

**SUBJECT TO CONFIDENTIAL TREATMENT UNTIL  
February 13, 2007**

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2007-21

February 1, 2007

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

**CORRECTED<sup>1</sup>**  
ORDER DESIGNATING  
STANDARD OFFER  
PROVIDERS

ADAMS, Chairman; REISHUS and VAFIADES, Commissioners

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**I. SUMMARY**

Through this Order, we designate Constellation Energy Commodity Group Maine, LLC (Constellation) as the standard offer provider for 100% of the large non-residential classes in the Central Maine Power Company (CMP) and the Bangor Hydro-Electric Company (BHE) service territories. We designate FPL Energy Power Marketing, Inc. (FPL) as the standard offer provider for 60% and Dominion Retail, Inc. (Dominion) as the standard offer provider for 40% of the medium non-residential class in the CMP service territory. We designate FPL as the standard offer provider for 100% of the medium non-residential class in the BHE service territory. All designations are for six month periods, beginning March 1, 2007. The average blended prices for standard offer service for this period will be 8.720¢/kWh for the medium class and 9.255¢/kWh for the large class in the CMP service territory, and 8.827¢/kWh for the medium class and 10.320¢/kWh for the large class in the BHE service territory.

**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, 2007. Accordingly, on December 12, 2006, the Director of Technical Analysis initiated the process to solicit bids for the provision of standard offer service to these classes for the period beginning March 1, 2007 by issuing a Request for Proposals (RFP).<sup>2</sup> The RFP set out the procedure to be followed in soliciting bids and selecting standard offer providers, i.e. winning bidders.

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<sup>1</sup> The Order issued on January 30, 2007 remains operative. This corrected order is issued because footnote number 5 was inadvertently omitted from the order issued on January 30, 2007. In all other respects, the corrected order is identical to the January 30, 2007 Order.

<sup>2</sup> On May 18, 2004 in Docket No. 2004-314, we delegated to the Director of Technical Analysis 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, in the RFP, the Director of Technical Analysis asked for bids only for six-month terms.

Chapter 301 now allows the details of financial security requirements to be determined by the Commission prior to the applicable bid processes and presented in the request for bids. See *Chapter 301, § 3(B)(1) as amended by Order Adopting Rule and Statement of Factual and Policy Basis, Docket 2005-443 (December 14, 2005)* (amendments effective on January 1, 2006). As described in the *Notice of Rulemaking* in Docket 2005-443 (August 2, 2005), current risk management practices in the electricity trading business often include a financial security approach referred to as “marginizing.” This approach allows the amount of the financial security to vary with changes in market value. Margining thus has the advantage of ensuring that the financial security amount is designed to be at all times sufficient to cover the cost of replacement power. The approach can also be beneficial from the perspective of suppliers in that they do not have to provide more security than dictated by market conditions, which could have the effect of lowering the cost of providing standard offer service.

Accordingly, the RFP contained a financial security requirement that includes margining. The RFP’s financial security provision sets a Base Security Amount, and using a margining approach, also requires Excess Market Exposure Security as market conditions warrant. In addition, the SOP standard service agreement has been revised to incorporate this margining provision. The revised SOP standard service agreement requires that T&D utilities calculate the Excess Market Exposure Security amounts and manage the process of obtaining any required Excess Market Exposure Security from standard offer providers.

Pursuant to the RFP, indicative bids were received on January 8, 2007. 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 Technical Analysis asked for final, binding bids to be presented today, January 30, 2007.

### III. DISCUSSION

At the outset, we note that, as in our more recent standard offer solicitations, the current process was competitive and thus standard offer prices will continue to 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 March 1, 2007.

	CMP	BHE
Medium Class	FPL 60%	FPL 100%
	Dominion 40%	
Large Class	Constellation 100%	Constellation 100%

The average prices are as follows:

	CMP	BHE
Medium Class	8.720 cents/kWh	8.827 cents/kWh
Large Class	9.255 cents/kWh	10.320 cents/kWh

The actual prices for the medium classes vary by month. The actual prices are contained in an appendix to this Order.

Our review of the FPL, Dominion and Constellation bids indicate that they comply with all requirements of Chapter 301 and RFP (including the security requirements). Additionally, FPL and Constellation included bidder conditions with its bids. By designating FPL and Constellation as standard offer providers, we hereby accept their bidder conditions and incorporate them into this Order. The FPL and Constellation bidder conditions, as well as the statements of commitment of all 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. FPL and Constellation each attached modified versions of the Standard Offer Provider (SOP) Service Agreement to their bids. We are informed that the modified versions of the proposed SOP standard service agreements are acceptable to both CMP and BHE, and the Director of Technical Analysis,<sup>3</sup> and that the winning bidders, CMP and BHE will execute the 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%. Selection of standard offer providers on the

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<sup>3</sup> By our May 18, 2004 Delegation Order, we also delegated authority to accept alternative SOP Standard Service Agreements to the Director of Technical Analysis. She consulted with the Commission's legal staff in deciding to accept changes to the standard service agreement.

basis of price results in three providers in the CMP service territory. Selection of a third standard offer provider in the BHE service territory would have raised prices more than 1.5%, and therefore, we do not select three standard offer providers in the BHE territory.

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 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 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.<sup>4</sup> 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.<sup>5</sup> Therefore, we explicitly find that any direct or indirect costs, obligations, expenses or damages reasonably incurred by CMP and BHE, including administrative and security costs, in fulfilling its contractual obligations or exercising its contractual rights under the SOP Service Agreements, or in satisfying the

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<sup>4</sup> 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.

<sup>5</sup> We also are informed by Commission staff that BHE has expressed concerns about the obligations imposed on it by some of the financial security provisions of one of the variations to the SOP Standard Service Agreements that the Director of Technical Analysis has approved, and that BHE must execute in accordance with bidder conditions that we accept by this Order. Because we believe the provisions that follow in the above paragraph address BHE's concerns, we direct BHE to enter into the SOP Service Agreements on the understanding that BHE is fully compensated for the financial consequences of satisfying its obligations. We agree to further consider BHE's concerns prior to the next solicitation of standard offer bids. We understand that as long as we direct BHE to execute the SOP Service Agreements as approved, BHE agrees to accept its obligations.

bidder conditions we have accepted, shall be fully recovered, with carrying costs, from customers either through transmission and distribution rates or standard offer prices.

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 1<sup>st</sup> day of February, 2007.

BY ORDER OF THE COMMISSION

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Karen Geraghty  
Administrative Director

COMMISSIONERS VOTING FOR:     Adams  
  Reishus  
  Vafiades

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.