

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

OPPORTUNITY TO COMMENT
ON STANDARD OFFER AND
ENTITLEMENT BID PROCESSES

June 19, 2001

PUBLIC UTILITIES COMMISSION
Standard Offer Bidding Process

Docket No. 2001-399

CENTRAL MAINE POWER COMPANY
Energy and Capacity Entitlement
Bid Procedure

Docket No. 2001-400

BANGOR HYDRO-ELECTRIC COMPANY
Energy and Capacity Entitlement
Bid Procedure

Docket No. 2001-401

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

Pursuant to Maine's Restructuring Act, the Commission administers a bid process to select the providers of standard offer service. 35-A M.R.S.A. § 3212(2). The Commission must conduct a bid process for all standard offer customer classes in the Central Maine Power Company (CMP) and Bangor Hydro-Electric Company (BHE) service territories for service beginning March 1, 2002. The Commission also oversees the sale by utilities of the rights to their non-divested generation entitlements. 35-A M.R.S.A. § 3204(4). The utilities previously sold the rights to their entitlements for a 2-year period through February 2002, and must choose new purchasers for the period beginning March 1, 2002. The Commission is considering bidding processes that will maximize ratepayer benefit for both its standard offer solicitation and the utilities' entitlement sales. To inform our determinations, we have reviewed the prior year solicitation procedures and have had informal discussions with stakeholders, including several potential bidders (both for standard offer supply and entitlements purchases). Based on these efforts, we are considering the approach outlined below. Before finalizing our procedures, we seek comment from interested persons on the outlined approach and on any other matter related to the standard offer or entitlement solicitations. We request that comments be filed by **June 28, 2001**.

Retail and Wholesale Solicitations

Our two prior standard offer solicitations did not yield providers for all standard offer classes. This occurred either because we received no bids for some classes or the bids received were unacceptable. In each case, upon terminating our retail bid

process, we directed CMP and BHE to provide standard offer service to the applicable classes and to obtain power supply through a wholesale market solicitation. This sequence of events left little time for the utilities to conduct a coherent bid process and created confusion among bidders as to the exact process and timing under which suppliers would be chosen.

In addition to these practical difficulties, our experience suggests there may be reluctance on the part of some suppliers to provide retail standard offer service. Maine is the only state that has a “retail model” whereby bidders compete to be the actual retail provider for standard offer customers. In other states, the utility provides default service, generally through wholesale market contracts. As a consequence, many potential suppliers are unfamiliar with Maine’s retail model and have substantial concerns regarding the lack of contractual protections that would typically be available with standard wholesale arrangements. We believe these concerns have prevented some potential suppliers from bidding at all and caused others that have bid to add “retail” risk premiums to their bid prices.

In the event our past experience with retail standard offer bids is repeated even in part in our next solicitation, we want to avoid having to conduct alternative bid processes under the time constraints incurred in the past. Therefore, we are considering conducting our retail bid process at the same time that we will require CMP and BHE to solicit wholesale supply.¹ Under this approach, we would make our decisions based upon a concurrent review of both the retail and wholesale bids. This should avoid the sequential timing problems of the past and maximize the potential for the Commission to choose acceptable bids within a clearly pre-defined time period. If the Commission concludes that it has received no adequate or acceptable retail bids in light of its concurrent review of wholesale bids, it would direct the utility to enter a wholesale arrangement.

Type of Product

For both the retail and wholesale solicitations, the Commission and the utilities would seek only “all-requirements” bids. The all-requirements approach has the benefit of placing the market risks on the supplier, while the premium included in the all-requirements price to account for “migration risk”² should allow competitive providers

¹ During last year’s process, we selected a standard offer provider for the Maine Public Service (MPS) territory for a 3-year term. We therefore will not conduct a standard offer solicitation for that area.

² Migration risk refers to the risk of customers leaving or entering the standard offer. This risk is inherent in the standard offer in which, by definition, customers are not contractually committed to remain on the service.

an opportunity to compete with the standard offer. We would seek all-requirements bids with specified prices throughout the term for all classes. For the large standard offer classes, we would also seek all-requirements bids with prices determined every month (on a prospective basis only) based on a specified index. We are considering an indexed approach because the dwindling number of customers remaining in the large standard offer classes and the magnitude of the migration risk may result in the lack of any bids or in bid prices that are so high as to not constitute a reasonable default service. We seek comment on whether the bid packages should pre-specify the index or whether bidders should be allowed to propose the index.

As in our prior solicitation, we anticipate allowing bids for various time periods. Specifically, we contemplate requesting bids for one-year intervals up to three years.

Contingent Bids

We contemplate specifically allowing the standard offer and entitlement³ bids to be contingent in that a bid in one solicitation may be contingent on the acceptance of a bid in the other solicitation. Our view is that this approach adds flexibility that could maximize the benefit of the entitlements for ratepayers. To allow for contingent bids, we would require the utilities to conduct their entitlements bid processes concurrent with the retail and wholesale standard offer solicitations.⁴ We also contemplate allowing bids for the “net” standard offer load (i.e. the amount that standard offer load exceeds the entitlement output).

Entitlements

The entitlement sales are essentially a package of unit transactions in that the buyer receives the output of specific facilities, rather than a specified quantity of power. Because the power is not “firm” (as would occur in a system contract), bidders will discount the value of the entitlements in their bid prices. However, the discounts may be greater than warranted in light of the historic reliability of the facilities, the incentive that the facilities have (as a result of high contract prices) to operate at maximum output, and the diversity associated with multiple units. We are therefore considering a bidding option in which the utility would provide a more firm supply by committing to

³ The term “entitlements” generally refers to utility power purchase obligations that pre-date utility restructuring. However, BHE has recently entered multi-year power supply contracts to minimize the cost of its current standard offer service. We currently contemplate requiring that the output of these contracts be put out to bid with BHE’s other entitlements.

⁴ Because we have accepted a 3-year standard offer bid for the MPS service territory, the timing of MPS’s entitlement sale will be independent of the solicitation processes for the other utilities.

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.