

August 28, 2020

PUBLIC UTILITIES COMMISSION
Competitive Procurement for the Output of
Distributed Generation (P.L. 2019, ch. 478,
Part B)

ORDER

BARTLETT, Chairman; WILLIAMSON and DAVIS, Commissioners

I. SUMMARY

Through this Order, the Commission determines that the initial procurement for distributed generation was not competitive pursuant to the standards set forth in the governing statute, rule and procurement announcement. The Commission will conduct a new initial competitive procurement within nine months and, further, shall study the reasons the procurement was not competitive and submit its findings and any recommended legislation to the Legislature.

II. STATUTORY AUTHORITY AND PROCEDURAL BACKGROUND

During its 2019 session, the Legislature enacted an Act To Promote Solar Energy Projects and Distributed Generation Resources in Maine, P.L. 2019, Chapter 478 (Act). Part B of the Act created a distributed generation (DG) procurement process that requires the Commission to solicit long-term contract proposals for targeted amounts of energy, capacity and renewable energy credits (RECs) from developers of renewable distributed generation facilities of less than 5 MWs.

On December 11, 2019, the Commission issued an Order adopting a new rule, Chapter 312, to govern the procurement process for the output of distributed generation resources in the State.¹ Chapter 312 set forth the process that would be used by the Commission for the competitive solicitation for distributed generation resources as required by the statute.

The Act provided that for the first round of procurement, the Commission would procure 25 MW of a total 125 MW of the output for commercial or institutional distributed generation (C/I DG) projects and 50 MW of a 250 total MW for shared distributed generation (Shared DG) projects.² The Commission engaged the services of Enel X to administer the procurement in partnership with the Commission. On February 5, 2020,

¹ *Maine Public Utilities Commission, Adoption of Distributed Generation Procurement Rules – Chapter 312*, Docket No. 2019-00219, Order Adopting Rule and Statement of Factual and Policy Basis (Me. P.U.C. Dec. 11, 2019).

² 35-A M.R.S. §§ 3485(1), 3486(1).

Commission Staff and Enel X held a Bidder Information Session to review the process for bidding in Round 1, including the timeframe for various steps in the process, the criteria that would be used for bidder qualification and individual project qualification, and an explanation of the selection criteria.

On February 28, 2020, the Commission issued the Procurement Announcement for Block 1, which included an extensive explanation of the procurement process, the qualification requirements, and the evaluation and selection criteria, among other relevant information. On March 4, 2020, Enel X conducted a webinar for bidders to demonstrate the way that the Procurement Platform would operate during the procurement process.³ During the pendency of the procurement, bidders submitted 108 questions that were answered in five iterations of a Question and Answer Log that was available through Enel X's platform as well as the page on the Commission's website that was dedicated to the procurement.⁴ Several of the questions submitted by bidders related to the time constraints they were under due to the Act's requirements for project qualification and the submission of bids, and challenges and delays resulting from the impact of COVID-19, which was starting to be felt in March, 2020. These questions include:

Q13: If a developer is uncertain they will have projects ready by the end of the project qualification period, will there be another opportunity to register ahead of Block 2 participation? Will registration for Block 1 carry over to subsequent Blocks?

Q25: What is the Commission's plan with respect to opening of Block 2 and subsequent blocks?

Q32: If by the time the project qualification window opens, a bidder has certainty that its projects will be in the utility queue, with feasibility studies and system impact studies underway – said bidder would be able to show proof of progress. Under such circumstances, bidders may obtain interconnection agreements by April 17th, but could be a few days behind. In the event a bidder is late in obtaining interconnection agreements, will submitting the fully executed Interconnection Agreement during the project qualification remediation window be acceptable?

Q37: Is the Maine PUC and/or Enel X considering delaying the timeline of Block 1 Procurement given the effects of the rapidly escalating coronavirus outbreak? As new restrictions accumulate, it seems certain that Bidders will all face massive disruptions securing the minimum project requirements prior to the Project Application submission deadline of April 17, 2020.

³ The Enel X Procurement Platform is the mechanism by which communications, bidder qualification documents, and bids were received and stored in a central location.

⁴ <https://www.maine.gov/mpuc/electricity/rfps/dg-procurement/index.shtml>.

Q51: If the effects of COVID-19 push out the Block 1 bid submission window, will Enel X consider extending Bidder/Project Qualification windows to allow companies/projects the further opportunity to bid into Block 1?

Q71: The affidavits for siting attributes need notaries. How can these be notarized given the limitations due to COVID 19? Many notaries are closed. Is there any flexibility on the notary requirement?

Q87: While some of the larger municipal jurisdictions have remained open and are processing permitting applications remotely, some of the smaller municipal jurisdictions do not have the resources to conduct business as usual. This could result in a situation in which there are not as many Block 1 projects spread out evenly across a diverse mix of municipalities. Is the Commission considering any type of delay in rolling out Block 1 or providing extensions to discretionary permit requirements to even out the playing field?

Q95: We have a municipality who has told us they are 100% shut down and are not considering any site plan review applications. We have made several requests that the town planning board consider our application virtually, but our appeals have been unsuccessful thus far. We have no reason to think that the situation will change before the June 11 deadline. The application was marked as complete on February 20 and, prior to the emergence of COVID-19, was scheduled to go before the planning board with ample time to meet DG procurement Block 1 project qualification deadline. Since we have done everything within our power to secure a timely approval from the town and the situation is now completely out of our control, can MPUC grant a deadline waiver to our project, or consider extending the deadline for non-ministerial permits?

Enel X received applications from 34 individual bidders during the first phase of Block 1. After going through the bidder qualification process, 31 bidders received notices that they were qualified to submit project applications. Of those, 14 bidders submitted applications for qualification of 66 projects.

During the bid offer phase, six bidders submitted proposals for 18 projects in the shared distributed generation sector. In the commercial or institutional sector, three bidders submitted applications for four projects. This total number of bidders that submitted bids in both sectors combined reflected a reduction of nearly 80% as compared to the number that submitted bidder applications. The bids that were submitted represented a 67% reduction from the number of initial project applications from qualified bidders that had been received.

The bid offer rates submitted for the shared distributed generation projects would result in a clearing price of 19.49 cents per kilowatt-hour. The bid offer rates submitted for commercial or institutional projects would result in a clearing price of 19.20 cents per kilowatt-hour. For both sectors, the clearing price would establish the price to be paid for all projects for a 20-year contract period.

III. COMPETITIVENESS STANDARDS

Section 3484(1)(B) of the Act sets forth the process the Commission must follow in conducting the initial competitive procurement:

The commission shall accept bids for 30 calendar days beginning on or before July 1, 2020 and review bids based on the requirements under subsection 4, 5 and 6. The commission may select qualified bids in excess of the first block if the commission determines that the incremental procurement is in the public interest. If the commission selects qualified bids in excess of the first block, the commission shall reduce the quantity procured in subsequent block procurements. If the commission selects bids totaling less than the first block in the initial competitive procurement, the quantity procured in subsequent block procurements must increase by the difference between the first block and the number of megawatts submitted in the initial competitive procurement. If pursuant to subsections 4 and 5 no bids are accepted, the commission shall:

- (1) Conduct a new initial competitive procurement under this subsection within 9 months; and
- (2) Study the reasons for the inability of the procurement to secure the target amount and submit a report of its findings and any recommended legislation to the joint standing committee of the Legislature having jurisdiction over energy matters.

Section 3484(5) of the statute sets forth requirements with respect to ensuring that the procurement for distributed generation was competitive:

Ensuring competition. Prior to each solicitation under subsections 1 to 3, the commission shall establish standards to ensure that the solicitation has a sufficient number of unique bidders and quantity of qualified bids to be determined competitive. If the commission concludes that a solicitation is not competitive, the commission may reduce the target procurement quantities to produce the greatest quantity that may be procured consistent with this subsection and shall defer to subsequent solicitations the capacity reduced in the solicitation.

The statute required the Commission to promulgate rules to implement the procurement of distributed generation. 35-A M.R.S. § 3488. Section 7(H) of Chapter 312 established the process for ensuring competition:

In the procurement announcement for each procurement round, the Commission shall set forth standards by which it will evaluate whether the solicitation is sufficiently competitive. If the Commission concludes

that a solicitation is not sufficiently competitive, the Commission may procure an amount that is less than the procurement target, including not procuring any amounts in the round. To the extent the amount procured is less than the target for a given round, the difference shall be procured in subsequent procurement rounds.

If an insufficient number of unique bidders or projects is qualified for a procurement round, as determined by the Commission, the Commission may delay or cancel the procurement.

In accordance with the statute and rule, section 10 of the Procurement Announcement set forth criteria that the Commission will employ in determining whether the initial procurement round met the competitiveness standard:

As soon as practicable after the Bid Offer Rate submission window closes on July 30, 2020, the Commission will evaluate whether this Procurement Round 1 is sufficiently competitive. In evaluating the competitiveness of the procurement, the Commission will consider factors including, but not limited to, the following matters:

1. The number of unique bidders and projects that were qualified in this procurement round;
2. The number of unique bidders, projects and total MW of capacity that actually submitted a Bid Offer Rate;
3. The number and characteristics of Bidders who submitted a Bidder Qualification Application but did not receive a notice to proceed to the Project Qualification phase and the reasons why;
4. The number and characteristics of Projects who submitted a Project Qualification Application but did not receive a notice to proceed to submit a Bid Offer Rate and the reasons why;
5. The pattern and level of Bid Offer Rate submissions throughout the time period the Bid Offer Rate Submission Window is open;
6. The status of the interconnection queue for the T&D utilities;
7. The status and other information with regard to Maine Department of Environmental Protection or other agency permitting processes;
8. Other factors that the Commission Staff or Enel X deems relevant to the Commission's consideration of competitiveness of the procurement.

The Commission shall evaluate the competitiveness of the procurement round overall by Resource Sector. If the Commission concludes that the procurement is not sufficiently competitive overall or by sector, the Commission may procure an

amount that is less than the procurement target or by sector, including not procuring any amounts overall or in either sector.

Section 11.3 of the Procurement Announcement also provided that “If the Commission concludes that a solicitation is not competitive, as described in Section 10, the Commission may reduce the target procurement quantity to produce the greatest quantity that may be procured in a competitive manner, up to and including selecting no bids.”

IV. DECISION

As discussed above, the Act directed the Commission to establish rules and processes to procure distributed generation resources following the procurement methods specified in sections 3484 through 3486. The statute further provided, however, that if the Commission determines that the procurement, including the initial procurement block, was not competitive, the Commission has the authority to accept no bids, study the reasons for the non-competitiveness, report its findings and any recommended legislation to the Legislature, and conduct a new procurement within nine months

The Commission concludes that the initial round of procurement for distributed generation was not sufficiently competitive to warrant an award of contracts. The rationale for this decision is described below.

1. Attrition; Ultimate Numbers of Bidders and Projects

The level of attrition that occurred during each stage of the procurement – from initial qualification through to the submission of bid offer rates – is a significant factor in determining whether the solicitation was sufficiently competitive as required by the Act. Although it is impossible to know with certainty what caused the drop off in the number of projects submitted for qualification, and then later submitted in the bid offer phase of the procurement, contributing factors likely include the challenges in meeting the minimum requirements set forth in section 3484(4) of the statute:

1. Demonstration of site control;
2. A fully executed interconnection service agreement;
3. Demonstration that all required federal, state and local approvals and nonministerial permits have been obtained;
4. The capacity to make a financial assurance deposit at the time of contract execution; and
5. Depending on project sector:
 - a. For a C/I project, if a participating C/I customer is not the bidder, an agreement from a C/I customer that would receive bill credits

- b. For a shared distributed generation project, demonstration of experience fulfilling the obligation to subscribers.⁵

These statutory requirements are substantial and create a significant barrier for the submission of qualifying bids. The Act also contains a very ambitious timeframe, requiring the Commission to complete rule-making and Block 1 qualification prior to the opening of the 30-day Bid Offer Rate window on July 1 and issue awards by August 30, 2020.

The Commission received several comments from prospective bidders that requirements in the Act are appropriate to ensure that the projects are feasible, properly permitted and likely to proceed to commercial operation. Nevertheless, as manifested in the questions submitted by bidders through the question and answer queue, the statutory requirements were difficult to meet on such a tight timeframe, particularly when the effects of COVID-19 started to emerge. The added difficulties of developing projects during a global pandemic were certainly not anticipated by the Legislature when it developed the timeframes in the Act. In fact, Enel X reported that many bidders voluntarily withdrew their projects due to failure to obtain the necessary permits and interconnection agreements and approvals by the Block 1 deadlines.

Of particular note are issues relating to interconnection. One of the statutory qualification requirements for participating in this procurement is that the project have a fully executed interconnection agreement (IA). CMP and Versant Interconnection Queue Reports⁶ demonstrated that a large number of projects had submitted applications for an IA, while only a relatively small number had a fully executed IA in place by the procurement deadline of June 17, 2020. Specifically, in CMP's service territory, the Queue Report indicates that, of the 280 projects in the Queue, only 122 had a fully executed IA by the deadline. In Versant's service territory, of the 120 to 130 projects in the queue, only 12 had a fully executed IA by the deadline. In the aggregate, then, across the service territories, only about a third of the projects in the collective queues had reached the fully executed IA stage.

⁵ 35-A M.R.S. § 3484(4).

⁶ CMP's interconnection queue is accessible through its website at:

https://www.cmpco.com/wps/portal/cmp/networks/footer/suppliersandpartners/servicesandresources/interconnection!/ut/p/z0/fY7BCslwEES_xUOPstFWqcciWhEjeFDaXEqlaY3WTZqkxc83PQki3maHnXkDDApgyAfVcK808jbcJVtW8YxudsmaHFOarMgpiQ_nPL-Q7SKGPbD_D6FhbumaNsaM97epwlpD4aQdIJCO49VKp3sbNBQKvbRCI0ox8sesuncd y4AF18uXh0I8DW9s9VkJkVrrklul641plbRiq-HWY5DB_YGKyDfKPFiZumzyBkc75O8!/?current=true&urle=wcm%3Apath%3A%2FCMPAGR_Navigation%2FFooter%2FSuppliersandPartners%2FServicesAndResources%2FInterconnection%2F

Versant's interconnection queue is accessible at:

https://www.versantpower.com/media/53129/Interconnection_request_queue.pdf.

In addition, the ISO-NE i.3.9 process proved to be a barrier for several projects. More than ten projects were voluntarily withdrawn and one project was disqualified specifically due to the failure to obtain this necessary approval to allow for interconnection.

In short, it cannot be known or measured with certainty to what extent Block 1 was impacted by constraints due to the short time frame already contemplated in the statute to complete a rigorous qualification process. Nor can it be known or measured to what extent the difficulty in meeting these requirements was exacerbated by COVID-19. Nevertheless, the attrition in the number of unique bidders and the number of projects that ultimately submitted a bid in Block 1, as well as the types of bidder questions, requests, and expressed concerns, strongly indicate the presence of substantial factors limiting participation in the initial procurement.

2. Bid Prices; Clearing Price

Another indication of non-competitiveness is the observed bid prices, as well as the ultimate clearing price. Accepting the results of the Block 1 Procurement would result in prices in excess of 19 cents per kilowatt hour for both the C/I and Shared DG sectors. This clearing price is in stark contrast with the 12.0 to 14.5 cent range of compensation for most Net Energy Billing (NEB) projects currently under development in Maine, or for which developers have indicated an intent to participate in NEB, pursuant to the kWh Credit and Tariff Rate programs governed by 35-A M.R.S. §§ 3209-A, 3209-B and Chapter 313 of the Commission's Rules.

One indicator of a sufficiently competitive bidding process is that bids are reflective of the bidders' actual costs. Indeed, it is the Commission's understanding that providing bidders with the incentive to bid at their actual costs was a reason the clearing price auction structure was favored by the Legislature, and ultimately required by the Act. The fact that projects that are similar in size and technology, and would face similar (although not identical) programmatic requirements in the NEB and DG programs, would submit bids in the DG Procurement at prices that are well in excess of the compensation they would receive in the NEB programs is a troubling indication that the bidding was not reflective of a sufficiently competitive process. Indeed, several of the **very same projects** that have executed NEB Agreements already in place with CMP also submitted bids in the Block 1 Procurement at bid price levels well in excess of the compensation the project would receive in the NEB programs.⁷

⁷ On May 20, 2020, CMP provided notice that the cumulative capacity of the generating facilities for which CMP has executed NEB arrangements under Chapter 313 of the Commission's Rules is approximately 10.1% of CMP's annual peak demand as required by Section A of the Act. In response to this filing, the Commission opened an *Inquiry Regarding Net Energy Billing Evaluation*, Docket No. 2020-00199. In addition, according to CMP's report, some of these projects have indicated an intent to participate in the NEB kWh Program, which raises a separate concern about the validity of the project's

Stated another way, if a developer is willing to develop a project for the compensation provided by the NEB programs, it suggests non-competitiveness if, in this Block 1 Procurement process, the same developers would submit bids for the very same projects at levels that are substantially higher. While price alone is not determinative of competitiveness, such a large price difference in combination with few bidders and high levels of market concentration raises questions about rent seeking behavior and the impact of limited competition.

Finally, the Commission notes that acceptance of an excessively high price as the Block 1 clearing price would drive the results of the remaining procurement Blocks and result in significant costs to ratepayers. As required by the Act, the initial clearing prices (*i.e.*, the Block 1 clearing prices in the C/I and Shared DG sectors) form the basis for the prices for the remaining procurement blocks. Specifically, if the Commission were to award contracts for projects from this Block 1 Procurement, it must commence Block 2 “immediately.” 35-A M.R.S. § 3484(2)(C). The price for Block 2 must equal 97% of the clearing price in Block 1, with each successive round having a block contract rate of 97% of the preceding block. 35-A M.R.S. § 3484(2)(B). The prices for each of the five Blocks would be locked in for projects totaling 375 MWs for contract terms of 20 years. Given the clearing prices that would be set for Block 1 if the results of this non-competitive Procurement were to be accepted, the Commission estimates that, at the conclusion of Procurement Block 5, the net cost of the DG program to Maine ratepayers would be in excess of \$70 million per year.

The Commission has the express authority to administer a regulatory system that ensures “safe, reasonable and adequate” utility service and further, “to assist in minimizing the cost of energy available to the State’s consumers and to ensure that the rates of public utilities subject to rate regulation are just and reasonable to customers and public utilities.” 35-A M.R.S. § 101. The Commission also has “all implied and inherent powers under this Title, which are necessary and proper to execute faithfully its express powers and functions specified in this Title.” 35-A M.R.S. § 104.

The Legislature has made clear its commitment to encourage the development of distributed generation resources. The Commission understands this decision will be met with disappointment and is cognizant of the significant time and expense that the bidders and Commission Staff put into this procurement. Nevertheless, the Legislature explicitly directed the Commission to determine the competitiveness of the initial procurement and the Commission cannot ignore that responsibility or make a finding that is at odds with the facts before it.

The determination that this procurement is not competitive is both consistent with the Act as well as with the Commission’s over-arching statutory public interest obligation to minimize the cost of energy for electricity customers in Maine. In making this decision, the Commission adheres to the steps contemplated by the Legislation,

Interconnection Agreement, given that projects participating in the NEB kWh Program may face less stringent study processes and interconnection requirements than those required for projects participating in the DG programs.

including the study and report examining the reasons for the non-competitiveness of the procurement process, the provision of recommended legislation, and the conduct of “new initial competitive procurement” within nine months as contemplated by the Act.

Accordingly, the Commission

O R D E R S

1. The initial procurement, Block 1, for both the Shared Distributed Generation and Commercial or Institutional Distributed Generation programs, is found to not be adequately competitive and thus no contracts are awarded for distributed generation projects;
2. The Commission shall conduct a new initial competitive procurement under this subsection within 9 months; and
3. The Commission shall study the reasons for the inability of the procurement to be adequately competitive and will report its findings to the Legislature.

Dated at Hallowell, Maine, this 28th day of August, 2020.

/s/ Harry Lanphear

Harry Lanphear
Administrative Director

COMMISSIONERS VOTING FOR: Bartlett
 Williamson*
 Davis

** See separate concurring opinion.*

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S. § 9061 requires the Public Utilities Commission to give each party at the conclusion of an adjudicatory proceeding written notice of the party's rights to seek review of or to appeal the Commission's decision. The methods of review or appeal of Commission 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.ch. 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.

Concurring Opinion of Commissioner Dr. R Bruce Williamson

I concur with the Commission's analysis and the conclusion that the Distributed Generation (DG) solicitation cannot be found to be "competitive" as specified in the Act. Through this concurrence, I present some concepts to stimulate thinking on how to improve competitiveness of future solicitations.

In the current solicitation, a few "strong bidders" who were more familiar with the legislation and early prepared were able to qualify projects for the first auction, while many other bidders who began the process late would wind up in later rounds. These strong bidders turned in bids barely two cents per kWh apart, and in so doing, set the price for four subsequent solicitations for all other bidders. If we were to accept this non-competitive result, ratepayers in the service territories of Central Maine Power Company and Versant Power would shoulder the burden of significant rate increases to pay for the projects of more than \$70 million dollars a year for 20 years. This is during a time when perhaps one-fifth of Maine ratepayers will be on payment plans to try to pay off large past due amounts remaining from the COVID bill moratorium and earlier billing issues.

The peculiar tightly packed bids are the consequence of rational behavior by the bidders to the highly flawed structure of the auction design contained in the Act. Should this auction design as spelled out in statute ever be used again, it will produce the same expensive, non-competitive outcome. By design in statute, no bidder would be significantly worse off by riding on the coattails of those early movers who set a very high price that would apply to future rounds. Those bidders who chose not to or were unable to meet the prerequisites to bid the first round have the comfort of knowing that their projects will receive a 20-year contract price that averages 18.4 cents per kWh for the shared DG program and 18.1 cents per kWh for the C/I Program. It's a win-win for all developers, and not so for ratepayers.

As an economist with some experience in auction design in corporate and government work, this should have been a reverse auction – where the lowest priced best qualified bids are awarded contracts.¹ Google just acquired 1.2 GW of renewable power in 60 minutes of bidding using reverse auctions and achieved a 17% and a 23% price decrease from the lowest initial bids received.² We should take a lesson from that to achieve important environmental policy goals with electricity at prices that do not hurt ratepayers for the next two decades. When we speak of competition in auctions, it is only partly correct to assume it means the same thing as competitive markets. The number of bidders in and of itself does not guarantee a competitive auction, assuming

¹ The Commission's standard offer electricity auctions for CMP and Versant territories, which are sealed-bid reverse auctions, have produced electricity supply prices as the default service in Maine for many years at a very competitive price level of about 6.5 to 8.5 cents per kWh.

² <https://pv-magazine-usa.com/2019/11/01/googles-reverse-auctions-net-1-2-gw-of-renewables-in-60-minutes/>

there's more than one bidder. The number of bidders is simply more reassuring, if only because it helps the buyer (here, the State of Maine) have a better sense of what the market supply cost of the desired item is. Unless there is a ready benchmark for competitive market supply prices, sellers often have an initial information advantage in an auction. With more sellers bidding, particularly in competitively designed auctions, the buyer hopes to offset that information asymmetry by using the actual bid prices as a reasonable proxy for a supply cost benchmark.

In fact, we already have good benchmarks for the cost of electricity supplied by similarly sized solar developments in bid procurements. This present DG auction price of over 19 cents per kWh is over 5 times as high as an already executed solar contract for a comparable project well underway from a previous Commission auction pursuant to section 3210-C.³ Moreover, these new DG bids are more than 30% higher than the above market, subsidized compensation provided by the net energy billing kWh program. In short, the Commission does have benchmarks to judge competitiveness for quite similar projects comparable to the proposed DG bids.

I conclude by emphasizing that simply saying we need more qualified bidders in this round is not a fix to this auction design; it may only increase, not decrease the bid price with this design. Fundamentally, if the State wants to accomplish policy goals of electrification and low or no carbon generation, it can do so at much lower cost by repealing the auction design in the statute and starting over with a reverse auction to procure least cost, technically acceptable DG resources without unnecessarily harming the State's struggling ratepayers. The economic principles I have mentioned demonstrate that this procurement for distributed generation was not competitive by the standards set forth in the governing statute and Commission rule and procurement announcement. I am convinced that repeating this auction design will predictably produce an uncompetitive outcome. However, and as my colleagues have also mentioned, the Commission is required by current statute to commence a new initial competitive procurement within nine months and in the meantime study the reasons the procurement was not competitive and submit its findings and any recommended legislation to the Legislature.

³The Commission recently approved a long-term contract pursuant to section 3210-C with Dirigo Solar to procure solar energy from a set of projects ranging from 4.99 MW to 20 MW in size. The price for the output of these projects is 3.4 cents per kilowatt hour in Year 1 of the contract and escalated thereafter at 2.5% annually. *Maine Public Utilities Commission, Long-term Contracting*, Docket No. 2015-00026, Order Approving Agreement (Dec. 18, 2017).