

Chapter 301: STANDARD OFFER SERVICE

SUMMARY: This rule establishes terms and conditions for standard offer service for electric generation, and establishes a methodology for selecting standard offer providers.

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§1 GENERAL PROVISIONS AND DEFINITIONS

A. Scope of Rule

The following provisions shall govern all standard offer service and the process for selecting standard offer providers, except to the extent they are modified as permitted under § 10.

B. Definitions

1. Aggregator

Aggregator means an entity that gathers individual customers together for the purpose of purchasing electricity, provided such entity is not engaged in the purchase or resale of electricity directly with a competitive electricity provider, and provided further that such customers contract for electricity directly with a competitive electricity provider.

2. Competitive Electricity Provider

Competitive electricity provider means a marketer, broker, aggregator or any other entity selling electricity to the public at retail in Maine.

3. Core Customer Classes

Core customer classes means customer classes of a transmission and distribution utility which are not optional rate classes.

4. Large, Investor-Owned Transmission and Distribution Utility

Large, investor-owned transmission and distribution utility means an investor-owned transmission and distribution utility serving more than 50,000 retail customers.

5. Maritimes Control Area

Maritimes control area means the area in which New Brunswick Power Corporation operates the Maritimes bulk power system.

6. Northern Maine

Northern Maine means the area of Maine that is located in the Maritimes control area.

7. **Retail Access**

Retail access means the right of a retail consumer of electricity to purchase generation service from a competitive electricity provider.

8. **Standard Offer Service**

Standard offer service means electric generation service provided to any electricity consumer who does not obtain electric generation service from a competitive electricity provider or who has terminated service from a competitive electricity provider.

9. **Standard Offer Classes**

Standard offer classes means the customer groupings within a transmission and distribution utility service territory as specified in section 2(A)(2).

10. **Standard Offer Provider**

Standard offer provider means an entity selected pursuant to Section 8 to provide all or a specified portion of electric generation service to consumers receiving standard offer service.

11. **Transmission and Distribution Utility**

Transmission and distribution utility means a person, its lessees, trustees, receivers or trustees appointed by a court, owning, controlling, operating or managing a transmission and distribution plant for compensation within the State.

C. **Availability of Standard Offer Service**

Standard offer service shall be available to any consumer who does not obtain electric generation service from a competitive electricity provider. Standard offer service is not available to an electricity consumer in amounts less than the consumer's total retail electricity purchases, except that, if a consumer has multiple service accounts with a transmission and distribution utility, standard offer service is available for amounts corresponding to one or more specified accounts.

§2 **RATES, CHARGES AND PROCEDURES FOR INITIATING AND TERMINATING STANDARD OFFER SERVICE**

A. **Rates and Rate Schedules**

1. **Establishment and Filing of Rates**

Rates for standard offer service shall be established, maintained and modified pursuant to the provisions of this subsection and the bidding and selection processes of section 8. Rates for standard offer service shall be available for public inspection at the Commission's office, and at the office maintained by the transmission and distribution utility in whose service territory the standard offer providers are authorized to provide service.

2. **Standard Offer Classes**

a. **Investor-Owned Transmission and Distribution Utility Service Territories**

Unless otherwise specified in the request for standard offer bids issued pursuant to section 8 of this Chapter, for each investor-owned transmission and distribution utility service territory there shall be the following three standard offer classes:

- i. **Residential and small non-residential.** This standard offer class shall contain customers taking service as residential customers under the terms and conditions of the transmission and distribution utility and non-residential customers that are taking service under a core customer class rate schedule of the transmission and distribution utility that does not include a demand charge. Residential and small non-residential customers include customers that are not taking service under a core customer class rate schedule, but would be eligible to take service as a residential customer or as a non-residential customer from a core customer class rate schedule that does not include a demand charge.
- ii. **Medium non-residential.** This standard offer class shall contain non-residential customers that are taking service under a core customer class rate schedule of the transmission and distribution utility that includes a demand charge and in which a customer's maximum demand shall not exceed 500 kW, or the kW breakpoint that is closest to but does not exceed 500 kW. Medium non-residential customers include customers that are not taking service under a core customer class rate schedule, but are eligible to take service from a core customer rate schedule that includes a demand charge and a maximum demand limit that does not exceed

500 kW, or the kW breakpoint that is closest to but does not exceed 500 kW.

- iii. **Large non-residential.** This standard offer class shall contain non-residential customers that are not small non-residential or medium non-residential customers.

b. **Consumer-Owned Transmission and Distribution Utility Service Territories**

For each consumer-owned transmission and distribution utility service territory there may be, at the utility's option, a single standard offer service class that shall contain all customers in the service territory of the consumer-owned transmission and distribution utility or the three standard offer classes specified in section 2(A)(2).

3. **Rate Structure**

For the residential and small non-residential standard offer class and for all standard offer service in a consumer-owned utility service territory with a single standard offer class, the standard offer rate shall be an amount per kWh that does not vary by level of usage, or by time of year or day. The rate structure shall not include any demand charges nor any amounts charged on a per customer or fixed-charge basis.

For the medium and large non-residential standard offer classes, the rate structure may include demand and kWh charges and may reflect seasonal and time-of-day differentiation. The time-of-day differentiation must be compatible with the transmission and distribution utility's core rate structure for customers in the standard offer class. The rate structure for the medium and large non-residential standard offer classes shall not include any amounts charged on a per customer or fixed-charge basis.

4. **Division of Load; Averaged Rates**

If the Commission selects more than one standard offer provider for a standard offer class within a transmission and distribution utility's service territory, each standard offer provider shall be responsible for a specified portion of the total standard offer requirement of the class. Rates for the standard offer class and for each rate element within the standard offer class shall be equal to the weighted average of the rates of all standard offer providers selected for the class. Customers shall not be assigned to a specified standard offer provider.

5. **Geographic Averaging of Rates**

Rates, terms and conditions for standard offer service shall not vary within the transmission and distribution utility's service territory on the basis of customer location.

6. **Charges for Billing and Administration**

The transmission and distribution utility shall charge the standard offer provider(s) the utility's incremental costs of administering standard offer service, including providing basic bill issuance, bill calculation, and collections. These charges shall be consistent with Chapter 322 of the Commission's Rules.

B. **Establishment and Re-establishment of Standard Offer Service**

1. **For Nonselecting Customers Existing on March 1, 2000**

Standard offer service shall be provided beginning on March 1, 2000 to any customer who has not obtained electric generation service from a competitive electricity provider on that date. There shall be no fee for a customer to establish standard offer service in this manner.

2. **For New Customers After March 1, 2000**

Standard offer service shall be provided to any customer who establishes a new service within a transmission and distribution utility's service territory after March 1, 2000, and who does not obtain electric generation service from a competitive electricity provider at that time. There shall be no fee for a customer to establish standard offer service in this manner. Nothing in this paragraph shall relieve the customer from Commission-authorized charges for the construction of transmission and distribution facilities to serve any new location pursuant to the terms and conditions of the transmission and distribution utility on file with the Commission.

3. **For Customers Returning from Competitive Service**

Any customer taking service from a competitive electricity provider may terminate service with a competitive electricity provider and elect standard offer service at any time, upon notice to the customer's transmission and distribution utility as required by subsection D and subject to any applicable transfer fees required by subsection E.

C. **Termination of Standard Offer Service**

1. **Unlimited Termination of Standard Offer Service by Residential and Small Non-residential Customers**

Any individual customer or account in a residential and small non-residential standard offer class or any customer or account with a demand of 50 kilowatts or less in the service territory of a consumer-owned transmission and distribution utility having a single standard offer class may terminate standard offer service and obtain generation service from a competitive electricity provider, at any time, by obtaining service from a competitive electricity provider under the provisions in subsection D and subject to any applicable transfer fees required by subsection E.

No opt-out fee shall be required unless the Commission establishes such a fee pursuant to the provisions of paragraph 3 below.

2. **Termination of Standard Offer Service by Medium and Large Non-Residential Customers and Aggregated Sets of Customers; Applicability of Opt-Out Fee**

a. **Applicability of Paragraph**

The provisions of this paragraph shall apply to all individual customers or accounts in a medium or large non-residential standard offer class, to any customer or account with a demand of greater than 50 kilowatts in the service territory of a consumer-owned transmission and distribution utility with a single standard offer class, and to any competitive electricity provider or aggregator that serves a set of customers whose demand in the aggregate is greater than 50 kilowatts.

b. **Termination of Standard Offer Service By Original Standard Offer Customer**

Any customer in a medium or large non-residential standard offer class, any customer with a demand of greater than 50 kilowatts in the service territory of a consumer-owned transmission and distribution utility with a single standard offer class, or any set of customers having a demand of greater than 50 kilowatts who has never obtained generation service from a competitive electricity provider may terminate standard offer service by obtaining generation service from a competitive electricity provider under the provisions in subsection D and subject to any applicable fees required by subsection E.

c. **Termination of Standard Offer Service Prior to March 1, 2001 By Previous Competitive Market Customer; Opt-Out Charge**

A customer or account in a medium or large non-residential standard offer class, a customer or account with a demand of greater than 50 kilowatts in the service territory of a consumer-owned transmission and distribution utility with a single standard offer class or an aggregated group of customers having a demand of greater than 50 kilowatts who has previously obtained generation service from a competitive electricity provider and who has reestablished standard offer service may, prior to March 1, 2001, terminate standard offer service and return to competitive provider service upon payment of an opt-out charge.

The opt-out charge shall equal the amount of that customer's, or aggregated group of customers', average monthly bill for the most recent period that the customer has taken standard offer service. If the customer has not taken standard offer service for a full month, the transmission and distribution utility shall calculate a monthly bill amount using the customer's average daily consumption. All opt-out charges shall be

collected by the transmission and distribution utility and paid to the standard offer service provider(s). Any customer or aggregator terminating standard offer service pursuant to this paragraph shall provide notice to the transmission and distribution utility and pay any applicable administrative fees as provided in subsection E. An aggregator shall be responsible for the payment of any charge applicable to an aggregated group due under this subsection.

d. **Termination of Standard Offer Service on or After March 1, 2001 By Previous Competitive Market Customer; Opt-Out Fee**

A customer in a medium or large non-residential standard offer class, or a customer with a demand of greater than 50 kilowatts in the service territory of a consumer-owned transmission and distribution utility with a single standard offer class who has previously obtained generation service from a competitive electricity provider and who has transferred to standard offer service may, on or after March 1, 2001, terminate standard offer service and return to competitive provider service:

- i. without payment of an opt-out fee if 12 months or more have elapsed since the customer most recently established standard offer service; or
- ii. without payment of an opt-out fee if the customer takes service in northern Maine unless the Commission establishes a charge pursuant to the provisions of paragraph 3 below; or
- iii. upon payment of an opt-out fee.

The opt-out fee shall equal two times the amount of the highest standard offer bill of the customer during the most recent period that the customer has taken standard offer service unless the Commission has increased the amount of the opt-out fee pursuant to the provisions of paragraph 3 below. If the customer has not taken standard offer service for a full month, the transmission and distribution utility shall calculate a monthly bill amount using the customer's average daily consumption. The transmission and distribution utility shall make reasonable efforts to collect the opt-out charge. In the event the customer during its return to standard offer service was served by more than one standard offer provider, the utility shall apportion the fee among the standard offer providers on the basis of the number of months each provider provided service to the customer. The customer shall notify the transmission and distribution utility that is required to pay an opt-out fee pursuant to this provision prior to the termination of standard offer service.

e. **Establishment of Higher Opt-Out Fee**

The Commission may establish a higher opt-out fee by order upon a finding that such action is necessary to accomplish the deterrent purposes of this paragraph or to obtain reasonably priced standard offer service.

3. **Application of Fees or Restrictions to Residential and Small Non-Residential Customers and Customers in Northern Maine**

- a. The opt-out requirements provided for in paragraph 2(d) shall apply to a competitive electricity provider or an aggregator who serves a set of customers in the residential and small non-residential standard offer class, which set has an aggregate demand of greater than 50 kilowatts, and who induces that set of customers to re-enter standard offer service, and within 12 months of such re-entry, to return to competitive service. This provision shall not apply if the customers are in northern Maine unless the Commission otherwise provides pursuant to paragraph 3(b).
- b. If the Commission finds that there is good cause to deter frequent transfers in or out of standard offer service by customers in the residential and small non-residential standard offer class, customers having a demand of 50 kilowatts or less in the service territory of a consumer-owned transmission and distribution utility with a single standard offer class, or customers in northern Maine, the Commission by order may impose an opt-out charge, a re-entry charge, or other deterrent measures. The Commission may require transmission and distribution utilities to include any charges or other measures required pursuant to this paragraph in their terms and conditions.

D. **Notice; Transfer of Service; Bill Calculation**

1. **Notice of Transfer into Standard Offer Service**

A customer who intends to transfer into standard offer service shall do so by notifying the transmission and distribution utility or by canceling service with its competitive electricity provider.

2. **Transfer into Standard Offer Service**

If the customer notifies the transmission and distribution utility no less than 2 business days before the customer's next normally scheduled meter read date, the transmission and distribution utility shall transfer the customer on the customer's next meter read date. Otherwise, transfer will occur on the following meter read date. Upon request by the customer, the transmission and distribution utility shall assign the customer's usage to the standard offer provider(s) on a date that is not the customer's meter read date pursuant to section 2(D)(5). The transmission and distribution utility shall accommodate the request to the greatest extent practicable.

3. **Notice of Transfer out of Standard Offer Service**

Notice that a standard offer service customer will terminate standard offer service and obtain service from a competitive electricity provider shall be provided to the transmission and distribution utility by the customer's competitive electricity provider pursuant to provisions in Chapter 322 of the Commission's Rules.

4. **Transfer out of Standard Offer Service**

If the competitive electricity provider notifies the transmission and distribution utility no less than two business days before the customer's next meter read date, the transmission and distribution utility shall transfer the customer on the customer's next meter read date. Otherwise, transfer will occur on the subsequent read date.

5. **Calculation of Bill for Transfer on Other Than Meter-Reading Date**

For any transfer into standard offer service on a date other than the next meter read date for that customer, the transmission and distribution utility shall determine the customer's consumption from the date of the previous meter reading to the date of the change of service by prorating the customer's metered consumption from the date of the last meter reading to the date of the next meter reading, and shall prorate demand levels by a method determined in its contract with the competitive electricity provider. Alternatively, if requested by the customer, the transmission and distribution utility shall perform an unscheduled meter reading. For either service, the transmission and distribution utility shall charge a transfer fee as provided in subsection E.

E. **Charges for Costs of Transfer**

The transmission and distribution utility shall charge the customer its incremental cost for transferring the customer into standard offer service on a date other than the meter read date. Alternatively, if the competitive electricity provider requested the transfer pursuant to provisions in Chapter 322, the charge shall be paid by the competitive electricity provider. The transmission and distribution utility shall establish these charges in its terms and conditions on file with the Commission. Separate charges shall be established for bill proration and unscheduled meter reading services described in subsection D(4).

§3 ELIGIBILITY AND OBLIGATIONS OF STANDARD OFFER SERVICE PROVIDERS**A. Licensing**

Each standard offer provider must have a license authorizing to it provide standard offer service issued pursuant to Chapter 305 of the Commission's Rules prior to Commission acceptance of its bid its to provide standard offer service. Each standard offer provider must maintain the license throughout the designated standard offer term.

B. Financial Security**1. Requirements**

Each standard offer provider shall comply with the financial security requirements in this subsection and as specified by the Commission in the request for standard offer bids. The financial security requirements shall provide reasonable assurance that sufficient funds will be available for the additional costs of replacement standard offer service in the event that the standard offer provider fails to satisfy its obligations to provide standard offer service.

2. Amount of Security

The Commission shall specify the required financial security amount or the methods to determine the amount in its request for standard offer bids. The amount of financial security may be fixed for the term of standard offer service, decline in pre-determined amounts over the term of standard offer service, or vary periodically based on actual or projected changes in market prices of electricity or standard offer load.

3. Type of Security

A standard offer provider may satisfy its financial security requirement through an irrevocable letter of credit, a corporate guarantee, or cash. The financial security must comply with the requirements of this subsection and the request for standard offer bids. The Commission may limit the amount of financial security that may be satisfied through a corporate guarantee. Each standard offer provider shall provide the letter of credit, corporate guarantee or cash to the applicable transmission and distribution utility.

a. Letter of Credit

An irrevocable letter of credit must unconditionally obligate the issuing financial institution to honor drafts drawn on such letters for the purpose of paying the additional costs of replacement standard offer service and be issued by a commercial bank with a minimum corporate debt rating of "BBB+" by Standard & Poor's or Fitch or "Baa1" by Moody's Investors Service, or an equivalent short-term debt rating by one of these agencies. If, at any time, the corporate debt ratings of an issuing financial institution drop below the above specified levels, the standard offer provider shall

notify the Commission's Director of Technical Analysis and the applicable transmission and distribution utility in writing and provide replacement security that satisfies the requirements of this subsection and the request for standard offer bids.

b. Corporate Guarantees

A corporate guarantee must be issued by the standard offer provider, a corporation affiliated with the standard offer provider, the standard offer provider's wholesale supplier or a corporation affiliated with the standard offer provider's wholesale supplier. The corporate guarantee must be unconditional and irrevocable for the period of the standard offer term. The Commission may not accept a corporate guarantee to satisfy the requirement of this subsection unless the corporate guarantor meets the following financial qualifications and capabilities:

- i. The senior secured debt obligations of the guarantor shall be publicly rated, at a minimum, at "BBB-" from Standard & Poor's, or Fitch or "Baa3" from Moody's Investors Service;
- ii. The total assets of the guarantor must be at least 5.0 times the amount of the corporate guarantee amount ; and
- iii. The total common equity of the guarantor must be at least 2.5 times the amount of the corporate guarantee.

If a corporate guarantor's senior secured debt obligations are rated by two of the agencies listed above, the guarantor's rating will be determined by the lower assigned rating. If a corporate guarantor's senior secured debt obligations are rated by all three of the agencies listed above, two of those agencies must have assigned ratings equal to or higher than the required ratings described above. If, at any time, the corporate guarantor fails to meet the requirements of this subsection and the request for standard offer bids, the standard offer provider shall immediately notify the Commission's Director of Technical Analysis and applicable transmission and distribution utility in writing and provide replacement security that satisfies the requirements of this subsection and the request for standard offer bids. The Commission may adopt greater financial qualification and capability standards in the request for standard offer bids.

c. Cash

To satisfy the security requirement of this section, cash must be accompanied by proper documentation so as to perfect a security interest. Cash and the applicable interest shall be returned to the standard offer provider after all standard offer obligations are satisfied.

4. **Termination**

Each standard offer provider shall maintain financial security that complies with the requirements of this subsection and the request for standard offer bids for a period not less than 30 days after the end of the applicable term of service. The termination of the financial security shall not affect obligations incurred while the financial security was in effect.

5. **Use of Security Amounts**

Amounts received as a result of the financial security requirements shall be used to defray the additional costs of replacement standard offer service. For purposes of this provision, additional costs of replacement standard offer service are all costs that are incurred or will be incurred to acquire replacement standard offer service, including supply and administrative costs, through the remaining standard offer term that exceed the amounts paid or to be paid by standard offer customers at the standard offer rates in effect at the time of the Commission's declaration of a standard offer provider's default. Amounts received as a result of the financial security requirements may also be used to reimburse expenses and costs (including attorneys' fees) associated with enforcing the obligations of the standard offer provider, including payment obligations deriving from the financial security requirements.

C. **Provision of Generation; Line Losses**

Standard offer providers shall provide all or the specified portion of the standard offer requirements of each standard offer class for which it is selected at its accepted bid price. Standard offer service shall include all line losses associated with delivery to the customers' meters .

D. **Renewable Resource Portfolio**

Each standard offer provider shall comply with the renewable resource portfolio requirements pursuant to Chapter 311 of the Commission's Rules.

E. **Independent System Operator - New England and NEPOOL Requirements**

Each standard offer provider that serves within a service area of a transmission and distribution utility within the New England bulk power system control area shall comply with all applicable Independent System Operator - New England rules and requirements; and either the standard offer provider or an affiliate of the standard offer provider shall be a designated load serving entity with a settlements account pursuant to Independent System Operator - New England rules for the standard offer load obligations. Each standard offer provider that serves within an area that is within the Maritimes control area shall comply with all applicable rules and requirements of the Northern Maine Independent System Administrator.

F. **General Obligations**

Each standard offer provider shall comply with all statutory and regulatory requirements applicable to standard offer service, applicable provisions in the requests for standard offer bids, and the requirements of the standard offer contract between the transmission and distribution utility and standard offer providers, approved by the Commission pursuant to section 5(D) below.

G. **Technical and Financial Capability**

Each standard offer provider shall maintain the technical and financial capability to fulfill its obligations under this section.

§4 **CREDIT AND COLLECTION; CUSTOMER COMPLAINTS; UNCOLLECTIBLE ACCOUNTS**

A. **Residential Utility Service Regulations for Credit and Collection, Disconnection and Deposits**

Chapter 81 of the Commission's rules shall apply to residential standard offer service customers. For the purpose of this section, residential customers shall be defined by Chapter 81 of the Commission's rules. Pursuant to the standard offer contract established under section 5(D) of this rule, the transmission and distribution utility shall undertake all necessary actions under the provisions of Chapter 81 on behalf of standard offer providers.

B. **Nonresidential Utility Service Regulations for Credit and Collection, Disconnection and Deposits**

Chapter 86 of the Commission's rules shall apply to nonresidential standard offer service customers. For the purpose of this section, nonresidential customers are all customers not defined as residential customers by Chapter 81 of the Commission's rules. The transmission and distribution utility shall undertake all necessary actions under the provisions of Chapter 86.

C. **Late Payment Charges, Interest Rates to be Paid on Customer Deposits, and Charges for Returned Checks**

Chapter 870 of the Commission's rules shall apply to standard offer service customers. The transmission and distribution utility shall undertake all necessary actions under the provisions of Chapter 870.

D. **Allocation of Uncollectible Accounts to Standard Offer Providers**

Each standard offer provider shall be allocated a share of the uncollectible accounts in the standard offer class or classes the provider serves. The allocated amount of each standard offer provider shall be determined by a pre-established percentage applied to the product of the standard offer provider's price multiplied by the provider's share of sales in that

standard offer class. The pre-established percentages shall be set forth in the standard offer contract between the transmission and distribution utility and standard offer providers, and shall reflect the average uncollectible accounts of customers in the standard offer class during a representative historic period. The Commission will allow for the recovery of reasonable costs incurred by a transmission and distribution utility associated with standard offer uncollectible accounts.

§5 OBLIGATIONS OF THE TRANSMISSION AND DISTRIBUTION UTILITY

A. Power Delivery

The transmission and distribution utility shall provide transmission and distribution services within its service territory to all standard offer service customers.

B. Billing and Metering

Each customer receiving standard offer service shall receive a single bill from the transmission and distribution utility pursuant to provisions governing consolidated utility billing in Chapter 322 of the Commission's Rules. The bill shall separately state charges for generation service supplied by the standard offer service providers and charges for services supplied by the transmission and distribution utility pursuant to section 4(H) of Chapter 305 of the Commission's Rules. The bill shall prominently display the names of the standard offer service providers that provide standard offer generation service to the customer's standard offer class. The transmission and distribution utility shall provide all meters, perform all metering and meter reading and provide all billing for standard offer service customers within its service area until such time as those services may be provided by other authorized entities.

C. Administration of Service Connections and Terminations

The transmission and distribution utility shall administer all billing, metering and other functions described in this rule in association with transfers to or from standard offer service.

D. Standard Contract Between Transmission and Distribution Company and Standard Offer Providers

Each transmission and distribution utility in the State shall have on file with the Commission a proposed standard form contract between itself and standard offer providers. The standard form contract shall include terms governing billing, metering, collections, transfer of funds, exchange of data, transmission delivery point, and other matters as determined by the Commission.

The Commission will review proposed standard form contracts filed by each transmission and distribution utility and approve the proposed or a modified version. The Commission shall provide an opportunity for interested persons to comment on substantial changes to the standard form contracts. The Commission may allow standard offer bidders to propose alternatives to the provisions in the standard form contracts during the bid process, but

may only accept alternative provisions to the contract after consultation with the applicable transmission and distribution utility. Commission authority to review and approve changes to the standard form contract is delegated to the Director of Technical Analysis.

E. Provision of Standard Offer Service by an Affiliate of a Large Transmission and Distribution Utility

1. Pursuant to 35-A M.R.S.A. § 3212(2)(C), a large investor-owned transmission and distribution utility may not provide standard offer service except through an affiliate, and the affiliate may submit a bid for only 20% of a standard offer class within the service territory of the affiliated large transmission and distribution utility.
2. An affiliate of a large investor-owned transmission and distribution utility may not provide a greater share of the standard offer service, within the service territory of the affiliated large transmission and distribution utility, than has been authorized pursuant to the selection process described in section 6.
3. Each large investor-owned transmission and distribution utility or the affiliate of the utility that provides standard offer service shall submit reports twice each year to the Commission demonstrating that it did not provide more than the authorized amount of standard offer service requirements in the previous six months.
4. If the Commission finds that an affiliate of a large investor-owned transmission and distribution utility provided more than the authorized amount of the standard offer service within the service area of its affiliate, the Commission may impose penalties as provided in 35-A M.R.S.A. § 3205(5).

§6 INFORMATION PROVIDED BY TRANSMISSION AND DISTRIBUTION UTILITIES TO POTENTIAL BIDDERS

A. Required Information

Each transmission and distribution utility shall provide to potential standard offer bidders the following information on a date specified by the Commission. The Commission may direct that the information be provided through either the Commission's or the utilities' website :

1. monthly demand and energy consumption data, as defined by the Commission, for each standard offer class and transmission and distribution utility customer class.
2. number of customers in each standard offer class and core customer class and the number of customers taking standard offer service within each customer class.
3. representative load shapes for each profile group as defined in Chapter 321 by month.

4. other information as determined by the Commission to be necessary or useful to standard offer bidders.

B. General Requirements and Conditions

1. **Aggregation**

All information required to be provided by subsection A shall be provided on an aggregate class basis. Individual customer information shall not be provided.

2. **Historic Data Period**

All information provided will reflect usage during a period of time specified by the Commission. Information describing factors that would cause the information to be unrepresentative of electricity usage in the transmission and distribution service territory during the standard offer period shall also be provided.

3. **Due Care; Corrections**

Transmission and distribution utilities shall use due care in compiling the information for their service territory with the understanding that bidders will be relying on the data to formulate standard offer bids. Transmission and distribution utilities shall have the duty to correct any inaccuracies promptly upon discovery.

4. **Affiliated Interests**

Investor-owned transmission and distribution utilities shall not provide any information to an affiliated competitive provider that is not provided to all potential standard offer bidders for its service territory. Consumer-owned transmission and distribution utilities shall provide all information that it uses in preparing its standard offer bids to interested standard offer bidders. All transmission and distribution utilities must comply with codes of conduct contained in or adopted pursuant to 35-A M.R.S.A. §§ 3205, 3206 and 3207.

5. **Electronic Form; Standard Software**

Transmission and distribution utilities shall provide all information in electronic form usable by standard personal computer software packages.

6. **Scope and Format**

The Commission shall determine the scope and detail of the information required by subsection A and subsection B, paragraphs 1 and 2, and the format required by subsection B, paragraph 5.

A. General Requirements**1. Duration of Standard Offer Obligation**

The Commission shall specify the durations for standard offer bids in the request for standard offer bids.

2. Form of Pricing

Standard offer bids must specify prices or a set of prices for the entire standard offer period. At the direction of the Commission in the request for standard offer bids, prices may be defined by a formula or reference to market or economic indices.

3. Limitation on Bids by Affiliates of Large Transmission and Distribution Utilities

Standard offer bids made by an affiliate of a large investor-owned transmission and distribution utility shall not exceed 20% of any standard offer class within the service territory of the affiliated large investor-owned transmission and distribution utility.

B. Contents of Bids**1. Bids for Standard Offer Classes**

Standard offer bids must separately specify bids for each of that transmission and distribution utility's standard offer classes as specified in section 2(A)(2)(a) that the bidder is proposing to serve.

2. Rate Structure and Design

Standard offer bid prices and rate design must conform to the requirements of sections 2(A)(2), (3) and (5).

3. Bids for Portions of Standard Offer Class Requirements

Standard offer bids may be for a portion of the requirements of a standard offer class, but must be in multiples of 20% of the total standard offer class requirements. Standard offer bids may be to provide 20%, 40%, 60%, 80%, or 100% of a standard offer class's requirements. The bid prices may be different for each percentage of the standard offer class requirements.

4. **Price for Meeting Obligations**

Standard offer bids, either for all or a portion of the standard offer service requirements of a standard offer class, shall include the bidder's price for meeting all the obligations described in section 3(B) and in the requests for standard offer bids.

5. **Statement of Ability to Satisfy Financial Security Requirements**

Standard offer bids must state how the bidder will satisfy the financial security requirements contained in this Chapter and in the request for standard offer bids. Standard offer bidders that will submit a letter of credit must include a certified statement from a financial institution licensed to conduct business in the United States or Canada that it will provide a letter of credit that satisfies the requirements of this Chapter and the request for standard offer bids. Standard offer bidders that will submit a corporate guarantee must include a certified statement of the bidder, an affiliated corporation of the bidder, the wholesale supplier or an affiliated corporation of the wholesale supplier that it will provide a corporate guarantee that satisfies the requirements of this Chapter and the request for standard offer bids. The standard offer bids must contain documentation demonstrating that the financial institution or corporate guarantor satisfies all financial requirements stated in this Chapter or the request for standard offer bids.

§8 **BIDDING PROCEDURE AND SELECTION**

A. **Bidding Procedure**

1. **Process**

The Commission shall establish the process and procedures to solicit and evaluate bids to provide standard offer service. The process and procedures shall be designed to maximize participation from qualified bidders. The Commission may establish a process whereby the non-price portions of proposals are evaluated for conformance prior to the submission of bid prices.

2. **Request for Bids**

The Commission shall develop and issue a request for standard offer bids for each applicable transmission and distribution utility service territory. The request for standard offer bids shall specify the standard offer bid process and procedures and shall include a copy of the standard form contract between transmission and distribution utilities and standard offer service providers approved pursuant to section 5(D). The request shall prominently state the deadline for the submission of bids.

3. **Provision of Information Required by Section 6**

Transmission and distribution utilities shall provide the information required under section 6 of this rule as determined by the Commission. All information shall be made available to each interested standard offer bidder at the same time.

4. **Time Frames**

The Commission shall establish reasonable timeframes for the issuance of the requests for standard offer bids, the submission of bids, and the evaluation and selection of the winning bidders.

5. **Duration of Proposals**

The Commission shall establish the allowed durations for standard offer service proposals in the request for standard offer bids. The Commission may allow bidders to submit proposals for differing durations.

B. **Rejection of Bids for Noncompliance**

The Commission may reject any bid that does not substantially comply with the requirements of this Chapter or the requests for standard offer bids.

C. **Selection**

For each transmission and distribution utility service territory:

1. **Selection Date**

The Commission, by order, shall select the standard offer provider or providers for each standard offer class on a selection date as determined by the Commission.

2. **Selection Criteria**

The Commission shall select the standard offer provider or combination of standard offer providers for each standard offer class based on the objectives of obtaining the lowest price for standard offer service for each standard offer class, the lowest cost for standard offer service overall, the stability of standard offer prices, and the establishment of standard offer prices that track changes in the regional wholesale market. In the event there are bids for a standard offer class or portion of a standard offer class that reflect different rate structures or rate designs, the Commission shall compare the bids by applying the bid prices to the usage of the standard offer class as reflected in the information provided pursuant to section 6(A).

3. **Identical Bids**

In the event that two or more acceptable bids are identical, the Commission shall establish a reasonable means to determine the standard offer provider or providers that may include, but not be limited to, an agreed-upon arrangement with bidders, or a required re-bid by the tied bidders.

4. **Multiple Providers for a Standard Offer Class**

If the selection of standard offer providers in accordance with section 8(C)(2) does not result in at least three providers in the transmission and distribution service territory, the Commission shall consider further bids. The Commission shall select further providers for a standard offer class in a manner that minimizes any increase to the total cost of standard offer service in the transmission and distribution utility's service territory. The Commission shall select at least three standard offer providers in each transmission and distribution utility service territory unless such a selection increases the standard offer prices in any standard offer class by more than 1.5%. If at least three standard offer providers cannot be selected without increasing the standard offer prices in a standard offer class by more than 1.5%, the Commission shall select two standard offer providers unless such a selection increases the standard offer prices in a standard offer class by more than 1.5%.

5. **Payment**

Each selected standard offer provider will receive its accepted bid price for the standard offer requirements it serves, adjusted by its allocated share of uncollectible accounts pursuant to section 4(D), notwithstanding the rate averaging requirement of section 2(A)(4) if more than one provider is selected.

D. **Insufficient Bids; Rejection of Bids**

1. **No Bids**

In the event the Commission receives no bids for a standard offer class, it will either select a standard offer provider for that class through alternative means or issue an order directing the transmission and distribution utility to provide standard offer service to that class through purchases from the regional wholesale bulk power markets, contracts with wholesale suppliers or other appropriate arrangements, as specified by the Commission, until the selection of a standard offer provider is made through a new bid process.

2. **Inadequate Bids**

The Commission may reject standard offer bids for any standard offer class if it finds that the bids are unreasonably high and acceptance would not be in the public interest. In the event the Commission rejects standard offer bids, it will either select a standard offer provider for the applicable standard offer class(es) through alternative means or issue an order directing the transmission and distribution utility to provide standard offer service to the applicable standard offer class(es) through purchases from the regional wholesale bulk power markets,

contracts with wholesale suppliers or other appropriate arrangements, as specified by the Commission, until the selection of a standard offer provider is made through a new bid process.

3. **Standard Offer Rates**

In the event the Commission acts pursuant to paragraphs 1 or 2 above, it shall establish the standard offer rates for the applicable standard offer class(es). The standard offer rates shall reflect the costs of the supply arrangement(s) made pursuant to this section and the incremental administrative costs of the transmission and distribution utility to procure and manage the supply arrangements. The Commission shall, through full reconciliation, ensure recovery by the transmission and distribution utility of all costs of providing standard offer service pursuant to this section, including, but not limited to, the costs of the supply arrangement(s), any incremental administrative costs of procuring and managing the purchases and all applicable carrying costs. After an appropriate period, which period will not exceed one year, the Commission shall make appropriate adjustments in standard offer rates or other rates charged by the transmission and distribution utility to allow recovery of any difference between the actual costs incurred by the transmission and distribution utility to provide standard offer service and actual revenue from standard offer service in that period.

E. **Consumer-owned Utilities**

1. **Option**

A consumer-owned transmission and distribution utility may conduct a competitive bidding process to select one or more standard offer service providers for its territory, in accordance with the Commission's rules on selection of a standard offer service provider. If a consumer-owned transmission and distribution utility chooses to select a standard offer provider pursuant to this subsection, the Commission will not conduct a competitive bidding process or select a standard offer service provider for that utility's service territory. A consumer-owned transmission and distribution utility's selection of a standard offer provider in accordance with this subsection is not subject to Commission approval.

2. **Single Provider**

Notwithstanding any other provision of this Chapter, a consumer-owned transmission and distribution utility may choose a single standard offer provider for its service territory.

3. **Notification**

A consumer-owned transmission and distribution utility must notify the Commission of its intent to have a standard offer provider(s) selected pursuant to a Commission administrated process no later than 90 days prior to the beginning of the term of standard offer service.

§9 FAILURE OF STANDARD OFFER PROVIDER TO PROVIDE SERVICE**A. Default; Replacement Service**

In the event a standard offer provider fails to provide service as required, the Commission will act as quickly as practicable to secure alternative service. The Commission may take any one of the following actions:

1. inquire whether other standard offer providers in the service territory are willing and able to provide service at the defaulting providers prices.
2. inquire whether other standard offer providers in the State are willing and able to provide service at the defaulting providers prices.
3. conduct and complete a new bid process as soon as possible.
4. issue an order directing the transmission and distribution utility to provide standard offer service through purchases from the regional wholesale bulk power markets, contracts with wholesale suppliers or other appropriate arrangements, as specified by the Commission, until the selection of a new standard offer provider is made through a new bid process.

B. Temporary Provision of Service

In the time period before replacement standard offer service begins, the transmission and distribution utility shall use the revenue from standard offer customers that it would otherwise transfer to the defaulting standard offer provider to cover any costs it incurs to serve the standard offer requirements pursuant to the rules of the Independent System Operator - New England or the Maritime control area, as applicable.

C. Financial Security Amounts

Amounts received as a result of the defaulting standard offer provider's financial security will be used to defray any additional costs of the replacement standard offer service so as to avoid the need for standard offer prices to increase.

D. Cost Recovery

If the Commission directs the transmission and distribution utility to provide replacement standard offer service pursuant to subsection (A)(4) above, the transmission and distribution utility shall use the revenue from standard offer, customers that it would otherwise transfer to the defaulting standard offer provider to cover the cost of providing replacement service. If the costs to the transmission and distribution utility of providing replacement standard offer service pursuant to this section exceed the amount available from standard offer service revenue and the proceeds from the defaulting provider's bond, letter of credit or corporate guarantee, the Commission may adjust standard offer rates such that the rates will cover the excess costs of providing the replacement standard offer service. The Commission shall, through full reconciliation, ensure recovery by the

transmission and distribution utility of all costs of providing standard offer service pursuant to this section consistent with § 8(D)(3).

§10 WAIVER OR EXEMPTION

Upon the request of any person subject to the provisions of this Chapter or upon its own motion, the Commission may waive any of the requirements of this Chapter that are not required by statute. Where good cause exists, the Commission, the Director of Technical Analysis, or the Hearing Examiner assigned to a proceeding related to this rule may grant the requested waiver, provided that the granting of the waiver would not be inconsistent with the purposes of this Chapter or Chapter 32 of Title 35-A.

BASIS STATEMENT: The factual and policy basis for this rule is set forth in the Commission's Order Adopting Rule and Statement of Factual and Policy Basis, Docket No. 2005-443 issued on December 14, 2005; Order Adopting Amended Rule and Statement of Factual and Policy Basis, Docket No. 2004-304 issued on July 7, 2--4; Order Adopting Rule and Statement of Factual and Policy Basis, Docket No. 2000-904, issued on January 24, 2001; Order Adopting Rule and Statement of Factual and Policy Basis, Docket No. 2000-489, issued on August 16, 2000; Order Provisionally Adopting Rule and Statement of Factual and Policy Basis, Docket No. 97-739, issued on February 11, 1998 and in the Commission's Order Finally Adopting Rule and Statement of Factual and Policy Basis, issued on April 22, 1998; in the Commission's Order Provisionally Adopting Rule and Statement of Factual and Policy Basis, Docket No. 98-576 issued December 10, 1998, and in the Commission's Order Finally Adopting Rule and Statement of Policy Basis issued on June 29, 1999. Copies of these Orders and Statements have been filed with this rule at the Office of the Secretary of State. Copies may also be obtained from the Administrative Director, Public Utilities Commission, 242 State Street, 18 State House Station, Augusta, Maine 04333-0018.

STATUTORY AUTHORITY: 35-A M.R.S.A. §§ 104, 111, 1301, 1306, and 3212.

EFFECTIVE DATES:

ORIGINAL FILING:

This rule was approved as to form and legality by the Attorney General on May 7, 1998. It was filed with the Secretary of State on May 7, 1998 and became effective on June 6, 1998.

1999 AMENDMENT:

This rule was approved as to form and legality by the Attorney General on June 30, 1999. It was filed with the Secretary of State on July 1, 1999 and became effective on July 31, 1999.

2000 AMENDMENT:

This rule was approved as to form and legality by the Attorney General on August 22, 2000. It was filed with the Secretary of State on August 24, 2000 and became effective on August 29, 2000.

2000 EMERGENCY AMENDMENT:

This emergency rule was approved as to form and legality by the Attorney General on November 8, 2000. It was filed with the Secretary of State on November 8, 2000 and became effective on November 8, 2000. It expires on February 6, 2001.

2001 AMENDMENT:

This rule was approved as to form and legality by the Attorney General on January 26, 2001. It was filed with the Secretary of State on January 29, 2001 and became effective on February 3, 2001.

2004 AMENDMENT:

This rule was approved as to form and legality by the Attorney General on July 14, 2004. It was filed with the Secretary of State on July 9, 2004 and became effective on July 14, 2004.

2005-2006 AMENDMENT:

This rule was approved as to form and legality by the Attorney General on December 23, 2005. It was filed with the Secretary of State on December 27, 2005 as filing 2005-536, and became effective on January 1, 2006.