

## PROPOSAL SUBMISSION AGREEMENT

THIS PROPOSAL SUBMISSION AGREEMENT (this "Agreement") is made and entered into this \_\_\_ day of \_\_\_\_\_ 2009, by \_\_\_\_\_, a \_\_\_\_\_ ("Bidder"), in favor of Entergy Services, Inc. ("ESI"), as agent for Entergy Arkansas, Inc., Entergy Louisiana, LLC, Entergy Mississippi, Inc., Entergy Gulf States Louisiana, L.L.C., Entergy Texas, Inc., and Entergy New Orleans, Inc., each, an "Entergy Operating Company" and, collectively, the "Entergy Operating Companies."

### **RECITALS**

WHEREAS, together with this Agreement, and in response to ESI's Summer 2009 Request for Proposals for Long-Term Supply-Side Resources, dated September 24, 2009, as amended, supplemented or otherwise modified (the "RFP"), Bidder is electronically submitting to ESI a proposal dated the date hereof, together with this Agreement (such electronic proposal is referred to as the "Proposal");

WHEREAS, Bidder desires to continue to participate in ESI's competitive bidding process for acquiring additional capacity and energy supply resources for one or more of the Entergy Operating Companies pursuant to the RFP (the "RFP Process"); and

WHEREAS, Bidder desires ESI to permit and ESI desires to permit Bidder to continue to participate in, and to facilitate Bidder's continued participation in, the RFP Process, including by evaluating the Proposal, on the terms and subject to the conditions set forth in this Agreement.

### **AGREEMENT**

NOW, THEREFORE, in consideration of the foregoing recitals and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Bidder, by signing this Agreement below or by voluntarily agreeing to use and adopt electronic signature as legally binding in the submission and execution of this Agreement, hereby agrees as follows:

1. Each of the following terms when used in this Agreement with initial letters capitalized has the meaning ascribed to it below:

"Bidder Representatives" means any employee, agents, consultants, advisors or representatives of Bidder or any of Bidder's affiliates.

"Definitive Agreement" means a legally binding agreement setting forth all material terms and conditions and other provisions relating to a Transaction, signed by authorized representatives of each party, but does not include a term sheet or any other preliminary written agreement or any written or oral acceptance of any offer or proposal relating to the Transaction.

"ESI's Representatives" means any employee, agents, affiliates, consultants, advisors or representatives of ESI or any of the Entergy Operating Companies.

"FERC" means the Federal Energy Regulatory Commission, or any successor agency.

“Retail Utility Commissions” means the Arkansas Public Service Commission, the Public Utility Commission of Texas, the Mississippi Public Service Commission, the Louisiana Public Service Commission, and the Council of the City of New Orleans, and any successor to any such commissions or council.

“Transaction” means a possible transaction or series of transactions involving the purchase by ESI, acting as agent for any of the Entergy Operating Companies, or by any of the Entergy Operating Companies, from Bidder (or an affiliate of Bidder) of any electric capacity and/or energy supply resource, arising or resulting from the RFP Process, and structured as a purchase and sale of electric capacity and/or energy, a physical or financial gas tolling arrangement, a purchase and sale of generating facilities, or a similar transaction or series of transactions.

2. Bidder represents, warrants, and covenants to ESI as follows:

(a) The execution and delivery of the Proposal by Bidder have been or, prior to delivery thereof to ESI, shall have been duly authorized by all necessary action on the part of Bidder and the Proposal has been or, prior to delivery thereof to ESI, shall have been executed and delivered by a duly authorized officer or other agent of Bidder. If Bidder has executed this Agreement by use of an electronic signature, Bidder hereby agrees and acknowledges that its use of electronic transmission and electronic signature in connection with the submission of this Agreement and any such Proposal is fully voluntary on its part and that Bidder intends to be fully legally bound thereby as though such Agreement and Proposal were executed and submitted in writing. In submitting a Proposal, Bidder offers to enter into a Definitive Agreement providing for the Transaction contemplated by the Proposal on substantially the same terms and conditions set forth in the applicable Term Sheets made available to Bidders on the ESI RFP Website, <https://emo-web.no.entergy.com/ENTRFP/index.htm> and the Proposal. The offer stated in the preceding sentence shall be Bidder’s good faith best offer. Bidder shall, with respect to the Proposal, enter into good faith negotiations with ESI to finalize, and use reasonable efforts to finalize on or before the dates set forth in Section 2.1 of the RFP, a Definitive Agreement providing for the Transaction contemplated by such Proposal on substantially the same terms and conditions set forth in such Term Sheet.

(b) Except with respect to the RFP Administrator and the Independent Monitor (“IM”), Bidder has not disclosed and no Bidder Representatives have disclosed, and Bidder shall not disclose and no Bidder Representatives shall disclose, to any other Bidder or potential Bidder in the RFP Process (i) the fact that Bidder is participating in the RFP Process, provided that Bidder’s attendance alone at any Bidders’ conference or similar meeting to which ESI invited more than one participant shall not constitute such disclosure, or (ii) the fact of the existence of, or the price or any other terms or conditions of, the Proposal or any other proposal Bidder has submitted, is submitting, or may submit to ESI or any ESI Representative in connection with this RFP Process. Nothing in this provision will be construed to limit ESI’s ability to disclose such information in a proceeding before the FERC or Retail Utility Commission or proceeding before a district or appellate court in which the RFP Process or Bidder’s Proposal is under review or otherwise at issue; however, ESI will make reasonable efforts to obtain confidential treatment of such information, unless Bidder intervenes to oppose or contest, in whole or in part, an

application or filing by ESI in which the Bidder's participation in the RFP Process or Proposal is at issue.

(c) To the knowledge of each Bidder Representative who has actually participated in the preparation of the Proposal on behalf of Bidder, there is no uncured violation by Bidder of applicable state or federal antitrust laws or other applicable laws or regulations that pertain to competitive bidding practices in connection with the Proposal.

(d) Bidder has not entered into and will not enter into any understanding, agreement, plan or scheme pertaining to the Proposal, whether express or implied, formal or informal, oral or written, with any competitor of Bidder, with respect to prices, terms or conditions of sale, output, production, distribution, territories, or customers, which understanding, agreement, plan or scheme pertaining to the Proposal would be in violation of law.

3. Bidder understands, acknowledges and agrees that, (a) except as may be expressly provided in a Definitive Agreement, any and all information furnished by or on behalf of ESI or any of the Entergy Operating Companies in connection with the RFP Process, including, without limitation, information contained in the RFP, is being or will be provided by or on behalf of ESI or such Entergy Operating Companies without any representation or warranty, express or implied, as to the information so provided, including, without limitation, accuracy or completeness; (b) except as otherwise provided in a Definitive Agreement, neither ESI, nor any of the Entergy Operating Companies, nor any ESI Representative shall have any liability to Bidder or any Bidder Representative relating to or arising from the use of or reliance upon any such information or any errors or omissions therein; and (c) the information and processes described by ESI in the RFP Process are merely statements of ESI's current intention, and those statements create no obligation or actionable promise on the part of ESI.

4. Bidder understands, acknowledges and agrees that no enforceable contract or agreement providing for a Transaction shall be deemed to exist unless and until a Definitive Agreement for a Transaction has been executed and delivered. Bidder also agrees that unless and until a Definitive Agreement between Bidder (or an affiliate of Bidder) and any of the Entergy Operating Companies or ESI, acting as agent for one or more of the Entergy Operating Companies, with respect to a Transaction has been executed and delivered, and then only in accordance with the terms thereof and applicable law, neither ESI, nor any Entergy Operating Company, nor any ESI Representative has or shall have any legal obligation to Bidder of any kind whatsoever with respect to such Transaction, whether by virtue of this Agreement, the RFP or any other written, electronic or oral expression with respect to the RFP Process or such Transaction.

5. Bidder understands, acknowledges and agrees that, subject to applicable legal and regulatory requirements, and subject to the RFP, (a) ESI shall be free to conduct the process for any Transaction, including, without limitation, the RFP Process, as ESI in its sole discretion chooses (including, without limitation, negotiating with other prospective sellers and the execution and delivery by ESI or any of the Entergy Operating Companies of a Definitive Agreement with any such other person without prior notice to Bidder or any other person), and (b) the RFP and any procedures relating to the RFP Process may be changed at any time without notice to Bidder or any other person.

6. Bidder has previously provided, or is providing in the Proposal, or from time to time after Bidder's electronic or physical execution of this Agreement may provide, to ESI certain information with respect to Bidder's qualifications to participate in the RFP Process. Bidder represents and warrants that all such information Bidder previously provided or is providing in the Proposal is true and accurate as of the date hereof and that any such information Bidder may hereafter provide will be true and accurate as of the date Bidder provides it to ESI. Bidder agrees that, so long as Bidder continues to participate in the RFP Process, Bidder will inform ESI promptly of any material change in any of the information so provided by Bidder and will promptly provide ESI with subsequently filed or prepared information (including, without limitation, any financial statements and reports) of the type previously provided or contemplated.

7. Except in a proceeding before FERC, any Retail Utility Commission or a court described in paragraph 12 of this Agreement, Bidder shall not assert, and hereby knowingly, voluntarily and unconditionally forever waives and disclaims any right to assert, in any regulatory or judicial forum, any claim or complaint regarding or related to the conduct or result of the RFP Process. The obligations, waivers and disclaimers of the foregoing provision are fundamental to this Agreement, and ESI's decisions to allow Bidder to continue to participate in this RFP and enter into this Agreement are made in express reliance on such obligations, waivers, and disclaimers.

8. Bidder will indemnify, defend and hold harmless ESI, each of the Entergy Operating Companies, their parents and affiliates, and each of their officers, directors, employees, attorneys, agents and successors and assigns, from and against any and all demands, suits, penalties, obligations, damages, claims, losses, liabilities, payments, costs and expenses, including reasonable legal, accounting and other expenses in connection therewith and costs and expenses incurred in connection with investigations and settlement proceedings, which arise out of, are in connection with, or relate to, the following:

- (a) any breach or violation in any material respect of any covenant, obligation or agreement of Bidder set forth in this Agreement; or
- (b) any breach or inaccuracy in any material respect of any of the representations or warranties made by Bidder in this Agreement.

9. No failure or delay by ESI in exercising any right, benefit, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, benefit, power or privilege hereunder. A term of this Agreement may be waived only if and to the extent expressly waived in a writing signed by duly authorized representatives of both parties hereto.

10. Bidder represents that it has the power and authority to electronically or physically execute and deliver this Agreement, and that this Agreement constitutes a legally valid and binding obligation enforceable against it in accordance with its terms, except as it may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws relating to creditors' rights generally.

11. This Agreement and all of the rights, benefits, powers, privileges, duties, or obligations hereunder shall be assignable by ESI, without Bidder's consent, to any of the Entergy Operating Companies or to any party or parties that acquire an ownership interest in ESI or any of the Entergy Operating Companies, their assets, businesses or any material part thereof, but none of this Agreement or any rights, benefits, powers, privileges, duties or obligations hereunder may be assigned or otherwise transferred by Bidder without the prior written consent of ESI, which consent may be withheld in ESI's sole and absolute discretion. Any purported assignment or other transfer in violation of the preceding sentence shall be void. This Agreement shall be binding upon the parties hereto and the successors and permitted assigns of each such party and shall inure to the benefit of, and be enforceable by, the parties hereto and the successors and permitted assigns of each such party. For all purposes of this Agreement, ESI is agent for the Entergy Operating Companies, and shall have no liability of any kind whatsoever hereunder. The liability of the Entergy Operating Companies hereunder, if any, whether in respect of a breach or otherwise, shall be several and not joint.

12. This Agreement shall be governed in all respects, whether as to validity, construction, capacity, performance or otherwise, by and under the laws of the State of New York (without giving effect to principles of conflicts of laws) (other than Section 5-1401 of the New York General Obligations Law). Each party hereto hereby irrevocably consents to the non-exclusive personal jurisdiction and venue of any New York or United States Federal court of competent jurisdiction sitting in New York, New York, in any action, claim or proceeding arising out of or in connection with this Agreement. Each of the parties hereto hereby expressly and irrevocably waives and agrees not to assert (i) the defense of lack of personal jurisdiction, forum non conveniens or any similar defense with respect to the maintenance of any such action or proceeding in New York, New York, and (ii) the right to trial by jury in any such action or proceeding.

13. Bidder shall ensure that each Bidder Representative is informed of the restrictions contained in this Agreement and that each such person adheres to this Agreement as it applies to Bidder, as if such person were a party hereto. Bidder shall be responsible for any breach of this Agreement by or caused by any Bidder Representative.

14. All provisions of this Agreement are severable. Should any provision of this Agreement be held to be invalid or unenforceable, such provision shall be (i) invalid or unenforceable only to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable any other provision hereof and (ii) revised or reformed, to the maximum extent permitted under applicable law, in a manner resulting in rights, duties and obligations most closely representing the intention of the parties hereto as expressed herein.

15. The term of this Agreement shall commence on the date hereof and shall continue for the duration of the RFP Process, and for the duration of any regulatory or other litigation relating thereto or six (6) years, whichever is longer.

16. This Agreement contains the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior understandings, agreements and writings with respect to the subject matter hereof, whether written or oral, save and except for any written agreement with respect to confidentiality obligations. This Agreement may not be altered,

amended, modified or otherwise changed by any prior, contemporaneous, or subsequent agreements, understandings, discussions or course of dealings unless the same is reduced to a writing that specifically refers to this Agreement and is signed by authorized representatives of the parties signing below. This Agreement may be electronically or physically executed in one or more counterparts, each of which is an original, but all of which together constitute one and the same instrument.

IN WITNESS WHEREOF, Bidder has electronically or physically<sup>1</sup> executed this Agreement as of the date and in the manner first written above.

Bidder ID: \_\_\_\_\_

Resource ID: \_\_\_\_\_

Proposal ID: \_\_\_\_\_

Bidder Name: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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<sup>1</sup> For Bidders that elected at Bidder Registration to use an electronic signature, there is no need to physically execute this Agreement. Bidders who did not elect to use an electronic signature should, after receiving their proposal summary e-mail, sign this Agreement in the space provided on this page and fill in the blanks with their Bidder, Resource, and Proposal IDs. FOR BIDDERS WHO DID NOT ELECT DURING BIDDER REGISTRATION TO USE AN ELECTRONIC SIGNATURE, PROPOSAL SUBMISSION IS NOT COMPLETE UNTIL AN EXECUTED SIGNATURE PAGE IS RECEIVED BY THE RFP ADMINISTRATOR.