

# J. KENNEDY AND ASSOCIATES, INC.

## PRINCIPALS

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December 13, 2016

Mr. Brandon Frey  
Ms. Kathleen Richardson  
Louisiana Public Service Commission  
602 North Fifth Street (Galvez Building) (70802)  
P. O. Box 91154  
Baton Rouge, LA 70821-9154

**Re: Solicitation for under \$50K bids from outside consultant to assist Staff in reviewing Entergy Louisiana, LLC's Application for Authorization to Amend a Contract for the Purchase of Capacity and Electric Power from Occidental Chemical Corporation's Taft Facility (Docket No. U-34303)**

Dear Mr. Frey:

J. Kennedy and Associates, Inc. ("Kennedy and Associates") is pleased to submit this proposal in response to the Louisiana Public Service Commission's ("Commission") November 28, 2016 solicitation for an outside consultant to assist its Staff in the review of Entergy Louisiana, LLC's ("ELL" or "the Company") Application seeking to amend and extend its existing purchase power agreement ("PPA") with Occidental Chemical Corporation ("Occidental") that was originally approved by the Commission on October 28, 2008 (Docket U-28804).

Under the amended agreement, ELL will purchase between 480 and 520 MW of capacity, energy, and other products from Occidental's Taft Cogeneration Facility in Taft, Louisiana. This PPA extension was negotiated following an unsolicited offer from Occidental in September 2016. The term of the extension is for ten years beginning in 2018. The Company's application states that the terms are essentially the same as the existing PPA, except for "pricing and certain other items negotiated between the parties." The application also states that Occidental's unsolicited offer was received after completion of ELL's 2015 RFP for Long-Term Developmental and Existing Capacity and Energy Resources ("2015 ELL RFP"). ELL asserts that the Occidental PPA extension will provide ELL's customers with "additional net savings of approximately \$90 million on a net present value basis over the ten-year term of the Amended PPA compared to a portfolio of resources that does not include the Amended PPA."

In seeking approval, ELL notes that the Amended PPA is consistent with ELL's supply plan and will provide cost savings to ELL's customers, and it believes the Amended PPA "services the public convenience and necessity, is in the public interest and therefore prudent, and should be certified in accordance with the Commission's 1983 General Order." In addition to certification under the 1983 General Order, the Company's application states that ELL is also requesting "a finding that the public interest supports accepting an alternative market test for the Amended PPA, or in the alternative, granting an exemption to certain requirements of the Commission's Market-Based Mechanisms General Order ("MBM Order"); certain other approvals related to potential financial implications resulting from the Amended PPA; findings relating to appropriate cost recovery; and the development of a schedule and procedures to permit this Application to be considered on a timely basis..."

In addition, the Company also recognizes that the PPA could affect the Company's credit rating, because credit rating agencies could require that debt be imputed because of the contract. Entergy states that it does not expect that the PPA would have to be treated as a lease, however, if it turns out that ELL would have to do that, "that treatment would have a material effect on ELL's balance sheet and financial condition and could raise the cost of serving customers."

As part of our work on this project, Kennedy and Associates will investigate whether the Amended PPA does indeed comply with the 1983 General Order, and will investigate the implications of the PPA on the MBM General Order. We will conduct a thorough evaluation of whether an alternative market test should be accepted, or whether an exemption to MBM requirements should be granted. Furthermore, we will investigate the implications of this Amended PPA being treated as a capital lease or as a power purchase expense, and the risks to ratepayers if it must be treated as a capital lease.

Kennedy and Associates has extensive experience working with Staff on evaluating PPAs and assessing Entergy's resource needs. Kennedy and Associates assisted the Staff in its review of Entergy's 2009 RFP for new renewable resources. We also assisted Staff in the resulting certification proceedings of renewable resources that Entergy has now acquired including Dockets U-32557 (Rain Certification), U-32785 (Agrilectric Certification), and U-32981 (Montauk Certification). We also assisted Staff in the review and evaluation of other resources in Louisiana, including Cleco Power, LLC's ("Cleco Power") 2007 Request for Certification of Purchase Power Agreements in Docket U-30334, Cleco Power's 2007 RFP for Long Term Resources, and in the resulting certification proceeding of the Acadia Combined Cycle resource (Docket U-31157). Kennedy and Associates is familiar with Entergy's resource planning requirements, as we assisted the Commission with evaluating Entergy's 2015 IRP (Docket I-33014). In addition to our experience working with the Entergy System, we were also involved with Entergy's transition to MISO. Kennedy and Associates assisted Staff in the review of Entergy's application for approval to transfer functional control to MISO (Docket No. U-32148). In addition, we have assisted the Commission by participating in numerous FERC regulatory proceeding concerning the Entergy System.

### **Our Approach to Perform The Project**

Kennedy and Associates will perform the following review, and while conducting this review, we will work closely with Staff to decide if any specific issues need to be evaluated in greater detail.

- Review filing;
- Review the Commission's prior Orders that are relevant to this proceeding;
- Conduct discovery (both formal and informal discovery as necessary);
- Perform analyses to develop recommendations;
- Coordinate with Staff to discuss all findings;
- Prepare expert witness testimony;
- Respond to discovery requests served upon us;
- Participate in settlement discussions, if there are any;
- Testify at hearing; and,
- Provide other litigation support as requested by Staff.

### **Budget to Perform These Services**

Kennedy and Associates proposes a budget for consulting services of \$44,500. Expenses for this project will be in addition to the consulting services, and will not exceed \$1,200. Our services will be billed based on our standard billing rates, which are attached to this letter. Kennedy and Associates will ensure that only charges for actual hours worked and actual expenses incurred at specified normal hourly rates will be billed, and that our bills will not exceed the total labor and expense budgets based on the scope of work outlined. Furthermore, we acknowledge that any expenses charged will be within the Commission's standard expense allowances.

### **Kennedy and Associates Qualifications**

Kennedy and Associates is well qualified to assist the Staff in its review of the Revised Occidental PPA Application given our experience with other PPA and RFPs in Louisiana. This experience will allow us to quickly understand the important issues of this proceeding, and will help us to provide the highest quality consulting support to the Commission. A copy of our firm's professional qualifications is attached to this proposal.

Our project team consists of consultants experienced in resource evaluations and PPA assessments,

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as well as the Commission's regulatory requirements. Mr. Lane Kollen, Vice President, CPA, CMA, CGMA will have executive management responsibility for the project. Mr. Philip Hayet, Vice President, will work closely with Mr. Kollen and will have lead responsibility. They will be assisted by Ms. Leah Wellborn, Senior Consultant. Individuals on our team have more than 30-years of experience working in the electric utility industry and on dozens of projects for the Commission. The following is a summary of the background of the project team members who will work on this project.

Mr. Lane Kollen has expertise in the financial, rate, tax, and planning areas. He specializes in revenue requirements analyses, taxes, evaluation of rate and financial impacts of traditional and nontraditional ratemaking, utility mergers/acquisitions and diversification. Mr. Kollen has expertise in various software systems used by utilities for budgeting, rate case support and strategic and financial planning. Mr. Kollen is a ratemaking expert knowledgeable on the formula rate plans that are in place for all investor owned utilities in Louisiana.

Mr. Hayet is an electrical engineer, and has worked closely with utility commissions, electric utilities and industrial groups across the U.S. on generation and transmission resource planning and operations issues, and he has considerable amount of experience working on regulatory proceedings and policy matters. Mr. Hayet led our project team in the RPS, REPP, Rain, and Agrilectric certification proceedings, rulemakings and an Entergy IRP proceeding.

Ms. Wellborn has expertise in economic analyses involving renewable resources, resource planning, contract evaluations, and IRP studies for utilities across the U.S. Ms. Wellborn has extensive experience with production cost modeling.

**Kennedy and Associates No Conflicts of Interest**

Kennedy and Associates has no known conflicts of interest in representing the Louisiana Public Service Commission in this proceeding. Kennedy and Associates does not represent investor-owned gas or electric utilities.

Thank you for the opportunity to provide consulting services to the Commission Staff on this important project. Please call me at 770-992-0207, or e-mail me at [lkollen@jkenn.com](mailto:lkollen@jkenn.com), or Philip Hayet at [phayet@jkenn.com](mailto:phayet@jkenn.com) with any questions or comments.

Sincerely,



Lane Kollen  
Vice President

**J. Kennedy and Associates, Inc.**  
**2016 Hourly Fee Schedule**  
**Louisiana Public Service Commission**

<u>Title</u>	<u>Name</u>	<u>Hourly Rate</u>
President	Stephen J. Baron	\$250
Vice President	Lane Kollen	\$250
Vice President	Philip Hayet	\$250
Director	Richard A. Baudino	\$239
Director	Brian R. Barber	\$239
Manager	Randy Futral	\$239
Senior Consultant	Ann Bruccoliere	\$180
Consultant	Leah Justin Wellborn	\$160
Consultant	Brian Kollen	\$140
Analyst	Jessica Inman	\$100

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