STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2012-534

January 29, 2013

MAINE PUBLIC UTILITIES COMMISSION
Standard Offer Bidding Procedure for CMP
And BHE Medium and Large Non-Residential
Customers

ORDER DESIGNATING
STANDARD OFFER
PROVIDERS
**CORRECTED**

WELCH, Chairman; LITTELL and VANNOY, 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 and 100% of the large non-residential in the Central Maine Power Company (CMP) service territory. We also designate NextEra as the standard offer provider for 100% of the medium non-residential class in the Bangor Hydro-Electric Company (BHE) service territory and Algonquin Energy Services Inc. (AES) as the standard offer provider for 100% of the large non-residential class in the BHE service territory. All designations are for a six month period, beginning March 1, 2013. The weighted average prices for standard offer service for this period will be 6.085 ¢/kWh for the medium class in the CMP service territory, and 6.034 ¢/kWh for the medium class in the BHE service territory. The standard offer prices for CMP's and BHE's large non-residential classes are indexed to wholesale market prices and will be set in advance of each month in accordance with this Order.

## 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 28, 2013. Accordingly, on November 11, 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, 2013 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.

[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.

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

To mitigate risks associated with serving the large non-residential classes at a fixed price, the RFP allowed for an alternative indexed price structure for the CMP and BHE large classes. This structure includes four components: (1) energy; (2) capacity; (3) fixed adder; and (4) uncollectible adder. The energy component paid by retail customers would be determined by the Commission prior to every month based on electricity futures prices; however, the amounts paid to the supplier would reflect actual energy costs as assessed through the ISO-NE market settlement system.[2] The capacity component and fixed adder component (that would reflect all other costs and risks perceived by the supplier) would be set through the bid, and the uncollectible adder would be set by the Commission prior to the final bids.[3]

Pursuant to the RFP, indicative bids were received on December 11, 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 29, 2013.

## 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 September 1, 2012.

| | **CMP** | **BHE** |
|---|---|---|
| Medium Class | 100% NextEra | 100% NextEra |
| | | |

The average weighted prices are as follows:

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[2] Standard offer prices will not be adjusted during this six-month term to reconcile for any over or under collections resulting from the energy component. Any variance between the amount charged customers and the amounts paid to the supplier will be credited or debited to the standard offer uncollectible account for the large classes.

[3] Attachment A contains a more detailed description of this alternative price structure.

| | **CMP** | **BHE** |
|---|---|---|
| Medium Class | 6.085 cents/kWh | 6.034 cents/kWh |

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

We also designate NextEra for the large non-residential class in the CMP service territory and AES for the large non-residential class in the BHE service territory. Both bids are the alternative price structure discussed above and in Attachment. The winning bids for the large classes are as follows:

| CMP Large Class | Fixed Adder $/kWh | Capacity Charge $/kW-mo. |
|---|---|---|
| March 2013 | $0.00385 | $3.53323 |
| April 2013 | $0.00376 | $3.53323 |
| May 2013 | $0.00370 | $3.53323 |
| June 2013 | $0.00423 | $4.05223 |
| July 2013 | $0.00419 | $4.05223 |
| August 2013 | $0.00418 | $4.05223 |

| BHE Large Class | Fixed Adder $/kWh | Capacity Charge $/kW-mo. |
|---|---|---|
| March 2013 | $0.00637 | $3.79000 |
| April 2013 | $0.00635 | $3.79000 |
| May 2013 | $0.00625 | $3.79000 |
| June 2013 | $0.00728 | $3.79000 |
| July 2013 | $0.00916 | $3.79000 |
| August 2013 | $0.00643 | $3.79000 |

Pursuant to their final bids, NextEra has chosen to be paid the energy component based upon the applicable LMP in the ISO-NE day-ahead market and AES has chosen to be paid the energy component based upon the applicable LMP in the ISO-NE real-time market.

As illustrated in detail in Attachment A, the actual prices for CMP and BHE's large customer classes will be determined prior to each month of the March through August term based on ISO-NE Internal Hub Peak and Off-Peak Locational Marginal

Pricing (LMP) electricity futures as settled through CME Group on the 15th day of the prior month.[4]

Our review of the NextEra and AES 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 AES 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.

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 AES 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,[5] 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%. With the designation of standard offer providers in this Order, both the CMP and BHE service territories have three providers based on the best bids. Therefore the requirement in section 8(C)(4) that the Commission select three standard offer providers is satisfied without the need to consider other bids.

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 the medium class 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

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[4] We delegate to the Director of Electricity & Gas Utility Industries the authority to determine the prices each month pursuant to the pricing methodology specified in this Order.

[5] 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.

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.[6] 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 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.

We also recognize that the alternative pricing structure for the large class may create additional costs to the utilities which are also properly borne by customers and not shareholders. We are informed by Commission staff that CMP and BHE agree to accept the obligations imposed on them by the Alternative Pricing Structure Standard Offer Provider Standard Service Agreement and to incur the costs of administration, as long as it is compensated for the financial consequences of satisfying those obligations. Therefore, we explicitly find that CMP and BHE shall recover any costs associated with the difference between what the utilities bill their large class standard offer customers and what the utilities pay the provider under the Alternative Pricing Structure SOP Service Agreements. That difference shall be tracked through and charged to the uncollectible retainage account each month through the standard offer term. Any costs not recovered through the retainage account shall be recovered at a future time and through a method to be determined by the Commission after the conclusion of this standard offer term. Any other direct or indirect costs, obligations, expenses or damages reasonably incurred by CMP and BHE, including incremental administrative 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 tracked through a separate account and deferred, but shall be fully recovered by the utilities, with carrying costs, from customers at a future time to be determined by the Commission and through a method to be determined by the Commission after the conclusion of this standard offer term.

[6] 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.

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 29th day of January, 2013.

BY ORDER OF THE COMMISSION

Karen Geraghty

Karen Geraghty
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Littell
Vannoy

## Attachment A

## CMP and BHE Large Commercial and Industrial Customer Standard Offer Service Outline of Alternative Price Structure

The applicable terms of the Commission's **November 14, 2012** Request for Proposals (RFP) to Provide Standard Offer Service to Central Maine Power Company and Bangor Hydro Electric Company's Medium and Large Commercial and Industrial Customers and the Large Class Alternative Pricing Structure Standard Offer Provider (SOP) Standard Service Agreement will apply, except that the retail price structure and basis upon which the SOP is paid will be as follows. The retail price and payment basis will include four components: (1) energy; (2) capacity; (3) fixed adder; and (4) uncollectible adder.

1. The Energy Component *__Billed to Retail Customers__* will be established by the Commission prior to each service month using the load-weighted average ISO New England Internal Hub Peak and Off-Peak LMP Swap Futures, as settled through CME Group[7] on the 15th day[8] of each month prior to the effective date of the standard offer service price. The load-weighting will reflect representative usage of the class for the service month. The Energy Component *__Paid to the Standard Offer Provider__*, however, will be the real-time or day-ahead Maine Zonal Locational Market Price (LMP) as applicable for the load asset, as assessed by ISO-NE through the market settlement system. (Bidders shall select either the real-time or day-ahead market in their bid.)

2. The Capacity Component *__paid by retail customers__* and *__to the SO provider__* will be set by the bid price per kW of the SO provider. The Capacity Component will be charged to customers on a per-kW basis, with each large standard offer customer's kW set in a manner consistent with the large standard offer class Load Asset Coincident Peak Contribution (CPC) established pursuant to ISO-NE Market Rules, i.e., the "Cap Tag". Capacity Component bids may differ by month.

3. The Fixed Adder Component *__paid by retail customers__* and *__to the SO provider__* will be a fixed $ per billed kWh intended to cover the SO provider's other

[7] CME Group represents the merger of the Chicago Mercantile Exchange (CME), the Chicago Board of Trade (CBOT), the New York Mercantile Exchange (NYMEX) and its commodity exchange division, Commodity Exchange, Inc. (COMEX). The formation of CME Group did not, however, result in any change to trading privileges for CME, CBOT and NYMEX/COMEX members.

[8] If the 15th day of the month occurs on a weekend or holiday such that prices are not published, then prices for the next available date will be used.

costs and risks to serve the large SO class. The Fixed Adder Component will be set by the SO provider’s bid. Fixed Adder Component bids may differ by month.

4. The Uncollectible Adder Component will be reflected in retail prices and SO provider payments in the same manner as for the medium standard offer class. The Uncollectible percentage for this alternative price structure for this standard offer term is 3%.

## Attachment B

**Central Maine Power**
**Medium Class Pricing**
**March 2013 to August 2013**
**Next Era Power Marketing**

| | **$/kWh** |
|---|---|
| Mar-13 | $0.06669 |
| Apr-13 | $0.05936 |
| May-13 | $0.05642 |
| Jun-13 | $0.05742 |
| Jul-13 | $0.06333 |
| Aug-13 | $0.06119 |

**Bangor Hydro Electric**
**Medium Class Pricing**
**March 2013 to August 2013**
**Next Era Power Marketing**

| | **$/kWh** |
|---|---|
| Mar-13 | **$0.06580** |
| Apr-13 | **$0.05783** |
| May-13 | **$0.05587** |
| Jun-13 | **$0.05802** |
| Jul-13 | $0.06295 |
| Aug-13 | $0.06124 |

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.