STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2016-00111

September 21, 2016

COMMISSION INITIATED STANDARD OFFER BIDDING PROCEDURE FOR EMERA MAINE-MPD RESIDENTIAL AND SMALL COMMERCIAL AND MEDIUM NON-RESIDENTIAL PERTAINING TO EMERA MAINE

ORDER DESIGNATING STANDARD OFFER PROVIDER

VANNOY, Chairman; McLEAN AND WILLIAMSON, Commissioners

I. SUMMARY

Through this Order, we designate New Brunswick Energy Marketing Corporation (NB Marketing) as the standard offer provider to provide standard offer service for Emera Maine—Maine Public District (MPD) residential and small non-residential, and medium non-residential classes for a 7-month period beginning November 1, 2016, with a 31-month extension contingent upon FERC approval of proposed changes to NMISA Market Rule 10. The resulting price for the residential and small non-residential class will be $0.07092 per kWh for the initial 7-month period. The prices for the 31-month extension period are indexed as described in this Order. The price for the medium non-residential classes will average $0.070116 per kWh for the initial 7-month period. The prices for the 31-month extension period are indexed as described in this Order.

II. BACKGROUND

Pursuant to Maine's Restructuring Act, the Commission periodically administers a competitive bid process to select providers of standard offer service. 35-A M.R.S. § 3212(2). The arrangement with the current standard offer providers for the residential and small non-residential and medium non-residential classes in the MPD service territory terminates on October 31, 2016. Accordingly, on June 24, 2016, the Director of Electric and Gas Industries initiated the process to solicit bids for the provision of standard offer service to these MPD classes for the period beginning November 1, 2016. The Commission's request for proposals (RFPs) set out the procedure to be followed in soliciting bids and selecting standard offer providers. The RFP allowed for bids for term lengths of one, two, or three years and allowed longer term bids and alternative price structures such as pricing indexed to ISO-NE prices. Pursuant to the RFP, indicative pricing was due on August 4, 2016. Upon the conclusion of discussions on non-price items, bidders were requested to present final, binding bids on September 21, 2016.

III. DECISION

As mentioned above, the RFP allowed for bids for various terms. The Commission selects a proposal for a 38-month period for both the residential and small non-residential class, and the medium non-residential class, with the final 31 months of the term contingent on FERC approval of the proposed changes to NMISA Market Rule 10 as further detailed below.

NB Marketing has submitted a fixed price bid[1] for both the small and medium classes for a 7-month term and an extension of the term by an additional 31 months to a total of 38 months, contingent on the approval of proposed changes to Market Rule 10. NB Marketing's bidder conditions state that NMISA has recently proposed to its Board a revised Market Rule 10, which would allow generation resources located within the New Brunswick Balancing Authority Area to meet a supplier's capacity obligation in the NMISA northern region without the need for the firm transmission into northern Maine. If, prior to March 31, 2017, NMISA obtains FERC approval for its revised Market Rule 10 (eliminating the need for firm transmission into NMISA northern region for capacity resources located within the New Brunswick Balancing Authority Area to meet NMISA's entire capacity obligation) and the revised Market Rule 10 becomes effective on or prior to June 1, 2017, then the bid term and prices would extend 31 months for a total term of 38 months, ending December 31, 2019.

Upon review of the bids and the selection criteria in Chapter 301, the Commission concludes that NB Marketing provided the best bids for service to the residential and small non-residential class, and the medium non-residential class. The Commission, accordingly, designates NB Marketing as the standard offer provider for the residential and small non-residential, and medium non-residential classes in the MPD service territory. Based on decision today, the resulting price for the residential and small non-residential class will be $0.07092 per kWh for the initial 7-month period. The price for the medium non-residential class will average $0.070116 per kWh for the initial 7-month period. The prices for the 31-month extension period for the residential and small non-residential class and the medium non-residential class are indexed to changes in wholesale market prices for the remainder of 2017 and to standard offer prices in the comparable standard offer classes for Central Maine Power Company and Emera Maine BHD customers for calendar years 2018 and 2019. The pricing index methodology is attached to and incorporated into this Order.

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[1] The NB Marketing bid for the residential and small non-residential class is fixed for the 7 month term at $0.07092 per kWh. The NB Marketing bid for the medium non-residential class varies by month as follows: November 2016: $0.05808 per kWh; December 2016: $0.07423 per kWh; January 2017: $0.09421 per kWh; February 2017: $0.09349 per kWh; March 2017: $0.06904 per kWh; April 2017: $0.05286 per kWh; and May 2017: $0.04890 per kWh.

In designating NB Marketing the standard offer provider, the Commission accepts its statement of commitment and bidder conditions. These documents are attached to and incorporated into this Order. The Commission finds that these documents provide useful clarifications as to the precise nature of the standard offer provider's obligations, as well as reasonable protections for the providers with respect to actions of the Maine Legislature, this Commission or the utility. We are informed that the modified Standard Offer Provider Service Agreement that was attached to the winning bids is acceptable to Emera Maine and we concur that the changes from the standard form are reasonable.

The RFP and the standard contract incorporate a "margining" approach to financial security in which the amount of security to be posted by the supplier varies with market conditions and the amount of expected standard offer load. Emera Maine has agreed to perform the margining function. The Commission recognizes that Chapter 301 does not require utilities to perform margining functions with respect to standard offer service and that such a margining function imposes additional risk on transmission and distribution utilities. The Commission explicitly finds that Emera Maine 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 it takes and decisions that it makes in the ordinary course of business of managing the margining requirements, as long as it takes reasonable steps to inform the Commission of its activities in this regard.[2] To the extent that any other person or entities seek to impose any such prudency risk or liability on Emera Maine in contravention to the previous sentence, any resulting direct or indirect costs, obligations, expenses or damages incurred by Emera Maine shall be fully recovered, with carrying costs, from customers either through utility rates or standard offer prices.

Similarly, the Commission also recognizes that the bidder conditions approved in this Order may create certain risks and obligations for Emera Maine. Risks imposed by the bidder conditions are properly borne by customers and not shareholders. Therefore, the Commission explicitly finds that any direct or indirect costs, obligations, expenses or damages reasonably incurred by Emera Maine in fulfilling its contractual obligations or exercising its contractual rights under the standard agreement, or in satisfying the accepted bidder conditions, shall be fully recovered, with carrying costs, from customers either through utility rates or standard offer prices. These risks include, but are not limited to:

- The costs of any performance assurance that Emera Maine may be required to provide to a counterparty under the arrangements;

[2] The reasonable steps will include, but not be limited to, weekly e-mail communications from the Emera Maine to Commission Staff reporting current market prices and its calculation of Excess Market Exposure.

- Any additional costs or losses that Emera Maine may incur as a result of tolling any termination rights under any agreement pending the outcome of an arbitration proceeding;

- Any costs caused by contractually fixing any fees applicable to the standard offer provider for any time period, where such fees are otherwise subject to change;

- Any incremental costs attributable to the execution of the standard offer arrangements, including those related to the solicitation, evaluation, and negotiation of those arrangements; and

- Any costs or losses that Emera Maine incurs as a result of a default by the standard offer provider(s) on any of their contractual or other obligations and the consequential termination of any contract or obligation associated with the standard offer arrangement authorized in this Order for which Emera Maine is not compensated by associated security.

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 Hallowell, Maine, this 21st day of September, 2016.

BY ORDER OF THE COMMISSION

/s/ Harry Lanphear
Harry Lanphear
Administrative Director

COMMISSIONERS VOTING FOR: Vannoy
McLean

Absent: Williamson

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S. § 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 11(D) 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. Any petition not granted within **20** days from the date of filing is denied.

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. § 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. § 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.