ESI RESPONSE TO LPSC STAFF COMMENTS

Entergy Services, Inc. ("ESI"), on behalf of the Entergy Operating Companies,[1] provides the following response to the comments ("Comments") on the Summer 2009 Long-Term RFP[2] submitted by the Louisiana Public Service Commission Staff ("Staff") on or about September 15, 2009.

Introduction

As Staff notes in its Comments, ESI had extensive discussions with Staff and the Independent Monitor ("IM") concerning the RFP structure and processes before the draft RFP was issued on July 16, 2009, and ESI addressed most of the Staff's and the IM's comments on the RFP particulars before the public draft RFP documents were posted. In its Comments, the Staff summarizes and responds to various comments and concerns expressed to Staff by potential Bidders in the RFP. In some cases, in response to these comments, Staff has requested that ESI offer additional explanation or clarification concerning the RFP and its processes. In other instances, the Staff has recommended changes to the RFP to address certain Bidder comments and concerns. In the discussion below, ESI has provided the requested clarifications and has responded to the various issues discussed in the Staff's Comments.

ESI Response to Comments

I. The Summer 2009 Long-Term RFP Employs Numerous Safeguards to Ensure Fair, Unbiased Evaluation of All Proposals.

At least one Bidder has criticized the RFP on the grounds of some alleged bias or discrimination in favor of the self-build proposal. This criticism is without merit. As detailed

---

[1] The six Entergy Operating Companies are Entergy Louisiana, LLC ("ELL"), Entergy Gulf States Louisiana, L.L.C. ("EGSL"), Entergy Texas, Inc. ("ETI"), Entergy Mississippi, Inc. ("EMI"), Entergy New Orleans, Inc. ("ENO"), and Entergy Arkansas, Inc. ("EAI").

[2] Unless otherwise defined herein, capitalized terms have the meaning ascribed to them in the RFP documents.

more fully in the RFP documents, the RFP will employ numerous safeguards to ensure that all proposals in the RFP are evaluated fairly and without undue bias or discrimination. Such safeguards include, but are not limited to (i) the use of an Independent Monitor to oversee the material aspects of the RFP from development to evaluation to proposal selection, (ii) appropriate restrictions on communications between members of the Self-Build Commercial Team and the RFP evaluation teams, and (iii) safeguards to protect the RFP's Economic Evaluation Team from knowing the identity of the bidder behind any proposal, including the Self-Build proposal, prior to completing its evaluation. In light of these extensive safeguards, the Bidder's suggestion that there is somehow a likelihood of discrimination against third-party proposals or in favor of affiliate proposals is utterly without merit or basis in fact. Simply put, the Self-Build Proposal and any competitive affiliate proposal will be evaluated according to the same methodologies and using the same criteria as every other proposal in the RFP. ESI's Summer 2009 Long-Term RFP, like the AEP/PSO RFP of which the Bidder's comments speak so approvingly, will "require[] the utility affiliate to bid under the exact terms as other non-affiliate bidders."

II. The Use of Cost Cap on Affiliate Proposals Will Not Benefit Utility Customers and Could Expose them to Risk of Higher Market Prices for Capacity.

Certain Bidders have, in their comments, proposed the use of a hard "cap" on affiliate proposals and suggested that such a cap be adopted in this RFP. There is simply no merit whatsoever to these Bidders' suggestion that a cap on affiliate proposals will somehow result in a more fair or more equal evaluation of RFP proposals, and, indeed, no Bidder has articulated any rationale for its position on this point. In this RFP, the Viability Assessment Team, under the oversight of the IM, will evaluate all proposals, including the Self-Build Proposal, to determine whether the level of detail and development in the proposal reflects overly aggressive cost estimates. The RFP evaluation protocol thus employs significant safeguards against the Self-Build Proposal's (or any proposal's) potential to employ "aggressive . . . bid estimates" – a prospect about which at least one Bidder's comments express concern.

In addition, in response to the concern raised by Bidders, the Staff has recommended that ESI retain an independent consulting engineer to evaluate the reasonableness of the construction cost estimates underlying the Self-Build Proposal. After consideration of Staff's recommendation, ESI has agreed to retain an independent consulting engineer to evaluate the reasonableness of the construction cost estimates of the Self-Build Proposal and potentially to undertake a similar evaluation with respect to any other CCGT developmental proposals submitted in response to the RFP. As noted in the RFP, ESI will consult with the IM to (i) determine a process for selecting and retaining the independent consulting engineer, (ii) develop the scope of work to be performed by the consulting engineer, and (iii) determine how the engineer's report will be utilized in connection with the RFP. This use of an independent consulting engineer, as recommended by Staff and agreed to by ESI, is yet another safeguard in the RFP to ensure fair evaluation of all proposals.

Conversely, as the LPSC Staff has acknowledged in its Comments and in other recent proceedings,[3] the use of a cost cap for the Self-Build Proposal in the RFP both ignores that the utility, unlike third-parties, has an obligation to serve, and creates adverse incentives for the utility that may potentially harm customers. As the LPSC Staff has properly recognized, and as codified in the LPSC's MBM Order and long-standing precedent of the LPSC, the utility has the obligation to serve customers. This means that it is the responsibility of the utility to provide the

[3] *See* Staff's Initial Comments, attached as Appendix A to LPSC General Order, Docket R-26172 Subdocket 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.*), dated October 29, 2008, at A-15.

resources needed to provide safe and reliable service at the lowest reasonable cost. Although obtaining supply from the market is one alternative, the utility must not depend solely upon the market for supply resources and must have self-build resources as alternatives. Self-build resource alternatives provide a number of benefits including:

- a back stop against the market failing to meet the needs of the utility and its customers in the RFP, including providing the utility with a known alternative when bidders decide to withdraw proposals to explore more lucrative sales opportunities;
- allowing the utility to obtain resources needed for specific supply roles, for example, to provide fuel diversity or locational benefits; and,
- ensuring that customers are not over-exposed to market price volatility.

For these reasons, it is important that the utility is not unduly exposed to risk in developing self-supply options, including the undue risk embodied in the "bid cap" proposed by certain Bidders. One only needs to look to the energy crisis that occurred on the West Coast in 2000 – 2001 for evidence of the risks of over-reliance on the market.

At least one Bidder has suggested that a price cap on affiliate proposals would somehow protect utility customers from price escalations and further suggests that such a cap places the risk of cost overruns only on the bidder. This suggestion is utterly without merit. The unstated premise behind the suggestion is that third-party bidders in the RFP will stand by their bids in the event of any cost escalations, on the one hand, or run-up in the market price for capacity, on the other, that may occur after RFP proposals are submitted or after a proposal is selected for award. **This is not so.** As noted above, a utility has the obligation to serve its customers. Merchants, by contrast, have no obligation to customers, and if they do not wish to serve at a particular cost or under a particular product structure (either due to cost increases or a new-found ability to command a higher price), they are free to sell elsewhere.[4] Unlike a merchant, which can sell to any buyer it pleases and at whatever price it can obtain, the utility must provide safe and reliable service to customers at the lowest reasonable cost. Thus, it is folly to suggest that a cap on affiliate proposals somehow protects utility customers from cost increases.[5]

Finally, as noted by the Staff in its Comments, recent amendments to the LPSC's MBM Order offer utility customers additional protections against cost escalations that affect a utility's self-build proposal. Specifically, under the new provisions of the MBM Order:

- In the event of a "material change" (defined as a construction cost increase of 20% or more or a change in the schedule or design that could plausibly change the bid ranking) in a winning self-build proposal that occurs after the date of "best and final" offers, the utility must report the material change immediately to the IM and LPSC Staff.

- A material change requires that the utility re-screen the self-build proposal against remaining third-party proposals. The LPSC Staff and the IM will review the results of the re-screening and determine whether only short-list bids may be used or whether other bids should be permitted. This may include consideration of whether third-parties should be permitted to "refresh" their bids with new information, and if the utility disagrees with LPSC Staff's or the IM's recommendation, it must explain in writing.

- The utility must declare a completion date to its RFP, at which time the utility must declare the cost, schedule, and design of its self-build proposal.

For the above reasons, ESI does not intend to employ a cost cap for affiliate proposals in this RFP.

[4] Indeed, this was amply demonstrated by two merchants pulling out of ESI's 2006 Request for Proposals for Long-Term Supply Side Resources after their proposals had been selected for further consideration. The stated reason for these withdrawals was that the merchants believed they could obtain higher prices for their resources than they had submitted in response to the RFP.

[5] On this point, it bears mention that, in the absence of a self-build option, in the event that a third-party participant in an RFP chooses not to honor its bid, utility customers potentially are exposed to the extreme risk of having no other option to acquire needed capacity than to enter the current market for such capacity, whatever it may then happen to be.

III. The RFP Includes Appropriate Evaluation of the Ability of a Proposed Resource to Mitigate Unit Commitment Requirements, Including But Not Limited to Reliability Must-Run Requirements.

ESI agrees with the comment expressed by Staff and some of the Bidders that one important purpose of this RFP is to consider the potential for resources proposed into the RFP to displace the energy contributed to the Entergy System by older, less-efficient generating units. For this reason, the RFP evaluation includes consideration of such potential.

In its Comments, Staff suggested that ESI review the draft RFP to determine whether further clarification of the language describing the evaluation process for displacement of older, less-efficient generation was needed. ESI has done so and, in the final RFP documents, has added further language to explain this aspect of the evaluation in more detail.

As noted in the RFP documents, the TAG and the EET plan to evaluate whether the electrical location of a proposed resource has the possibility to serve as a substitute for units subject to unit commitment requirements (which include but are not limited to Reliability Must-Run Requirements ("RMRs") issued by the Entergy TBU as explained below). Upon completion of the TDE and GIE, if an identified transmission upgrade is required to make the proposal a Network Resource and the identified upgrade could have an impact on the current Specific Network Resource Unit Commitment requirements, then the identified upgrade will be included in the model for purposes of evaluating whether the proposed resource and any upgrade needed to qualify the proposed resource as a Network Resource may have the effect of substituting in whole or in part for a current Entergy System Network Resource that is subject to unit commitment requirements for transmission reliability. For evaluation purposes only, the TAG will determine if the proposal has effects similar to other specific Entergy Network Resources that are subject to unit commitment requirements based on: (1) the unit commitment requirements thresholds and (2) existing transmission constraints. The TAG and TSP will provide to EET the results of its assessment regarding each proposal's effect on unit commitment requirements.[6]

Further, in performing the Specific Network Resource Unit Commitment evaluation, the TAG and TSP may also consider potential additional measures that may relax certain unit commitment requirements imposed on the DSG generating units needed to maintain local reliability. These additional measures may include relocating existing owned CT capacity to the DSG region and/or transmission improvements. ESI, in consultation with the IM, may also evaluate additional transmission upgrades in connection with proposed resources to address unit commitment requirements for non-DSG resources in instances in which ESI, in consultation with the IM, believes that it is appropriate to do so. Such instances may include circumstances in which an economic transmission upgrade, together with a proposed long-term resource, may produce substantial System benefits that exceed those of the proposed resource (and the transmission upgrades required to make the proposed resource deliverable) when considered alone.

It should be noted that the older less-efficient generating units to be considered for displacement often run for reasons other than RMR requirements. Such reasons include principally the need to provide the System with flexible capability to meet moment-to-moment fluctuations in load, to address the potential for hourly changes in the output of Qualifying Facilities, to compensate for generator imbalances caused by non-Entergy generators, and to provide adequate operating reserves. Moreover, in general, in instances in which a legacy

[6] As noted in the RFP, the determination of unit commitment requirement effects as part of the TEP is for evaluation purposes only, and such effects may or may not materialize during the actual operation of the proposed resource. The actual determination of the proposal's ability to reduce the reliance on the designated unit will be made by TBU if the resource is ultimately selected in the RFP. Even though the unit commitment requirements may be alleviated, the unit may be committed for other operational reasons.

generator runs for the purpose of addressing an RMR requirement, that is so because ESI has determined, through analysis, that the cost of such operation, even considering the higher heat rates of some of these units, is more economic to customers than other available alternatives such as constructing transmission upgrades. Finally, it should be noted that, although merchant-owned generators that are *capable* of generating energy more efficiently than some legacy utility units certainly exist within the region in which the Entergy Operating Companies do business, this does not mean that such merchants routinely offer these units to the Operating Companies at such more efficient heat rates. In instances in which merchants have offered competitive heat rates that allow Entergy Operating Company customers to benefit from these merchant units' efficiencies, the Operating Companies have transacted with such merchants.

IV. The Transmission Evaluation Process Will Use the Most Recent Draft of the 2010-2012 Construction Plan.

In its Comments, Staff noted various Bidder comments expressing concern about which version of the 2010-2012 Construction Plan ESI would be using in the RFP evaluation. As Staff has correctly noted, the TEP will employ the "2010-2012 Entergy DRAFT Construction Plan Revision 2" that more closely aligns with the ICT's Base Plan than previous versions of the current Construction Plan. ESI has added language to the final RFP to make this clear.

Staff also suggested, in its Comments, that to the extent a new project is added to the 2010-2012 Construction Plan prior to the RFP evaluation, the evaluation should reflect the new project. As noted in the Final RFP, due to the timing of the release of the Final 2010-2012 Construction Plan in comparison to the timing of the TEP undertaken for this RFP, it may not be possible to update the transmission modeling for this RFP to reflect any and all differences between the current draft 2010-2012 Construction Plan referenced above and the Final 2010-2012 Construction Plan; however, in the event any major change is made to the Final 2010-2012

Construction Plan prior to the conduct of the deliverability evaluation, ESI will use reasonable efforts to update the transmission modeling used in the deliverability evaluation to reflect any such change.

The Staff also noted in its Comments several Bidder questions concerning the inclusion in the transmission evaluation of major transmission upgrades that have not been approved for construction, such as the South Louisiana Reliability Loop. As noted above, to the extent that a major transmission upgrade project, such as the South Louisiana Reliability Loop, may be added to the 2010-2012 Construction Plan, ESI will use reasonable efforts to update the transmission modeling in the TEP in the RFP to reflect the additional project.

V. The Entergy TBU, Under the Supervision of the IM, Is Qualified to Perform the "Information Only" Studies for the Transmission Evaluation.

Staff has, in its Comments, also noted certain Bidders' suggestion that the ICT, and not ESI's TBU, should conduct the deliverability evaluation – the TDE – undertaken as part of the RFP. Another Bidder has suggested that the ICT should conduct the TDE in parallel to the analysis undertaken by the Transmission Analysis Group and the Technical System Planning group (whose members include TBU representatives as further detailed in the RFP) as part of the TDE. ESI does not intend to take this approach, for several reasons. First, and most importantly, all work in connection with the TDE will be overseen by the IM. As Staff correctly notes in its Comments on this issue in response to the Bidders, the use of the IM will help ensure that the evaluation is fair and impartial. In addition, as Staff rightly observes, ESI's TBU routinely performs analyses similar to those that will be undertaken in connection with the RFP – both for the Entergy Operating Companies and for third-parties. The participation of TBU representatives in the RFP deliverability evaluation will ensure consistency between the RFP evaluation and the TBU process. As such, there is no reason to expect that the Transmission

Deliverability Evaluation, properly overseen by the IM, will discriminate in favor of utility proposals.[7]

Staff has observed in its Comments that the use of the Technical System Planning group (composed of TBU planning personnel) to perform the TDE rather than the ICT represents a change from past ESI RFPs and invites ESI to explain this change further. This change has come about due to the advent of FERC Order No. 717. Order No. 717, which became effective November 26, 2008, amended the FERC Standards of Conduct to, among other things, better facilitate long-term integrated resource planning. In light of these amendments, certain employees within ESI's TBU that are non-transmission function employees may properly participate with the TAG in the TDE. The ability of these TBU personnel to participate in the TDE renders it unnecessary to continue to use the ICT to perform these analyses.

VI. Proposed Resources Will Have Access to Transmission Capacity Made Available from Delisting.

Staff has noted in its Comments the concerns expressed by some Bidders about the potentially discriminatory use of capacity made available from the delisting of existing Entergy System Network Resources. These concerns are misplaced. As noted in the Final RFP, in performing the TDE, TAG will consider undesignation or delisting of existing Entergy Operating Company Network Resources as a potential mechanism for obtaining deliverability of resources proposed in the RFP. As Staff correctly notes in its Comments and as clarified in the Final RFP, both affiliate and non-affiliate proposals will have access to the transmission capacity created by

[7] As Staff notes in its Comments, one Bidder has cited a recent RFP undertaken by an Oklahoma utility in which SPP performed the transmission evaluation. Although ESI is not familiar with the details of that RFP, ESI agrees with Staff that the circumstances there are likely distinguishable from those present in the Summer 2009 Long-Term RFP in that the Oklahoma utility that conducted the RFP, unlike ESI's TBU, was not qualified to perform the transmission evaluation because it encompassed potential proposals from anywhere within the SPP footprint. Here, as Staff correctly notes, the transmission evaluation to be performed relates to the Entergy transmission system, and thus, ESI's TBU is fully qualified to perform the evaluation.

the undesignation of existing Entergy Operating Company Network Resources that will be considered as part of the TDE. That is, in performing the TDE, ESI will consider undesignating capacity of existing Network Resources to secure transmission service for both affiliate and non-affiliate RFP proposals. Without limiting the foregoing, it should be noted that any transmission capacity made available by undesignating or delisting capacity at the Ninemile Facility may be evaluated to secure transmission service for other proposals, not just the Self-Build Proposal.

VII. Proposals for Existing Resources Will Not Be Disqualified Based on Location.

In its Comments, Staff notes one Bidder's concern that no proposal should be disqualified based on its location. Staff correctly notes that all existing CCGT resources proposed in the RFP will be evaluated to meet both the System and Amite South capacity needs solicited in the RFP. The evaluation will consider the cost of the additional transmission investment that may be necessary to enable a resource to provide the needed reliability and operational benefits within AMS (including, and within, DSG).

VIII. Emissions Allowance Costs

In its Comments, Staff discusses a Bidder's suggestion that the PROSYM modeling conducted as part of the Net System Benefits Analysis in the RFP take into account the cost of emissions of certain pollutants that are regulated or expected to be regulated during the Delivery Term. The manner in which the Fundamental Economic Analysis and Net System Benefits Analysis consider emissions allowance costs is detailed in Appendix E-1 of the RFP. Staff notes that, although proposals of like technology can be expected to have similar emissions profiles and similar emissions costs, the effect of a particular proposed resource on unit commitment requirements (including RMRs) for a particular existing Network Resource that may have relatively higher emissions costs could be material to the evaluation. Under the RFP modeling methodology, the cost of emissions allowances for Entergy System Network Resources will be included in the PROSYM modeling conducted as part of the Net System Benefits Analysis. Consequently, any beneficial effect a proposed resource may have in terms of mitigating unit commitment requirements for an existing Network Resource, including any reduction in the emissions allowance costs, will properly be reflected in the evaluation.

IX. The Evaluation Will Include the Cost of Adding AGC to Those Units That Do Not Have That Capability.

The Staff's Comments note a suggestion from one Bidder that the RFP evaluation should consider the benefits of Automatic Generation Control ("AGC") quantitatively, not just qualitatively. Staff suggests that ESI address this comment by imputing the cost of adding AGC to those proposals involving resources lacking that capability. ESI agrees with Staff's suggested approach. Therefore, as noted in the final RFP documents, for certain Product Packages, the cost of adding AGC capability will be included in the evaluation of any resources lacking such capability that are proposed in the RFP. It should be noted, however, that the cost of adding AGC capability is not necessarily indicative of the value provided by AGC.

X. Questions About Collateral

Staff notes in its Comments that one Bidder has raised questions about the form of collateral permitted in the RFP and related matters. As ESI noted when it addressed these questions in the Bidder Question and Answer document, the dollar amount of collateral required for a particular proposal under the terms of Appendix F of the RFP may be met through the provision of various forms of cash and non-cash collateral such as a letter of credit or a lien on property. Moreover, the credit support required for the contracted quantities will decline as the unperformed portion of the applicable contract declines. That said, static or independent credit support that does not necessarily decline as the contract is performed may be required in some circumstances. Those static amounts may be reduced, in steps, or may need to remain level for the duration of the contract, depending on the contract being proposed, the associated risk, and the credit-worthiness of the Bidder.

Posted: October 8, 2009