

Louisiana Public Service Commission



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Executive Counsel

January 10, 2022

JOHNNY E. SNELLGROVE, JR
Deputy Undersecretary

VIA EMAIL

RFP 22-7 Docket No. U-36135, Jefferson Davis Electric Cooperative, Inc., and NextEra Energy Marketing, LLC. In re: Joint Application for Approval of Power Supply Agreements.

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, February 9, 2022 at 4:30p.m. Selection of consultants is anticipated to take place at the Commission’s February 2022 Business and Executive Session.

If you have any questions regarding this matter, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads "Lauren T. Evans".

Lauren T. Evans
Associate Counsel

Encl.

cc.: Brandon M. Frey, Executive Secretary
Kathryn Bowman, Executive Counsel
Melissa W. Frey, Deputy General Counsel

RFP 22-7
LOUISIANA PUBLIC SERVICE COMMISSION
REQUEST FOR PROPOSALS (“RFP”)
January 10, 2022

DOCKET NO. U-36135 – Jefferson Davis Electric Cooperative, Inc., and NextEra Energy Marketing, LLC. In re: Joint Application for Approval of Power Supply Agreement.

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”) to represent the Commission, issues this Request for Proposals (“RFP”) for **outside counsel** who will assist the Commission in its review and analysis of a certification proceeding for Jefferson Davis Electric Cooperative (“JDEC”), and NextEra Energy Marketing (“NEM”) (collectively “Requesting Parties”). The certification proceeding is a result of a joint RFP of JDEC and Dixie Electric Membership Corporation (“DEMCO”) which sought competitive solicitation for long-term power purchase contracts and/or generating capacity to serve the 1803’s member electric cooperatives.¹

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 22-7 are anticipated to be on the Commission’s February 2022 Business and Executive Session, which is currently scheduled for February 23, 2022.

I. Overview

JDEC and DEMCO initiated a competitive solicitation for long-term purchase power contracts and/or generating capacity pursuant to the Commission’s MBM Order, which was docketed as Docket No. X-35500. Commission Staff, with the assistance of United Professionals Company, were actively involved in the RFP process.² Upon completion of the RFP process, JDEC and DEMCO selected resources independent of one another as well as sought certification independently.

The Requesting Parties filed a joint application on August 17, 2021 requesting the Commission certify a long-term power supply agreement pursuant to the Commission’s General Order dated September 30, 1983 (“1983 Order”), as amended by the Commission’s Order No. R-30517, dated October 29, 2008. The agreement, as contemplated, would supply JDEC with all required capacity and energy supply needs for nine-years and 9-months. As indicted above, DEMCO has filed a separate certification proceeding, which is not part of the scope of this RFP.

¹ Docket No. X-35500, Jefferson Davis Electric Cooperative, Inc. and Dixie Electric Membership Corporation, ex parte. In re: *Notice of Intent to Conduct 2020 Request for Proposals for Long-Term Power Purchase Contracts and/or Generating Capacity Pursuant to the Commission’s Market Based Mechanisms General Order.*

² Pursuant to the scope of the Commission’s RFP where United Professionals was retained, UPC was also retained to participate and assist in any certification filing resulting from the RFP.

The joint application was published in the Commission's Bulletin with two parties intervening and three parties requesting to participate as interested parties. After the intervention period expired, Chief Administrative Law Judge Verzwylt scheduled a status conference where all parties agreed to a procedural schedule;³ that procedural schedule contemplates a hearing on June 7, through June 10, 2022.

II. Scope of Representation

Applicants will be assisting Commission Staff and UPC with the Requesting Parties joint application for certification pursuant to the Commission's 1983 Order. This assistance will begin *after* Direct Testimony has been filed in the docket.⁴

The Applicants' scope of work will include, but not necessarily be limited to: reviewing the application, testimony, and other supporting documentation filed by the Requesting Parties, along with the Direct Testimony and supporting documentation filed by Staff and Intervenors. The Applicant will be expected to assist in conducting and reviewing discovery on Direct and Cross-Answering Testimony, assist in the preparation of cross-answering testimony, review direct and cross-answering testimony prepared by other parties, and prepare for and participate in a certification or stipulated hearing, including preparation of any pre- and post-hearing briefs or filings, assisting in any settlement discussions and/or stipulation hearings and attendance and testifying at Commission B&E Sessions where the certification proceeding may be considered. Applicants are also required to participate in informal meetings, conference calls, attend depositions, status conferences, or any other meetings scheduled in or related to this proceeding. The scope of representation will be through a final Commission vote on certification, or rejection, of the selected resources.

All proposals shall include an outline of a plan of action for conducting the review of the current application as well as the anticipated certification filing. 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.

III. Period of Representation

The time period estimated to complete the Scope of Representation is approximately 6 months. This is merely an estimate and the Commission makes no representations as to the accuracy of the Period of Representation.

³ <https://lpscpubvalence.lpsc.louisiana.gov/portal/PSC/DocumentDetails?documentId=158186>

⁴ Direct Testimony is due January 31, 2022.

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. *The Commission's Contract Order requires Applicants to be pre-qualified by the Commission in order to be considered eligible.*

Applicants shall, at a minimum, be experienced in the presentation of cases involving public utility regulation, or other regulatory issues on administrative and judicial levels, including the presentation of witnesses on direct examination, cross examination of adverse witnesses, presentation of reports and recommendations, and the analysis of pleadings, recommendations and exceptions.

Additionally, Applicants shall also have a working knowledge of the Commission's rules and regulations; and experience in all aspects of electric utility ratemaking proceedings, including analyzing the operations, books, and records of utility companies. 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 proceeding and have knowledge of:

- 1) Appropriate accounting standards and practices for electric utilities, particularly for electric cooperatives;
- 2) The Commission's Rules and Orders pertaining to the RFP process as it relates to the acquisition of power supply resources, including but not limited to, the Commission's Market Based Mechanisms Order and its 1983 General Order, as amended;
- 3) Principles associated with electric generating facility construction projects and the competitive process, including but not limited to analyzing whether or not a particular resource meets the utility's need for power and whether the considered resources are able to meet those needs;
- 4) Whether or not a resource will provide reliable service at the lowest reasonable cost;
- 5) Resource planning methods to improve the efficiency and reliability of a utility's power supply operations and whether the utility is making use of any such methods;
- 6) Public interest criteria for approval of purchase power contracts, electric generating facilities, and transmission projects;
- 7) Commission rules on affiliate transactions and cost recovery mechanisms for power supply resources, including DEMCO's Formula Rate Plan (see Order No. U-35359), the Commission's Purchased power costs adjustment for retail electric cooperatives (Commission General Order dated June 27, 1985), and the Commission's Fuel Clause Recovery Order (Commission General Order U-21497 dated November 6, 1997); and
- 8) MISO tariffs, rules and planning processes, generally, and specifically related to resource adequacy planning processes and use of zonal resource credits.

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. Applicants will only be considered if proposals meet all of the requirements of this request for proposals and the Commission's Contract Order.

All proposals shall include a plan of action, estimated timeline, and fees and costs associated with completing the scope of representation described above. However, in the event an Applicant is chosen, Commission and its Staff shall have the right to determine how the tasks will be carried out.

V. Estimate of Costs

Applicants shall provide an overview of the estimated costs in the summary of the bid proposal. All proposals shall include fees and expenses 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 expenses.

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 or clients which could possibly result in a conflict of interest. Potential conflicts could include, but are not be limited to, business relationships with regulated utilities, affiliates of regulated utilities, consumer advocacy groups, or any other party that comes before the Commission. 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:

Kimberly N. O'Brian
Kathryn H. Bowman
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: kim.obrian@la.gov
kathryn.bowman@la.gov

To be considered, an original, two copies, and the electronic copy of the proposal must be received on or before **Wednesday, February 9, 2022 at 4:30 p.m.** Selection of consultants is anticipated to take place at the Commission's February 2022 Business and Executive Session, which is currently tentatively scheduled for February 23, 2022. Information concerning billing procedures and the Commission's RFP policy may be obtained from the address listed above, or by calling (225) 342-9888.