

**SUBJECT TO CONFIDENTIAL TREATMENT UNTIL
FEBRUARY 8, 2005**

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2004-811

January 25, 2005

MAINE PUBLIC UTILITIES COMMISSION
Standard Offer Bidding Procedure

ORDER DESIGNATING
STANDARD OFFER
PROVIDERS

WELCH, Chairman; DIAMOND and REISHUS, Commissioners

I. SUMMARY

Through this Order, we designate Select Energy Inc. as the standard offer provider for 60% of the medium and for 100% of the large non-residential classes in the Central Maine Power Company (CMP) service territory. We designate Dominion Retail, Inc. as the standard offer provider for 40% of the medium non-residential class in the CMP service territory. We designate Select Energy Inc. as the standard offer provider for 80% of the medium and for 100% of the large non-residential classes in the Bangor Hydro Electric Company (BHE) service territory. We designate Constellation Energy Commodities Group – Maine as the standard offer provider for 20% of the medium non-residential class in the BHE service territory. All designations are for six month periods, beginning March 1, 2005. The average blended prices for standard offer service for this period will be 6.796¢/kWh for the medium class and 6.564¢/kWh for the large class in CMP's service territory, and 6.880¢/kWh for the medium class and 6.269¢/kWh for the large class in BHE's 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, 2005.¹ Accordingly, on December 1, 2004 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, 2005 by issuing a Request

¹ By Order issued December 14, 2004, the Commission designated a standard offer provider for residential and small commercial customers in the CMP service territory for the period beginning March 1, 2005. *Order Designating Standard Offer Provider and Directing Utilities to Enter Entitlements Agreements*, Dockets Nos. 2004-682 and 2004-589 (December 14, 2004). On the same day, the Commission designated standard offer providers for the residential and small commercial customers in the BHE territory for the period beginning March 1, 2005. *Order Designating Standard Offer Provider and Directing Utility to Enter Entitlement Agreements*, Docket Nos. 2004-682 and 2004-683 (December 14, 2004).

for Proposals (RFP).² The RFP set out the procedure to be followed in soliciting bids and selecting standard offer providers, i.e. winning bidders.

In our last four 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.

Pursuant to the RFP, indicative bids were received December 15, 2004. 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 25, 2005.

III. DISCUSSION

At the outset, we note that, as in our more recent standard offer solicitations, the current process was very 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 Select Energy Inc. (Select) as the standard offer provider for 60% of the medium and 100% of the large non-residential classes in CMP's service territory. We designate Dominion Retail, Inc. (Dominion) as the standard offer provider for 40% of the medium non-residential class in CMP's service territory. We designate Select as the standard offer provider for 80% of the medium and 100% of the large non-residential classes in the BHE service territory. We designate Constellation Energy Commodities Group-Maine (Constellation) as the standard offer provider for 20% of the medium non-residential class in the BHE service territory. All designations are for a six-month term beginning March 1, 2005. The average prices are as follows:

	CMP	BHE
Medium Class	6.796 cents/kWh	6.880 cents/kWh
Large Class	6.564 cents/kWh	6.269 cents/kWh

The actual prices for both the medium and large classes vary by month, while the large classes prices also vary by time-of-day and include a demand charge. The actual prices are contained in an appendix to this Order.

Our review of the Dominion, Select and Constellation bids indicate that they comply with all requirements of Chapter 301 and RFP (including the security requirements). Additionally, both Select and Constellation included bidder conditions

² 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.

with their bids. By designating Select and Constellation as standard offer providers, we hereby accept their bidder conditions and incorporate them into this Order. The bidder conditions, as well as the statements of commitment, are attached as appendices to this Order.

We find that the bidder conditions 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 or the T&D utility. We understand all conditions are satisfied at this time or will be satisfied shortly after we issue this Order. Select and Constellation attached modified versions of the Standard Offer Provider (SOP) Service Agreement. We are informed that both versions of proposed SOP standard service agreements are acceptable to both CMP and BHE, and the Director of Technical Analysis,³ and that the winning bidders, CMP and BHE will execute the agreements upon issuance of this Order. As requested, we affirm and state that our advice given in the Advisory Opinion Regarding Right 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. As noted above, we find that the corporate guaranties submitted by the winning bidders satisfy the financial capability requirements of Chapter 301, and our RFP. In fact, Select will provide greater security than required by the rule by providing a guarantee for the full cost of replacement standard offer power.

Section 8(C)(2) of Chapter 301 establishes the lowest price as the primary selection criteria in considering standard offer bids. However, section 8(C)(4) requires 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%. The acceptance of the lowest bids in the solicitation result in the designation of Select for 60% and Dominion for 40% of medium class and of Select for 100% of the large class in the CMP service territory, and the designation of Select for 80% of the medium class and 100% of the large class in the BHE service territory. Section 8(C)(4) operates to require us to designate Constellation as the standard offer provider for 20% of medium non-residential class in the BHE service territory, because selecting Constellation as the third standard offer provider in the BHE service territory does not increase standard offer prices for the medium class by more than 1.5%.

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 the utility is compensated for the financial consequences

³ By our May 18 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.

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.