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Procurement of Default and Back-up Electric Generation Services

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Competitive Bidding Process for Electric Distribution Companies'
Procurement of Default and Back-up Electric Generation Services

Sec. 16-244c-1 Definitions

As used in sections 16-244c-1 to 16-244c-14, inclusive, of the Regulations of Connecticut State Agencies:

(1) "Affiliate" means "generation entity or affiliate" as defined in section 16-1 of the Connecticut General Statutes;

(2) "Auction agent" means the department or any person or entity authorized or designated by the department to administer a competitive bidding proceeding pursuant to subsection (b) or (c) of section 16-244c of the Connecticut General Statutes or section 16-244c-2 of the Regulations of Connecticut State Agencies;

(3) "Back-up service" means the electric generation service provided by an electric distribution company to any customer who has entered into a service contract with an electric supplier that fails to provide electric generation services for reasons other than the customer's failure to pay for such services;

(4) "Customer" means any person who is a consumer of electric generation, electric transmission and electric distribution services;

(5) "Default service" means the electric generation service provided by an electric distribution company on and after January 1, 2004, to any customer who does not or is unable to arrange for or

maintain electric generation services with an electric supplier;

(6) "Department" or "the DPUC" means the Department of Public Utility Control or its successor;

(7) "Electric distribution company" means "electric distribution company" as defined in section 16-1 of the Connecticut General Statutes;

(8) "Electric generation services" means electric energy, electric capacity or generation-related services;

(9) "Electric supplier" means "electric supplier" as defined in section 16-1 of the Connecticut General Statutes;

(10) "ISO" means the New England Regional Independent System Operator or its successor; and

(11) "Person" means "person" as defined in section 16-1 of the Connecticut General Statutes.

(Adopted effective November 2, 1999)

Sec. 16-244c-2 Competitive bidding required

On and after January 1, 2000, each electric distribution company shall procure electric generation services for the provision of default and back-up services through a competitive bidding process, provided that prior to January 1, 2004, an electric distribution company may procure such electric generation services from its affiliates in lieu of a competitive bidding process.

(Adopted effective November 2, 1999)

Sec. 16-244c-3 Competitive bidding procedure

(a) The purpose of the competitive bidding process is to invite competition, guard against favoritism, improvidence, extravagance, fraud and corruption, and secure a reliable electricity supply at the lowest available price for default and back-up service customers in the state.

(b) Any competitive bidding proceeding administered pursuant to subsection (b) or (c) of section 16-244c of the Connecticut General Statutes or section 16-244c-2 of the Regulations of Connecticut State Agencies shall be conducted in accordance with Sections 16-244c-1 to 16-244c-11, inclusive, of the Regulations of Connecticut State Agencies.

(c) For each competitive bidding proceeding, the department shall:

(1) Determine whether one or more bidders shall be chosen to provide default or back-up service or both;

(2) Determine whether the chosen bidder or bidders shall provide electric generation services to one or more electric distribution companies in the state;

(3) Appoint or designate an auction agent to administer the bidding proceeding; and

(4) Determine the winner selection criteria, which may include but shall not be limited to the following:

(A) A comparison of competing bids in terms of total net present value of the cost of service for the bid period;

(B) A year-to-year comparison of the cumulative annual present value of the cost of service of the competing bids;

(C) A risk analysis of competing bids in relation to price and load forecast uncertainties; and

(D) A comparison of the competing bids in terms of renewable energy resources or portfolios.

(Adopted effective November 2, 1999)

Sec. 16-244c-4 Customer usage information

(a) At the department's request, each electric distribution company shall provide to the department the following historical information:

(1) For each customer class in the electric distribution company's service territory:

(A) the number of customers, monthly demand, energy consumption and load shapes for a typical week for back-up service; and (B) the number of customers, monthly demand, energy consumption and load shapes for a typical week for default service. This information shall reflect actual data during the calendar year immediately prior to the date the information is provided;

(2) A description and explanation of factors that could cause the information provided in this subsection to be unrepresentative of electricity usage in the electric distribution company's service territory in the one-year period following the date of the information; and

(3) Any other information requested by the department.

(b) Each electric distribution company shall use its best efforts in compiling and providing the information required in this section. An electric distribution company shall promptly notify the department upon discovery of any significant or material inaccuracies in the information provided and shall promptly file corrected information with the department.

(Adopted effective November 2, 1999)

Sec. 16-244c-5 The department's order for bidding

(a) Prior to the commencement of a competitive bidding process for default or back up services, the department shall issue an Order for Bidding.

(b) The department's Order for Bidding shall be sent to the affected electric distribution companies and the auction agent selected by the department, published at least once in such newspaper as will serve to substantially inform the public of such Order, and placed on the department's internet web site for a period of not less than 30

days from the date of the Order. Such Order shall contain, at minimum, the following information:

(1) The name, address and telephone number of the auction agent to administer the competitive bidding proceeding;

(2) Information concerning whether the winning bidder is expected to provide default or back-up service or both;

(3) Information about the electric distribution companies to which the winning bidder would be expected to provide electric generation services;

(4) The dates on which the default and back-up services are scheduled to begin;

(5) The winner selection criteria; and

(6) The guidelines, specifications or formula for the bid price.

(Adopted effective November 2, 1999)

Sec. 16-244c-6 Request for proposals

(a) No later than ten days after the date of the department's Order for Bidding pursuant to section 16-244c-5 of the Regulations of Connecticut State Agencies, the auction agent shall issue a Request for Proposals. Such Request shall be sent by first-class mail to every electric supplier in this state, published at least once in such newspapers as will serve to substantially inform the public of such Request, and placed on the auction agent's internet web site for a period of not less than 30 days. Each Request shall contain, at minimum, the following information:

(1) The deadline for submitting a bid which shall not be less than 45 days after the date of the Request for Bids;

(2) The bid selection date which shall not be less than 60 days after the date of the Request for Bids;

(3) The procedure and information required for filing a bid with the auction agent;

(4) A contact person at the auction agent;

(5) All the information provided in the department's Order for Bidding pursuant to section 16-244c-5 of the Regulations of Connecticut State Agencies; and

(6) Any other information required by the department.

(b) No later than three days after a potential bidder's request, the auction agent shall provide to such bidder the information concerning customer usage as provided to the department by the electric distribution companies pursuant to section 16-244c-4 of the Regulations of Connecticut State Agencies.

(Adopted effective November 2, 1999)

Sec. 16-244c-7 Submission of bids

(a) Bids may be amended or withdrawn at any time prior to the

submission deadline. On and after the submission deadline, bids may not be amended but may be withdrawn.

(b) When a bid is submitted, the auction agent shall immediately review it for format and content. The auction agent may reject and return any bid that is incomplete or submitted after the submission deadline.

(c) The auction agent shall keep all submitted bids sealed and confidential from public view at all times, provided however, that the auction agent may maintain, publish and make available to the public a list of the names of the bidders.

(Adopted effective November 2, 1999)

Sec. 16-244c-8 Content and format of bids

(a) Each bidder shall use all reasonable efforts to conform and comply with any bid format specified or required by the department or the auction agent.

(b) Notwithstanding subsection (a) of this section, each bid shall contain, at minimum, the following:

(1) The bidder's name and address;

(2) A bond, letter of credit or corporate guarantee for funding of replacement generation service in the event that the bidder fails to provide service. The proceeds of such bond, letter of credit or corporate guarantee shall be equal to ten percent of the dollar value of the bid and payable to the electric distribution company or companies to whom the bidder would be obligated to provide service;

(3) Information concerning the bidder's capacity and ability to coordinate with the billing agent and the affected electric distribution companies;

(4) The bid parameters, including but not limited to the following:

(A) whether the bid is for default or back-up service or both;

(B) the name of the electric distribution companies that the bidder wishes to serve;

(C) the types and amounts of electricity services that the bidder wishes to provide;

(D) the proposed service period, which shall not be more than 5 years;

(E) the bid price, in accordance with the guidelines, specifications or formula set forth by the department pursuant to section 16-244c-5(b)(6) of the Regulations of Connecticut State Agencies; and

(F) any fixed or minimum charges; and

(5) Any other information required by the department.

(Adopted effective November 2, 1999)

Sec. 16-244c-9 Selection of the winning bidders

(a) On the selection date specified in the Request for Proposals, the auction agent shall select a winning bidder in accordance with the selection criteria set forth by the department pursuant to section 16-244c-3(c)(4) of the Regulations of Connecticut State Agencies. No later than two business days after the selection date, the auction agent shall submit the results of the proceeding to the department for approval.

(b) Notwithstanding any other provisions of this section, the auction agent may select as many winning bidders as the department or auction agent determines to be in the best interest of ratepayers. With the department's prior approval, the auction agent shall have the right to negotiate modifications to any bid at any time prior to or after selecting a winner.

(c) The department shall notify all the bidders of the results of the bidding proceeding. The notification to the winning bidder or bidders shall describe and specify the terms of the engagement or services awarded.

(d) No later than five business days after the selection date, the auction agent shall deliver to the department copies of all the materials received, produced, copied or replicated during the bidding process, and shall certify to the department that it no longer possesses any such materials. The department may issue a protective order or orders to protect such information exempt from public disclosure as provided under section 1-210(b) of the Connecticut General Statutes or any regulations adopted pursuant to section 4-167 of the Connecticut General Statutes.

(Adopted effective November 2, 1999)

Sec. 16-244c-10 Obligations of the winning bidders

(a) No later than fifteen days after receipt of the department's notice pursuant to section 16-244c-9(c) of the Regulations of Connecticut State Agencies, each winning bidder shall execute a contract with each electric distribution company to whom such bidder would be obligated to provide service. Any winning bidder who fails to enter into such contract may be deemed to be (1) in breach of its default or back-up service engagement or agreement, and (2) subject to subsection (b) of this section.

(b) The department may cause payments to be made under a winning bidder's bond, letter of credit or corporate guarantee provided pursuant to section 16-244c-8(b)(2) of the Regulations of Connecticut State Agencies to defray any costs incurred by the department, electric distribution companies or customers due to such bidder's material breach of its default or back-up service engagement or agreement.

(Adopted effective November 2, 1999)

Sec. 16-244c-11 Electric distribution company as auction agent

If the department designates an electric distribution company as the auction agent in a competitive proceeding pursuant to subsection (b) or (c) of section 16-244c of the Connecticut General Statutes or section 16-244c-2 of the Regulations of Connecticut State Agencies,

such electric distribution company shall strictly observe the code of conduct as set forth in section 16-244h of the Connecticut General Statutes and any regulations adopted pursuant to said section. Such competitive bidding process shall be considered communications necessary for back-up and default services. No electric distribution company or its affiliates shall use such competitive bidding process to circumvent the provisions or goals of section 16-244h of the Connecticut General Statutes or any regulations adopted pursuant to said section. Any violations of this section shall be subject to investigation and enforcement consistent with section 16-244h of the Connecticut General Statutes or any regulations adopted pursuant to said section.

(Adopted effective November 2, 1999)

Sec. 16-244c-12 Notice by electric supplier on cessation of business

(a) No later than sixty days prior to cessation of Connecticut business operations or any portion thereof, an electric supplier shall issue a public notice announcing the cessation of its business operations. Such notice shall be (1) sent by first-class mail to (A) the department, (B) every electric distribution company that serves such electric supplier's Connecticut customers, and (C) every Connecticut customer who will be affected by such cessation of business operations; (2) published as a public notice once a week for six consecutive weeks in such newspapers as will serve to substantially inform such electric supplier's Connecticut customers; and (3) placed on such electric supplier's internet web site for a period of not less than 30 days.

(b) Any notice provided pursuant to subsection (a) of this section shall contain, at minimum, the following information:

(1) the electric supplier's name and current business address;

(2) the name, address, and toll-free telephone number of a contact person to whom questions can be directed;

(3) the electric supplier's last date of operation; and

(4) a business address to which correspondence can be forwarded after the last date of operation.

(c) Any notice mailed to Connecticut customers pursuant to subsection (a) of this section shall (1) be sent to the customer of record at the customer's billing address, and (2) contain the following, in addition to the information required in subsection (b) of this section:

(A) A statement, in bold print, advising that the customer will be receiving back-up service if the customer does not contract with another electric supplier by a specified date;

(B) The date, in bold print, by which the customer must elect and contract with another electric supplier to avoid being placed on back-up service; the rate, in bold print, of the back-up service at which the customer will be charged; and the terms and conditions of such back-up service;

(C) The most current list, as maintained by the department, of

all electric suppliers licensed in Connecticut;

(D) The name, address and toll-free telephone number of the electric distribution company for customer service inquiries; and

(5) The department's address, internet web site and customer service telephone number.

(Adopted effective November 2, 1999)

Sec. 16-244c-13 Notice by electric supplier on termination proceedings

(a) No later than fifteen days after ISO initiates a termination proceeding against an electric supplier, such electric supplier shall notify the department, the electric distribution companies and the Connecticut customers of such termination proceeding.

(b) No later than fifteen days after the department initiates a proceeding to terminate or revoke an electric supplier's license, such electric supplier shall notify the electric distribution companies and the Connecticut customers of such proceeding.

(c) Any notice provided pursuant to subsection (a) or (b) of this section shall be

(1) sent by first-class mail to (A) the department, if applicable; (B) every electric distribution company that serves the electric supplier's Connecticut customers; and

(C) every Connecticut customer with whom the electric supplier has contracted to provide electric generation services; (2) published as a public notice once a week for six consecutive weeks in such newspapers as will serve to substantially inform such electric supplier's Connecticut customers; and (3) placed on such electric supplier's internet web site for a period of not less than 30 days.

(d) Any notice provided pursuant to subsection (a) or (b) of this section shall contain, at minimum, the following information:

(1) the electric supplier's name and current business address;

(2) the name, address and toll-free telephone number of a contact person to whom questions can be directed;

(3) the reason for the termination or revocation proceeding and a description of such proceeding; and

(4) the date on which the termination or revocation proceeding was initiated and the date by which such termination proceeding is expected to be resolved.

(e) Any notice mailed to Connecticut customers pursuant to this section shall be sent to the customer of record at the customer's billing address, and contain the following, in addition to the information required by subsection (d) of this section:

(1) A statement, in bold print, advising that such electric supplier may be prohibited from doing business in Connecticut by the end of the termination or revocation proceeding and that the customer will be placed on back-up service at that time;

(2) The estimated date, in bold print, by which the customer must elect and contract with another electric supplier to avoid being placed on back-up service;

the rate, in bold print, of the back-up service at which the customer will be charged; and the terms and conditions of such back-up service;

(3) The most current list, as maintained by the department, of all electric suppliers licensed in Connecticut;

(4) The name, address and toll-free telephone number of the electric distribution company for customer service inquiries; and

(5) The department's address, internet web site and customer service telephone number.

(Adopted effective November 2, 1999)

Sec. 16-244c-14 Notice by electric distribution company

(a) An electric distribution company shall be required to provide notice pursuant to this section only if an electric supplier fails to provide notice in accordance with section 16-244c-12 or 16-244c-13 of the Regulations of Connecticut State Agencies.

(b) No later than 10 days after an electric distribution company has knowledge of an electric supplier's violation of noncompliance with section 16-244c-12 of the Regulations of Connecticut State Agencies, such electric distribution company shall notify the public, the department and the customers of such violation or noncompliance. Such notice shall be provided in accordance with section 16-244c-12 of the Regulations of Connecticut State Agencies.

(c) No later than thirty days after ISO initiates a termination proceeding against an electric supplier, each electric distribution company serving such electric supplier's Connecticut customers shall notify the public, the department and the customers of such termination proceeding. Such notice shall be provided in accordance with subsections (c) to (e), inclusive, of section 16-244c-13 of the Regulations of Connecticut State Agencies.

(d) For each customer on back-up service, the electric distribution company responsible for customer billing shall provide the following information with each such customer's bill:

(1) The date the customer was placed on back-up service and the rate of such back-up service, both shown as separate line items and in bold print on the customer's bill; and

(2) The terms and conditions of the back-up service as a bill insert.

(Adopted effective November 2, 1999)