

**Request for Proposals to Provide  
Standard Offer Service  
To**

**Bangor Hydro-Electric Company's  
Medium and Large Standard Offer  
Classes**

**Term Beginning September 1, 2005**

**Issued by the  
Maine Public Utilities Commission**

**June 2, 2005**

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**I. INTRODUCTION AND OVERVIEW****1.1. Objective of the Request for Proposals**

The Maine Public Utilities Commission (Commission) is seeking proposals from suppliers to provide retail standard offer service to medium and large non residential (i.e., commercial and industrial) customers of Bangor Hydro-Electric Company (BHE) for a 6-month term beginning September 1, 2005.

Initial proposals with indicative bid prices are due on June 15, 2005.

Suppliers chosen will provide requirements service for all or a specified percentage of the load in the medium and/or large customer class. The medium class is comprised of general service customers (mostly commercial and industrial) with peak demands generally between 25 kW and 500 kW. The large class is comprised of customers with peak demands generally greater than 500 kW.

Bidders are encouraged to provide a set of prices for a combined medium and large class, either in lieu of or in addition to medium and/or large class specific prices.

**1.2 Background and General Standard Office Service Provisions**

Maine's electric industry restructuring law (codified at 35-A M.R.S.A. § 3201-3217) allowed retail access to generation services for all Maine customers beginning on March 1, 2000. As required by the law, BHE and Maine's other investor-owned electric utilities have divested their generation assets and must sell by periodic auction any contractual entitlements to capacity and energy they hold, for example, with Qualifying Facilities.

Standard offer service is the only type of default service in Maine. Standard offer service is provided directly by suppliers to customers at retail. Retail standard offer prices are set equal to the bid prices of suppliers chosen through this solicitation process. If multiple bidders are selected for a class, retail standard offer prices are set equal to the weighted average of the bidders' winning bid prices. Each standard offer provider will be paid based on its accepted bid price.

Standard offer providers will supply all or an agreed upon percentage of the requirements service for standard offer customers in the applicable class. Standard offer service providers are not directly assigned particular customers.

There are several rules related to retail access in Maine. Chapter 301 governs standard offer service. (Provided as Appendix A.) A list and short description of other rules related to retail access is provided as Appendix B. The complete text of these rules is available on the Commission's web site at [www.maine.gov/mpuc](http://www.maine.gov/mpuc) or can be obtained by calling the Commission at 207-287-3831.

A statement of the standard offer provider's acceptance of its legal rights and obligations with respect to providing standard offer service is set forth in the Statement of Commitment contained in Appendix H. Bidders must submit a signed Statement of Commitment with their proposals. Alternative language to that contained in Appendix H will be considered. The nature of these rights and obligations is described in greater detail in the Commission Advisory Ruling provided in Appendix J.

BHE will provide customer billing services on behalf of the standard offer provider. The companies that provide standard offer service will be identified on standard offer customer bills. The standard contract that governs these billing services and various other rights and obligations between the standard offer provider and BHE is provided as Appendix C. Bidders may propose changes to the standard contract and submit them for consideration. The standard contract or an agreed upon alternative must be executed between the provider and BHE within 24 hours after the Commission designates a bidder to be the standard offer provider.

BHE will charge for certain services it provides in accordance with its Commission-approved Terms & Conditions. A schedule of these charges is provided as Appendix D.

### **1.3 Description of Service Area and Customer Classes**

BHE currently serves about 1,500 medium and 37 large non-residential customers in eastern and east coastal Maine. The service territory covers 5,275 square miles and is within the New England Independent System Operator (ISO-NE) control area. BHE has sold its power plants and entitlements and now operates as a regulated transmission and distribution utility.

BHE's retail sales to medium non-residential customers in calendar year 2004 were about 430,000 megawatt-hours. Currently, about 65% of the load of these customers receives standard offer service, the remainder is supplied by competitive suppliers. BHE's retail sales to large non-residential customers in 2004 were about 360,000 megawatt-hours. About 15% of the load of this group of customers currently receives standard offer service.

Appendix E includes a detailed breakdown of historical electricity usage for the medium and large non-residential standard offer classes. Additional load data, including loads used for settlement, is available at [www.maine.gov/mpuc](http://www.maine.gov/mpuc).

## **II. GENERAL RFP PROVISIONS**

### **2.1 Rights of the Commission**

The Commission reserves the right to reject all proposals received for a standard offer class in response to this RFP if in its sole determination the bid prices are unreasonably high and acceptance would not be in the public interest. In this situation, the Commission may, at its sole discretion, terminate the RFP and initiate a new selection process.

The Commission reserves the right to reject any proposal that in its sole determination does not meet the requirements and specifications of this RFP, the Commission's rules, Maine law, or generally accepted business practices. The Commission may ask bidders to clarify their proposals and may, at its sole discretion, allow bidders to conform proposals to the required specifications.

### **2.2 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, the designation of standard offer providers or the provision of standard offer service.

### **2.3 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.

### **2.4 Contact Person**

Inquiries regarding the RFP should be directed to: Faith Huntington (at 207-287-1373 or [faith.huntington@maine.gov](mailto:faith.huntington@maine.gov)), Mitch Tannenbaum (at 207-287-1391 or [mitchell.tannenbaum@maine.gov](mailto:mitchell.tannenbaum@maine.gov)), or Jim Buckley (at 207-287-1387 or [james.buckley@maine.gov](mailto:james.buckley@maine.gov))

## **2.5 Commission Web Site**

The RFP is available from the Commission's web site at the following address: [www.maine.gov/mpuc](http://www.maine.gov/mpuc). Any modifications, corrections or clarifications to the RFP will be posted at the same location.

The Commission's web site will also provide additional load data and may provide other information not contained in the RFP.

## **2.6 Proposal Clarification**

The Commission may request bidders to provide additional information to verify or supplement the material contained in their proposal or may seek clarification of the proposal.

## **2.7 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. The identity of bidders selected to provide standard offer service and standard offer prices will be public information.

## **2.8 Proposal Costs**

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

# **III. RFP PROCESS, SCHEDULE**

## **3.1 Process**

Bidders are requested to submit initial proposals with indicative bid prices on June 15, 2005. Proposals should include all of the items and be in the form specified by Section IV of this RFP. After reviewing the initial proposals, the Commission will seek to finalize non-price terms with bidders whose indicative bids appear most favorable. Bidders may be asked to update their bid prices during this process. The Commission will set and announce a date on which firm prices will be due and standard offer providers designated.

Upon request, public release of a winning bidder's identity may be delayed for a period (e.g., two weeks) so as not to disadvantage the bidder in the market.

### **3.2 Schedule**

Initial proposals with indicative bid prices	June 15, 2005 Before 4:00 p.m. EPT
Final Bid Prices Due/ Commission Designation of Standard Offer Providers	To be announced
Execution of Standard Offer Provider Standard Service Agreement Submission of Financial Security Requirement	Within 24 hours of designation  Within 1 week of designation
Standard Offer Service term Start Date	September 1, 2005

Any changes or updates to this schedule will be posted on the Commission's web site at [www.maine.gov/mpuc](http://www.maine.gov/mpuc).

### **3.3 Submission of Bids**

All proposals must be received at the Maine PUC by the times (Eastern Time) and on the dates indicated. Proposals should be submitted by electronic mail to [faith.huntington@maine.gov](mailto:faith.huntington@maine.gov) with all pricing in electronic spreadsheet form, if possible. If proposals, or portions of proposals, cannot conveniently be submitted electronically, they may be submitted by fax to the Maine PUC at (207)287-1039 or by mail to Maine Public Utilities Commission, 242 State Street, 18 State House Station, Augusta, Maine 04333-0018. All proposals submitted should be clearly marked "Standard Offer Service Proposal" and should be sent to the attention of Faith Huntington.

## **IV. PROPOSAL REQUIREMENTS: FORM AND CONTENT**

### **4.1 License**

Bidder must provide evidence that it has a valid license, or an application pending, sufficient to allow it to provide standard offer service in Maine. Chapter 305 of the Commission's rules governs these requirements. A

license application is included in Appendix F or can be obtained from the Commission's web site.

#### **4.2 Security**

1) Bidder must provide either: (1) a certified statement from a federal or state licensed financial institution authorized to conduct business in Maine that it will provide a surety bond or irrevocable letter of credit for the bidder that meets the requirements and specifications contained in section 3(A)(2)(a) of Chapter 301 and section 5 of this RFP; or (2) if the bidder, an affiliated corporation of the bidder, the bidder's wholesale supplier, or an affiliated corporation of the wholesale supplier satisfies the requirements of section 3(A)(2)(b) of Chapter 301, a certified statement that a corporate guarantee meeting the requirements and specifications contained in section 3(A)(2)(b) of Chapter 301 and in this RFP will be provided.

The amount of the surety bond, irrevocable letter of credit, or corporate guarantee to be provided must be sufficient for the maximum amount of standard offer service that bidder could be awarded. **(See Section 5.5 for required security amounts.)**

2) If bidder proposes to provide a corporate guarantee, bidder must provide audited financial statements of the guarantor, e.g., annual report to stockholders, SEC Form 10K, and the guarantor's most recent credit rating from each rating agency that has issued a rating for the guarantor. These materials must demonstrate that the guarantor meets the criteria contained in section 3(A)(2)(b) of Chapter 301.

#### **4.3 Statement of Commitment**

Bidder must provide a signed Statement of Commitment stating that, if designated a standard offer provider by the Commission, bidder will accept, abide by and fulfill all obligations and requirements relating to the provision of standard offer service. The Statement of Commitment must be signed by an officer of the Company who is duly authorized to commit the Company as described in the Statement of Commitment. The Commission's preferred Statement of Commitment is provided in Appendix H. Alternative language will be considered.

#### **4.4 EBT**

Bidder must demonstrate that it has completed or is enrolled in the mandatory electronic business transaction (EBT) training and testing in Maine. Maine's EBT standards and training schedule are available from the Commission's web site.



#### 4.5 Contingencies

Standard offer proposals may include contingencies, for example, a proposal for BHE standard offer may be contingent on acceptance of a proposal for standard offer in the service territory of Central Maine Power Company. The outcome of any contingency must either be: (1) within the control of the Commission; or (2) known at the time bid prices are evaluated.

#### 4.6 Alternative Terms, Language

Bidder should provide all proposed alternatives to the standard contract, the Statement of Commitment, the security requirements or any other proposed departure from the requirements of this RFP or Chapter 301.

#### 4.7 Prices

Bidders are encouraged to provide prices for a combined medium and large class. In the alternative, bidder may bid on either or both classes using class-specific pricing. Bidder may submit price proposals for all or a portion of the standard offer service requirement. A bid for a portion of the service must be as a multiple of 20% (i.e., 20%, 40%, 60%, 80%). Proposals must specify prices for the entire bid period; prices may not be defined by a formula or reference to market or economic indices.

For the **medium** standard offer class, bids may include prices per kW and prices per kWh, or prices per kWh only. Any prices per kW will be billed on the same basis (i.e., billing units) as BHE uses to bill for distribution service. There will be a preference for prices that vary by month consistent with regional wholesale prices. Prices may not vary by time of day and cannot include any amounts charged on a per-customer or fixed-charge basis.

For the **large** standard offer class, bids may include prices per kW and prices per kWh, or prices per kWh only. Any prices per kW will be billed on the same basis (i.e., billing units), as BHE uses to bill for distribution service or an agreed-upon alternative. There will be a preference for prices that vary by month consistent with regional wholesale prices. Bids for the large standard offer class may also vary by time of day; the time of day periods must correspond to, or be compatible with, BHE's time-of-use rate structure. Prices cannot include any amounts charged on a per-customer or fixed charge basis.

Pricing for the **combined** medium and large standard offer class should conform to the above requirements for the medium class.

**4.8 Term of Service**

The standard offer service term will be six months and will begin on September 1, 2005.

**V. STANDARD OFFER PROVIDER REQUIREMENTS****5.1 Standard Offer Obligation**

Standard offer provider must provide standard offer service in a manner consistent with Chapter 301 and this RFP at the prices and terms proposed by bidder and accepted by the Commission. Commission acceptance of a proposal and designation of a company as a standard offer provider obligates that company to provide standard offer service at its bid price for the term of service pursuant to Commission rules and Maine law.

Standard offer provider is responsible for all requirements and costs and will receive any benefits related to its standard offer load obligation that result under the applicable wholesale market rules. The standard offer provider is responsible for all costs necessary to supply and deliver standard offer service, except that the standard offer provider is not responsible for the BHE local transmission or distribution charges or the Regional Network Service charges associated with the applicable standard offer service load.

**5.2 Form of Service**

Standard offer service is retail all requirements service for the standard offer class, or portion thereof, for which a supplier has been designated by the Commission to be the standard offer provider. Standard offer service includes all NEPOOL and ISO obligations and charges (or those of successor entities) that would be assessed to the load serving entity for the standard offer service load, including all Locational Marginal Pricing (energy, loss and congestion components), all costs and obligations that arise from nodal settlements for load, all capacity, ancillary services and other products and charges, including any new or redefined products or charges, required to supply the electrical requirements of customers receiving standard offer service at all times during the term of service in a manner that complies with all applicable rules and requirements.

Standard offer service includes, and standard offer provider is responsible for, all transmission and distribution line and transformer losses associated with providing standard offer service from the point of supply to the meters of customers receiving standard offer service. The standard offer provider is responsible for providing sufficient quantities of electric

capacity, energy, ancillary and all other required products and services to BHE's service territory as defined in the standard offer contract to cover all losses occurring up to the customers' meters . The factors that are currently used to determine providers' obligations for line and transformer losses associated with BHE's system are contained in Appendix G.

### **5.3 Location of Service**

Standard offer provider must provide standard offer service in BHE's service territory and shall be responsible for all associated costs except as noted in section 5.4. BHE's service territory is within the Maine Load Zone as defined by ISO-NE Standard Market Design (SMD) and standard offer provider shall assume all obligations for the applicable standard offer load related to this locational definition and any subsequent redefinition, including nodal settlement for load.

### **5.4 Transmission Costs**

The BHE local transmission and distribution charges and the Regional Network Service charges associated with standard offer service are paid by standard offer customers through their BHE retail rates and are not the responsibility of the standard offer provider.

### **5.5 Security**

Standard offer provider must provide a surety performance bond, irrevocable letter of credit or a corporate guarantee payable to BHE, which bond, letter of credit or guarantee satisfies all applicable requirements of Chapter 301 and this RFP and otherwise meets all reasonable requirements of the Commission as to form, not inconsistent with Chapter 301 and this RFP. Standard offer provider's performance bond, irrevocable letter of credit, or corporate guarantee must be furnished to BHE with a copy to the Commission and must be effective and subject to being drawn upon in the full amount required no later than 1 week after the date the Commission designates the bidder as a standard offer provider such that BHE, at the direction of the Commission, can access the required amount of the performance bond, irrevocable letter of credit, or corporate guarantee in full as of that date. The surety bond, irrevocable letter of credit or corporate guarantee cannot expire or be cancelled until all obligations of standard offer provider are completely satisfied, unless standard offer provider furnishes a replacement bond, letter of credit or corporate guarantee that meets the requirements of Chapter 301 and this RFP and is accepted by the Commission. A corporate guarantee may be used to satisfy this requirement only if standard offer provider or a corporation affiliated with standard offer provider, the standard offer provider's wholesale supplier, or a corporation affiliated with the wholesale supplier meets the criteria specified in section 3(A)(2)(b) of Chapter 301. The Commission retains the right to obtain further information regarding

any performance bond, irrevocable letter of credit, or corporate guarantee furnished by standard offer provider, and final acceptance of any such performance bond, letter of credit or corporate guarantee shall be at the sole discretion of the Commission.

The performance bond, irrevocable letter of credit, or corporate guarantee furnished by standard offer provider must meet the following specifications:

1) The amount of the performance bond, irrevocable letter of credit, or corporate guarantee must equal or exceed \$2.9 million for the combined medium/large class, \$1.8 million for the medium class and \$1.1 million for the large class. These amounts may decline, pro rata, during the term of service. If a provider is designated as a standard offer provider for less than 100% of the load, the amount of the performance bond, irrevocable letter of credit, or corporate guarantee shall be the above amounts multiplied by the % share assigned to the provider.

2) The form of the financial security must be a surety performance bond issued by a surety company satisfying the requirements of subparagraph (3) below, authorized to do business and in good standing in the State of Maine, an irrevocable letter of credit from a commercial bank satisfying the requirements of subparagraph (4) below, authorized to do business and in good standing in the State of Maine, or a corporate guarantee from standard offer provider or a corporation satisfying the requirements of section 3(A)(2)(b) of Chapter 301.

3) A surety performance bond for standard offer service must (i) unconditionally obligate the issuing surety company(ies) to honor claims made under such bond for the purpose of paying the additional costs of replacement standard offer service; (ii) be issued by a surety company(ies) with a financial strength rating of "B+" or better from A.M. Best Company; and (iii) include the following language: "This surety performance bond is continuous and not subject to cancellation throughout the standard offer term of service. This surety performance bond covers payment of the additional costs of replacement standard offer service, as identified by the Maine Public Utilities Commission. Payments under the surety performance bond are due to Bangor Hydro-Electric Company within 30 days after notice to the Issuer by the Commission."

If the financial strength rating of a company providing a surety performance bond falls below a "B+" from A.M. Best Company, the

standard offer provider shall promptly: (1) notify the Commission in writing; and (2) provide replacement security that satisfies the requirements of Chapter 301 and this RFP.

4) An irrevocable letter of credit provided for standard offer service must (i) unconditionally obligate the issuing commercial bank(s) to honor drafts drawn on such letter(s) for the purpose of paying the additional costs of replacement standard offer service; (ii) be issued by commercial bank(s) with a minimum corporate debt rating of “BBB+” by Standard & Poor’s or Fitch or “Baa1” by Moody’s, or an equivalent short term debt rating by one of these agencies; and (iii) include the following language: “This letter of credit binds the Issuer to pay one or more drafts drawn by Bangor Hydro-Electric Company as long as the drafts do not exceed the total amount of the letter of credit; and that any draft presented by Bangor Hydro-Electric Company at the direction of the Commission will be honored by the Issuer within 10 business days.”

If the corporate debt ratings of an issuing bank drop below the above specified levels, the standard offer provider shall promptly: (1) notify the Commission in writing; and (2) provide replacement security that satisfies the requirements of Chapter 301 and this RFP.

5) A corporate guarantee provided for standard offer service must (i) unconditionally obligate the guarantor to pay all obligations of the standard offer provider for the additional costs of replacement standard offer service; (ii) be executed by a corporation meeting the ratings, asset and common equity requirements of section 3(A)(2)(b) of Chapter 301, and (iii) include the following language: “This guarantee unconditionally obligates the guarantor to pay all obligations of the standard offer provider for the payment of the additional costs of replacement standard offer service, at the direction of the Maine Public Utilities Commission, as long as such obligations do not exceed the total amount of this guarantee. The guarantor waives promptness, diligence and notices with respect to any such obligations and agrees to pay any statement under this guarantee presented by Bangor Hydro-Electric Company at the direction of the Commission, within 10 business days.”

6) A surety performance bond, irrevocable letter of credit or corporate guarantee provided for standard offer service must indicate Bangor Hydro-Electric Company as the sole beneficiary and state the purpose of the surety performance bond or letter of credit or guarantee as follows:

“This bond [or letter of credit or corporate guarantee] is written in accordance with Chapter 301 of the Commission’s rules to ensure compliance with applicable provisions of that Chapter and of Maine Statutes and rules by the principal as a standard offer provider, and to ensure the provision of standard offer service in accordance with Maine Statutes and rules. The terms of this security shall be governed by the laws of the State of Maine. The proceeds of this bond [or letter of credit or corporate guarantee] shall be paid or disbursed to Bangor Hydro-Electric Company only as directed by the Maine Public Utilities Commission.”

**5.6 License**

Standard offer provider must possess a valid license, pursuant to Chapter 305 of the Commission’s rules, to provide standard offer service. Standard offer provider’s license must be effective as of the date it is designated a standard offer provider.

**5.7 Standard Offer Contract**

Standard offer provider must have executed a standard offer contract with BHE . The standard offer contract must be executed within 24 hours of being designated a standard offer provider. A standard form contract is contained in Appendix C to this RFP. Alternatives to the standard form contract will be considered.

**5.8 Eligible Resource Portfolio Requirement**

Standard offer provider must comply with the eligible resource portfolio requirements pursuant to Chapter 311 of the Commission’s Rules. (Pursuant to recent legislation, electricity sales to qualified Pine Tree Development Zone businesses are exempt from the Portfolio Requirement.)

**5.9 ISO-NE/NEPOOL Requirements**

Standard offer provider must comply with all applicable ISO-NE and NEPOOL requirements (and those of any successor entity or entities), and shall be the designated load serving entity with a settlement account for its portion of standard offer load. The necessary ISO-NE designations and accounts must be effective at least 5 business days prior to September 1, 2005.

**5.10 EBT**

Standard offer provider must exchange data with BHE using the electronic business transactions (EBT) protocols and procedures contained in Maine's EBT standards. The EBT standards are available from the Commission's web site.

**VI. BILLING AND PAYMENT**

**6.1 Allocation of Uncollectible Accounts**

Each standard offer provider will be allocated a share of the uncollectible accounts in the standard offer class or classes the provider serves, in accordance with the standard contract. The standard offer uncollectible percentage for each standard offer class has been established by the Commission to be representative of uncollectible rates of customers in the standard offer class. The percentages are stated in Exhibit A of the standard contract (Appendix C of this RFP contains the standard contract) and will remain fixed for the term of service.

**6.2 Payments for Standard Offer Service**

BHE will issue bills and receive payment for standard offer service from customers in its service territory. BHE will transfer funds to the standard offer provider in accordance with the standard offer provider standard service agreement.

Standard offer provider will receive its gross revenues less its uncollectible revenues for each standard offer class it serves. Gross revenues are the product of the provider's accepted bid price times all kilowatt-hours and, if applicable, kilowatts of standard offer service it provides as determined by its designated percentage share of the standard offer class multiplied by the total standard offer requirements of the class. Uncollectible revenues are the product of the predetermined uncollectible percentage for the standard offer class times the provider's gross revenues from the class.

**VII. STANDARD OFFER PROVIDE LEGAL OBLIGATIONS**

**7.1 Legal Obligations and Responsibilities**

The designation by Commission order of a bidder as the standard offer provider for all or a portion of a standard offer class shall legally obligate the bidder to provide standard offer service at the offered and accepted prices and terms in accordance with Maine law and regulations and the provisions of this RFP.

**7.2 Failure to Provide Service**

Upon a finding, after appropriate process, that a standard offer provider has failed to provide service as required, or has otherwise failed to fulfill its obligations under Maine law and regulations and the provisions of this RFP, the Commission may declare such provider to be in default and may order that the proceeds of the bond, letter of credit or corporate guarantee provided by or on behalf of the standard offer provider be paid to BHE to defray any costs of replacing standard offer service that are not adequately covered by the applicable standard offer service rates.

In the event that the proceeds of the bond, letter of credit or corporate guarantee are not sufficient to cover all the incremental costs of replacing standard offer service, the Commission may order the defaulting standard offer provider to pay BHE additional amounts such that all of the incremental costs of replacement standard offer service are defrayed. In the event the defaulting standard offer provider fails to make payment as ordered, the Commission or Maine's Attorney General may bring legal action in Maine courts to fully recover all of the incremental costs of replacing standard offer service.

The incremental costs of replacing standard offer service are all costs that are incurred or will be incurred to acquire replacement standard offer service, including supply and administrative costs, through the remaining standard offer term in excess of the revenue received or to be received from standard offer customers at the standard offer rates as originally established by the terms of the defaulting standard offer provider's proposal.