

10.5.2 **Appendix E.2 – Maine Public Utilities Commission RFP**

http://www.maine.gov/mpuc/electricity/rfps/standard_offer/deepwater2010/RFP%20for%20off-shore%20energy.doc

Request for Proposals for Long-term Contracts for
Deep-Water Offshore Wind Energy Pilot Projects
and
Tidal Energy Demonstration Projects

Issued by the Maine Public Utilities Commission

September 1, 2010

1. Overview

1.1 Legislative Authority

During its 2010 session, the Maine Legislature enacted An Act To Implement the Recommendations of the Governor's Ocean Energy Task Force (Act). P.L. 2009, ch. 615. Section A-6 of the Act directs the Maine Public Utilities Commission (Commission), in accordance with the Maine Revised Statutes, Title 35-A, section 3210-C, to conduct a competitive solicitation for proposals for long-term contracts to supply installed capacity and associated renewable energy and renewable energy credits (RECs) from one or more deep-water offshore wind energy pilot projects or tidal energy demonstration projects.

http://www.mainelegislature.org/ros/LOM/LOM124th/124R2/PUBLIC615_ptA.asp. The Act requires the Commission to initiate the solicitation by September 1, 2010.

For purposes of the competitive solicitation, "deep-water offshore wind energy pilot project" means a wind energy development, as defined by Title 35-A, section 3451, subsection 11,¹ that is connected to the electrical transmission system located in the State and employs one or more floating wind energy turbines in the Gulf of Maine at a location 300 feet or greater in depth no less than 10 nautical miles from any land area of the State other than coastal wetlands, as defined by Title 38, section 480B, subsection 2,² or an uninhabited island. "Tidal energy demonstration project" has the same meaning as in Title 38, section 636A, subsection 1, paragraph A.³

¹ "Wind energy development" is defined as a development that uses a windmill or wind turbine to convert wind energy to electrical energy for sale or use by a person other than the generator. A wind energy development includes generating facilities and associated facilities.

² "Coastal wetlands" is defined as all tidal and subtidal lands; all areas with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous lowland that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

³ "Tidal energy demonstration project" or "project" means a hydropower project that uses tidal action as a source of electrical power and that: (1) has a total installed generating capacity of 5 megawatts or less; and (2) is proposed for the primary purpose of testing tidal energy generation technology, which may include a mooring or anchoring system and transmission line, and collecting and assessing information on the environmental and other effects of the technology.

As specified in the Act, the Commission may authorize one or more long-term contracts for an aggregate total of no more than 30 megawatts of installed capacity and associated renewable energy and RECs from deep-water offshore wind energy pilot projects or tidal energy demonstration projects as long as no more than 5 megawatts of the total is supplied by tidal energy demonstration projects.

Proposal qualification, evaluation and acceptance or rejection will be determined by the Commission consistent with applicable laws and rules, the provisions of this RFP, and the Commission's statutory public interest obligations. In making its determinations, the Commission may consult with other State entities, which may include Maine's transmission and distribution utilities, Office of Public Advocate, Department of Environmental Protection, State Planning Office, Department of Economic and Community Development, and the University of Maine. To the extent that proposals contain confidential or proprietary information, they will be provided to other entities subject to protective order.

The Commission may accept or reject any proposal, or it may reject all proposals, based on its assessment of the proposals, including but not limited to, whether a proposal meets the requirements of the RFP, satisfies the policies and objectives of the Act, is within the contracting authority of the Commission, and conforms with generally accepted business practices. As noted above, the Commission can not authorize proposals that in the aggregate would exceed 30 megawatts of installed capacity. There is no minimum or required level of installed capacity.

Initial Proposals for deep-water offshore wind energy pilot projects and tidal energy demonstration projects will be due on or before May 1, 2011

1.2 Counterparties

The counterparty to any long-term contract resulting from this solicitation will be one or more of Maine's investor-owned transmission and distribution (T&D) utilities as determined by Commission order. These are Central Maine Power Company (CMP) <http://www.cmpco.com/>, Bangor Hydro-Electric Company (BHE) <http://www.bhe.com/index.cfm>, and Maine Public Service Company (MPS) <http://www.mainepublicservice.com/>.

2. Summary of Key Proposal Attributes and Requirements

2.1 General Requirements

The Commission may direct one or more T&D utilities, as appropriate, to enter into a long-term contract pursuant to this RFP only if it determines that the bidder:

- A. Proposes sale of renewable energy produced by a deep-water offshore wind energy pilot project or a tidal energy demonstration project as defined in this RFP;
- B. Has the technical and financial capacity to develop, construct, operate and, to the extent consistent with applicable federal law, decommission and remove the project in the manner provided by Title 38, section 480HH, subsection 3, paragraph G
<http://www.mainelegislature.org/legis/statutes/38/title38sec480-HH.html> ;
- C. Has quantified the tangible economic benefits of the project to the State, including those regarding goods and services to be purchased and use of local suppliers, contractors and other professionals, during the proposed term of the contract;
- D. Has experience relevant to tidal power or the offshore wind energy industry, as applicable, including, in the case of a deep-water offshore wind energy pilot project proposal, experience relevant to the construction and operation of floating wind turbines, and has the potential to construct a deep-water offshore wind energy project 100 megawatts or greater in capacity in the future to provide electric consumers in Maine with project-generated power at reduced rates;
- E. Has demonstrated a commitment to invest in manufacturing facilities in Maine that are related to deep-water offshore wind energy or tidal energy, as applicable, including, but not limited to, component, turbine, blade, foundation or maintenance facilities; and
- F. Has taken advantage of all federal support for the project, including subsidies, tax incentives and grants, and incorporated those resources into its bid price.

2.2 Price Mitigation

As required by the Act, to mitigate any impacts of a long-term contract entered into pursuant to this RFP on electric rates in Maine, the supplier will be required to seek out and take advantage of future federal support applicable to the project over the contract term and to use all such support funds obtained to lower the price of the contract to mitigate impacts of the contract on electric rates.

As required by the Act, long-term contracts pursuant to this RFP may not result in an increase in electric rates in any customer class that is greater than the amount of the assessment charged under Title 35-A, section 10110, subsection 4 at the time that the contract is entered. The current assessment is \$1.45 per MWh.

2.3 Pricing Structures

Bidders may offer pricing within one of the following frameworks: (1) physical transaction, e.g., unit-specific capacity purchase/sale; or (2) financial transaction, i.e., contract for differences.

Prices may be fixed, or defined by formula or indices.

The bidder must provide an expected energy production schedule.

All pricing must be in nominal dollar terms.

The same project may submit multiple pricing proposals, as long as they are mutually exclusive. A pricing proposal for one project cannot be contingent on another project being accepted, but can be mutually exclusive.

2.4 Project Operation Date

Any contract entered into pursuant to this RFP will require that the deep-water offshore wind energy pilot project or tidal energy demonstration project, as appropriate, be constructed and operating within 5 years of the date the contract is finalized, unless the Commission and project developer mutually agree to a longer time period.

2.5 Contract

One or more of Maine's T&D utilities (CMP, BHE or MPS) will be the contractual counterparties to winning bidders.

A bidder may include a proposed contract with its proposal.

Contracts may be physical or financial.

2.6 Term

Bidders may submit contract term lengths customized to their project. The contract term may be up to 20 years.

2.7 Security

Requirements for the Proposal Security Deposit and Project and Performance Security are described in RFP Section 5.

2.8 Proposal Information; Project Cost Data

The Commission reserves the right to ask bidders to provide additional information about a project or other aspect of a proposal, or to clarify or correct a proposal. In the event the Commission determines it to be necessary, bidders may be required to submit detailed and verifiable capital and operating cost data.

2.9 Indicative Bids; Firm and Final Bids

Indicative bids are acceptable with a bidder's Initial Proposal. Firm and final bids, when requested by the Commission, will be binding on the bidder. Changes to proposals will not be accepted after the submission of firm and final bids except to the extent requested by the Commission to clarify or correct a proposal.

2.10 Confidentiality

A bidder may designate information included in its proposal as proprietary or confidential information. The Commission will take every reasonable step, consistent with law, to protect information that is clearly identified as proprietary or confidential on the page on which it appears. As noted above, protected information may be made available to other State entities under appropriate protective order and non-disclosure agreements. The identity of bidders and general information about proposals selected will become public at the time of the Commission's decision. The selected long-term contracts and associated prices will ultimately become public; however, such information may be withheld for a period of time at the request of the bidder.

3. RFP Process

3.1 Overview of Process; Schedule; Evaluation

Initial Proposals for deep-water offshore wind energy pilot projects and tidal energy demonstration projects will be due on or before May 1, 2011.

The Commission staff and its consultants will review all proposals, and may ask for supplemental and/or clarifying information from bidders. Based on this review, the Commission staff may prioritize proposals for more in-depth discussions among the bidder, staff, T&D utilities and, if determined by the Commission, other State entities.

After discussions are completed for proposals, the Commission will formally deliberate and render a decision on whether to authorize a long-term contract or contracts.

Projects will be evaluated based on cost considerations, and overall project viability, including financial, environmental and other site approvals, construction schedule, operational characteristics, and the general requirements as described in RFP Section 2.1.

The Commission reserves the right to revise, suspend, or terminate the RFP at its sole discretion. In such event, the Commission will inform all bidders as soon as reasonably possible.

3.2 RFP Documents and Information; Contact Persons

The RFP and all related documents and information are available from the RFP Website at http://www.maine.gov/mpuc/electricity/rfps/standard_offer/deepwater2010/

Any changes to the RFP or related documents, and any supplemental RFP information and data, will be posted to the RFP Website. It is the bidders' responsibility to obtain these updates and additions.

The RFP Contact Person is:

Mitchell Tannenbaum
Maine Public Utilities Commission
mitchell.tannenbaum@maine.gov
207-287-1391 (Tel)

Bidders may submit questions or request additional information by contacting the RFP Contact Person. To the extent bidder inquiries elicit generally applicable information or corrections/clarifications to existing information, such information will be posted to the RFP Website. Bidder questions, information requests and the associated responses will not otherwise be made generally available.

The Commission will endeavor to respond to all questions and information requests, but it is under no obligation to do so.

4. Proposal Content Requirements

Initial Proposals should include the materials and information specified in this section. To the extent materials or information are not available when the initial proposals are due, bidders should so specify and indicate when they will be available.

4.1. Project Information

- a. A statement demonstrating that the project satisfies the definition of a “deep-water offshore wind energy pilot project” or a “tidal energy demonstration project” as defined in the Act.
- b. A statement of the total capacity of the project, whether the capacity of the project is, or would be, recognized as capacity by the ISO-NE and/or NMISA, and the project’s expected capacity value in MW should be provided. In addition, proposals should discuss eligibility to participate in the ISO-NE or NMISA capacity and energy markets, as applicable.

- c. A demonstration that there is or will be control or a right to acquire control over a site for the proposed project.
- d. A description of the technology of the project, including expected operation and performance, and a demonstration that the technology is technically feasible.
- e. Information demonstrating when the project is reasonably likely to be constructed and operating, including a detailed schedule for completion of all environmental reviews and the receipt of required permits.
- f. Detailed information about the location of the project, including but not limited to the following:
 - i. geographical location of the project;
 - ii. ISO-NE nodal and zonal location applicable to the project;
 - iii. a detailed description of the interconnection point to the ISO-NE or NMISA transmission system. The proposal should include: (1) the status of the interconnection study; (2) the status of any required upgrades; (3) data that the project has or will provide to ISO-NE or NMISA regarding its interconnection.
- g. Detailed information on the design, location, and cost of the undersea transmission facilities that will be necessary to connect the project to the electric grid, including the point of connection.

4.2. Financial and Technical Capability

- a. Information and supporting documents sufficient to demonstrate the financial and technical capability of the project team and the project to develop, construct, operate and, to the extent consistent with applicable federal law, decommission and remove the project in the manner provided by Title 38, section 480HH, subsection 3, paragraph G. In particular, information regarding experience relevant to tidal power or the offshore wind energy industry, as applicable, including, in the case of a deep-water offshore wind energy pilot project proposal, experience relevant to the construction and operation of floating wind turbines and the potential to construct a deep-water offshore wind energy project of 100 MW or greater in capacity in the future to provide electric consumers in the Maine with project-generated power at reduced rates.
- b. A financing plan for the project and a demonstration of a commitment to the plan from one or more qualified financial institutions. A commitment from financial institutions may be in the form of a letter indicating intent to provide the required financing. Proposals should include a description of the financing process, as well as the status of the bidder's effort to secure financing.

c. Audited financial statements of the project team companies, their most current credit agency rating reports, and documentation demonstrating sufficient technical experience and expertise to develop the project.

4.3. Tangible Economic Benefits

a. Information describing and quantifying the tangible economic benefits of the project to the State, including those regarding goods and services to be purchased and use of local suppliers, contractors and other professionals, during the construction and operation stages of the project.

b. Information demonstrating a commitment to invest in manufacturing facilities in Maine that are related to deep-water offshore wind energy or tidal energy, as applicable, including, but not limited to, component, turbine, blade, foundation or maintenance facilities.

4.4. Contract

a. A proposed contract may be provided (but is not required) at the Initial Proposal stage.

4.5. Pricing

a. Proposals should include the quantity and pricing for capacity, energy, and RECs for the proposed term. To the extent pricing is based on an index or formula, a detailed example of how the formula would operate using historic index values should also be provided. Pricing provided in Initial Proposals may be indicative.

b. Proposals should include information sufficient to demonstrate that the bidder has taken advantage of all federal support for the project, including subsidies, tax incentives and grants, and incorporated those resources into its bid price.

d. All contingencies associated with a proposal and/or pricing should be clearly indicated.

4.6. Proposal Security Deposit (see RFP Section 5)

5. Financial Security

5.1 Proposal Security Deposit

A Proposal Security Deposit must be provided with the Initial Proposal. Deposits should be submitted directly to the T&D utility that would be a contractual counterparty in the contract. The Proposal Security Deposit must be in the form of U.S. currency or

an irrevocable, transferable and unconditional standby letter of credit issued by a U.S. commercial bank or a foreign bank with a U.S. branch with such bank having a minimum credit rating of A- from S&P or A3 from Moody's. Deposits provided in cash will be held by the T&D utility in an interest-bearing account. The Proposal Security Deposit will (1) be refunded if a proposal is not selected or (2) be replaced with the Project and Performance Security if a proposal is selected.

The Proposal Security Deposit required is \$5 per kW of capacity proposed, with a cap of \$100,000.

5.2 Project and Performance Security

Project and Performance Security will be determined on a project-specific basis. The amount of security required will be determined based on an assessment of the risks and benefits provided by the long-term contract. Project and Performance Security is not required to be posted with Initial Proposals, but Initial Proposals should include evidence of a bidder's intent and ability to fulfill the Project and Performance Security Requirements should the proposal be selected. The Commission will establish the structure and amount of the Project and Performance Security at the time a Final Proposal is requested from and becomes binding upon a bidder as described in RFP Sections 2.9 and 6.1.

Acceptable forms of Project and Performance Security are: (1) cash (U.S. currency); or (2) an irrevocable, transferable and unconditional standby letter of credit issued by a U.S. commercial bank or a foreign bank with a U.S. branch with such bank having a minimum credit rating of A- from S&P or A3 from Moody's.⁴

Winning bidders will be required to post Project and Performance Security within a reasonable time period following contract execution, at which time their Project Security Deposit will be refunded.

6. General

6.1 Proposals

Proposals must be submitted in accordance with this RFP or as otherwise specified by the Commission. The Commission reserves the right to seek clarification and request additional information, documentation and other material related to the

⁴ Other forms of Project and Performance Security, e.g., parent guarantees or asset-based forms, are not preferred but are not necessarily precluded. The Commission will determine whether security in a form other than cash or an LOC is acceptable in the context of a specific proposal and prevailing economic conditions.

proposals. Failure to provide any such items within the timeframes requested may result in disqualification.

A bidder may amend or withdraw its proposal, or any portion of its proposal, or may withdraw entirely from the RFP, at any time prior to the submission of a Final Proposal.

Final Proposals, when requested as such, are binding. A change in Final Proposal terms, except as authorized or requested by the Commission, may result in disqualification and/or the forfeit of the Project Security Deposit. In addition, a bidder's failure to execute the contract or provide the required Project and Performance Security, should a bidder's Final Proposal be accepted, may also result in the forfeit of its Project Security Deposit. Final Proposals may include an expiration date such that the proposal would expire if not accepted by the Commission by the specified date.

6.2 Proprietary Information

A bidder may designate information included in its proposal as proprietary or confidential information. The Commission will take every reasonable step, consistent with law, to protect information that is clearly identified as proprietary or confidential on the page on which it appears. Protected information may be made available to other State entities in accordance with sections 1.1 and 2.10. The identity of bidders and projects, and the associated prices and long-term contracts, for proposals chosen in this process will become public information.

6.3 Proposal Costs

All costs associated with developing and submitting a proposal in response to this RFP and providing oral or written clarification of its contents are borne by the bidder.

6.4 Rights of the Commission

The Commission may accept or reject any proposal, or it may reject all proposals, based on its assessment of the proposal including but not limited to whether a proposal meets the requirements of the RFP, satisfies the policies and objectives of the Act, is within the contracting authority of the Commission, and conforms with generally accepted business practices.

The Commission reserves the right to withdraw or modify the RFP at any time, to negotiate with bidders and to solicit additional and/or modified proposals.

The type(s) of projects and quantity of capacity, energy and RECs that may be awarded a contract as a result of this RFP will be determined by the Commission in conformance with applicable laws and rules, the provisions of this RFP, and the Commission's statutory obligations.

The Commission shall not be responsible or liable in any manner for risks, costs, expenses, or other damages incurred by any bidder or other entity involved, directly or indirectly, with this RFP.

6.5 State Held Harmless

The State of Maine, its officers, agents, and employees, including the Maine Public Utilities Commission, Commissioners and the employees or agents of the Maine Public Utilities Commission or other State entities consulted in accordance with the provisions of this RFP shall be held harmless from any and all claims, costs, expenses, injuries, liabilities, losses and damages of every kind and description resulting from or arising out of this RFP, the designation of winning bidders or the performance of contract obligations as contemplated by this RFP.

6.6 Warranty

The information contained in the RFP and provided subsequently is prepared to assist bidders and does not purport to contain all of the information that may be relevant to bidders. The Commission makes no representation or warranty, expressed or implied, as to the accuracy or completeness of the information. The Commission, its staff and its agents shall not have any liability for any representations expressed or implied in, or any omissions from, the RFP or information obtained by bidders from the Commission, its staff, its agents or any other source.