

SUBJECT TO CONFIDENTIAL TREATMENT UNTIL

AUGUST 2, 2005

RECEIVED

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2005-329

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MAINE PUBLIC UTILITIES COMMISSION
Standard Offer Bidding Procedure

MAINE PUBLIC
UTIL. COMM.

ORDER DESIGNATING
STANDARD OFFER
PROVIDERS

ADAMS, Chairman; DIAMOND and REISHUS, Commissioners

I. SUMMARY

Through this Order, we designate Suez Energy Resources N.A. (Suez) as the standard offer provider for 100% of the large and 20% of the medium non-residential classes in the Central Maine Power Company (CMP) service territory. 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 20% of the medium non-residential class in the CMP service territory. We designate Suez as the standard offer provider for 100% of the large non-residential class and FPL as the standard offer provider for 100% of the medium non-residential class in the Bangor Hydro-Electric Company (BHE) service territory. All designations are for six month periods, beginning September 1, 2005. The average blended prices for standard offer service for this period will be 8.308¢/kWh for the medium class and 8.345¢/kWh for the large class in the CMP service territory, and 8.470¢/kWh for the medium class and 7.786¢/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 August 31, 2005.¹ Accordingly, on June 2, 2005 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 September 1, 2005 by issuing a Request for

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, 2005). 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).

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 five 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 June 15, 2005. 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, July 19, 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 the following as standard offer providers for the six-month term beginning September 1, 2005.

	CMP		BHE	
Medium Class	FPL	60%	FPL	100%
	Suez	20%		
	Dominion	20%		
Large Class	Suez	100%	Suez	100%

The average prices are as follows:

	CMP		BHE	
Medium Class	8.308	cents/kWh	8.470	cents/kWh
Large Class	8.345	cents/kWh	7.786	cents/kWh

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

Our review of the Suez, FPL and Dominion bids indicate that they comply with all requirements of Chapter 301 and RFP (including the security requirements).

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.

Additionally, FPL included bidder conditions with its bids. By designating FPL as a standard offer provider, we hereby accept its bidder conditions and incorporate them into this Order. FPL 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 attached a modified version of the Standard Offer Provider (SOP) Service Agreement. We are informed that the modified version of the 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.

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%. The bids in this process were chosen solely on the basis of price.

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 of satisfying those obligations. 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 SOP Service Agreements, or in satisfying the bidder conditions we have accepted, shall be fully recovered, with carrying costs, from customers either through transmission and distribution rates or standard offer rates.

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.

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.

Dated at Augusta, Maine, this 19th day of July, 2005.

BY ORDER OF THE COMMISSION



Nancy Goodwin
Acting Administrative Director

COMMISSIONERS VOTING FOR: Adams
Diamond
Reishus

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.

Monthly Standard Offer Prices

Medium Class

	<u>CMP</u> <u>Cents/kWh</u>	<u>BHE</u> <u>Cents/kWh</u>
Sep.	7.2513	7.348
Oct.	7.2973	7.416
Nov.	7.3380	7.535
Dec.	7.8637	8.034
Jan.	10.0034	10.248
Feb.	10.1403	10.348

Large Class

	<u>CMP</u> <u>Cents/kWh</u>	<u>BHE</u> <u>Cents/kWh</u>
Sep.	7.3509	7.1144
Oct.	7.4920	7.1065
Nov.	7.4628	6.8159
Dec.	7.8234	7.3378
Jan.	9.8709	9.5190
Feb.	10.2366	9.8116

STATEMENT OF COMMITMENT

The Bidder hereby represents that if it submits any firm bid price proposal(s) in response to this Maine Public Utilities Commission RFP (RFP), such bid price proposal(s) are a firm offer to provide standard offer service: (1) in accordance with Maine law and regulations and the provisions of the RFP; (2) at the prices and for the amounts and term lengths specified on the Bid Price Proposal Sheets submitted by Bidder; and (3) subject only to contingencies and conditions agreed upon between Bidder and the Maine Public Utilities Commission.

The Bidder hereby represents that, if designated a standard offer provider by the Commission, Bidder will accept, abide by and fulfill all applicable obligations and terms and conditions of Maine law and regulations, and all applicable obligations, requirements, terms and conditions stated in the RFP, and that Bidder will submit to the jurisdiction of the courts of the State of Maine and the Maine Public Utilities Commission in matters relating to the provision of standard offer service, and that Bidder agrees that all legal proceedings relating to Bidder's provision of standard offer service will be conducted before Maine courts or the Maine Public Utilities Commission. Bidder further represents that, if designated a standard offer provider by the Commission, Bidder will provide standard offer service in the amounts, for the term lengths, and at the prices specified in its firm price proposal throughout the term of service.

The Bidder hereby certifies that all of the statements and representations made in its proposal are true to the best of the Bidder's knowledge and belief.

Company submitting proposal: FPL Energy Power Marketing, Inc.
(exact legal name of company)

Bidder Name: _____
(if different than above)

Signature of an Officer of Bidder: _____

Print or type name of Officer above: Mark Maisto

Officer Title:  President

Date Signed: 
6/30/05

STATEMENT OF COMMITMENT

The Bidder hereby represents that if it submits any firm bid price proposal(s) in response to this Maine Public Utilities Commission RFP (RFP), such bid price proposal(s) are a firm offer to remain open through the close of business on the date the prices were submitted for the provision of standard offer service: (1) in accordance with Maine law and regulations and the provisions of the RFP; (2) at the prices and for the amounts and term lengths specified on the Bid Price Proposal Sheets submitted by Bidder; and (3) subject only to contingencies and conditions agreed upon between Bidder and the Maine Public Utilities Commission.

The Bidder hereby represents that, if designated a standard offer provider by the Commission, Bidder will accept, abide by and fulfill all applicable obligations and terms and conditions of Maine law and regulations, and all applicable obligations, requirements, terms and conditions stated in the RFP, and that Bidder will submit to the jurisdiction of the courts of the State of Maine and the Maine Public Utilities Commission in matters relating to the provision of standard offer service, and that Bidder agrees that all legal proceedings relating to Bidder's provision of standard offer service will be conducted before Maine courts or the Maine Public Utilities Commission. Bidder further represents that, if designated a standard offer provider by the Commission, Bidder will provide standard offer service in the amounts, for the term lengths, and at the prices specified in its firm price proposal throughout the term of service.

The Bidder hereby certifies that all of the statements and representations made in its proposal are true to the best of the Bidder's knowledge and belief.

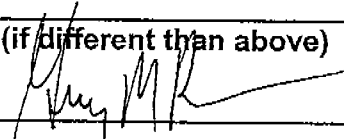
Company submitting proposal:

Suez Energy Resources N.A., Inc.
(exact legal name of company)

Bidder Name:

(if different than above)

Signature of an Officer of Bidder:



Print or type name of Officer above:

Guy Braden

Officer Title:

Vice President, Supply

Date Signed:

June 17th, 2005

STATEMENT OF COMMITMENT

The Bidder hereby represents that if it submits any firm bid price proposal(s) in response to this Maine Public Utilities Commission RFP (RFP), such bid price proposal(s) are a firm offer to provide standard offer service: (1) in accordance with Maine law and regulations and the provisions of the RFP; (2) at the prices and for the amounts and term lengths specified on the Bid Price Proposal Sheets submitted by Bidder; and (3) subject only to contingencies and conditions agreed upon between Bidder and the Maine Public Utilities Commission.

The Bidder hereby represents that, if designated a standard offer provider by the Commission, Bidder will accept, abide by and fulfill all applicable obligations and terms and conditions of Maine law and regulations, and all applicable obligations, requirements, terms and conditions stated in the RFP, and that Bidder will submit to the jurisdiction of the courts of the State of Maine and the Maine Public Utilities Commission in matters relating to the provision of standard offer service, and that Bidder agrees that all legal proceedings relating to Bidder's provision of standard offer service will be conducted before Maine courts or the Maine Public Utilities Commission. Bidder further represents that, if designated a standard offer provider by the Commission, Bidder will provide standard offer service in the amounts, for the term lengths, and at the prices specified in its firm price proposal throughout the term of service.

The Bidder hereby certifies that all of the statements and representations made in its proposal are true to the best of the Bidder's knowledge and belief.

Company submitting proposal:

Dominion Retail, Inc.
(exact legal name of company)

Bidder Name:

(if different than above)

Signature of an Officer of Bidder:

Richard Zelenko

Print or type name of Officer above:

Richard Zelenko

Officer Title:

Vice President Retail

Date Signed:

06/16/05

Attachment A
to
FPL Energy Power Marketing, Inc.'s Bid Price Proposal

Bidder Conditions

The offer to provide standard offer service by FPL Energy Power Marketing, Inc. ("PMI") at the prices described in its Bid Price Proposal is made subject to the acceptance by the Commission of the following conditions as expressly stated herein, without modification except upon the written agreement of PMI.

The Commission's order designating PMI as a standard offer provider (the "Provider") shall expressly incorporate each of the conditions stated herein (the "Order"). Upon such acceptance and designation, PMI's resulting rights and obligations as Provider shall consist of (i) the applicable and material provisions of Maine law and regulations, and provisions of the RFP; (ii) the Order, incorporating the express conditions of this Bid Price Proposal; and (iii) the Standard Offer Provider Standard Service Agreement described below (collectively, the "Standard Offer Obligation"). In the event of any conflict or inconsistency between the terms and conditions of the Order and any other terms and conditions described above, the terms and provisions of the Order shall prevail and be given priority. Subject to the foregoing, the several documents and instruments forming the Standard Offer Obligation are to be taken as mutually explanatory of one another and in the case of ambiguities or discrepancies within or between such parts the same shall be explained and interpreted, if possible, in a manner which gives effect to each part and which avoids or minimizes conflicts among such parts.

- Proposal Expiration Date. Close of Business on July 19, 2005.

- Standard Offer Provider Standard Service Agreement. The named T&D shall execute, deliver and perform the Standard Offer Provider Standard Service Agreement between Bidder and T&D in the form delivered to the Commission with the Bid Price Proposal (the "SOP Agreement") within twenty-four (24) hours after the Proposal Expiration Date.

- Confidentiality of Bidder Identification. The Commission agrees (i) not to reveal the identity of PMI prior to the date which is two (2) weeks after the date of the Order designating PMI as Provider.

- Increased Costs Associated With Change in Law. If the Maine legislature or the Commission enacts, promulgates, adopts, alters, modifies or waives¹ any law, rule or regulation that relates directly to the provision of standard offer service or the provision of competitive electric service in general after the date hereof (a "Change in Law") and such Change in Law materially increases the Provider's cost to provide standard offer service, Provider shall recover such increased costs in accordance with paragraph (a) or paragraph (b)

¹ Except for opt-out fee waivers granted by the Commission pursuant to its January 24, 2001 "Order Adopting Rule and Statement of Factual and Policy Basis" (Docket No. 2000-904).

below, as applicable. Provider shall provide the Commission and, if applicable, the Maine Legislature with a calculation of its increased costs as soon as practicable after becoming aware of a Change in Law or consideration by the Commission or the Maine Legislature of a Change in Law. (a) If the Commission finds that Provider's calculation reasonably reflects its increased costs, the Commission shall increase the price of standard offer service paid by retail standard offer customers at the time a Change in Law becomes effective so that Provider recovers increased costs in accordance with Provider's calculation. (b) If the Commission does not find that Provider's calculation reasonably reflects its increased costs, the Commission may increase the price of standard offer service paid by retail customers such that the Provider recovers increased costs in accordance with the Commission's calculation. In this event, Provider may invoke binding arbitration of the increased cost amount by notice to the Commission. Any such arbitration shall be conducted in accordance with the rules of the American Arbitration Association, except as otherwise provided herein. A final arbitration decision shall be rendered no later than ninety (90) days after the date on which Provider provides notice to the Commission that it has invoked arbitration. To the extent the arbitration panel finds that a change in law has increased the Provider's costs and that the Provider is entitled to a corresponding increase in the price of Standard Offer Service, the arbitration panel will have the authority to award the Provider a liquidated amount payable for service already provided at the increased cost.

Notwithstanding the foregoing, if upon receipt of reasonable prior direct notification of a proposed Change in Law, the Provider fails within the time prescribed in such notice to inform the Maine Legislature or the Commission, pursuant to applicable procedures identified in such notice, of the impact that a Change in Law under consideration would have on Provider's cost to provide standard offer service, Provider shall not be entitled to cause the Commission to undertake action with respect to its increased costs or to engage in arbitration proceedings with respect thereto as provided in clause (a) or (b) above.

- Termination by Provider. In the event of a default on the part of the T&D which results in termination of the SOP Agreement, or an unlawful or arbitrary action by the Maine legislature or the Commission or other action by the Commission (other than as a result of a Provider Default) as a result of which Provider ceases to receive payment for standard offer service at the rate and upon the terms specified herein or Provider is removed as the standard offer provider or ceases to retain the right to provide standard offer service for the entire term specified herein, Provider shall have the right to terminate its obligation to provide standard offer service, the exercise of which shall terminate the SOP Agreement. Provider's loss as a consequence of such termination shall be calculated and recovered from T&D. Such damages shall be calculated as the positive difference, if any, between (i) the amount the Provider would have been entitled to for provision of the Standard Offer Service in accordance with the SOP Agreement had the SOP Agreement not been terminated, less (ii) both the allowance for uncollectibles set forth on Exhibit A to the SOP Agreement and any fees and expenses that Provider would have owed T&D under its Terms and Conditions for Standard Offer Service, less (iii) the amount realized by Provider, acting in a commercially reasonable manner, in reselling to other parties the energy and ancillary services that would have been dedicated to Provider's performance of the SOP Agreement had it not been terminated. For purposes of such calculation, Provider's loss shall not include any consequential or indirect damages; provided, however, in no event will the market-based resale remedy provided for in the immediately preceding sentence be deemed "consequential

damages” for these purposes. Provider’s damages shall be calculated based on actual historical usage over a comparable prior period, as reasonably adjusted for known changes in load characteristics, as the proxy for expected usage over the remaining term of the SOP Agreement

- Termination by Commission. The unexcused occurrence of either of the following events shall constitute a “Provider Default”: Provider fails to perform any of its material obligations under the Standard Offer Obligation in accordance with the requirements thereof, and the Commission, after notice and opportunity to be heard, finds that the failure justifies removal of the Provider as the standard offer provider.

Notwithstanding any provision to the contrary in the Standard Offer Obligation, the Commission shall not, nor shall it permit T&D to, take any remedial action against the Provider as a result of a failure or default of Provider (including action(s) described in the RFP and Section 9 of Chapter 301) unless such event constitutes a Provider Default.

- Security. The Commission shall find that the form of Guaranty delivered to the Commission with the Bid Price Proposal satisfies Provider’s financial capability requirements under Maine law, regulations, the RFP and any other Standard Offer Obligation provision (notwithstanding a Change in Law) so long as the guarantor thereunder meets the requirements of Section 3(A)(2)(b)(i), (ii) and (iii) of Chapter 301 of the Commissions Rules (as in effect as of the date hereof). Provider shall promptly notify the Commission in the event of a downgrade in the rating assigned to the senior unsecured debt obligations of the guarantor thereunder below the threshold specified in such rule (or the equivalent in the case of a downgrade of the guarantor’s senior unsecured debt obligations), and shall deliver, within three (3) Business Days, a letter of credit or performance bond, in an amount equal to the amount of the Guaranty in effect as of such date and otherwise consistent with the requirements of 4 Section 3(A)(2) of Chapter 301, at which time the Guaranty of FPL Group Capital Inc shall terminate and be of no further force and effect.