

Louisiana Public Service Commission



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Executive Counsel

December 7, 2020

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Deputy Undersecretary

VIA EMAIL

RFP 20-21- DOCKET NO. U-35753, Cleco Power LLC and Southwestern Electric Power Company, ex parte. In re: Joint Application for: (I) Authorization to Close the Oxbow Mine; and (II) Authorization to Include and Defer Certain Accelerated Mine Closing Costs in Fuel and Related Ratemaking Treatments.

And

DOCKET TBD, Cleco Power LLC and Southwestern Electric Power Company, ex parte. In re: Joint Application to retire the Dolet Hills unit prior to 2026.

To all LPSC qualified consultants:

Enclosed please find a Request for Proposals ("RFP") for **outside counsel** issued by the Louisiana Public Service Commission for the above referenced docket. If your firm is interested in submitting a proposal, please review the RFP carefully to determine whether your firm meets the specific requirements to qualify for this representation. All Proposals must include a showing that your firm possesses the requisite qualifications and experience to represent the Commission in this matter. Also, please note that all Proposals, including the **original, plus (2) two copies, and an electronic copy must be received on or before Thursday, January 14, 2021 at 4:30 p.m. Selection of consultants is anticipated to take place at the Commission's January 2021 Business and Executive Session.**

Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "KHB", written over a light blue circular stamp.

Kathryn H. Bowman
Executive Counsel

Enclosure

cc: Brandon M. Frey, Executive Secretary
Jaclyn D. Penzo, Staff Attorney

RFP 20-21
LOUISIANA PUBLIC SERVICE COMMISSION
REQUEST FOR PROPOSALS (“RFP”)
December 7, 2020

DOCKET NO. U-35753, Cleco Power LLC and Southwestern Electric Power Company, ex parte. In re: Joint Application for: (I) Authorization to Close the Oxbow Mine; and (II) Authorization to Include and Defer Certain Accelerated Mine Closing Costs in Fuel and Related Ratemaking Treatments.

And

DOCKET TBD, Cleco Power LLC and Southwestern Electric Power Company, ex parte. In re: Joint Application to retire the Dolet Hills unit prior to 2026.

The Louisiana Public Service Commission (“Commission” or “LPSC”), in accordance with the requirements of the LPSC General Order dated November 10, 2014 regarding the selection of contract employees (the “Contract Order”), issues this Request for Proposals (“RFP”) to **outside counsel** who will assist Commission Staff in two upcoming related dockets. The first is Docket No. U-35753, which is Cleco Power LLC (“Cleco Power”) and Southwestern Electric Power Company’s (“SWEPCO”), hereinafter collectively (“Utilities”), request that the Commission determine it is prudent to permanently cease mining operations at the Dolet Hill and Oxbow Mines, and permit ratemaking treatment of the expenses associated with said cessation. The second Docket is anticipated to be filed before the end of the year jointly by the Utilities and will seek the Commission’s approval to retire the Dolet Hills Unit earlier than the agreed upon 2026 date.

Deviations from the requirements contained herein, or conditional bid amounts may result in rejection of the bid as non-conforming. Consideration of qualifying bids received in response to RFP 20-21 are anticipated to be on the Commission’s December Business and Executive Session for consideration.

I. Overview

On October 6, 2020, Cleco Power and SWEPCO filed a joint application requesting the Commission: 1) determine that it is prudent to permanently cease mining operations at the Oxbow Mine; 2) permit the Utilities to close the mines; 3) permit the ratemaking treatment of the expenses associated with the cessation of mining at the Oxbow Mine and the closure of the mines, including a deferral of the costs resulting from the accelerated depreciation and amortization of the assets used to operate the mines; and 4) for expedited treatment. Per the application, the expedited treatment is requested so that the benefits of lower fuel costs can be secured before the seasonal operation period of summer 2021, for the benefit of customers. The joint application was published in the Commission’s October 16, 2020 Bulletin, for a 15-day intervention, and docketed as Docket No. U-35753. As of the issuance of this RFP, there have been four (4) interventions filed.

The Utilities filed the joint application in accordance with Commission Order No. U-30975. Order No. U-30975 authorized Cleco Power and SWEPCO to purchase the permit, leases, reserves and equipment associated with the lignite mine known as the Red River Mine-Oxbow Reserve, which was anticipated to extend the life of the Dolet Hills Unit to at least 2026, and provide continued significant savings to both Cleco Power and SWEPCO customers.

The anticipated docket planned to be filed December 31, 2020 is based on conversations with the Utilities. Per these conversations, Cleco Power and SWEPCO plan to request the Commission allow the Utilities to retire the Dolet Hills Unit prior to 2026. It is anticipated that similar requests for ratemaking treatment, costs deferral, and expedited treatment will be requested in this upcoming filing. Generally, a utility is not required to seek the Commission's authorization to retire specific units (See General Order dated 10-19-2018 [Docket No. R-34407]). However, part of the stipulated settlement, approved in Order No. U-30975, required the Utilities to continue operations of the Dolet Hills Power Station and the Oxbow Mines through at least 2026.

Order No. U-30975 also allowed the Utilities to apply to the Commission for a shortening of the time requirement. Such application was to be based on the continued operation of Dolet Hills Power Station and the associated mines no longer being prudent, considering economic, environmental, operational or other similar factors, or based upon the Commission's denial of the opportunities for the Utilities to recover their prudently incurred mining costs in their FACs. The current filings by Cleco Power and SWEPCO are based on the Utilities opinion that continued operation is no longer prudent.

Applicants will be assisting Commission in-house Staff (Legal, Utilities, and Auditing Divisions) in reviewing and determining the Utilities' request, and assisting in the recommendations to the Commission on whether the Dolet Hill and Oxbow Mine mining operations should cease, and whether the Dolet Hills Unit should retire prior to 2026. Should Staff make such recommendation, Applicants will also assist in providing a recommendation as to the appropriate ratemaking treatment for these decisions.

II. Scope of Representation

In assisting Staff, Applicants will review the joint application (including the direct testimony of witnesses, any supporting documentation, and associated cost effects); assist in drafting data requests and review responses thereto; potentially participate in informal meetings with Staff and the Utilities; assist in drafting a recommendation(s), including testimony, to the Commission, including any exhibits supporting the same; review and assist in preparing a response to any rebuttal testimony; assist in preparing any necessary direct and cross-answering testimony; assist in trial preparation, including cross-examination of witnesses and drafting pleadings and motions related thereto; and review and analyze potential stipulation terms.

Additionally, the Applicant shall be available to participate in meetings, conference calls, status conferences, hearings, and conferences with the Commission and its Staff, as well as attending any Business and Executive Session(s) that Staff deems necessary. The scope of work provided herein shall continue through the conclusion of both dockets through a Commission vote.

All proposals shall include an outline of a plan of action for conducting the review of the joint applications, including the activities described above. The Commission and its Staff shall have the right to determine how the tasks will be carried out. In addition, all proposals shall be accompanied by a professional firm resume indicating the qualifications and experience necessary to meet the requirement of this RFP.

III. Period of Representation

The time period estimated to complete the Scope of Representation for Docket No. U-35753 is approximately 8-10 months, and to complete the Scope of Representation in the retirement of Dolet Hills is approximately 12 months. These are merely estimated time periods and the Commission makes no representation as to the accuracy of the Period of Representation.

Cleco Power and SWEPCO have requested expedited treatment and seek to close the Oxbow Mines by December 31, 2021.

IV. Minimum Requirements

To qualify, all Applicants must have requisite knowledge of the topics listed below, in addition to those provided in Commission General Order dated November 10, 2014. Consideration will be given to factors which indicate degrees of competence such as the amount of practical experience in the field of public utility practice, and similar practice before this or other regulatory agencies, in addition to the Applicant's knowledge of Louisiana ratemaking standards and regulatory law.

Applicants shall also, at a minimum, be experienced in participating in cases involving public utility regulation, or other regulatory issues on administrative and judicial levels, including direct and cross-examination of witnesses, presentation of reports and recommendations, assistance in developing cross examination of adverse witnesses, and the analysis of pleadings, recommendations and exceptions. Consideration is given to indicia of competence such as previous experience in complex cases, publications, educational achievement and other previous employment suggesting competence in regulatory matters involving the above areas; significant personal experiences before regulatory agencies such as the SEC, FERC, FCC, or other similar entities may be a favorable factor. Additionally, knowledge and familiarity with the operations of Cleco Power and SWEPCO and of Dolet Hills specifically may be a favorable factor. Firm size may be considered in matters likely to be prolonged, complex, or involving multiple forums.

Applicants shall be qualified and prepared to assist with respect to all of the issues addressed in this RFP and which are likely to arise in the proceedings. The Applicant shall have knowledge of and be experienced in Commission ratemaking and jurisdictional issues, including knowledge of appropriate accounting standards and practices for electric utilities, including:

- (1) a detailed understanding of the major functional areas of a regulated investor-owned electric utility;
- (2) appropriate accounting standards and practices for electric public utilities, public utility accounting, and generally accepted auditing standards;

- (3) the appropriate ratemaking adjustments to be made to the utility's accounting records, including adjustments related to retirement of units;
- (4) the determination and calculation of the appropriate rate base of a utility plant investment dedicated to providing service;
- (5) cost of capital, including capital structure, cost of debt, cost of equity, and rates of return;
- (6) familiarity with just and reasonable costs and prudent investments associated with providing reliable and quality service as recommended by NARUC;
- (7) depreciation and taxation;
- (8) the Commission's General Order dated April 20, 2012 (Docket No. R-30021, LPSC ex parte. In re: Development and Implementation of Rule for Integrated Resource Planning for Electric Utilities), and Cleco Power and SWEPCO's most recently acknowledged IRPs;
- (9) the Commission's General Order dated October 19, 2018 (Docket No. R-34407, LPSC ex parte. In re: Rulemaking docket to consider whether or not the Commission should exercise its authority over future utility generation deactivation and retirement decisions and the rules and procedures that could apply to any such exercise of authority); and
- (10) relevant Commission Orders associated with the Dolet Hills Power Station, and the mining associated therewith; such Orders include, but are not limited to: Order Nos. U-21453, U-20925(SC), U-22092 (SC)-Subdocket G, U-29797, and U-30975.

V. Estimate of Costs

All proposals shall include fees and direct costs associated with Applicants' services described above. Applicants responding to this RFP shall quote their rates on an hourly basis, and shall submit a total budget, separating professional fees from direct costs. Along with providing the above, Applicants should provide an overview of the estimated costs in the summary of the bid proposal.

Applicants shall only be allowed to charge for actual hours of work performed and costs incurred. Once selected, an Applicant's hourly rates and budget shall not be altered except by formal approval of the Commission.

VI. Conflict of Interest

Applicants shall prominently and separately disclose current, as well as past employment, which could possibly result in a conflict of interest. In addition, Applicants shall disclose matters in which they currently represent clients before the Commission.

VII. Billing Guidelines

As required by the November 10, 2014 General Order, all bills will be rendered monthly and shall specifically identify and describe all work performed, the person performing such work, the time and charge for such work, and shall additionally show the total amount billed to date and the authorized original estimate. Bills will be rendered in strict accordance with the Commission's guidelines. Expenses shall also be separately disclosed with proof of such expenses attached.

Expenses, where applicable, shall be reimbursed at state authorized rates as specified in the Travel Policies and Procedures Memorandum issued by the State of Louisiana, Division of Administration in effect at the time such expenses are incurred ("Allowable Expenses"). Any expenses that exceed the Allowable Expenses shall be borne by the contract employee and shall not be reimbursed by either the Commission, or the correspondent utility, unless otherwise specified by the Commission.

VIII. Reservation of Rights

The LPSC reserves the right to reject any and all proposals, to amend and/or supplement this RFP at any time, and to consider proposals or modifications thereof received at any time prior to LPSC vote at Open Session, if such action is found by the LPSC to be in the public interest. Pursuant to the General Order regarding the selection of contract employees, the LPSC has the right to accept any offer and does not have to accept the lowest bid amount. In addition, there is also no assurance, express or implied, that an award will necessarily be made pursuant to this RFP.

IX. Submission of Proposals

Interested parties should submit the **original (hard copy), 2 copies, and e-mail an electronic copy** of the proposal to:

Kathryn H. Bowman
Executive Counsel
Louisiana Public Service Commission
602 North Fifth Street (Galvez Building) (70802)
P.O. Box 91154
Baton Rouge, Louisiana 70821-9154
Phone: (225) 342-9888
Fax: (225) 342-5610
Email: kathryn.bowman@la.gov

To be considered, an original, three copies, and the electronic copy of the proposal must be received on or before **Thursday, January 14, 2021 at 4:30 p.m.** **Selection of consultants is anticipated to take place at the Commission's January Business and Executive Session.** Information concerning billing procedures and the Commission's RFP policy may be obtained from the address listed above, or by calling (225) 342-9888.