

# MAINE STATE LEGISLATURE

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# **Maine Public Utilities Commission**



## **Report Regarding the Status of Contracts for Class IA Resources Procured Pursuant to 35-A M.R.S. § 3210-G**

**Presented to the  
Joint Standing Committee on  
Energy, Utilities and Technology  
March 31, 2023**

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## I. INTRODUCTION

During its 2019 session, the Maine Legislature enacted an Act To Reform Maine’s Renewable Portfolio Standard, [P.L. 2019, Chapter 477](#) (Act). The Act directs the Commission to conduct two competitive solicitation processes to procure, in the aggregate, an amount of energy or Renewable Energy Credits (RECs) from Class IA resources that is equal to 14 percent of retail electricity sales in the State during calendar year 2018, which is 1.715 million MWh. Of that 14 percent total, the Act directed the Commission to acquire at least 7 percent, but not more than 10 percent, through contracts approved by December 31, 2020 (Tranche 1), and to acquire the remaining amount (Tranche 2) through a solicitation process that was to be initiated no later than January 15, 2021. The Act further required that, to the extent sufficient resources were available, 75 percent of the amounts procured had to come from resources that began commercial operations after June 30, 2019 (New) and 25 percent from resources that began commercial operations prior to that date (Existing). The Commission conducted solicitations for both Tranche I and Tranche 2, which will be described in section 2 of this report.

The statute<sup>1</sup> contained the following provision regarding reports to the Legislature:

No later than March 31, 2023 and biennially thereafter, the Commission shall submit a report regarding the status of contracts for Class IA resources under this section to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters. The report must include, but is not limited to, a description of Class IA resources participating in competitive solicitations, information about the resources selected for contracts and the selection process, the benefits and costs of the contracts and recommendations about how to further stimulate investment in Class IA resources or achieve ratepayer benefits from Class IA resources. The report may include information about benefits and costs of the contracts to the State’s economy, environmental quality or electricity consumers over both the short and long terms. Any analysis of the benefits or costs of the contracts must be based on a forecast of all avoided costs resulting from the contracts that is transparent and balanced over the long term.

The Commission hereby submits its report to the Joint Standing Committee on Energy, Utilities and Technology as required by the statute.

## II. THE CONTRACTS PROCURED BY THE COMMISSION IN TRANCHE 1 AND TRANCHE 2

The Commission conducted two solicitations in accordance with the statute. Prior to describing those solicitations, it is important to note the statutory requirements for the selection of the Class IA resources for contracts. The statute required the Commission to “weigh the benefits to ratepayers and the benefits to the State’s economy” using the following criteria:

- (1) A weight of 70 percent must be given to the benefits of ratepayers;

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<sup>1</sup> [35-A M.R.S. § 3210-G\(3\)](#)

(2) A weight of 30 percent must be given to the benefits to the economy, which may include but are not limited to:

- a. Capital investments by the Class IA resource to improve long-term viability of an existing facility;
- b. Payments by the Class IA resource for the harvest of wood fuel;
- c. Employment resulting from the Class IA resource;
- d. Payments by the Class IA resource to a host community, whether or not required by law or rule;
- e. Excise, income, property and sales taxes paid by the Class IA resource;
- f. Purchase of goods and services by the Class IA resource; and
- g. Avoided emissions resulting from the operation of the Class IA resource.

#### **A. Tranche 1**

The first solicitation, for Tranche 1, was conducted through Docket No. [2020-00033](#). On February 14, 2020, the Commission issued a Request for Proposals (RFP) seeking bids from qualified developers of renewable generation. The original deadline for proposals was April 10, 2020, which was extended to May 11, 2020, due to issues relating to the COVID-19 pandemic. Commission Staff conducted a bidders' information session on March 12, 2020, and issued a series of questions and answers throughout the procurement period.

The Commission received proposals from several developers for more than 70 projects, with varying options for products (energy, capacity, renewable energy credits), pricing (fixed and variable), and contract lengths. The proposals also provided information regarding the various economic benefits that the developer was offering for each project. Commission Staff evaluated all the proposals and produced a short list of projects that had the best scores when considering the benefit to ratepayers (price), which was weighted at 70 percent, and the economic benefits, which was weighted at 30 percent. Staff met with the developers on the short list to prepare Term Sheets for presentation to the Commission for its determination of which projects would be awarded contracts.

On September 23, 2020, the Commission issued an Order approving Term Sheets for 15 New facilities and 2 Existing facilities. The Class 1A renewable resources reflected in the Term Sheets were for solar, wind, biomass, and hydro, in an aggregate capacity of 536 MW and an estimated annual output of 1,060,225 MWh. The range of prices (based on first year of the delivery term of the contract) was \$29.75/MWh to \$40.00/MWh, reflecting a weighted average energy price of just under \$35.00/MWh.<sup>2</sup>

A summary of the awarded contracts in Tranche 1 is provided in Appendix A.

According to estimates provided by the bidders, the Tranche 1 projects were projected to reduce greenhouse gas emissions by about 500,000 tons per year. The project developers committed to the following economic benefits:

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<sup>2</sup> For the single Existing facility awarded a contract for energy, the first-year price was \$53.00/MWh. The other Existing Facility that was awarded a contract was for RECs only.

- More than 450 full-time equivalent jobs during the construction phase and 30 full-time equivalent jobs in each year of the delivery phase;
- Initial capital spending with Maine-based entities of more than \$145 million;
- Purchases of goods and services from Maine-based entities averaging more than \$3 million every year during the 20 years of the contract term;
- Payments of taxes to Maine entities and payments to host communities averaging \$4.7 million annually over the 20 years; and
- Payments to Maine-based contractors for the harvest of wood fuel averaging \$11-12 million every year for the twenty-year term.

The contracts entered into by the developers whose Term Sheets were selected require the filing of annual reports of their progress and, for the years of delivery of the energy or other contract products, an “EBO<sup>3</sup> Report,” which must document the spending and payments in the categories outlined in the previous paragraph. The Commission will verify the spending and payments to determine whether the developers are meeting their economic benefits obligations. The contracts provide that failure to meet these obligations may result in a downward price adjustment to the contract.

## **B. Tranche 2**

In Tranche 1, the Commission procured 1,060,225 MWh. The Commission opened Docket number [2021-00004](#) and on January 15, 2021, issued an RFP for the remaining 654,775 MWh to be procured pursuant to section 3210-G. The Commission conducted Tranche 2 in the same manner as Tranche 1, including holding a bidders’ conference, and producing questions and answers in the docket to provide information to the bidders as needed. The Commission received 46 proposals for projects. The Commission contacted the bidders whose projects were selected for a short list to work on Term Sheets to present for the Commission’s consideration.

On June 29, 2021, the Commission issued an Order selecting seven Term Sheets to receive awards. Six of the awards were for New facilities, all of them for solar generation. The final awarded Term Sheet was for an Existing facility, which was a wind project. The first-year energy prices for the new projects ranged from \$28.50/MWh to \$39.50/MWh, reflecting a weighted average energy price of just under \$31.29/MWh. For the single Existing facility, the fixed price was \$36.50/MWh.

A summary of awarded projects in Tranche 2 is provided in Appendix B.

According to estimates provided by the bidders, the Tranche 2 projects were projected to reduce greenhouse gas emissions by about 260,000 tons per year. The project developers committed to the following economic benefits:

- More than 175 full-time equivalent jobs during the construction phase and 14 full-time equivalent jobs in each year of the delivery phase;
- Initial capital spending with Maine-based entities of more than \$86 million;
- Purchases of goods and services from Maine-based entities averaging more than \$2.6 million every year during the 20 years of the contract term; and

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<sup>3</sup> Economic benefits obligations

- Payments of taxes to Maine entities and payments to host communities averaging \$4.1 million annually over the 20 years.

The contracts required the developers in Tranche 2 to provide the same annual reports of economic benefits obligations as in the Tranche 1 contracts.

### III. BENEFITS AND COSTS OF THE TRANCHE 1 AND TRANCHE 2 CONTRACTS

Pursuant to section 3210-G(3), this report “may include information about benefits and costs of the contracts to the State’s economy, environmental quality or electricity consumers over both the short and long terms. Any analysis of the benefits or costs of the contracts must be based on a forecast of all avoided costs resulting from the contracts that is transparent and balanced over the long term.”

As set forth above, both Tranche 1 and Tranche 2 solicitations demonstrated robust competition, which resulted in favorable pricing for renewable energy resources to be developed and constructed in Maine. Based on forecasted market prices available at the time of the selection, the Commission anticipates that when these resources become commercially operational and start delivering energy, they will do so at a price point that, at least for many of the projects selected, should be beneficial to Maine ratepayers, meaning that the contract price is expected to be lower than the market prices at the time the energy is delivered into the wholesale market. All of the New facilities are still in the development stage and therefore there has not yet been any delivery of the energy to market from these projects. The Commission will provide information regarding the benefits or costs of the delivery of energy for these projects in its future reports, which much be filed every two years.

The three Existing projects currently in operation have resulted in net ratepayer benefits of \$2.1 million in 2021 and \$12.5 million in 2022. These projects are forecasted to have net ratepayer benefits of approximately \$30 million during the next three years<sup>4</sup>.

| Project                     | 2021 Net Ratepayer Cost/(Benefit) | 2022 Net Ratepayer Cost/(Benefit) <sup>5</sup> | Projected 2023-2026 Net Ratepayer Cost/(Benefit) |
|-----------------------------|-----------------------------------|--|--|
| Brookfield White Pine Hydro | \$(119,000)                       | TBD  | \$(889,000)                                      |
| ReEnergy Livermore Falls    | \$908,000                         | TBD  | \$(10,828,000)                                   |
| Helix Maine Wind            | \$(2,925,000)                     | TBD  | (\$18,978,891)                                   |

Although Tranche 1 and Tranche 2 resulted in procurement of projects with favorable pricing, due to general economic conditions that developed subsequent to the time of the awards, some of the developers of New facilities have reported to the Commission that they have encountered difficulties with developing their projects. Some of these difficulties relate to delays in permitting and

<sup>4</sup> Ratepayer benefits and cost are from CMP Stranded Cost filings in dockets [2022-00042](#) and [2022-00341](#). Annual cost and benefits are accrued over a 12-month period starting in March and ending February of the following year. Actual 2022 costs will be reported in docket [2023-00039](#) on or about April 1, 2023.

interconnection processes. Others relate to reported difficulty in maintaining the economics of projects due to increased prices and supply chain issues, among other factors.<sup>6</sup> The Commission has received formal notification that three of the projects receiving awards have terminated their contracts due to these conditions. This results in an approximate reduction of 155 MW from the total that was procured in Tranche 1 and Tranche 2. The Commission has also received informal notification from other project developers stating that they may have to terminate their contracts due to economic and other conditions, which could result in additional reductions.

In the Order approving the Tranche 2 Term Sheets, the Commission set forth an annual reporting requirement (for contracts approved under both tranches) so that progress, delays, or problems with the projects can be monitored and addressed.<sup>7</sup> In addition to receiving these reports, the Commission maintains contact with the developers and will continue to track developments.

With respect to the environmental and economic benefits that are expected to result from these contracts, as set forth above, the developers have projected reduction in greenhouse gas emissions of about 760,000 tons per year once all projects are all producing energy. Also as set forth above, the contracts required the developers to provide annual reports of their compliance with their economic benefits obligation commitments. These reports are not due to be filed until the facilities are constructed and

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<sup>6</sup> For example, one of the developers petitioned the Commission seeking an increase in the contract price in which the developer described the conditions it is experiencing in development of its projects. *See Maine Public Utilities Commission, Request for Proposals for the Sale of Energy or Renewable Energy Credits from Qualifying Renewable Resources Pertaining to Versant Power and Central Maine Power*, Docket No. [2020-00033](#), BNRG Maine, LLC Request to Amend Contracts (BD Solar Church Hill, LLC and BD Solar Eddington, LLC) (Nov. 23, 2022). In an Order dated March 17, 2023, the Commission denied the request to amend the contracts.

<sup>7</sup> The reporting requirement as set forth in the Order provides:

It is important that the Commission have some means of tracking the progress of these projects to ensure the objectives of the Act will be met in a timely fashion. As the contract counterparty and interconnecting utilities, the T&D utilities are best positioned to follow the progress of these projects to completion. Accordingly, CMP and Versant Power are directed to provide an annual report to the Commission based on their communications with the sellers and summarizing the status and progress of each the projects in its respective service territory, including any anticipated delays in reaching COD, significant milestones achieved or delayed, and provision of required financial security. Such annual reports are to be filed with the Commission by March 31 of each year until all projects achieve COD. The Commission will also issue a similar reporting directive covering projects that have entered into contracts with the T&D in the docket for Tranche 1, 2020-00033.

If it appears from the information provided that a project is not proceeding at a pace that will allow it to attain commercial operation within a reasonable period of time, the Commission may open a proceeding to: (1) investigate the cause of the delay; (2) determine the viability of the project; and (3) take steps to ensure the project will either reach commercial operation without undue delay or otherwise not cause the Tranche 1 and Tranche 2 MWh procurement amounts to go unfulfilled, up to and including the possibility of terminating the contract. The Commission reserves the right to initiate a new procurement or, as specified in the RFP for this Tranche 2, to seek additional proposals, to ensure the objectives of the Act will be met.

*Maine Public Utilities Commission, Request for Proposals for the Sale of Energy or Renewable Energy Credits from Qualifying Renewable Resources Pertaining to Versant Power and Central Maine Power Company, Tranche 2, Order Approving Term Sheets at 4-4 (June 29, 2021).*



delivering energy. Therefore, to date the Commission has received reports only from the Existing facilities. In reports filed in the docket, the following information has been provided:

- ReEnergy Livermore Falls, LLC: This biomass generator, awarded in Tranche 1, has filed reports demonstrating that it is meeting its obligations for the past two years through the expenditure of \$20 million dollars each year in capital expenses, supplies, taxes, and wood fuel harvested by Maine-based suppliers. It is also providing 28 Maine-based full-time jobs.<sup>8</sup>
- Brookfield White Pine Hydro, LLC: This hydroelectric generator, awarded in Tranche 1, has filed reports demonstrating that it is meeting its obligations for the past two years through the expenditure of more than \$1 million annually in income, excise, sales, and other taxes to Maine-based entities, as well as providing one Maine-based full-time job.<sup>9</sup>
- Helix Maine Wind Development, which was awarded a contract in Tranche 2, has filed with the Commission a request for approval of its report with respect to its economic benefits obligations. This report is under review in the following docket: *Maine Public Utilities Commission, Request for Approval of Annual EBO Report Pertaining to Helix Maine Wind Development*, Docket No. [2023-00020](#).

#### IV. OTHER REPORTING REQUIREMENTS

The legislation requiring this report also stated that the report must include “recommendations about how to further stimulate investment in Class IA resources or achieve ratepayer benefits from Class IA resources.” 35-A M.R.S. § 3210-G(3). At present, the Commission does not have recommendations to provide on this point. This report reflects the success of both Tranche 1 and Tranche 2, but also the current difficulties that developers of renewable resources are facing due to economic and other conditions. The Commission is also aware of efforts on the state, regional, and national levels to assist with the transition to renewable resources and to reach aggressive climate action goals. The Commission will respond to and assist with those efforts, including the continued monitoring of the projects procured through Tranche 1 and Tranche 2 of the 3210-G solicitation, as part of those efforts and will offer recommendations with respect to those goals.

#### V. CONCLUSION

Pursuant to 35-A M.R.S. § 3210-G(3), this report fulfills the legislative requirements stated above. The Commission will continue to monitor the development of New projects and will take appropriate actions as necessary to fulfill the purposes of the Act.

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<sup>8</sup> Detailed information regarding these reported benefits can be found in the Commission’s docket for the filing and determination of compliance with economic benefits obligations, Maine Public Utilities Commission, Request for Approval of Annual EBO Report Pertaining to ReEnergy Livermore Falls, LLC, Docket No. [2022-00050](#).

<sup>9</sup> Information regarding Brookfield’s compliance with its economic benefits obligations can be found in the following docket: Maine Public Utilities Commission, Request for the Approval of Annual EBO Report Pertaining to Brookfield White Pine Hydro, LLC, Docket No. [2022-00051](#).

### Appendix A – Summary of Awarded Contracts in Tranche 1

| Tranche | Category | Project  | Resource Type | Nameplate Capacity (MW) | Product | Term | Year 1 Price | Annual Escalation |
|---------|----------|--|---------------|-------------------------|---------|------|--------------|-------------------|
| 1       | Existing | Brookfield - Androscoggin 3                          | Hydro         | 4.5                     | RECs    | 20   | \$ 14.35     | 2.0%              |
| 1       | Existing | ReEnergy - Livermore Falls                           | Biomass       | 39                      | Energy  | 20   | \$ 53.00     | 3.0%              |
| 1       | New      | SWEB Development - Silver Maple                      | Wind          | 20                      | Energy  | 20   | \$ 34.30     | 2.0%              |
| 1       | New      | Three Rivers Solar (Swift Current) - Three Rivers    | Solar         | 100                     | Energy  | 20   | \$ 42.00     | 2.0%              |
| 1       | New      | Glenvale Solar - West Baldwin                        | Solar         | 16                      | Energy  | 20   | \$ 39.50     | 2.5%              |
| 1       | New      | Walden Renewables - Walden Solar Maine V (Leeds)     | Solar         | 20                      | Energy  | 20   | \$ 35.50     | 0.0%              |
| 1       | New      | Walden Renewables - Walden Solar Maine VII (Madison) | Solar         | 20                      | Energy  | 20   | \$ 37.75     | 0.0%              |
| 1       | New      | BNRG Dirigo - Church Hill                            | Solar         | 20                      | Energy  | 20   | \$ 29.75     | 2.5%              |
| 1       | New      | BNRG Dirigo - Eddington                              | Solar         | 20                      | Energy  | 20   | \$ 29.75     | 2.5%              |
| 1       | New      | Glenvale Solar - Emery Meadow                        | Solar         | 16                      | Energy  | 20   | \$ 37.00     | 2.5%              |
| 1       | New      | Glenvale Solar - Topsham Meadow                      | Solar         | 18                      | Energy  | 20   | \$ 39.00     | 2.5%              |
| 1       | New      | Granite Apollo - Canton Solar                        | Solar         | 65                      | Energy  | 20   | \$ 34.00     | 2.5%              |
| 1       | New      | Granite Apollo - Roxbury Solar                       | Solar         | 55                      | Energy  | 20   | \$ 34.00     | 2.5%              |
| 1       | New      | Walden Renewables - Fairly Solar                     | Solar         | 17                      | Energy  | 20   | \$ 40.00     | 0.0%              |
| 1       | New      | Walden Renewables - Moussam River                    | Solar         | 20                      | Energy  | 20   | \$ 36.50     | 0.0%              |
| 1       | New      | Walden Renewables - Walden Solar Maine III (Sweden)  | Solar         | 35                      | Energy  | 20   | \$ 36.00     | 0.0%              |

**Appendix B – Summary of Awarded Contracts in Tranche 2**

| Tranche | Category | Project                                     | Resource Type | Nameplate Capacity (MW) | Product | Term | Year 1 Price | Annual Escalation |
|---------|----------|---|---------------|-------------------------|---------|------|--------------|-------------------|
| 2       | Existing | Helix Maine Wind Development LLC            | Wind          | 132                     | Energy  | 20   | \$ 36.50     | 0.0%              |
| 2       | New      | C2 Energy Capital LLC                       | Solar         | 14                      | Energy  | 20   | \$ 39.50     | 2.0%              |
| 2       | New      | Walden Renewables - Goose Cove Solar, LLC   | Solar         | 40                      | Energy  | 20   | \$ 28.50     | 2.5%              |
| 2       | New      | Walden Renewables - Oyster River Solar, LLC | Solar         | 31                      | Energy  | 20   | \$ 32.00     | 2.5%              |
| 2       | New      | Glenvale - Turner Meadow Solar Station, LLC | Solar         | 10                      | Energy  | 20   | \$ 38.50     | 2.5%              |
| 2       | New      | Glenvale - Warren Meadow Solar Station, LLC | Solar         | 75                      | Energy  | 20   | \$ 32.00     | 2.5%              |
| 2       | New      | Greene Apple Solar Power LLC                | Solar         | 120                     | Energy  | 20   | \$ 29.89     | 3.0%              |