



Appendix E

Reservation of ESI Rights and Other RFP Terms

For

*2015 Request For Proposals
For Long-Term Developmental
~~Combined-Cycle Gas Turbine~~ And Existing
Capacity and Energy Resources ~~in WOTAB~~*

~~DRAFT~~

Entergy Services, Inc.
~~July 27,~~ September 29, 2015

APPENDIX E

RESERVATION OF ESI RIGHTS AND OTHER RFP TERMS

1. Reservation of Rights

Notwithstanding anything to the contrary, each of ESI, EGSL and ELL may, and expressly reserves the right to, at any time, and from time to time, without prior notice, and without assigning or providing any reason therefor:

- cancel, suspend, withdraw, or terminate this RFP (including, without limitation, after the selection under this RFP of one or more Bidders for a Definitive Agreement) or cancel or suspend its participation in this RFP;
- modify this RFP, including, without limitation, any Appendix to this RFP, or any of the dates, times, or places set forth in this RFP or related to the RFP process (modifications to the RFP will be posted on ESI's website for this RFP. Although ESI will attempt to notify prospective bidders of any modifications to the RFP, Bidders should monitor the website on a regular basis);
- accept, refuse to accept, consider, not consider, favor, disfavor, recommend, not recommend, pursue, or reject any proposal, in its sole and absolute discretion, for any reason;
- without limitation of the generality of any of the other terms herein, reject or eliminate any proposal submitted in response to this RFP that is incomplete, is non-conforming, or contains irregularities (or waive any irregularity in any proposal), or that it determines was made with the intent to create artificial prices, terms, or conditions or would have that effect;
- carry out negotiations with any, some, or all Bidders or other Persons (other than (i) any Entergy Regulated Affiliate other than EGSL and ELL or (ii) Entergy Competitive Affiliates) related to this RFP, and suspend or terminate negotiations with any Bidder or other Person at any time, including, without limitation, as a result of (a) any change in any of the resource needs of EGSL and/or ELL, (b) any commercial issue arising during negotiations of any LOI, Definitive Agreement, or other agreement, including, without limitation, any issue arising out of any special consideration submitted by Bidder in its proposal, or (c) any adverse diligence finding by ESI, EGSL or ELL;
- discuss the terms of any proposal or any other material submitted by Bidder with, and obtain clarification or additional information concerning such proposal or such other material from, Bidder or its directors, officers, employees, agents, representatives, and advisors;
- request from Bidder any information not detailed in or required by this RFP but that, in ESI's sole opinion, may be necessary or relevant to the evaluation of Bidder's proposal(s) and utilize such information as ESI deems appropriate in connection with such evaluation or this RFP;
- receive, consider, pursue, and/or transact on (i) opportunities to acquire or contract for other assets or resources offered or that become available outside of the RFP process as

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- such opportunities arise or (ii) proposals offered in response to this RFP that are non-conforming or have been eliminated from consideration in this RFP;
- invite further proposals in or external to this RFP or supplemental submissions or modifications of previously submitted proposals in this RFP;
 - determine which Bidders or entities to allow, or continue to allow, to participate in the RFP process;
 - pursue or transact on proposals offered in response to this RFP regardless of any rank order established in the RFP evaluation process to limit exposure to a particular counterparty, technology type or vintage, manufacturer, or resource or a particular set of risks, or achieve other commercial goals as ESI deems appropriate;
 - sign or not sign Definitive Agreement(s) with Bidders or other Persons relating to the Products solicited by this RFP;
 - in consultation with the IM, accept or reject any recommendation of the consulting engineer;
 - subject to the terms of any applicable confidentiality agreement entered into between ESI and Bidder, retain, archive, or destroy any information or material provided to or for the benefit of ESI in the Proposal Submission Process; and
 - take any and all other actions it deems necessary or appropriate, in its sole and absolute discretion, in connection with this RFP and the RFP process.

Each of the foregoing rights (including any right listed in a series of rights) may be exercised individually by ESI, the Entergy Operating Committee, or any director, officer, employee, or authorized agent or representative of ESI, EGSL, ELL, or any of their respective parents. The reservation of rights contained herein is in addition to all other rights reserved or granted to ESI or any of its Affiliates elsewhere in this RFP or otherwise held by or available to ESI or any of its Affiliates.

2. No Warranties or Liabilities

BY PARTICIPATING IN THE RFP PROCESS, EACH BIDDER AGREES THAT, EXCEPT TO THE EXTENT OTHERWISE EXPRESSLY SET FORTH IN A DEFINITIVE AGREEMENT WITH BIDDER:

- (A) ALL MATERIAL AND OTHER INFORMATION FURNISHED BY OR ON BEHALF OF ESI OR ANY OTHER AFFILIATE OF ESI IN CONNECTION WITH THIS RFP IS PROVIDED WITHOUT ANY REPRESENTATION OR WARRANTY OF ANY KIND, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATION OR WARRANTY AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION, AND
- (B) ESI, ITS AFFILIATES, AND THEIR RESPECTIVE DIRECTORS, OFFICERS, MEMBERS, PARTNERS, EMPLOYEES, AGENTS, REPRESENTATIVES, AND ADVISORS, AS WELL AS THE IM, SHALL HAVE NO LIABILITY TO ANY BIDDER, ANY OF ITS AFFILIATES, OR ANY OF THEIR RESPECTIVE

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DIRECTORS, OFFICERS, MEMBERS, PARTNERS, EMPLOYEES, AGENTS, REPRESENTATIVES, ADVISORS, LENDERS, OR INVESTORS RELATING TO OR ARISING FROM THE USE OF OR RELIANCE UPON ANY SUCH INFORMATION, ANY ERROR OR OMISSION THEREIN, OR OTHERWISE IN CONNECTION WITH THIS RFP.

3. Acceptance of Proposals

Without prejudice to ESI's rights under the Proposal Submission Agreement or at law or in equity, no proposal submitted by any Bidder shall be deemed accepted by, or otherwise binding upon, ESI or any of its Affiliates (including EGSL and ELL) and ESI, its Affiliates (including EGSL and ELL) and their respective directors, officers, members, employees, agents, and representatives shall have no obligation or liability of any kind with respect to any such proposal or otherwise in connection with this RFP, unless and until a Definitive Agreement has been mutually executed and delivered by ESI or any of its Affiliates and Seller, and then such obligation or liability shall exist only if and to the extent expressly set forth or provided for therein or in another signed, binding written agreement entered into by ESI or any of its Affiliates and Seller. Notwithstanding anything to the contrary in this RFP, all proposals delivered to ESI shall become the sole and exclusive property of ESI upon receipt, and ESI shall have all rights and privileges of ownership of such property, subject to any provision of this RFP relating to confidentiality and any applicable confidentiality or other signed, binding written agreement between ESI and Bidder or Seller executed in connection with this RFP process.

4. Bidder Costs and Expenses

Each Bidder is solely responsible for all costs and expenses it incurs in connection with this RFP. Through its participation in this RFP, each Bidder agrees that under no circumstance, including, without limitation, ESI's withdrawal from or suspension, cancellation, or termination of the RFP process, will ESI, any of its Affiliates, or any of their respective directors, officers, members, partners, employees, agents, representatives, or advisors have any responsibility or liability of any kind to Bidder, its Affiliates, or any of their respective directors, officers, members, partners, trustees, employees, agents, representatives, advisors, or lenders for any cost or expense directly or indirectly incurred by Bidder (no matter how incurred) in connection with the RFP process, except to the limited extent provided in Section 5.2 of the Main Body (relating to Bidder Registration Fee refunds). Nothing in this Section 4 shall be construed to limit the generality of Section 2 above.

5. Bidder Disclosure of RFP Information

No Bidder may, without the prior consent of ESI, disclose to any other Person (except those participating in the same proposal (to the extent permitted in Section 7.5 of the Main Body), the RFP Administrator, and the Independent Monitor) its participation in the RFP process (other than by attendance at any meeting to which more than one participant is invited by ESI, which attendance in and of itself will not violate this provision of this RFP). Further, no Bidder may

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disclose, collaborate on, or discuss with any other Person (except those participating in the same proposal (to the extent permitted in Section 7.5 of the Main Body), the RFP Administrator and the Independent Monitor) bidding strategies or the substance of proposals, including, without limitation, the price or any other terms or conditions of any contemplated, indicative or final proposal. Any such disclosure, collaboration, or discussion would violate this RFP and the Proposal Submission Agreement and may result in the rejection of Bidder's proposal or elimination of Bidder from further participation in this RFP.

6. Consents and Regulatory Approvals

Bidder/Seller will be responsible for obtaining and maintaining all consents, authorizations, and regulatory approvals necessary for the performance of its obligations under the Definitive Agreement. Please consult Appendices B-1, B-2, and B-3 of this RFP for additional information regarding regulatory approvals and conditions precedent to the Delivery Term or the closing of the Transaction.

EGSL and/or ELL will be responsible for obtaining all applicable regulatory approvals they/it require(s) for any Transaction arising out of this RFP, including, without limitation, authorization from the FERC and any Governmental Authority with jurisdiction over EGSL and/or ELL, as applicable. The commencement of the Delivery Term under any PPA or Toll arising out of this RFP will be conditioned upon the receipt of regulatory approvals on terms acceptable to ESI, EGSL and/or ELL in its/their sole and absolute discretion.

7. Bidder Acceptance of Appendix E

By participating in the RFP process, each Bidder acknowledges and agrees that (i) it will be deemed for all purposes to have accepted all of the terms included in this Appendix E, (ii) its participation in this RFP is expressly subject to such terms, and (iii) ESI, EGSL and ELL are conducting this RFP and participating in the RFP process in reliance upon the acknowledgments and agreements in this Section 7.

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Description	Appendix E(Reservation of Rights)
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