Faith Huntington

Director of Electricity and Natural Gas

Maine Public Utilities Commission

[Faith.Huntington@maine.gov](mailto:Faith.Huntington@maine.gov)

207-287-1373

Bidders may submit questions or request additional information by contacting the RFP Contact Person. To the extent bidder inquiries elicit generally applicable information or corrections/clarifications to existing information, such information may be posted to the RFP Website. Bidder questions, information requests and the associated responses will not otherwise be made generally available.

The Commission will endeavor to respond to all questions and information requests, but it is under no obligation to do so.

# Proposal Content Requirements

Bidders shall include an affidavit warranting the completeness and accuracy of the material provided and attesting that the proposal was prepared independently and without collusion or any other action taken to restrain free, competitive bidding and the terms of the proposal are commercially reasonable. The affidavit shall be substantially in the form provided on the RFP website at <http://www.maine.gov/mpuc/electricity/rfps/biomass2016/index2.html> . The submission of the required affidavit does not restrict the Commission from otherwise finding that the solicitation process or resulting bids are not competitive.

**5.1 Project Information**

a. Proposals should include a description of the facility, including its qualification as a “biomass resource” as defined in the Act, as well as a demonstration that the facility has been operating at 50% capacity or greater for 60 days prior to the date of this RFP;

b. Proposals should include a projected operations schedule for the anticipated two-year contract term to demonstrate that the facility is expected to operate at 50% capacity or greater except for planned and forced outages;

c. Proposals should include detailed information about the location of the facility, as well as the expected interconnection point. For facilities in ISO-NE, proposals should include the applicable ISO-NE pricing node;

d. To the extent capacity and/or RECs are included in the bid, proposals should include details of the facility’s Forward Capacity Market supply obligation and/or qualification status in the Renewable Portfolio Standard (RPS) market in Maine and any other states in which the facility is qualified.

**5.2 Economic and Other Benefits**

a. Proposals should include detailed and specific information about, and a quantification of the value of, the expected in-state economic benefits, such as capital investments to improve long-term viability of the facility, permanent direct jobs, payments to municipalities, payments for fuel harvested in the State, payment for in-state resource access, in-state purchases of goods and services and construction-related jobs and purchases;

b. Proposals should include a description of the types and quantification methodologies used to measure in-state benefits and complete supporting documentation for the quantification and the quantification methodologies;

c. Proposals should include proposed reporting and verification protocols to be included in the contract that would permit the Commission to examine and verify, on a periodic basis during the contract term, the in-state economic benefits provided and the associated economic value to the state; and

d. Proposals should include detailed information about the effect of the contract on: reductions on greenhouse gases; fuel diversity; and/or grid reliability.

**5.3 Corporate Structure, Financial and Technical Capability**

Proposals should include information and supporting documents describing the corporate structure and ownership of the facility; information sufficient to demonstrate the financial capability of the facility owner and operator, including audited financial statements of the facility owner and corporate parent and current credit agency rating reports (if applicable); and information and documentation demonstrating the technical experience and expertise of the facility owner and operator.

**5.4 Pricing**

Proposals should include the quantities (or quantity caps) and prices for energy and, if included, capacity and environmental attributes for each year of the term. Pricing should be a firm and final bid. All contingencies associated with a proposal and/or pricing should be clearly indicated.

**6. Cost Recovery Fund and Cost Limits**

Bidders should be aware that, pursuant to section 5 of the Act, a cost recovery fund is established that the Commission shall use to pay all above-market costs of any contract authorized. Any contract authorized by the Commission shall be contingent on the availability of funds in the cost recovery fund. No more than 50% of the fund may be awarded to facilities serving the NMISA region.

**7. General**

**7.1 Proposals**

Proposals are binding on the bidder and must be submitted in accordance with this RFP or as otherwise specified by the Commission. The Commission reserves the right to seek clarification and request additional information, documentation and other material related to the proposals. Failure to provide any such items within the timeframes requested may result in disqualification.

**7.2 Proprietary Information**

A bidder may designate information included in its proposal as proprietary or confidential information. The Commission will take every reasonable step, consistent with law, to protect information that is clearly identified as proprietary or confidential on the page on which it appears. Protected information may be made available to the T&D utilities, the OPA, DECD and DEP. The identity of bidders and projects, and the associated prices and contracts, for proposals chosen in this process will become public information.

**7.3 Proposal Costs**

All costs associated with developing and submitting a proposal in response to this RFP and providing oral or written clarification of its contents are borne by the bidder.

## 7.4 Rights of the Commission

The Commission may accept or reject any proposal, or it may reject all proposals, based on its assessment of whether a proposal meets the requirements of the RFP, satisfies the applicable statutory policies and objectives, is within the contracting authority of the Commission, and conforms with generally accepted business practices.

The Commission reserves the right to withdraw or modify the RFP at any time and to propose modifications to the bids..

The type(s) and amounts of energy, capacity and/or environmental attributes awarded pursuant to this RFP will be determined by the Commission consistent with applicable laws and rules, the provisions of this RFP and the Commission’s statutory public interest obligations.

The Commission shall not be responsible or liable in any manner for risks, costs, expenses, or other damages incurred by any bidder or other entity involved, directly or indirectly, with this RFP.

Pursuant to PL 2015, ch. 483, subsection 3, if the Commission concludes that this solicitation is not competitive, the Commission may select no bidders and is not obligated to authorize any contracts.

**7.5 State Held Harmless**

The State of Maine, its officers, agents, and employees, including the Maine Public Utilities Commission, Commissioners and the employees or agents of the Maine Public Utilities Commission shall be held harmless from any and all claims, costs, expenses, injuries, liabilities, losses and damages of every kind and description resulting from or arising out of this RFP.

## 7.6 Warranty

The information contained in the RFP and provided subsequently is prepared to assist bidders and does not purport to contain all of the information that may be relevant to bidders. The Commission makes no representation or warranty, expressed or implied, as to the accuracy or completeness of the information. The Commission, its staff and its agents shall not have any liability for any representations expressed or implied in, or any omissions from, the RFP or information obtained by bidders from the Commission, its staff, its agents or any other source.

1. Pursuant to section 2 of the Act, generators may offer to sell capacity or renewable energy attributes as part of a contract and the contract may include the purchase of such capacity or attributes. The Commission may not condition any contract on an offer or sale of capacity or renewable energy attributes. [↑](#footnote-ref-2)