

FOR BOARD ACTION

Agenda Item # 5

Meeting Date: 12/21/10

SUBJECT: Capacity Sale between the City of Rochester and Southern Minnesota Municipal Power Agency

PREPARED BY: Jeremy Sutton, Manager of Portfolio Optimization

ITEM DESCRIPTION:

This addendum is to enter into a capacity sale from RPU to SMMPA for planning years 2011-2012. The transaction will be conducted via the MISO module E process.

- Establish a capacity sale of 15,000 kW for a period of June 1, 2011 through May 31, 2012 for the amount of \$27,000
- Establish a capacity sale of 25,000 kW for a period of June 1, 2012 through May 31, 2013 for the amount of \$60,000

FOR CAPITAL PURCHASES/BIDS/MAJOR PROJECTS:

Not Applicable

UTILITY BOARD ACTION REQUESTED:

Staff recommends that the Board approve a resolution requesting the Mayor to approve Capacity Sale between the City of Rochester and Southern Minnesota Municipal Power Agency



General Manager

12-16-10
Date

CAPACITY

CONFIRMATION AGREEMENT

This confirmation Agreement (“Agreement”) shall confirm the agreement reached on October 11, 2010 (“Transaction Date”), between the City of Rochester, Minnesota (“the City”), (as “Seller”) and Southern Minnesota Municipal Power Agency (“SMMPA”) (as “Buyer”) (hereinafter the City and SMMPA are sometimes referred to singly as a “Party” and collectively as the “Parties”_ with respect to the purchase and sale of capacity under the terms and conditions as follows:

Seller: The City of Rochester, Minnesota

Buyer: SMMPA

Schedule P Product:

[X] Other: “Local Planning Resources Credits” (“LPRC”) or “Aggregate Planning Resources Credits” (“APRC”), as such term is defined in (i) the Midwest Independent Transmission System Operator, Inc. (“MISO”) Open Access Transmission and Energy Markets Tariff as may be amended from time to time (“MISO Tariff”); and (ii) the MISO Resource Adequacy Business Practices Manual as may be amended from time to time (“RA BPM”, or together with the MISO Tariff referred to as the “MISO Rules”).

For clarification purposes, the Parties acknowledge and understand that, in accordance with the MISO Rules, one LPRC or APRC represents one megawatt (“MW”) of Unforced Capacity, as such term is defined in the MISO Rules, that qualifies to satisfy the resource adequacy requirements of Module E of the MISO Tariff.

Contract Quantity and Contract Price:

The Quantity of LPRCs or APRCs encompassed by this Transaction and the Contract Price(s) associated therewith shall be as follows:

Month and Year	Quantity (# of APRCs)	Contract Price (\$ per APRC)	Purchase Price (\$)
June, 2011	15.0	\$150.00	\$2,250.00
July, 2011	15.0	\$150.00	\$2,250.00
August, 2011	15.0	\$150.00	\$2,250.00
September, 2011	15.0	\$150.00	\$2,250.00
October, 2011	15.0	\$150.00	\$2,250.00
November, 2011	15.0	\$150.00	\$2,250.00

December, 2011	15.0	\$150.00	\$2,250.00
January, 2012	15.0	\$150.00	\$2,250.00
February, 2012	15.0	\$150.00	\$2,250.00
March, 2012	15.0	\$150.00	\$2,250.00
April, 2012	15.0	\$150.00	\$2,250.00
May, 2012	15.0	\$150.00	\$2,250.00
June, 2012	25.0	\$200.00	\$5,000.00
July, 2012	25.0	\$200.00	\$5,000.00
August, 2012	25.0	\$200.00	\$5,000.00
September, 2012	25.0	\$200.00	\$5,000.00
October, 2012	25.0	\$200.00	\$5,000.00
November, 2012	25.0	\$200.00	\$5,000.00
December, 2012	25.0	\$200.00	\$5,000.00
January, 2013	25.0	\$200.00	\$5,000.00
February, 2013	25.0	\$200.00	\$5,000.00
March, 2013	25.0	\$200.00	\$5,000.00
April, 2013	25.0	\$200.00	\$5,000.00
May, 2013	25.0	\$200.00	\$5,000.00
			\$87,000.00

Seller represents and warrants that with respect to the Product, Seller: (A) Will enter the LPRCs or APRCs in the MISO Module E capacity tracking system, or its successor, and (B) Has not and will not sell such LPRCs or APRCs (or the MWs of Unforced Capacity associated with each LPRC or APRC) to any other counterparty.

Special Conditions:

1. Delivery and Receipt.

Seller shall accomplish delivery of the monthly Quantity by submitting the appropriate transaction(s) in MISO's Module E capacity tracking system, or any successor system ("MECT") to electronically assign the monthly Quantity to Buyer. Buyer shall accomplish receipt of the monthly Quantity by confirming the appropriate transaction(s) submitted by Seller in the MECT. It is the intention of the Parties that Seller and Buyer shall accomplish delivery and receipt of the monthly Quantity by submitting and confirming the appropriate transaction(s) in the MECT not later than ten (10) Business Days prior to the Resource Plan Deadline, as such term is defined in the MISO Tariff, for the first month and each subsequent month encompassed by this Transaction as is permissible to deliver and receive in the MECT ("Transfer Deadline"). The submitting and confirming of the appropriate transaction(s) in the MECT shall be conducted by the Parties in accordance with the requirements of the MISO Rules and other applicable rules adopted by the MISO regarding the MECT.

2. Payment Terms:

The Parties agree that the payment schedule for the Product delivered and received hereunder

shall be governed by the terms and conditions of the MEMA Tariff (as defined herein). For the avoidance of doubt, as soon as practicable, after the end of each month during each planning year set forth above, Seller will render to Buyer an invoice for the LPUCs or APUCs attributable to the preceding month.

3. Failures to Deliver and/or Receive.

(a) Seller's Failure to Deliver. In the event that: (i) Seller fails to deliver all or part of the Product by the Transfer Deadline, and such failure is not excused by Buyer's failure to perform; (ii) Buyer provides notice of such failure to Seller at least nine (9) Business Days prior to the Resource Plan Deadline; and (iii) Seller fails to cure such failure within one (1) Business Day after notice from the Buyer, then Seller shall pay Buyer, within five (5) Business Days of invoice receipt, all Financial Settlement Charges assessed to Buyer (either directly or through contractual obligation) resulting directly from Seller's failure to deliver all or part of the Product. In addition, to the extent that Seller's failure to deliver all or part of the Product results in Buyer being assessed (i) Financial Settlement Charges for an amount of MW that is less than the Quantity that Seller failed to deliver, or (ii) no Financial Settlement Charges for the Quantity that Seller failed to deliver, then Buyer shall also be entitled to the positive difference, if any, obtained by subtracting the Contract Price from the Replacement Price and multiplying such positive difference, if any, by the portion of the Quantity which Seller failed to deliver and for which no Financial Settlement Charges are assessed to Buyer.

In the event that: (i) Seller fails to deliver all or part of the Product by the Transfer Deadline, and such failure is not excused by Buyer's failure to perform; and (ii) Buyer fails to provide notice of such failure to Seller at least nine (9) Business Days prior to the Resource Plan Deadline, then Seller shall pay Buyer, within five (5) Business Days of invoice receipt, the positive difference, if any, obtained by subtracting the Contract Price from the Replacement Price and multiplying such positive difference, if any, by the Quantity which Seller failed to deliver.

Buyer shall use commercially reasonable efforts to purchase replacement Product for the Quantity which Seller failed to deliver.

The invoice from Buyer to Seller for any amount owed by Seller to Buyer pursuant to this provision shall include a written statement explaining in reasonable detail the calculation of such amount. The Parties acknowledge and agree that with respect to this Transaction only, Section 2.47 of the MEMA Tariff shall be amended to delete all references to "at the Delivery Point" and "to the Delivery Point" contained in such section.

(b) Buyer's Failure to Receive.

In the event that: (i) Buyer fails to receive all or part of the Product by the Transfer Deadline, and such failure is not excused by Seller's failure to perform; (ii) Seller provides notice of such failure to Buyer at least nine (9) Business Days prior to the Resource Plan Deadline; and (iii) Buyer fails to cure such failure within one (1) Business Day after notice from the Seller, then

Buyer shall pay Seller, within five (5) Business Days of invoice receipt, an amount equal to the Contract Price multiplied by the portion of the Quantity which Buyer failed to receive.

In the event that: (i) Buyer fails to receive all or part of the Product by the Transfer Deadline, and such failure is not excused by Seller's failure to perform; and (ii) Seller fails to provide notice of such failure to Buyer at least nine (9) Business Days prior to the Resource Plan Deadline, then Buyer shall pay Seller, within five (5) Business Days of invoice receipt, an amount equal to the positive difference, if any, obtained by subtracting the Sales Price from the Contract Price and multiplying such positive difference, if any, by the portion of the Quantity which Buyer failed to receive; provided, however, that if Seller, after using commercially reasonable efforts, is unable to resell all or a portion of the Quantity which Buyer failed to receive, the Sales Price with respect to such Quantity that Seller is unable to resell shall be deemed to be equal to zero (0).

The invoice from Seller to Buyer for any amount owed by Buyer to Seller pursuant to this provision shall include a written statement explaining in reasonable detail the calculation of such amount. The Parties acknowledge and agree that with respect to this Transaction only, Section 2.49 of the MEMA Tariff (as defined herein) shall be amended to delete all references to "at the Delivery Point" contained in such section.

(c) Limitation of Remedies. The Parties acknowledge and agree that the remedies set forth herein regarding failures to deliver/receive shall supercede and replace Sections 5.1 and 5.2 of the MEMA Tariff (as defined herein) with respect to this Transaction only.

4. Governing Agreement:

This Agreement is being provided pursuant to and in accordance with the Mid-Continent Energy Marketers Association Capacity and Energy Tariff, effective February 27, 2009 (the "MEMA Tariff") and constitutes part of and is subject to the terms and provisions of such MEMA Tariff. Terms used but not defined herein (e.g. "Sales Price") shall have the meanings ascribed to them in the MEMA Tariff. Capitalized terms used but not defined herein or in the MEMA Tariff shall have the meanings ascribed to such terms in the MISO Rules.

Southern Minnesota Municipal Power Agency

By: Raymond A. Hayward

Executive Director and CEO

Phone No: 507-285-0478

Fax: 507-292-6414

Dated: _____

ROCHESTER PUBLIC UTILITIES

General Manager

CITY OF ROCHESTER

Mayor

Attest:

City Clerk

Reviewed By:

City Attorney



RESOLUTION

BE IT RESOLVED by the Public Utility Board of the City of Rochester, Minnesota, to approve a Capacity Sale between the City of Rochester and Southern Minnesota Municipal Power Agency, and request the Mayor and the City Clerk to execute the agreement.

Passed by the Public Utility Board of the City of Rochester, Minnesota, this 21st day of Dec, 2010.

President

Secretary