

September 16, 2003

MAINE PUBLIC UTILITIES COMMISSION
Standard Offer Bidding Procedure

ORDER REGARDING
STANDARD OFFER
PROCESS FOR MAINE
PUBLIC SERVICE
COMPANY

WELCH, Chairman; DIAMOND and REISHUS, Commissioners

I. SUMMARY

Through this Order, we resolve issues regarding the upcoming standard offer solicitation for all classes in the Maine Public Service Company service territory. We also delegate to the Director of Technical Analysis the authority to resolve further issues necessary to issue the Request for Proposals (RFPs) pursuant to Chapter 301, section 8 of our Rules, and to decide eligibility and conformance of non-price portions of bid proposals submitted in response to the RFPs.

II. BACKGROUND

Pursuant to Maine's Restructuring Act, the Commission administers periodic bid processes to select providers of standard offer service. 35-A M.R.S.A. § 3212(2). The current arrangement with WPS-Energy Services, Inc. (WPS) to provide standard offer service for all three sets of customer classes in the MPS service territory terminates on February 29, 2004. Accordingly, the Commission must soon solicit bids to provide standard offer service to MPS standard offer customers beginning on March 1, 2004.

Pursuant to Chapter 301, we must develop and issue a request for standard offer bids for each transmission and distribution (T&D) utility service territory. Chapter 301 contemplates that the Commission will determine many details of the bid procedure in the RFP documents. We open this docket for the purposes of developing and issuing the RFPs and of carrying out the bid processes to select providers of standard offer service beginning March 1, 2004 for all three standard offer classes in the MPS service territory.

III. DECISION

A. RFPs

We have reviewed the RFPs prepared by staff for MPS's standard offer classes and direct that they be issued as soon as possible. These RFPs establish a process and schedule that follow the general format used in the RFP processes conducted during 2001 and 2002. This format is that indicative bids are due within a

few weeks after the issuance of the RFP. At the same time, bidders are permitted to propose contingencies and alternatives with respect to non-price aspects, such as provisions within the standard contract, statement of commitment, and security requirements. The Staff will then negotiate the non-price aspects of bidders' proposals with bidders whose indicative bids appear most favorable. After all non-price contingencies and alternatives are either agreed to or withdrawn, the Commission will set a date on which firm prices will be provided by bidders, and the Commission will chose the winning bidder on that date.

The RFP will note a service provided by NB Power and administered by the Northern Maine Independent System Administration Inc. (NMISA) called "Tie Line Interruption Service." The service is meant to facilitate the use of supply located in the ISO-NE region to serve load in Northern Maine. The NMISA tariff can be accessed at the NMISA's web site.

B. Term Lengths

We will seek bids for two alternative terms, so that we may compare bids for both a relatively short-term and a relatively long-term arrangement. For the possible short-term arrangement, we choose a one-year term. One year has been a typical length for a power supply arrangement. Although we have accepted bids for six-month periods for the medium and large non-residential classes in the Central Maine Power Company (CMP) and Bangor Hydro-Electric Company (BHE) service territories, we will not do so for the MPS territory, even for the medium and large classes. The northern Maine market is not currently served by as many competitive suppliers as are currently serving customers in CMP and BHE's service territories. We therefore will not subject MPS standard offer customers to prices known for only a six-month period when we are less certain that the competitive market is sufficient to serve all customers who desire price certainty for longer than six months.

As described above, the current standard offer arrangement for MPS customers is for a three-year term. For the same reasons that we opted for a three-year term in December 2000,¹ we may again desire to enter into a standard offer arrangement for a similar length of time. For the upcoming bid process, we choose a 34 month term (to Dec. 31, 2006) rather than three years so that the time period coincides with the termination of MPS's lone QF entitlement contract, which terminates on December 31, 2006.

C. Contingent Entitlement Bids

¹ In explaining our rationale for choosing a three-year term, we stated that the three-year term provided longer-term stability for standard offer prices. The stability would protect customers from potential substantial price increases, as the New England market was experiencing when the last MPS bid process took place. We also hoped that competitive activity might be stimulated if the standard offer target against which competition providers must compete was known for a long-term rather than a short-term. *Order Designating Standard Offer Provider in Maine Public Service Company Territory*, Docket No. 2000-808 (Dec. 19, 2000).

MPS's current agreement to sell its capacity and energy entitlements from the Wheelabrator – Sherman Energy Company facility terminates on February 29, 2004. Concurrent with the standard offer bid process, MPS will conduct a bid process pursuant to Chapter 307 of our Rules to sell the Wheelabrator – Sherman entitlements.

In CMP and BHE standard offer bid processes, we have accepted standard offer bids that are contingent on the standard offer bidder obtaining the utility entitlements at specified prices. We have concluded that, based upon our experience in conducting electricity bid processes and our general knowledge of power markets, allowing contingent bids tends to maximize the value of utility entitlements. *Order on Reconsideration*, Docket No. 2001-399 (Jan. 11, 2002). In light of the benefits received from contingent bids in the CMP and BHE service territories, we will allow standard offer bids in the MPS service territory that are contingent on purchasing MPS's Wheelabrator – Sherman entitlements at specified prices.

To protect against the possibility that a bidder will propose a below-market standard offer price subsidized by a below-market price for MPS's entitlements, we will instruct standard offer "contingent" bidders to bid prices for the entitlements that reflect their stand-alone value. We will not accept bids that are structured to subsidize standard offer prices with below market entitlements prices. An easy comparison of stand-alone entitlement bids and standard offer contingent entitlement bids will be available, because we will request all bidders who make standard offer and entitlement bids cross-contingent to also provide prices for the entitlement on a stand-alone basis.

D. Concurrent Wholesale Solicitation

We direct MPS to conduct a concurrent wholesale solicitation of standard offer suppliers. Although the MPS service territory has always been served by retail standard offer providers, we have had on occasion to resort to wholesale arrangements in the CMP and BHE service territories. Continued industry instability as well as the unique nature of the northern Maine market cause us to be cautious. We believe it prudent, therefore, to concurrently solicit wholesale and retail bids so that standard offer providers can be selected in a timely manner. It will be made clear in both solicitations that the Commission prefers a retail arrangement, and that bidders may participate in both the retail and wholesale process.

E. Delegation

To facilitate the process of soliciting and evaluating standard offer bids, we delegate our authority to decide the following matters to the Director of Technical Analysis, pursuant to 35-A M.R.S.A. § 107(4):

- Content and format of the RFPs
- Utility data to be provided to bidders
- Billing units to be used to compare bids

- Billing units upon which to base the financial capability requirements
- Schedule for the RFP, evaluation and selection processes
- Acceptance of alternative provisions to the standard contract
- Eligibility and conformance of non-price portions of proposal
- Acceptance of deviations from the requirements of the RFPs

Dated at Augusta, Maine, this 16th day of September, 2003.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Diamond
 Reishus

This Document Has Been Designated for Publication.

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.