

# Louisiana Public Service Commission



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JOHNNY E. SNELMGROVE, JR  
Deputy Undersecretary

October 4, 2023

## VIA EMAIL

***RFP 23-22, Docket TBD, Southwestern Electric Power Company, ex parte. In re: Notice of Intent to conduct a Request for Proposals.***

To all LPSC qualified consultants:

Enclosed please find a Request for Proposals ("RFP") for an **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. Please ensure all proposals include an overview that also includes a cost estimate.

All Proposals, including the original, plus (2) two copies and an electronic copy must be received on or before Monday, October 30, 2023. Selection of consultants is anticipated to take place at the Commission's November 2023 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, appearing to read "KB", with a horizontal line extending to the right.

Kathryn Bowman  
Executive Counsel

Encl.

cc.: Brandon M. Frey, Executive Secretary  
Lauren T. Evans, Deputy General Counsel

**RFP 23-22**  
**LOUISIANA PUBLIC SERVICE COMMISSION**  
**REQUEST FOR PROPOSALS (“RFP”)**  
**October 4, 2022**

***DOCKET NO. TBD, Southwestern Electric Power Company, ex parte. In re: Notice of Intent to conduct a Request for Proposals.***

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 the review of Southwestern Electric Power Company’s (“SWEPCO”) Request for Proposals (“RFP”) for diverse generation and capacity resources.

**Applicants shall provide an overview of their bid proposal, including the cost estimate.** 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.

Deviations from the requirements contained herein, or conditional bid amounts will result in rejection of the bid as non-conforming. Consideration of qualifying bids received in response to RFP 23-21 are anticipated to be on the Commission’s November 2023 Business and Executive Session (“B&E”). Should an Applicant be selected at the Commission’s B&E, this RFP and the Applicant’s proposal shall constitute the contract between the parties, including all terms and conditions. The Commission will not accept new terms, conditions, or proposals once an Applicant has been retained.

**I. Overview**

On September 29, 2023, SWEPCO provided notice to the Commission of its intention to conduct an RFP for the purchase of diverse generation and capacity resources pursuant to the Commission’s Market Based Mechanisms (“MBM”) Order<sup>1</sup> and intended such notice to serve as the advanced notification required in paragraph 14 of the MBM Order. Upon receipt of SWEPCO’s informational filing and draft RFP(s), the Commission will publish the filing in its Official Bulletin for informational purposes.

Per SWEPCO, the Company intends to issue an RFP to seek generation and capacity resources in accordance with its Integrated Resource Plan (“IRP”),<sup>2</sup> from a variety of resource types, including natural gas, storage, wind, and solar. Further, pursuant to Order No. U-36385, SWEPCO intends to seek resources via Purchase and Sale Agreements, Power Purchase Agreements, and Capacity Purchase Agreements for services available for SPP Planning Year 2028 (beginning June 1, 2028).

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<sup>1</sup> Docket No. R-26172, Sub-Docket C, In re: *Possible suspension of, or amendments to, the Commission’s General Order dated November 3, 2006 (Market Based Mechanisms Order) to make the process more efficient and to consider allowing the use of on-line auctions for competitive procurement, as amended October 29, 2008.*

<sup>2</sup> Docket No. I-36242, SWEPCO, ex parte. In re: *2021 Request to Initiate Integrated Resource Planning Process pursuant to the General Order (Corrected) in Docket R-30021 dated April 20, 2012.*

SWEPCO also indicates that it will be “evaluating self-build and potentially third-party proposals associated with existing generation facilities with a target in-service date by Planning Year 2029 (beginning June 1, 2029).”<sup>3</sup>

Applicants will be assisting Commission Staff in SWEPCO’s RFP process, and any resulting certification proceedings to ensure compliance with all applicable Commission Orders.

## **II. Scope of Representation**

The scope of representation consists of both the RFP process and any certification application(s) that may result from SWEPCO’s RFP process. For the RFP process, assistance will include participation in each stage of the RFP, including technical and bidders’ conferences, review of and comment on draft documents, informal meetings, assistant with the preparation of a report upon completion of the RFP process, and any other steps necessary to ensure a fair and reasonable RFP process.

In addition to the RFP process, Applicants will review any certification application(s), along with testimony and exhibits; draft and assist in the drafting of data requests; analyze data responses; participate in formal status conferences, pre-trial conferences, depositions, and hearings (whether contested or stipulation); assist in drafting and preparing pre-filed testimony in support of Staff’s ultimate recommendations, together with exhibits supporting the pre-filed testimony; review and assist in responding 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, motions, and exceptions related thereto; review and analyze potential stipulation terms; and assist in drafting briefing sheets and orders of the Commission, as necessary. Additionally, Applicants shall be available to participate in informal conference calls, meetings and conferences with the Commission and Staff as well as attending any B&Es related to any certification proceedings arising from the RFP. The scope of the work shall continue through the conclusion of the certification docket(s) through Commission vote, regardless of whether said vote is the result of a stipulated agreement or contested hearing recommendation.

In addition to the above, should a certification proceeding result from the RFP and ultimately be approved by the Commission, there will also likely be monitoring associated with the resource(s) selected by SWEPCO. Therefore, Applicants shall consider potential monitoring after certification as part of the scope of representation herein.

All proposals shall include an outline of a plan of action for this scope of representation, including both the RFP process and potential certification process(es) arising therefrom. However, the Commission and its Staff shall have the right to determine how the tasks will be carried out, including setting internal deadlines. Applicant shall adhere to any deadlines set by Staff in order for the docket to progress as expected.

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<sup>3</sup> See SWEPCO’s Notice of Intent, dated September 29, 2023, attached hereto, for additional information.

### **III. Period of Representation**

The time period estimated to complete the Scope of Representation is approximately 10 months for the RFP process, and if resources are selected through the RFP process, approximately 12 months for the certification proceeding. 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. 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, similar practice before this or other regulatory agencies, in addition to the Applicant's knowledge and experience regarding Louisiana resource acquisitions, certifications, regulatory law, and ratemaking principles.

Applicants shall, at a minimum, be experienced handling cases on regulatory issues, including the presentation of witnesses on direct examination, cross examination of adverse witnesses, conducting discovery, and the taking of appeals. Applicants shall have a working knowledge of Commission rules, regulations, policies, and jurisdictional issues and applicable federal regulations. Applicants shall also, at a minimum, be qualified and prepared to assist in drafting expert testimony with respect to all of the issues addressed in this RFP and which are likely to arise in the proceeding. Further, Applicants shall be qualified and have knowledge of:

1. The Commission's Rules and Orders pertaining to the RFP process and acquisition of power supply resources, including but not limited to the Commission's MBM Order and its 1983 Order, as amended;
2. Principles associated with resource acquisitions and the competitive process, including but not limited to analyzing utility resource needs and whether the considered resource(s) is able to meet those needs, particularly for renewable/solar resources;
3. Whether or not a resource will provide reliable service at the lowest reasonable cost;
4. Resource planning methods to improve the efficiency of a utility's power supply operations and whether the utility is making use of any such methods;
5. Public interest criteria for approval of resources and purchase power contracts, particularly renewable/solar resources;
6. LPSC rules on affiliate transactions and cost recovery mechanisms for power supply resources, SWEPCO's current rate structure, and the Commission's General Order dated November 6, 1997 in Docket No. U-21497 regarding fuel cost recovery;

7. Appropriate accounting standards and practices for electric utilities, especially those for investor-owned utilities;
8. Commission Order No. U-36385; and
9. SPP tariffs, rules and planning processes, generally, and specifically related to resource adequacy planning processes and use of zonal resource credits.

#### **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 direct costs (expenses) in order to provide the 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.

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. Potential conflicts could include, but are not to be limited to, employment 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 shall be rendered to the Commission 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. Pursuant to La R.S. 45:1180, SWEPCO is the ultimate responsible party for payment of services provided pursuant to this RFP; therefore, timely submittal of invoices to the Commission facilitates timely payments to any retained consultant.

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**

Applicants should submit the **original (hard copy), 2 copies, and an electronic copy (via email)** 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](mailto:kim.obrian@la.gov) and [kathryn.bowman@la.gov](mailto:kathryn.bowman@la.gov)

To be considered, an original, two copies, and the electronic copy of the proposal must be received on or before **Monday, October 30, 2023 at 4:30 p.m.** **Selection of consultants is anticipated to take place at the Commission's November 2023 Business and Executive Session, which is currently scheduled for November 16, 2023.** Information concerning billing procedures and the Commission's RFP policy may be obtained from the address listed above, or by calling (225) 342-9888.

**WILKINSON, CARMODY & GILLIAM**

**ATTORNEYS AND COUNSELORS AT LAW**

ESTABLISHED 1895

400 TRAVIS STREET, SUITE 1700

**SHREVEPORT, LOUISIANA 71101**

TELEPHONE (318) 221-4196

TELECOPIER (318) 221-3705

JOHN D. WILKINSON (1867-1929)  
W. SCOTT WILKINSON (1895-1985)  
ARTHUR R. CARMODY, JR. (1928-2021)

BOBBY S. GILLIAM  
MARK E. GILLIAM  
JONATHAN P. McCARTNEY  
HOLLY C. ALLEN

September 29, 2023

**Via Electronic Mail and Regular U.S. Mail**

Mr. Brandon Frey  
Executive Secretary  
Louisiana Public Service Commission  
Post Office Box 91154  
Baton Rouge, LA 70821-9145

Re: *SWEPCO - RFP – in accordance with General Order R-26172, Subdocket C, the Market Based Mechanism (“MBM”) Order*

**Notice of Intent to Conduct a Request for Proposal (“RFP”)**

Dear Mr. Frey:

Southwestern Electric Power Company (“SWEPCO”) is writing to provide Notice to the Louisiana Public Service Commission (“Commission”), through Staff, of its intent to conduct an all-source Request for Proposal (“RFP”) for the purchase of diverse generation and capacity resources, pursuant to General Order R-26172, Subdocket C, the Market Based Mechanism (“MBM”) Order dated October 29, 2008. The new RFP is being issued to continue to meet and serve the needs of SWEPCO customers.

SWEPCO’s need for additional resources has been identified in SWEPCO’s Integrated Resource Plan (“IRP”) proceeding, which is currently pending in LPSC Docket I-36242 and was discussed at the August 29, 2023 Second Stakeholder conference. A final IRP filing is planned on or before February 13, 2024. SWEPCO also takes note of recent efforts by the Southwest Power Pool (“SPP”) to:

- i) increase the required summer capacity reserve margin,
- ii) institute a winter reserve margin requirement, and
- iii) establish a Performance Based Accreditation (PBA) policy.

SWEPCO will be seeking generation and capacity resources in accordance with its IRP from various resource types (natural gas, storage, wind, solar, etc) via Purchase and Sale Agreements (“PSAs”) for the purchase of project assets, Power Purchase Agreements (“PPAs”), and Capacity Purchase Agreements (“CPAs”). SWEPCO will be seeking accredited capacity to be available for service to customers by SPP Planning Year 2028 (begins June 1, 2028) and Planning Year 2029 (begins June 1, 2029). This RFP will meet the requirements of the settlement agreement unanimously approved by the

## WILKINSON, CARMODY & GILLIAM

Commission in Order U-36385 dated July 14, 2023 in which SWEPCO agreed to include Power Purchase Agreements (“PPAs”) in its RFP process.

SWEPCO will also be evaluating self-build proposals and potentially third party proposals associated with existing generation facilities with a target in-service date by Planning Year 2029 (begins June 1, 2029), as will be further set forth in its Informational Filing. These generation facilities include, but are not limited to the following:

- i) Welsh: Converting one or both of the Welsh coal units to run on natural gas (~510 MW each unit),
- ii) Pirkey: Installation of up to 580 MW of natural gas fired energy resources, a portion of which could be from energy storage facilities.

SWEPCO will follow up this notice with an Informational Filing and a draft Request for Proposals, with at least 30 days notice, pursuant to the MBM Order and while keeping Staff closely advised. The RFP will seek diverse energy resources via PPAs, PSAs, and CPAs, so as to meet the needs and serve customers, which will be set forth in further detail within SWEPCO’s Informational Filing.

In order to further this process, SWEPCO also plans to coordinate with Staff on scheduling and noticing an initial Technical Conference, so that potential bidders can ask questions and have sufficient information and time, so as to prepare to participate. In accordance with paragraph 15 of the MBM Order and to ensure no preference is given to self-build projects, SWEPCO proposes to retain an Independent Monitor (“IM”), Merrimack Energy Group Inc., who has previously served as an IM in prior Commission proceedings in accordance with the MBM Order. The IM would review and report to the Commission and Staff on the conduct of the RFP process in accordance with the MBM Order.

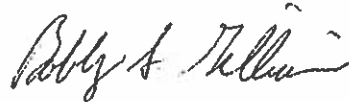
SWEPCO respectfully provides this initial Notice of Intent to conduct an RFP pursuant to the MBM Order. SWEPCO will continue to communicate closely with Staff to ensure the necessary information is provided and to answer any questions.

With best regards, I am

Yours very truly,

WILKINSON, CARMODY & GILLIAM

By:



Bobby S. Gilliam  
Jonathan P. McCartney

CC: Kathryn Bowman, Commission General Counsel  
BSG/mml