

ORDER NO. 82901

IN THE MATTER OF THE COMMISSION'S *
INVESTIGATION INTO DEFAULT SERVICE *
FOR TYPE II STANDARD OFFER SERVICE *
CUSTOMERS *

BEFORE THE
PUBLIC SERVICE COMMISSION
OF MARYLAND

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CASE NO. 9056

IN THE MATTER OF THE COMPETITIVE *
SELECTION OF ELECTRICITY *
SUPPLIER/STANDARD OFFER OR DEFAULT *
SERVICE FOR INVESTOR-OWNED UTILITY *
SMALL COMMERCIAL CUSTOMERS; AND *
FOR THE POTOMAC EDISON COMPANY *
D/B/A ALLEGHENY POWER'S, DELMARVA *
POWER AND LIGHT COMPANY'S AND *
POTOMAC ELECTRIC POWER COMPANY'S *
RESIDENTIAL CUSTOMERS *

CASE NO. 9064

To: Parties of Record and Interested Persons

On August 20, 2009, Technical Staff (“Staff”) of the Public Service Commission (“Commission”) filed a Report of the 2009 Procurement Improvement Process in these matters (“Report”). Attached to the Report were: (1) the bid plans from the Maryland investor-owned utilities; and (2) redline and clean-copy versions of the Model 2010 Request for Proposals for Full Requirements Wholesale Electric Power Supply (“RFP”) and the Model 2010 Full Requirements Service Agreement (“FSA”). The Report contained the consensus items of the proposed improvement to the procurement process, including the proposed amendments to the Model RFP and FSA. Consolidated Edison Energy, Inc. (“CEE”) submitted a non-consensus Procurement Improvement Process proposal: a proposal for permitting contingent bids by wholesale suppliers.

The consensus PIP proposals consisted of the following changes:

- 1) Model RFP, Sections 3.2 and 3.6 – broadening the permissible forms of eligibility document submissions to include electronically scanned documents submitted via e-mail;
- 2) Model RFP, Section 6 – updating the bidding schedule to reflect IOUs’ bid plans; reflect that the posting of the new retail prices following the residential procurement in October 2009 will be limited to summer rates; and narrowing the window of submission of the bid documents to between 3:00 PM and 4:30 PM;
- 3) Model RFP, Appendix 6 and Model FSA, Exhibit C – changing the bid assurance letter of credit to be effective for a minimum of 60 days, as opposed to expiring on a date certain; and giving the bidders and their banks an option regarding whether the letter of credit is transferable;
- 4) Model FSA, Article 1 – including new definitions:
 - Confidential Information;
 - Federal Renewable Requirement;
 - Weekly Settlement Amount;
 - Weekly Settlement Base Load;
 - Weekly Settlement Base Price (separately for Residential, Type I, and Type II SOS);
 - Weekly Settlement Date; and
 - Weekly Settlement Load.

and modifying the definition of “PJM Settlement Date”;

- 5) Model FSA, Sections 2.2, 6.2, 7.1 and Exhibit D – changing these sections to accommodate PJM’s shift to weekly settlements;
- 6) Model FSA, Sections 4.4 and Exhibit B – changing the provision to address the possibility that the federal government may establish a renewable energy requirement of some sort and specify how such a change would impact existing SOS supply contracts;
- 7) Model FSA, Section 7.5 – changing the provision to recognize that PJM may alter the time frame for certain settlements and to make the PJM change applicable if it occurs; and
- 8) Model FSA, Section 16.5 – specifying that the Confidentiality Agreement signed by the counterparties as part of the RFP process will be applicable throughout the term of the SOS contract.

At its August 26, 2009 Administrative Meeting, the Commission considered the Report. There were no objections to these consensus proposals lodged at the Administrative Meeting or otherwise. Accordingly, the Commission approves the foregoing consensus proposals.

The Commission finds that the implementation of contingency bidding, as proposed by CEE, may result in additional bidders participating in the SOS procurement process with a potential for lower bids for the various blocks of SOS load being bid. The Commission, however, is not confident that the proposal is sufficiently specific or clear to permit the Commission to approve the use of contingency bidding in the upcoming October procurement solicitation. Of particular note was the confusion as to the amount of collateral a bidder would need to submit in connection with contingency bidding. Consequently, the Commission will not approve this Procurement Improvement Process proposal at this time. Staff, the IOUs, OPC, interested wholesale suppliers and other interested parties are directed to meet to reach a consensus proposal, setting forth the specific mechanisms for implementing contingency bidding, and then file such structure for approval by the Commission in time to use in the April 2010 procurement solicitation.

IT IS THEREFORE, this 11th day of September, in the year Two Thousand Nine by the Public Service Commission of Maryland,

ORDERED: (1) That the consensus proposals to revise provisions within the Model 2010 Request for Proposals for Full Requirements Wholesale Electric Power Supply and the Model 2010 Full Requirements Service Agreement and the proposed utility bid plans for the 2009-2010 procurement years as set forth in the Report on the 2009 Procurement Improvement Process are approved, subject to the understanding that

the Commission may alter the Standard Offer Service schedule and process to comply with its decision in Case No. 9117 or otherwise; and

(2) That the non-consensus Procurement Improvement Process proposal of contingency bidding is not adopted or approved, but Staff is directed to convene a meeting of the investor-owned utilities, interested wholesale suppliers, the Office of People's Counsel (if it wishes to participate) and other interested parties (if they wish to participate) to further explore the mechanism by which the contingency bidding proposal may be implemented into the SOS procurement process and provide a proposal to the Commission for review in time to implement the proposal, if adopted, in the April 2010 SOS solicitation.

By Direction of the Commission,

/s/ Terry J. Romine

Terry J. Romine
Executive Secretary