

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2006-513

April 8, 2008

MAINE PUBLIC UTILITIES COMMISSION
Standard Offer Bidding Procedure For
Customers of Maine Public Service Company

ORDER APPROVING
AMENDED BIDDER
CONDITIONS AND
ESTABLISHING A CAPACITY
PRICE ADJUSTMENT

ADAMS, Chairman; REISHUS and VAFIADES, Commissioners

I. SUMMARY

We accept the amendment to the bidder conditions filed by Integrys Energy Services (Integrys) with respect to its current arrangement to provide standard offer service to the customers of Maine Public Service Company (MPS). By accepting the amended bidder conditions, we establish a capacity price adder of \$0.002885 per kWh effective on the date of this Order. This represents an increase of \$0.000885 per kWh over the interim price adjustment that is currently included in standard offer rates.

II. BACKGROUND

On December 18, 2006, the Commission designated Integrys as the standard offer provider for all customer classes in the MPS service territory for the 26-month period beginning January 1, 2007. *Order Granting Reconsideration and Designating Standard Offer Provider*, Docket No. 2006-513 (Dec. 18, 2006). The Integrys standard offer bid accepted by the Commission included a bidder condition that would allow for a price change to reflect costs resulting from the subsequent imposition of a capacity requirement in northern Maine through a FERC finding or a market rule change. In such a case, standard offer prices would increase based on Integrys' reasonable, incremental costs as determined by the Commission. The accepted bidder conditions included price increase caps associated with two types of capacity requirements: 1) installed capacity obligation; and 2) available capacity obligation. The capped prices differ depending on the type of capacity requirement that is imposed.

On October 26, 2007, Integrys filed a petition for a standard offer price adjustment pursuant to the capacity requirement bidder condition to become effective on November 1, 2007. The October 26th petition stated that the FERC, on October 19, 2007, had accepted Northern Maine Independent System Administrator (NMISA) tariff revisions and market rule amendments that include new Market Rule 10, entitled Capacity Obligations. The rule requires retail suppliers in northern Maine to secure capacity resources to cover projected peak load and projected operating reserve requirements for a Capability Period. New Market Rule 10 became effective for the Capability Period beginning November 1, 2007.

The October 26th petition stated that the adoption of Market Rule 10 triggered the bidder condition, requiring a standard offer price adjustment. Integrys stated that it did not have sufficient capacity commitments to meet the entire obligation for the Capability Period and would therefore need to purchase additional capacity. Because Integrys had not yet purchased the required capacity, the incremental cost of the obligation was not known. Accordingly, Integrys and our Staff agreed that there would be no price adjustment on November 1, 2007, but that a subsequent adjustment based on actual cost data would be retroactive to November 1st.

On November 26, 2007, Integrys submitted evidence regarding capacity purchases made to satisfy its shortfall and the costs of those purchases. Based on those costs, Integrys stated that the standard offer price adjustment for the November 2007 – March 2008 Capability Period would be an increase of \$0.00331 per kWh if prices had increased on November 1, 2007.¹ Integrys asked that its entire incremental costs be recovered through the remainder of the Capability Period, which would require a larger price adjustment given that recovery would be over a shorter time period. Integrys also stated that the capacity requirement adopted by the NMISA and approved by FERC does not fall within either the installed capacity obligation or available capacity obligation categories in the bidder condition and therefore the bidder condition price caps are inapplicable.

Through discussions with Integrys and a technical conference held on December 12, 2007, Staff identified issues with the proposed allocation of incremental capacity costs, as well as other questions that required further review. Integrys and Staff did agree that it would be appropriate to allow some level price adjustment on an interim basis pending completion of the review of a permanent adjustment.

On December 16, 2007, Integrys filed a request for an interim price adjustment of \$0.003 per kWh for immediate effect. Integrys stated that this price change would be reasonable as an interim change in that it would result in recovery of significantly less than its incremental capacity costs, because the rate change would not be in effect for the entire Capability Period. In addition, Integrys stated that the amount recovered would be similar to that which would occur if it did not prevail on the two issues Staff has identified to date: 1) incremental capacity costs are allocated over the entire northern Maine load, (rather than over the MPS and Van Buren Light and Power District² (VBLP)) standard offer load as argued by Integrys); and 2) capacity costs associated with operating reserves are not recovered.

¹ Integrys subsequently revised the price adjustment to \$0.00309 per kWh to reflect a lower negotiated capacity price than assumed in its November 26th filing.

² Integrys entered into a standard offer arrangement with VBLP at the same time as the MPS standard offer arrangement. The VBLP standard offer arrangement has a similar capacity cost bidder condition as that at issue in this proceeding.

On December 19, 2007, the Commission approved an interim standard offer price increase of \$0.002 per kWh for all customer classes in the MPS service territory. *Order Approving Standard Offer Price Adjustment*, Docket No. 2006-513 (Dec. 19, 2007). In its December 19th Order, the Commission stated that the bidder condition had been triggered, but that the actual amount of the price adjustment would require careful review. The Commission agreed that an interim price adjustment should be implemented to avoid future rate shock, but that the price adjustment should be no higher than the lowest price increase that might result after the full review is complete. The Commission allowed an interim price increase of \$0.002 per kWh to take effect subject to refund or surcharge depending on the final outcome of the review of Integrys' capacity costs. The Commission directed MPS to hold the funds produced by the rate adjustment in an interest bearing account until a final decision is made on the price adjustment.

III. AMENDED BIDDER CONDITION

Throughout this process, Commission Staff requested information from Integrys in an effort to verify Integrys' position that all of its incremental capacity costs should be allocated only to its MPS and VBLP customers. Integrys responded by providing the requested information and documentation. However, Staff and Integrys continue to disagree on the allocation issue. Nevertheless, Staff and Integrys engaged in discussions to resolve the matter in an effort to avoid the costs and delays of further litigation of the matter.

On April 7, 2008, Integrys filed an amended bidder condition (referred to as "Amendment to Bidder Condition C"). This amended bidder condition represent an agreement between Integrys and Staff on the capacity price adjustment issues. Under the amended bidder conditions, the new price adjustment would be set at \$0.002885 per kWh effective on the date of Commission approval. This price adjustment is equivalent to an adjustment of \$0.002406 per kWh if it had been in place throughout the entire applicable period of November 2007 through February 2009.³ Thus, the proposed price adjustment of \$0.002885 per kWh is equivalent to \$0.002406 per kWh plus recovery of the past shortfall that resulted from the interim price adjustment being set at \$0.002 per kWh and implemented after the effective date of the NMISA capacity requirement.

The amended bidder condition allows for a potential further price adjustment if the NMISA changes the rated capacity value of in-region generation assets. This potential price adjustment, however, is subject to a cap contained in the original bidder conditions applicable to an installed capacity requirement (the lower of the two sets of caps) and the amended bidder condition requires Integrys to take all commercially reasonable measures to maintain the capacity ratings of the in-region generation

³ November 2007 is the effective date of the new NMISA capacity requirement and February 2009 is the end of the current Integrys standard offer arrangement.

facilities. Finally, Integrys would be paid all amounts held by MPS pursuant to the Commission's December 19, 2007 Order establishing the interim price adjustment.

III. DECISION

For the reasons discussed below, we conclude that the amended bidder condition represent a reasonable resolution of the capacity price adjustment issues. We, therefore, accept the amended bidder conditions and incorporate them into this Order.

As mentioned above, Integrys' position in this matter has been that all of its incremental capacity costs should be allocated to MPS and VBLP customers, because its existing capacity assets had already been assigned to the other load in northern Maine. Staff did not find support for Integrys' position and thus took the view that the price adjustment should reflect a pro rata allocation across all northern Maine load. This approach would result in approximately 75% of the incremental capacity cost being recovered from MPS and VBLP. The amended bidder conditions would allocate approximately 85% of the costs to MPS and VBLP. Although there is a potential for a further price adjustment, any price change is capped as contemplated in the original bidder conditions.

Under the circumstances of this proceeding, we find that the final resolution of the capacity price adjustment as represented by the amended bidder condition is fair and in the public interest. Under the original bidder conditions, the Commission would have to review Integrys' incremental capacity costs and set the capacity price adjustment for each "Capability Period"⁴ included in the remainder of Integrys' current standard offer obligation. The amended bidder conditions avoid the need for these reviews which could be controversial and time-consuming. Although there is a potential for a further price adjustment if the NMISA changes the capacity rating of in-region units, the calculation of the adjustment should be straightforward and it is subject to the cap that we contemplated when we accepted the original bidder conditions.

Accordingly, we

ORDER

1) That the Maine Public Service Company standard offer capacity price adjustment shall be \$0.002885 per kWh effective on April 9, 2008 through February 2009;

⁴ Under the NMISA's capacity requirement, supplier must secure capacity resources to cover projected peak load and projected operating reserves requirement for each "Capability Period." Each year there is a summer and winter Capability Period.

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.