

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2001-399

January 14, 2002

MAINE PUBLIC UTILITIES COMMISSION  
Standard Offer Bidding Procedure

ORDER DESIGNATING  
STANDARD OFFER PROVIDER

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

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## I. SUMMARY

Through this Order, we designate Select Energy, Inc. as the standard offer provider for the medium and large non-residential classes in the Central Maine Power Company (CMP) and Bangor Hydro-Electric Company (BHE) service territories for a one year period beginning March 1, 2002. The average price for standard offer service for this period in the medium class will be 4.2¢ per kWh in CMP's territory and 4.2¢ per kWh for the BHE territory. The average price for standard offer service for this period in the large class will be 4.2¢ per kWh in CMP's territory and 4.0¢ per kWh in BHE's territory.

## 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). On November 9, 2001, the Commission decided to proceed with a standard offer solicitation for the medium and large non-residential classes in the CMP and BHE territories.<sup>1</sup> *Order Regarding Standard Offer Bid Process For the Large and Medium Classes*, Docket No. 2001-399 (November 9, 2001). In its November 9 Order, the Commission also directed CMP and BHE to simultaneously conduct a wholesale bid solicitation so that standard offer power supply could be obtained if no acceptable retail bids were received.

On November 14, 2001, the Commission issued Requests for Proposals (RFP) to provide all-requirements standard offer service for the CMP and BHE medium and large classes. At the same time, the utilities requested bids for all-requirements

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<sup>1</sup> On July 18, 2001, we decided to solicit bids, and on September 18, 2001, we accepted the bid by Constellation Power Source Maine, LLC, for standard offer service for the residential and small non-residential class in CMP and BHE service territories beginning March 1, 2002, for a three-year period. In our July 18 Order, we decided to defer seeking bids to serve the medium and large non-residential classes.

wholesale service. Pursuant to the process stated in the RFPs, the Commission received indicative bids on December 10, 2001.<sup>2</sup> 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, we asked for final, binding bids to be presented on January 14, 2002.

### III. DISCUSSION

Upon review of all the bids received today, and applying the selection criteria as described in section 8(C)(2) of chapter 301, we conclude that the Select Energy, Inc. (SEI) bids provide the greatest value to standard offer customers. We, therefore, designate SEI the standard offer provider for the CMP and BHE medium and large non-residential classes for a one-year period beginning March 1, 2002. The approximate average prices are stated in the summary, the specific seasonal, and for large classes, monthly and time-of-use prices are attached and incorporated herein.

The bid prices submitted by SEI were the lowest received for each of the two service territories. As required by Section 8(C)(4) of Chapter 301, we considered whether to designate a third provider in each service territory. (Constellation Power Source Maine, LLC has already been designated standard offer provider for each of the residential and small non-residential classes.) We have not designated a third provider because a designation of another provider, in either of the classes, and in each of the service territories, would raise the standard offer prices by more than 1.5% and thus violate Chapter 301's price impact restrictions.

In our November 9 Order, we decided to allow bids containing indexed prices for the large classes. We did receive bids whereby prices would fluctuate in accordance with specified indices. We decided to reject indexed bids in this solicitation because of uncertainties as to how the indices would operate in all circumstances. Such uncertainties could lead to confusion and controversy as to the proper prices produced through the indices. While we decided in the November 9 Order to leave selection of the index to each bidder's creativity, experience now indicates that we should pre-specify an index and work out ahead of time precisely how the index would work.

In our November 9, Order we also decided not to pre-set prices for either class but, for the medium class only, we asked for alternative bids that assume the standard offer price would be set 5% above the bid price. Although we received bids for such an alternative, we reject the 5% adder bids received. Section 8(C)(2) of chapter 301 sets out the objectives we are to achieve in selecting standard offer bids: lowest price for standard offer service for each class, and stable standard offer prices. We decide that we could not satisfy our selection criteria by choosing an alternative, 5% adder bid.

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<sup>2</sup> CMP and BHE received wholesale bids on the same day. Because of the statutory preference for retail bids and considerable overlap between the wholesale and retail bidders, we directed the utilities to forego further processing of wholesale bids until the Commission processed the retail bids.

By our November 9 Order, our RFP sought 1, 2 and 3 year bids. We have received bids for years 2 and 3. We decide that the public interest will best be served by accepting one-year bids but rejecting two and three year bids for both the medium and large classes. In terms of load served, Maine has been successful compared to other states in creating a retail competitive generation market. As the ultimate objective to electric restructuring is to develop a vibrant competitive market, we decide that, for both these classes, accepting a standard offer term of only 1 year, will prevent standard offer prices from deviating from other market prices for a lengthy duration. From the recent performance of competitive suppliers in serving customers from both of these classes, we believe medium and large customers, to the extent they desire price stability for more than 1 year, will be able to achieve reasonably priced, longer-term contracts from competitive suppliers.

In designating SEI as the standard offer provider, we accept its statement of commitment and bidder conditions. Both documents are attached to and incorporated in this Order. We find that these documents provide useful 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. We understand all conditions are satisfied at this time or will be satisfied shortly after we issue this Order. SEI attached a modified version of the Standard Offer Provider (SOP) Service Agreement. We are informed that SEI's proposed SOP standard service agreement is acceptable to both CMP and BHE, and the Director of Technical Analysis,<sup>3</sup> and that SEI and the utilities will execute the agreements upon issuance of this Order. As requested by SEI, we affirm and state that our advice given in the Advisory Opinion Regarding Rights and Obligations of Standard Offer Providers issued by the Commission on November 28, 2000 in Docket No. 2000-808 applies to the medium and large class solicitation process. We also find that the corporate guarantee by Northeast Utilities, submitted by SEI with its bid proposal, satisfies the financial capability requirements of Chapter 301 and our RFP. In fact, SEI will actually provide greater security than required by the rule by providing a guarantee for the full cost of replacement standard offer power. We also note that the Public Advocate has indicated that he will satisfy the last contingency listed by SEI. We have kept the Public Advocate generally informed of the results of our RFP process, including the final bid prices that were submitted today.

Finally, we recognize that the bidder conditions approved in this Order creates certain risks for CMP and BHE that should be properly borne by customers. Therefore, we explicitly find that any direct or indirect costs, obligations, expenses or damages reasonably incurred by CMP or BHE, including administrative and security costs, in fulfilling its contractual obligations or exercising its contractual rights under the modified

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<sup>3</sup> By our November 9 Order, we delegated authority to accept alternative SOP Standard Service Agreement to the Director of T.A. The Director of T.A. consulted with the Commission's legal staff in deciding to accept SEI's proposed standard service agreement.



## 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 30 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.