

STATE OF NEW HAMPSHIRE  
BUREAU OF PURCHASE AND PROPERTY  
STATE HOUSE ANNEX  
25 CAPITOL STREET  
CONCORD, NEW HAMPSHIRE 03301-6398

**ADDENDUM #2 TO BID NO. RFP 2010-115**

DATE OF BID OPENING: 5/19/10

TIME OF BID OPENING: 12:00 pm

FOR: **FIRM ELECTRIC SUPPLY**

CLARIFY THE FOLLOWING INFORMATION:

- Page 6, **ALTERNATE – LOW MARKET EXPOSURE WITH RENEWABLES** – add the following to the end of this section:

*“The CEPS should be aware that the renewable power offered shall be above and beyond what is currently required for the Renewable Portfolio Standard.”*

- Page 7, **PRIORITY OF DOCUMENTS**: make the following change:

*“In the case of any conflict among documents, the following is the order in which they shall prevail: 1.) Contract Terms and Conditions (pages 13-17 of this RFP); 2.) Exhibit A, New Hampshire Power Supply Agreement (with all appendices); 3.) Attachment A (with respect to the accounts listed on such schedule); 4.) ~~Exhibit B, Transfer of Service Confirmation~~; 5.) RFP 2010-115; and 6.) CEPS response to aforementioned RFP. Applicable provisions will continue in effect, to the extent necessary, after termination or expiration of any contracts for the purposes of final billing, billing adjustments and payments, and any indemnification obligations. The section headings used herein are for reference purposes only and will in no way affect the meaning of the provisions of this document.”*

- Page 8, **EXHIBIT A – ADDITIONAL PROVISIONS** – the first sentence currently reads:

*“This Power Supply Agreement (“Agreement”) is made as of \_\_\_\_\_, 2010 between The State of New Hampshire (“State”) and \_\_\_\_\_ (“Vendor”) both of which enter into this Agreement, which includes the attached General Terms and Conditions, making each (“Party/Parties”) legally bound to agree as follows:”*

This is replaced with:

*“This Power Supply Agreement (“Agreement”) is made as of \_\_\_\_\_, 2010 between The State of New Hampshire (“State”) and \_\_\_\_\_ (“Vendor” or “Contractor”) both of which enter into this Agreement, which includes the attached General Terms and Conditions, making*

each (“Party/Parties”) legally bound to agree as follows:”

- Page 8-9, **2. DEFINITIONS** – the following changes have been made to the definitions:

**Business Meter(s)** - The billing meter(s) of the LDC located at the States’ Facilities as listed in **Attachment A**

**Contract Price** - The unit cost, expressed in \$\$/kWh as set forth in the Vendors Schedule of Rates submitted as part of this agreement. This shall include the energy costs and all **Regulated Charges** as defined within RFP 2010-115.

**Firm Power** – Power or power producing capacity intended to be available at ALL times during the term covered by this agreement, **except as prevented by Force Majeure or the other Party’s default under this agreement.**

**Force Majeure** - Events or circumstances **which prevent a Party from performing and are** not within the reasonable control of either party **or result of the negligence of either party** including but not be limited to, acts of God; strikes; black outs; riots; acts of war; civil disturbance; sabotage; facility failure; curtailment, disruption, or interruption of distribution, transmission, or supply; declaration of emergency by the Utility or ISO; regulatory or legislative action; action or restraint by court order of governmental authority; epidemics; acts of Government; fire; nuclear accidents; earthquakes; and unusually severe weather.

**Point of Delivery** - The point(s) of interconnection between the NEPOOL Pool Transmission Facilities (PTF) and the non-PTF facilities of the LDC in the NEPOOL zone in which the Business Meter is located. ~~as listed under Exhibit B—Transfer of Service Confirmation~~

**Regulated Charges** - Those charges imposed by ISO–NE and/or FERC which are out of the Vendors’ control. They shall include, but not be limited to, pertinent capacity charges, congestion charges, reserve margin adjustments to these charges are permitted per Section 4.3.

**Schedule of Rates** - The agreed upon tariffs, ~~for a specific time frame, as listed on the Vendors Schedule of Rates~~ **Contract Price and Term identified in Appendix A.**

**Taxes** - Any and all ad valorem, energy, transmission, utility, gross receipts, sales, use, consumption, excise, transaction, and other taxes, including new taxes which become applicable to this Agreement after the commencement of the Term, governmental charges, fees, or assessments, or increases therein, other than taxes based on ~~net income or net worth~~ **Vendor’s income or taxes levied on Seller’s real or personal property.**

- Page 8-9, **2. DEFINITIONS** – remove the following definitions:

~~**LMP** - For each hour shall be the real-time Locational Marginal Price consisting of an Energy Component and Losses Component at the Point of Delivery for such hour as such terms are defined by, and calculated in accordance with, the Market Rules and Procedures filed by ISO-NE with the Federal Energy Regulatory Commission (or its successor)~~

~~**Period** – the length of time of the contract~~

- Page 10, **3.3 TRANSFER OF SERVICE** – make the following change:

*“The State and Vendor agree to initiate ~~Exhibit B: a~~ Transfer of Service Confirmation, for all Business Meters included within this Agreement. Three originals of any documents shall be executed: one (1) for the State’s records, one (1) for the Vendor’s records and one (1) to be forwarded to the LDC to initiate any arrangements necessary for a flawless Transfer of Service.”*

- Page 10, **3.4 TRANSFER OF OWNERSHIP** – make the following changes:

*“The Vendor will be responsible to deliver the EPS, in compliance with the requirements of ISO-NE and NEPOOL, to the PTF to the non-PTF “Point of Delivery” for distribution to the State. The distribution beyond the “Point of Delivery” shall be the responsibility of the LDC under the LDC’s applicable tariffs. Ownership of, and risk of loss with respect to the EPS will transfer to State at the Point of Delivery(s), ~~located at service addresses listed on Exhibit B of this document.~~”*

- Page 10, **4.1 CONTRACT PRICE** – remove the last sentence:

*“~~The State shall have no other liability to the Vendor.~~”*

- Page 10, **4.2 DISTRIBUTION SERVICES AND TARRIFFS** – correct to:

#### **4.2 DISTRIBUTION SERVICES AND TARIFFS**

- Page 11, **4.3 CHANGES IN TARRIFF OR LAW** – make the following changes:

**4.3 CHANGES IN TARIFF OR LAW:** *“~~Any regulated charges presently imposed on this territory are expected to be in place for the duration of the contract term. If any existing Laws or tariffs are revised, or if there is a change to the way such Laws are interpreted by the Utility, ISO-NE, FERC, or other state or governmental agency or court having jurisdiction, or if any new Laws or tariffs are enacted that effect electricity rates, the Vendor shall have the right to pass on the cost increase to the State without any additional mark up...~~”*

- Page 11, **5.1 METERING** – add the following to the end of the section:

*“The Vendor and the LDC will participate in electronic data transfer if necessary to provide information for monthly billing.”*

- Page 11, **5.2 DATA TRANSFER** – remove entire section
- Page 11, **5 BILLING, PAYMENT, AND REPORTING REQUIREMENTS** – renumber:

#### **5.2 LDC BILLING**

#### **5.3 REPORTING**

- Page 11, **5.3 REPORTING** – the last sentence of paragraph one currently reads:

*“The Vendor shall supply the State with a monthly report comparing actual usage to projected usage. The report shall be delivered electronically to The State Energy Manager within 30 days of the end of the period being monitored. The report shall include: all enrolled electric account numbers, kWh purchased for each account for the period covered by the report, kWh purchased year to-date for each account, total kWh year-to-date, projected kWh year-to-date based on full contract amount, and total cost year-to-date.”*

This is replaced with:

*“The Vendor shall **make a reasonable effort** to supply the State with a monthly report **providing actual usage**. The report shall be available either **via web access or electronically** to The State Energy Manager within 30 days of the end of the period being monitored. The report shall include: all enrolled electric account numbers and kWh purchased for each account for the period covered by the report. **It may also include** kWh purchased year to-date for each account, total kWh year-to-date, projected kWh year-to-date based on full contract amount, and total cost year-to-date.”*

- Page 11, New Section **6 MISCELLANEOUS** – add the following:

**6.1 WARRANTIES:** *Seller warrants (i) it has good title to all Electricity delivered, (ii) it has the right to sell the Electricity, and (iii) the Electricity will be free from all liens, encumbrances, and all applicable Taxes that are imposed prior to passage of title. All other warranties, expressed or implied, including any warranty of merchantability or fitness for any particular purpose, are disclaimed.*

**6.2 LIMITATION ON LIABILITY:** *Neither party will be liable to the other under the agreement for consequential, indirect or punitive damages, or specific performance, except as expressly provided herein.*

- Page 11, **6 STATEMENT TO CONFIRMATION** – renumber:

## **7. STATEMENT OF CONFIRMATION**

### **7.1 AGREEMENT TO TERMS AND CONDITIONS**

- Page 11-12, **7.1 AGREEMENT TO TERMS AND CONDITIONS** – make the following change:

*“...Except to the extent otherwise explicitly provided in this Agreement, no amendment to this Agreement, including the Schedule of Rates, will be valid or allowed, **except by way of an Amendment executed by both Parties**. The priority of documentation will be as listed in the RFP.”*

- Page 16, **12 ASSIGNMENT/DELEGATION/SUBCONTRACTS** – make the following change:

*“The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the N.H. Department of Administrative Services. **The State shall not assign or otherwise transfer any interest in this Agreement without the prior written consent of the Contractor**. None of the Services shall be subcontracted by the Contractor without the prior written consent of the State.”*

- Page 16, **14 INSURANCE** – remove **14.1.2**
- Page 16, **16 WAIVER OF BREACH** – make the following changes:

*“No failure by ~~the State~~ a **Party** to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the **other Party Contractor**.”*

- Page 17, **22 SPECIAL PROVISIONS** – remove.

BID CONTACT: Karen Rantamaki  
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NOTE: IN THE EVENT THAT YOUR BID INVITATION HAS BEEN SENT TO THIS OFFICE PRIOR TO RECEIVING THIS ADDENDUM, RETURN ADDENDUM WITHIN THE SPECIFIED TIME WITH ANY CHANGES YOU MAY WISH TO MAKE AND MARK ON THE REMITTANCE ENVELOPE BID INVITATION NUMBER AND OPENING DATE. RETURNED ADDENDA WILL SUPERSEDE PREVIOUSLY SUBMITTED BID.

BIDDER \_\_\_\_\_ ADDRESS \_\_\_\_\_

BY \_\_\_\_\_  
(this document must be signed)

\_\_\_\_\_ TEL. NO. \_\_\_\_\_  
(please type or print name)