

Louisiana Public Service Commission

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Executive Counsel

April 23, 2021

JOHNNY E. SNELMGROVE, JR
Deputy Undersecretary

VIA EMAIL

RFP 21-11 – Docket No. X-35937, Louisiana Public Service Commission, ex parte. In re: Prudence Investigation of Atmos Energy Corporation’s System Integrity Improvement Program, including an analysis of Reasonable Costs Recovery Mechanisms.

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 Wednesday, May 25, 2021 at 4:30 p.m. Selection of consultants is anticipated to take place at the Commission’s June 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', with a long horizontal flourish extending to the right.

Kathryn H. Bowman
Executive Counsel

Enclosure

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

RFP 21-11
LOUISIANA PUBLIC SERVICE COMMISSION
REQUEST FOR PROPOSALS (“RFP”)
April 23, 2021

DOCKET NO. X-35937, Louisiana Public Service Commission, ex parte, In re: Prudence Investigation of Atmos Energy Corporation’s System Integrity Improvement Program, including an analysis of Reasonable Costs Recovery Mechanisms.

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”) seeking an **outside counsel** who will assist Commission Staff in a prudence investigation of Atmos Energy Corporation’s System Integrity Improvement Program (“SIIP”).

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 21-11 are anticipated to be on the Commission’s June 2021 Business and Executive Session (“B&E”).

I. Overview

At the Commission’s March 17, 2021 Business and Executive Session (“B&E”), Chairman Greene made the following directive:

The Commission authorized Atmos Energy to establish a [SIIP] in an effort to strike a balance between the Company’s need to increase its capital investment and the opportunity to achieve the targeted return on investment. The SIIP represents the capital expenditures being made throughout Louisiana by Atmos Energy to replace aging and/or unsuitable pipe as well as replacing distribution facilities in higher risk areas. The SIIP mitigates the effects of regulatory lag for Atmos by permitting recovery of carrying costs and deferring depreciation expense rather than delaying recovery through the Rate Stabilization Clause process.

The SIIP-related capital expenditures that Atmos Energy has made since the program was implemented in 2013 have been substantial; the investments have totaled nearly \$405 million. I recognize that the SIIP is a product of Atmos Energy’s proactive approach to pipeline safety; however, these annual investments through the SIIP and the recurring increases in rate base attributable to the level of SIIP investment are concerning. Particularly when considering that, in seeking authorization of the SIIP, Atmos Energy testified the Company expected to spend \$10 million annually and the monthly impact for a residential customer would be approximately \$1.09 at the end of five years. Clearly, the level of SIIP-related capital expenditures has far exceeded the forecasted investment.

Therefore, I direct Staff to open a docket to conduct a prudence review of Atmos Energy Corporation's System Integrity Improvement Plan from 2013 through 2020, to examine the SIIP-related investments to determine reasonableness and prudence as well as an evaluation as to whether the program should proceed as planned by Atmos and what parameters, if any, are necessary to implement, including fair and reasonable cost recovery mechanisms, in order to ensure that the SIIP benefits customers.

There was no opposition to this directive. Included within this directive was for Staff to solicit Henderson Ridge Consulting, and issue an RFP for an engineering consulting firm and outside counsel, as necessary, to assist in this matter. Henderson Ridge Consulting was retained at the Commission's April 2021 B&E. Staff previously determined the necessity of hiring an independent engineering consultant and issued RFP 21-08 seeking such consultant. The retention of an independent engineering consultant is anticipated to be considered at the Commission's May 2021 B&E.

Staff has now determined the necessity of hiring outside counsel to assist Staff, Henderson Ridge, and any independent engineering consultant retained (hereinafter collectively "Staff") in the above referenced docket.

II. Scope of Representation

Applicants will be assisting Commission Staff in a prudence review of Atmos Energy's SIIP and analysis of reasonable costs recovery mechanisms, including, but not necessarily limited to: review and analyze the Company's SIIP investments from 2013-2020 (which can be found in Atmos' Annual RSC filings as well as Docket No. 32987, which is where the SIIP was authorized); participate in site visits and meetings, as necessary, with Atmos Energy; assist in drafting discovery; review and analyze information received from the Company, as well as any testimony or information filed by any Intervenors (after Staff's Report is filed);¹ assist in drafting a Staff Recommendation, including Direct Testimony; be prepared to defend Staff's Recommendation, including Cross-Answering Testimony; participate in status conferences(s), hearings, and formal and informal meetings with the Company, Staff, and/or the Commissioners; and participate at a Business and Executive Session where this docket may be discussed. In addition, Applicants may need to conduct interviews with select personnel of Atmos Energy familiar with the Company's SIIP, including contractors, or representatives of the Louisiana Department of Natural Resources-Pipeline Division.

All proposals shall include an outline of a plan of action for this scope of representation. However, 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 requirements of this RFP.

¹ Docket No. X-35937 was opened and published in the Commission's Official Bulletin for information purposes only. Once Staff has completed its review and filed a Recommendation, the Docket will be republished to provide notice of the same and to allow for potential intervention.

Deviations from the requirements contained herein, or conditional bid amounts may result in rejection of the bid as non-conforming.

III. Period of Representation

The time period estimated to complete the Scope of Representation is approximately 12-18 months. This is merely an estimate and the Commission makes no representations as to the accuracy of the Period of Representation.

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. In addition, Applicants should, at a minimum, have knowledge of:

- 1) Commission Orders pertaining to Atmos Energy, including but not limited to Order Nos. U-32987, U-35122 and U-35535;
- 2) Appropriate accounting standards and practices for natural gas utilities;
- 3) Whether or not a resource will provide reliable service at the lowest reasonable cost;
- 4) Public interest criteria for approval of utility investments;
- 5) The 2006 Pipeline Integrity, Protection, and Safety Act (“PIPES”), which established standards for distribution pipeline integrity management programs; and
- 6) To the extent applicable, Louisiana Department of Natural Resources-Pipeline Division’s rules regarding safety standards.

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 the presentation of direct testimony or report and recommendations, assistance in developing cross examination of adverse witnesses, and the analysis of comments and exceptions to proposed recommendations. 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. Firm size may be considered in matters likely to be prolonged, complex, or involving multiple forums. In addition, all proposals shall demonstrate that the Applicant has the qualifications and experience necessary to meet the requirements of this request for proposals. Applicants will only be considered if proposals meet all of the requirements of this request for proposals and the Commission’s Contract Order.

V. Estimate of Costs

All proposals shall include fees and direct costs associated with Applicant's 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 shall 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, two copies, and the electronic copy of the proposal must be received on or before **May 25, 2021 at 4:30 p.m.** **Selection of consultants is anticipated to take place at the Commission's June 2021 Business and Executive Session, which is currently scheduled for June 16, 2021.** Information concerning billing procedures and the Commission's RFP policy may be obtained from the address listed above, or by calling (225) 342-9888.